

APPENDIX TO AGREEMENT NO: Click or tap here to enter text.

**GENERAL TERMS OF GOODS/SERVICES PROCUREMENT AGREEMENT
PT SARANA MULTI INFRASTRUKTUR (PERSERO)
("SSUP")**

Article 1

Definition and Interpretation

1.1 Definition:

In this SSUP, the following terms have the meanings set out below, unless the context otherwise requires.

- a. **BANI** has the meaning as referred to in Article 18 paragraph (2) SSUP;
- b. **Goods** means objects in tangible or intangible form, movable or immovable, which can be traded, consumed, used or utilized, whose specifications are as contained in the Goods/Services Procurement Agreement;
- d. **Handover Minutes** or **BAST** is a minutes signed by PT SMI and the Provider stating that the whole or part (term) of the Deliverables as required in the Goods/Services Procurement Agreement has been completed and can be accepted by PT SMI.
- e. **Conflict of Interest** means a situation or circumstance where the Provider (including its Personnel) has or is reasonably suspected of having a personal interest in the Work and the performance of the Work, which could reasonably have a detrimental impact on the performance of the Work by the Provider under the Goods/Services Procurement Agreement;
- f. **Offering Document** means an offer document or proposal submitted by the Provider to PT SMI during the procurement process of goods/services;
- g. **Business Day** means any day in the Gregorian calendar, except Saturdays, Sundays and national or official holidays determined by the government of the Republic of Indonesia, where the Parties and commercial banks in Indonesia operate in carrying out their respective business activities and Bank Indonesia operates to carry out interbank clearing transactions;
- h. **Calendar Day** means any day in the Gregorian calendar, without exception;
- i. **Deliverables** means all forms of documents, reports, models and/or research data in printed form (hard copy) or electronic documents (soft copy) or other forms prepared by the Provider in relation to the implementation of the Goods/Services Procurement, but does not include the Provider's internal working papers;
- j. **Service Fee** means an amount of money received by the Provider in connection with the performance of the Work as agreed in the Goods/Services Procurement Agreement;
- k. **Confidential Information** is any form of information provided by PT SMI and/or its affiliates to the Provider, which includes all information, data, reports, summaries, overviews, documents or other materials, whether provided in writing or orally, physically or electronically (i) related to Work and/or Goods/Services Procurement Agreement; (ii) related to PT SMI and/or its affiliates, parties who have a legal relationship with PT SMI, and its employees and officers; (iii) determined by PT SMI and/or its affiliates as confidential; or (iv) which the Provider knows or should have known to be confidential;

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- l. **Service** means (i) consulting services in the form of professional services that require certain expertise in certain scientific fields by prioritizing thought process (brainware); (ii) construction services in the form of whole or part of activities including the construction, operation, maintenance, demolition, and rebuilding of a building; and non-consulting services; or (iii) other services that require specific equipment, methodologies, and/or skills (skillware);
- m. **The term of the Agreement** has the meaning as referred to in article 5 paragraph (2) of the SSUP;
- n. **Force Majeure** has the meaning as referred to in article 17 paragraph (2) of SSUP;
- o. **OPE** means out of pocket expenses or direct non-personnel costs consisting of travel costs, shipping costs, handling permits/legal documents, communication costs and other operational costs related to the Work;
- p. **Official** has the meaning as referred to in article 22 paragraph (1) letter a SSUP;
- q. **Work** means the scope of work as stated in the Goods/Services Procurement Agreement;
- r. **Notification** has the meaning as referred to in article 19 paragraph (1) of SSUP;
- s. **Goods/Services Procurement** means cooperation activities in connection with the procurement of Goods/Services whose scope is as stated in the Goods/Services Procurement Agreement;
- t. **Goods/Services Procurement Agreement** means an agreement made between PT SMI and the Provider regulating the terms and conditions of the Goods/Services Procurement for PT SMI, along with all amendments, additions, extensions, affirmations and renewals, which constitute an inseparable entity with this SSUP and all documents made in connection therewith;
- u. **Dispute** has the meaning as referred to in Article 18 paragraph (1);
- v. **Personnel** means persons employed by the Provider as employees or parties retained and assigned, who have an adequate set of skills and qualifications to carry out the Work or any part thereof, as stated in the Goods/Services Procurement Agreement, along with any changes, replacements, and/or additions thereto from time to time in accordance with the provisions stated in the Goods/Services Procurement Agreement;
- w. **Laws and Regulations** means written regulations in force in the Republic of Indonesia that contain legal norms that are binding in general and are formed or determined by state institutions of the Republic of Indonesia or authorized officials in the Republic of Indonesia;
- x. **Third Party** means any person or legal entity other than the Government, PT SMI and the Provider;
- y. **PT SMI** means PT Sarana Multi Infrastruktur (Persero);
- z. **Appointment Letter** means the Provider appointment letter issued by PT SMI as stated in the Goods/Services Procurement Agreement;
- aa. **General Terms of Agreement** or **SSUP** means the General Terms of this Agreement which contain the general provisions of the Goods/Services Procurement Agreement;
- bb. **Effective Date** has the meaning as referred to in Article 5 paragraph (1) of SSUP;
- cc. **Termination Date** means the expiration date of the Goods/Services Procurement Agreement, which is the date stated as the termination date in the termination notification letter;
- dd. **Anti-Corruption Law** means Law No. 31 of 1999 concerning the Eradication of Corruption and any of its amendments and successors.

