

JOINT AND SEVERAL PERSONAL GUARANTEE

Date:

From: Name:
 NRIC:
 Address:

(the “**Guarantor**”)

To : **HERNAN CORPORATION SDN. BHD. [Company Registration No. 199601010107 (382456-K)] a private limited company incorporated in Malaysia and having its registered office at D-8-3A, Menara SuezCap 1 KL Gateway, 59200 Kuala Lumpur (“Hernan”)**

In consideration of you, Hernan, at our request agreeing or having agreed to provide credit facilities to purchase goods and services from Hernan to _____

_____ (“the Obligor”) via Hernan’s Credit Application Form as attached herein in Appendix 1 below (“Credit Facilities”) for the amount of RM_____, I/we the undersigned Guarantor(s) HEREBY JOINTLY AND SEVERALLY IRREVOCABLY GUARANTEE -

- (a) payment on demand of all sums of monies owing and/or to become to you by the Obligor under the Credit Facilities’ terms and conditions (the “Indebtedness”) and notwithstanding that we shall not have notice of any neglect or omission on the Obligor’s part to pay you according to the terms and conditions agreed between you and the Obligor; and
 - (b) the due performance and observance by the Obligor of each and every term and condition on the Obligor’s part to be performed and observed in respect of the Indebtedness and in relation to the Credit Facilities’ terms of repayment.
2. I/we further undertake to indemnify you on demand against all losses damages costs and expenses whatsoever which you may suffer sustain or incur by reason of any default on the part of the Obligor in performing and observing the Obligations and you shall be at liberty to act as though we are the principal debtor/s and not merely as surety/ies.
3. I/we hereby agree that our liability hereunder shall not in any way be discharged diminished or affected by the invalidity or unenforceability of the Obligations or the granting of time forbearance or any indulgence to the Obligor or any other person or any variation to the Obligations or the effecting of any compromise or arrangement with the Obligor or any agreement not to sue the

Obligor or the dealing with exchanging release modifying or abstaining from taking or perfecting or failing to correct any invalidity in enforcing any securities or other guarantees or rights which you may now or hereafter have from or against the Obligor or any other person and we give our consent thereto. Our liability hereunder shall subsist whether or not you are able to enforce the Obligations against the Obligor and whether or not you have availed yourself of your legal remedies against the Obligor.

4. I/we hereby waive all rights inconsistent with the provisions herein and which I/we might otherwise be entitled to claim or enforce and declare that we shall be a principal debtor to you for all sums and matters guaranteed by us as aforesaid and/or all sums and matters against which we have agreed to indemnify you as aforesaid.
5. This Guarantee is in addition to and shall not in any way be prejudiced or affected by any collateral or other security now or hereafter held by you