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1.2 Interpretation:

In this SSUP, unless otherwise stated or the context governs differently:

- a. the words "SMI" and "Provider" shall be construed to include its permitted and authorized successors, representatives and assignees.
- b. the words "article" or "paragraph" or "letter" or "appendix" shall, unless otherwise provided, be construed as a reference to the article or paragraph or letter or appendix in this SSUP;
- c. The word "month" is a reference to a period beginning on one day of a calendar month and ending on the day of the next calendar month (and reference to "months" must be interpreted in such a way as well);
- d. the word "document" (including this SSUP) shall include such document as amended, supplemented, transferred or substituted from time to time;
- e. reference to any rule or statutory provision mentioned in this SSUP shall be construed so as to include the amended regulations, their repeals and successors.
- f. references to persons or parties shall include any person, corporate body, non-corporation association, partnership, joint venture, trust or other body or organization, including (without limitation) governmental bodies (or subdivisions or political bodies or their apparatus);
- g. reference to "Goods/Services Procurement Agreement" means including modification, amendments, addendums, or transfers to this Goods/Services Procurement Agreement from time to time, annexes to the Goods/Services Procurement Agreement, and other documentation that is expressly stated to be an inseparable entity with the Goods/Services Procurement Agreement, is an inseparable entity with the Goods/Services Procurement Agreement and SSUP; and
- h. The headings or subheadings in this SSUP are for reference only and have no legal effect, will not be used in, and will not affect, the composition or interpretation of this SSUP.

Article 2
Scope and Deliverables

- (1) The Provider hereby agrees to provide and carry out the Work in accordance with the scope Deliverables and time period as stipulated in the Goods/Services Procurement Agreement.
- (2) The Provider hereby covenant and undertakes to make changes, refinements and/or improvements to the Deliverables if there are deficiencies, errors and/or nonconformities in the implementation of the Work that has been and/or is being carried out by the Provider, based on PT SMI's request, without any additional cost to PT SMI, as long as any changes, refinements and/or improvements do not result in an additional item of Deliverables.
- (3) Changes to the scope of Work can only be made in writing and must be signed by the Parties. The Provider shall have no obligation to commence the performance of the Work in respect of such change of scope until: (i) such change of scope and (ii) change in cost and schedule of change in respect of such change of scope is agreed, stated in writing and signed by the Parties.
- (4) The Provider is hereby willing to provide information, confirmation and/or data required by PT SMI at any time, both to PT SMI and to other interested parties appointed by PT SMI, without any cost even though the Goods/Services Procurement Agreement has ended, as long as the information and/or data is related to the Work and/or Deliverables and as long as the provision of such information and/or data does not result in the addition of Deliverables.

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- (5) At any time during the Term of the Goods/Services Procurement Agreement, the Provider may be requested to provide consultation, coordinate and make presentations to PT SMI and/or related parties and/or other Providers appointed by PT SMI without any additional cost as long as it relates to the Work provided by the Provider.
- (6) With due regard to the schedule for the hand over of deliverables and payment terms stipulated in the Goods/Services Procurement Agreement, each Deliverable is considered completed if a BAST has been issued and signed by the Parties.
- (7) The Parties sign BAST immediately upon receipt and approval of the Deliverables by PT SMI.
- (8) If after the period as referred to in paragraph (7) above is exceeded and PT SMI does not provide BAST or does not request changes, refinements and/or improvements to the Deliverables, the Provider may provide a confirmation request letter to PT SMI for the follow-up signing of the BAST as intended.

Article 3

Personnel

- (1) To carry out the Work, the Provider will place qualified and professional Personnel as outlined in the Goods/Services Procurement Agreement.
- (2) At all times during the Term of the Goods/Services Procurement Agreement and during the implementation of the Work, the Provider is obliged to supervise its Personnel and ensure that its Personnel comply with all laws and regulations and provisions, procedures and work procedures applicable to PT SMI along with the relevant Provider's professional code of ethics.
- (3) PT SMI requires all Personnel who have been listed in the Goods/Services Procurement Agreement to be present and involved during the implementation of the Work as stipulated in the Agreement document.
- (4) In the event that there are Personnel whom PT SMI deems to have insufficient competence, are known to have a Conflict of Interest, engage in bad behavior or violate laws and regulations, are considered to hinder or harm the Work, and/or do not have the ability to fulfill the responsibilities assigned to them properly, PT SMI may at any time request replacement of Personnel and provision of prospective replacement Personnel to the Provider. Such requests are made through the following procedures:
 - a. PT SMI submits a notification of Personnel replacement and a request for the provision of prospective replacement Personnel in writing to the Provider.
 - b. Within 5 (five) Business Days of receipt of written notification from PT SMI, the Provider must submit a proposal for a replacement Personnel candidate in writing to PT SMI accompanied by a complete resume of the proposed replacement Personnel candidate.
 - c. PT SMI may approve or reject the proposal of prospective replacement personnel.
 - d. If PT SMI receives a written proposal from the Provider, PT SMI submits written approval to the Provider. Such approved replacement Personnel candidates shall become effective Personnel as of the date of such written approval.
 - e. If PT SMI rejects the proposal of a replacement Personnel candidate as referred to in point b above, PT SMI submits a written request to the Provider to propose another replacement Personnel candidate. Prospective replacement personnel who have been rejected by PT SMI cannot be re-proposed by the Provider. In this case, the submission of proposals for other

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replacement personnel by the Provider shall be carried out in accordance with the provisions of letters a-e in paragraph (4) *mutatis mutandis*.

- (5) The Provider may apply for replacement of Personnel or addition of Personnel if the Personnel dies or is permanently unavailable through the following procedures:
 - a. The Provider submits a written request for replacement or addition of Personnel to PT SMI accompanied by: (i) information regarding the reasons for the request for replacement of Personnel (in the case of Personnel replacement); (ii) proposals for replacement or additional Personnel; and (iii) a complete resume, curriculum vitae and work experience of the proposed replacement or additional personnel.
 - b. PT SMI provides a written response which may be in the form of approval or rejection of the request for personnel replacement within no later than 5 (five) Business Days after receipt of the written request from the Provider to PT SMI.
 - c. If the replacement Personnel candidate is approved by PT SMI, the replacement Personnel candidate is effective as of the date of the written response.
 - d. If PT SMI rejects the proposal of the replacement Personnel candidate, the Provider is obliged to propose another replacement Personnel candidate. Prospective replacement personnel who have been rejected by PT SMI cannot be re-proposed by the Provider. In this case, the submission of proposals for other replacement personnel by the Provider shall be carried out in accordance with the provisions of letters a-d in this paragraph (5) *mutatis mutandis*.
- (6) Any candidate for replacement Personnel proposed by the Provider under the provisions of paragraphs (4) and (5) above shall have qualifications, competence and experience equal to or better than the replaced Personnel. In the event that the Provider wishes to add Personnel as stipulated in paragraph (5) above, then each prospective additional Personnel proposed by the Provider must have sufficient qualifications, competencies, and experience to carry out the Work and be accepted by PT SMI.
- (7) The Parties approve and agree that there will be no additional Service Fee or fee in any form to PT SMI for any replacement or additional Personnel based on paragraphs (4) and (5) above.
- (8) Since the effective replacement or additional Personnel candidate becomes Personnel, the Provider is obliged to provide a replacement Personnel no later than within 5 (five) Calendar Days from the effective date of the replacement of Personnel as intended in a manner that will not interfere with the performance of the Work carried out by the Provider.
- (9) In the event that the Provider is a Consortium, then subject to the provisions of paragraphs (1) to paragraph (8) above, during the Term of the Goods/Services Procurement Agreement, the Consortium is prohibited from adding and/or replacing one of the members of the Consortium, without prior written approval from PT SMI. The mechanism for changing and/or replacing Personnel as stipulated in the provisions of paragraphs (1) to paragraph (8) above applies *mutatis mutandis* to the addition and/or replacement of Consortium members.
- (10) For the avoidance of doubt, the replacement of members of the Consortium does not include the replacement of the Consortium Lead. In the event of a replacement of the Consortium Lead, the Goods/Services Procurement Agreement can be terminated subject to Article 16 paragraph (1) letter a of the SSUP.
- (11) A legal entity or other form of business entity acting as a substitute for a replaced member of the Consortium must meet the following requirements:

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- a. Have understood and agreed to all provisions in the Goods/Services Procurement Agreement; and
- b. Have qualifications that are at least equal to or more than the qualifications of the replaced members of the Consortium.

**Article 4
Service Fees, Down Payment and Down Payment Guarantee**

- (1) The value of the Work is the unit price or management fee for the Goods/Services provided as stated in the Goods/Services Procurement Agreement ("**Service Fee**").
- (2) The Provider hereby undertakes and agrees to the amount of Service Fee and payment schedule as stated in the Goods/Services Procurement Agreement, based on the BAST that has been signed by the Parties.
- (3) All payments will be made in Rupiah.
- (4) By taking into account the terms of payment of Service Fees as stipulated in the Goods/Services Procurement Agreement, the Provider is obliged to make a complete collection as referred to in paragraph (4) above after the Provider receives the BAST that has been approved by PT SMI.
- (5) Payment of Service Fee is made within 20 (twenty) Business Days after all billing documents in accordance with the provisions in the Goods/Services Procurement Agreement have been received by PT SMI completely and correctly.
- (6) Payment of Service Fees is made by transfer to a bank account as stipulated in the Goods/Services Procurement Agreement.
- (7) Photocopy of payment transfer from PT SMI to the Provider is submitted to the Provider.
- (8) The Service Fee referred to in this Article includes costs for Work that may arise after the completion of the Work as referred to in Article 2 paragraph (4) of this SSUP.
- (9) In the event that there is an OPE, the OPE can be paid by PT SMI as a substitute for the costs that have been incurred by the Provider based on the expenditure plan that has been previously approved by PT SMI and after the Provider shows evidence that can be accounted for and approved by PT SMI. Billing of OPE is carried out by the Provider together with the last billing of the Provider for the implementation of the Work (after receipt of BAST) subject to the mechanism as stipulated in paragraph (4) above and accompanied by evidence of OPE expenditure approved by PT SMI.
- (10) Subject to Article 16 paragraph (1) and paragraph (4) of SSUP, in the event that the Provider is suspected of defaulting or negligence on the obligations in the Goods/Services Procurement Agreement, PT SMI may, temporarily suspend PT SMI's payment obligations to the Provider. Such suspension of payment may be made provided that PT SMI has given prior written notice to the Provider in which it provides information regarding: (i) an explanation of the alleged default or negligence committed by the Provider; and (ii) the opportunity for the Provider to remedy the default or omission in question.
- (11) PT SMI, at its discretion, may provide down payment to the Provider under the following conditions:
 - a. Down payment can be provided for:
 - i. Mobilization of tools and manpower;
 - ii. Payment of milestone money to suppliers of goods/materials; and/or
 - iii. Other technical preparations necessary for the implementation of the Agreement.

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- b. The Provider may submit a request for down payment to carry out the Work in accordance with the Goods/Services Procurement Agreement.
- c. If approved by PT SMI, the Provider may receive a down payment after the Provider submits the down payment guarantee to PT SMI.
- d. The refund of the down payment is calculated in proportional increments at each payment of the performance of the Work and must be repaid at the latest when the Work reaches 100% (one hundred) percent achievement.
- e. In the event that there is a down payment from PT SMI to the Provider, the Provider must submit a down payment guarantee in the amount of the down payment received by the Provider.
- f. The validity period of the down payment guarantee is at least from the date of approval for the provision of down payment until a certain date as stated in the Goods/Services Procurement Agreement.
- g. The down payment guarantee submitted by the Provider is a written guarantee in the form of a bank guarantee issued by a commercial bank domiciled in the area where the Work is located.
- h. The provider is obliged to bear the cost of obtaining a down payment guarantee.
- i. In the event that there is a termination of the Goods/Services Procurement Agreement due to the Provider's negligence, PT SMI has the right to disburse the down payment guarantee.

Article 5

Effective Date and Term of Agreement

- (1) This Goods/Services Procurement Agreement and SSUP are effective and binding on the parties to the Goods/Services Procurement Agreement from the date as stipulated in the Goods/Services Procurement Agreement ("**Effective Date**").
- (2) This Goods/Services Procurement Agreement and SSUP are valid for a maximum of 2 (two) years from the Effective Date until the date stated in the Goods/Services Procurement Agreement ("**Agreement Term**").
- (3) Extension of the Agreement Period is carried out in writing and stated in an amendment agreement (addendum) signed by the Parties which is an inseparable part of the Goods/Services Procurement Agreement.

Article 6

Rights and Obligations of the Provider

- (1) Personnel can carry out Work at the Provider's office and/or Work location and are not required to stay at the Work location for the Term of the Agreement, however, PT SMI may request that certain Personnel to be at the Work location for a certain period within the Term of the Agreement, without any additional Service Fee.
- (2) The Provider has the right to obtain access and/or copy and use data and information owned or known by PT SMI in connection with the implementation of the Goods/Services Procurement Agreement and/or the Work.
- (3) The Provider shall be entitled to receive payment of Service Fees for Work performed in accordance with the provisions of Article 4 of the SSUP.
- (4) The Provider shall carry out the Work efficiently, in accordance with standards and pay attention to good management practices and with the responsibility expected of a professional expert in providing

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information, recommendations or advice to PT SMI as at any time may be reasonably requested by PT SMI.

- (5) The Provider will always act, as a trusted advisor to PT SMI, and will always support and protect the interests of PT SMI in relation to the Work, each Third Party.
- (6) During the Term of the Agreement, the Provider is obliged to obtain and maintain the validity of all permits and approvals necessary to carry out its business activities and carry out the Work.

Article 7
Rights and Obligations of PT SMI

- (1) Taking into account the activities in the implementation of the Work, PT SMI reserves the right to specifically request the presence of one (or more) Personnel as described in the Goods/Services Procurement Agreement.
- (2) PT SMI reserves the right to request the Provider to replace Personnel, in accordance with the provisions of Article 3 of the SSUP.
- (3) PT SMI is obliged to make payments to the Provider as stipulated in Article 4 of the SSUP.
- (4) PT SMI will endeavor to provide necessary assistance to the Provider in obtaining all data, information, collection of information and documents relevant to the implementation of the Work.
- (5) PT SMI shall endeavor to provide answers or responses to the Provider's questions and requests in connection with the implementation of the Work within a reasonable period of time so as not to hamper the Work carried out by the Provider based on the Goods/Services Procurement Agreement. The answer or response submitted by PT SMI does not eliminate the obligation of the Provider to collect and obtain any data, information, collection of information and documents relevant and necessary from PT SMI or from any other relevant source in carrying out the Work.
- (6) PT SMI reserves the right at any time, to disclose documents submitted by the Provider to PT SMI in connection with the Work, including but not limited to any Deliverables, to regulators and other parties related to the Work, without requiring written approval or prior notice from or to the Provider.

Article 8
Confidentiality

- (1) The Provider hereby declares that: (i) throughout the Term of the Agreement; and (ii) after the expiration of the Term of the Agreement, the Provider will not disclose, express, disseminate or announce the Confidential Information to any other party or the public.
- (2) Information that is not categorized as Confidential Information is information:
 - a. which is publicly available or which is already the property or known to the public other than as a result of the act or omission of the Provider;
 - b. which is required to be disclosed based on legal provisions or laws and regulations, decisions, government policies, the Provider's professional code of ethics, or authorized judicial institutions (provided that the Provider who will disclose the Confidential Information must provide prior written notice to PT SMI regarding the disclosure);
 - c. that the Provider had known prior to disclosure;

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- d. independently created or developed by the Provider without the use of any Confidential Information;
 - e. lawfully obtained by the Provider from parties other than PT SMI or its affiliates; or
 - f. disclosed to a third party by the Provider, as long as the disclosure is made based on the consent of PT SMI and if the disclosure is made after the third party in question has signed a confidentiality agreement that is substantially the same as the confidentiality provisions stipulated in this Article;
- (3) The Provider shall ensure and warrant that every Personnel, its employees, officers and every other party employed or under the responsibility of the Provider, comply with the provisions stated in this Article 8. The Provider shall be responsible and deemed to bear any breach of the provisions of this Article 8 by any of its Personnel, employees, officers and any other party employed or under the responsibility of the Provider.

Article 9

Liability and Indemnification

- (1) The Provider shall fully indemnify, as well as protect and exempt PT SMI, and its officials, employees or affiliates ("**Covered Parties**"), from and against any and all claims (in any form and to the fullest extent permitted by law), suits, liabilities, losses, judgments, costs, which are actually suffered by PT SMI as a result of negligence, fraud, or breach by the Provider, its Personnel, or officials, or employees, affiliates, or other parties acting for the benefit of or on the instructions of the Provider, in carrying out the Goods/Services Procurement Agreement.
- (2) Regardless of the receipt of the Provider's Deliverables by PT SMI, the Provider remains responsible for the quality and correctness of the Deliverables it provides.

Article 10

Representations and Warranties

The Provider hereby represents and warrants to PT SMI that:

- (1) all statements given by the Provider are true and timely in their delivery, until the date of signing the Goods/Services Procurement Agreement, and no other changes in relation to such statements other than those already submitted;
- (2) The Provider has complied with the provisions of the law in carrying out its business/activities as a service provider;
- (3) The Provider has obtained all necessary permits and approvals to conduct its business;
- (4) all statements as required in the Offer Document, remain true, correct and valid since the signing of the Goods/Services Procurement Agreement and remain in such force during the Term of the Agreement;
- (5) The Provider's representative and/or any power of attorney appointed by the Provider to sign the Goods/Services Procurement Agreement has full power and authority to sign the Goods/Services Procurement Agreement for and on behalf of the relevant Provider based on the Laws and Regulations;

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- (6) No litigation, arbitration or legal proceeding of any kind is ongoing against the Provider that has or is at risk of having a material adverse impact on PT SMI in connection with the performance of the Work; and
- (7) The Provider, its Personnel, officials, employees, or affiliates of the Provider, or other parties acting for the benefit of or on the instructions of the Provider, either directly or indirectly, in the implementation of the Goods/Services Procurement Agreement and the implementation of the Work, will at all times comply with the applicable laws and regulations.

Article 11

Taxes and Stamp Duty

- (1) Payments received by the Provider pursuant to Article 4 of the SSUP are subject to withholding tax in accordance with applicable tax laws.
- (2) Stamp duty costs arising from transactions entered into by and between the Parties shall be borne by the Parties.
- (3) All tax obligations arising in the future in connection with transactions held between the Parties will be borne by each Party in accordance with the Laws and Regulations in the field of taxation.

Article 12

Data and Documents

- (1) The Deliverables prepared by the Provider must be handed over to and will become the exclusive property of PT SMI. PT SMI may use the Deliverables, including the right to make copies of and edit each of the Deliverables.
- (2) The Provider retains ownership rights over the frameworks, examples, methodologies of approach and problem solving, systematics and models contained in the report or other materials or reports submitted to PT SMI or used by the Provider in connection with this Work.
- (3) PT SMI may provide such Deliverables, either in whole or in part, to the public and the Provider agrees to allow PT SMI to communicate such Deliverables to other Third Parties as PT SMI deems necessary.

Article 13

Transfer of Agreement

Any rights and obligations of the Provider under the Goods/Services Procurement Agreement cannot be transferred, charged or changed by the Provider without prior written approval from PT SMI.

Article 14

Sub-Contracts

- (1) Taking into account the Laws and Regulations, the Provider may submit part of the Work based on PT SMI's prior written consent. ("**Subcontracting**")
- (2) Subcontracting is carried out without prejudice to the Provider's responsibility to PT SMI based on the Goods/Services Procurement Agreement.

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- (3) The Provider is solely responsible for the performance of any part of the Work carried out by its subcontractors.
- (4) PT SMI may at any time request the Provider to replace subcontractors if deemed necessary by PT SMI and the Provider shall provide replacement subcontractors with qualifications and competencies acceptable to PT SMI.
- (5) The implementation of Work subcontracted under this SSUP must still pay attention to conformity with the provisions stated in the Goods/Services Procurement Agreement.

**Article 15
Conflict of Interest**

The Provider hereby warrants that the Provider:

- (1) Does not have and will not have a Conflict of Interest based on the Goods/Services Procurement Agreement.
- (2) During the duration of the Goods/Services Procurement Agreement, will not take action, either intentionally or unintentionally, accept work from any party that, either directly or indirectly, has or has the potential to cause a Conflict of Interest.
- (3) Taking into account the provisions of Article 16 paragraph (1) letter d SSUP, in the event that during the Agreement Period a condition arises that gives rise or is reasonably suspected to cause a Conflict of Interest, the Provider must immediately notify the condition to PT SMI in writing within 15 (fifteen) Calendar Days after the condition is known.

**Article 16
Sanctions and Termination of Agreement**

- (1) PT SMI may terminate the Goods/Services Procurement Agreement unilaterally in the event of circumstances or matters as mentioned below, by giving a termination notice to the Provider within no later than 30 (thirty) Calendar Days before the planned Termination Date, or a period earlier than 30 (thirty) Calendar Days if requested or ordered by laws and regulations or agencies or institutions that Authorized:
 - (a) If the Provider fails to correct a breach or negligence in the performance of its obligations in accordance with the provisions in the Goods/Services Procurement Agreement, within 30 (thirty) Calendar Days from the occurrence of such breach or omission or within another time agreed or determined in writing by PT SMI;
 - (b) If the Provider is proven to have committed KKN, fraud and/or forgery in the process of Goods/Services Procurement Agreement decided by the competent agency;
 - (c) If the Provider is involved in, or there is a delay in debt repayment, a threat of litigation, arbitration or proceeding in court, or there are circumstances that may arise that could lead to litigation, arbitration or legal proceedings that could jeopardize or have a material adverse effect on its business, assets, financial condition or creditworthiness or ability to perform its obligations under the Goods/Services Procurement Agreement;
 - (d) If the Provider or Personnel is deemed or known by PT SMI to have or has the potential to have a Conflict of Interest that gives rise or reasonably may have a material adverse effect on PT SMI's interests, Employment, or ability to carry out its obligations under the Cooperation Agreement for the Provision of Goods/Services, and fails to improve such condition within 14 (fourteen) Calendar Days from the date of written notification PT SMI in connection with the

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request to improve the condition of the Conflict of Interest or within any other period approved or determined in writing by PT SMI;

- (e) If any representations and warranties given by the Provider under Article 10 and Article 22 of SSUP are found to be in violation, untrue, incorrect, misleading in any way materially and cause or reasonably may have a material adverse effect on PT SMI's interests, the Work or its ability to perform its obligations under the Goods/Services Procurement Agreement.
- (2) During the rectification period as mentioned in Article 16 paragraph (1) letter (a) and (d), PT SMI may suspend all or part of the payment of overdue Service Fees to the Provider as stipulated in Article 4 paragraph (10) of SSUP, which is preceded by prior written notice to the Provider.
- (3) In the event of termination of the Goods/Services Procurement Agreement based on Article 16 paragraph (1) and subject to Article 9 of the SSUP, PT SMI is still obliged to pay to the Provider the entire amount of Service Compensation for the Deliverables that have been well received by PT SMI until the Termination Date.
- (4) In the event of termination of the Goods/Services Procurement Agreement carried out under paragraph (1) above, the Provider remains responsible for all losses suffered by PT SMI in connection with the termination of the Goods/Services Procurement Agreement, based on the provisions stipulated in Article 9 SSUP. The obligations as mentioned in paragraph (3) remain valid even though the Goods/Services Procurement has ended.
- (5) In the event of termination of the Goods/Services Procurement Agreement carried out based on paragraph (1) letter a and b, PT SMI may blacklist the Provider and the Provider is not allowed to participate in the selection/participation in the Goods/Services Procurement process at PT SMI for 3 (three) years from the date it is designated as a blacklist.
- (6) The Parties hereby waive the provisions of Article 1266 of the Civil Code to the extent that these provisions require a court determination / decision in advance to carry out the termination or cancellation of the Goods/Services Procurement Agreement.
- (7) For the avoidance of doubt, the termination of the Goods/Services Procurement Agreement shall not reduce, remove and/or affect the obligation of a Party to fulfill any rights of other Parties that have arisen before the Termination Date.
- (8) PT SMI may temporarily suspend the Goods/Services Procurement Agreement with the mechanism regulated in the Goods/Services Procurement Agreement.

Article 17

Force Majeure

- (1) What is meant by *Force Majeure* in the Goods/Services Procurement Agreement is a situation that occurs beyond the control of one of the Parties and cannot be foreseen which results in the Party being unable to fulfill its obligations stated in the Goods/Services Procurement Agreement, such as:
 - a. Natural disasters such as major earthquakes, hurricanes, erupting mountains, major floods, large fires, continuous heavy rain for more than 10 (ten) Calendar Days, and landslides;
 - b. Non-natural disasters, namely epidemics, disease outbreaks; and
 - c. Social conflicts between groups or between communities, general strikes, riots, wars and rebellions.
- (2) In the event of *Force Majeure* as referred to in paragraph (1) of this Article, the Party experiencing Force Majeure is obliged to notify in writing to the other Party, within 14 (fourteen) Calendar Days from the time of occurrence, as well as at the end of *Force Majeure* by including a copy of the *Force*

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Majeure statement issued by the authorized party/agency and officially declared by the authorized official in accordance with applicable laws and regulations.

- (3) Negligence or delay in fulfilling the notification obligation referred to in paragraph (2) of this Article, resulting in non-recognition of the event referred to in paragraph (1) of this Article as *Force Majeure*.
- (4) The events referred to in paragraph (1) of this Article may be calculated as an extension of the time for the implementation of the obligations of the Parties, if the provisions of paragraph (2) of this Article are fulfilled.
- (5) All losses incurred or suffered by either Party due to *Force Majeure* are not the responsibility of the other Party.
- (6) As a result of *Force Majeure* the Parties agree to renegotiate the rights and obligations of each Party to complete the Goods/Services Procurement Agreement.

Article 18

Dispute Resolution

- (1) The Parties agree that in the event of any differences or disputes ("**Disputes**") that may arise between the Parties in connection with any matter based on or related to the Goods/Services Procurement Agreement, including but not limited to the validity, interpretation, construction, implementation and enforceability or alleged violation of the provisions of the Goods/Services Procurement Agreement, the Parties will try to resolve the Dispute by means of deliberation, the results of which are stated in writing in the minutes of deliberation signed by the parties present in the deliberation.
- (2) If the Parties fail to reach a settlement by deliberation within 14 (fourteen) Business Days from the date of commencement of deliberation as stated in the minutes of the first deliberation, the Parties agree to resolve the Dispute through the Indonesian National Arbitration Board (**BANI**) in Jakarta. The arbitration will be submitted and conducted based on the arbitration rules applicable to BANI by 3 (three) arbitrators appointed in accordance with BANI's rules.
- (3) The Parties agree that the Parties cannot undertake the Dispute through courts or judicial institutions or other dispute resolution institutions other than BANI. Appeal of BANI decisions to courts or other authorities is not permitted and the Parties cannot dispute the validity of the decision through courts or judicial institutions or other dispute resolution institutions, except to carry out execution of the results of BANI's decision.
- (4) During the period of the dispute resolution process and until the rendering of the arbitration award, the Parties shall, except in the case of statute of limitations or termination of the Goods/Services Procurement Agreement, continue to carry out all obligations under the Goods/Services Procurement Agreement.
- (5) The assignment of arbitrators who have been determined in accordance with the provisions of the Goods/Services Procurement Agreement shall remain valid until the issuance of the final arbitral award by the arbitral tribunal in relation to the Dispute.
- (6) The arbitral award shall be final and binding on both Parties, and shall not be appealed by any Court.

Article 19

Notice/Correspondence

- (1) Any notice, request, or other communication ("**Notice**") to be given by a Party under, or in connection with, the Goods/Services Procurement Agreement must be in writing in Indonesian and signed by or on behalf of the Party providing it. Any Notice may be submitted in the following manner:

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- a. delivered in person; or
 - b. sent by registered mail, including but not limited to sending letters by post or courier services; or
 - c. through a confirmed facsimile with a delivery mark;
 - d. other written media, such as email.
- (2) The notice as referred to in paragraph (1) above is addressed to the notice addresses as mentioned in the Goods/Services Procurement Agreement
- (3) A Party may make changes to the notice address set forth above by written notice to the other Party, provided that, such changes shall be deemed effective on: (i) the 7th Business Day following the date of receipt of notice of the change by the other Party or (ii) on the date specified in such written notice, which date shall not be earlier than the date of receipt of such written notice by the other Party.
- (4) Unless otherwise specified in the Goods/Services Procurement Agreement, each Notice is deemed to have been properly received by the intended Party when:
- a. the date of delivery with confirmation in the form of a delivery mark, if the Notice is delivered by facsimile; or
 - b. on the date of receipt, if the Notice is provided by other means.

Article 20

Changes, Additions and Waivers

- (1) The provisions of the Goods/Services Procurement Agreement cannot be changed, waived, released, or terminated orally, except by a written document signed by the Parties or their authorized power of attorney and/or representative. Each written document that has been signed by the Parties or their legal power of attorney and/or representative is an integral and inseparable part of the Goods/Services Procurement Agreement.
- (2) Any other matter deemed necessary by the Parties for the implementation of the Goods/Services Procurement Agreements but not yet covered by the Goods/Services Procurement Agreement, may be further determined by the Parties based on a written agreement that will apply as an amendment to, and will constitute an integral and inseparable part of the Goods/Services Procurement Agreement.

Article 21

Entire Agreement

- (1) The Goods/Services Procurement Agreement, SSUP including its supporting documents in the form of a Letter of Appointment (if any) is an inseparable entity and is constructed as an agreement that binds the Parties in connection with the implementation of the Work, and supersedes any previous agreements that have been made between the Parties (as long as the previous agreement is contrary to the provisions of the Goods/Services Procurement Agreement).
- (2) In the event of any inconsistency between the provisions stated in the SSUP and the provisions in the Goods/Services Procurement Agreement, the provisions stated in the Goods/Services Procurement Agreement shall prevail.

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Article 22

Legal Compliance

- (1) The implementation of the Goods/Services Procurement Agreement will not result in any Party to the Goods/Services Procurement Agreement that will, either directly or indirectly, carry out or cause any activities that are contrary to the law based on laws and regulations.
- (2) In connection with the Work, the performance of the Work, as well as the performance of obligations under the Goods/Services Procurement Agreement, each Party warrants and covenants that such Party, its officials, or employees, or affiliates of such Party, or any other party acting on behalf of or on the instructions of such Party, has never and will not give or offer (or agree to give or receive), whether directly or indirectly, payment, gift, financial benefit or other benefit in any form that will violate the Anti-Corruption Law, to any official, officer, employee or any other person acting in an official capacity and authority for and/or on behalf of any central or local government agency or institution (including any department, agency, division or service), a state- or locally-owned enterprise (each such person collectively referred to as an "Official"), relating to the Work and the performance of the Work; or any person or party, with the aim of shall:
 - (a) influence any official action or decision;
 - (b) entice an Official or a party to commit an offence or to do or not to do any act in breach of his duty under the law;
 - (c) persuade an Official or a Party to use its influence to influence or cause a decision or action of any government, apparatus or international organization for the benefit of the Party concerned;
 - (d) assist the Parties in obtaining or gaining a Job or employment for or with a particular party; or
 - (e) obtain or gain an unfair or improper benefit to the Parties in any case.
- (3) Under no circumstances shall a Party be obliged to take any action against another Party that will or has the potential to cause that Party to violate laws and regulations (including but not limited to the Anti-Corruption Law).

Article 23

Applicable Law

The Goods/Services Procurement Agreement is subject to and must be translated and interpreted according to the provisions in the laws and regulations of the Republic of Indonesia.

Article 24

Detachment

- (1) If there is a provision in the Goods/Services Procurement Agreement, including its annexes determined to be invalid or unenforceable in law either in whole or in part, then the invalidity or unenforceability is only limited to these provisions or parts, while the remaining part of the provision and all other provisions in the Goods/Services Procurement Agreement will continue to apply and has a full legal force.
- (2) In the event that a provision in the Goods/Services Procurement Agreement is determined to be invalid or legally unenforceable, the Parties must agree on a valid and enforceable provision that will

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be a reasonable substitute for the invalid and unenforceable provision by taking into account the purpose of the Goods/Services Procurement Agreement and, by agreeing to it, will include the replacement provisions in the Goods/Services Procurement Agreement through amendments or additions in accordance with Article 20 of the SSUP.

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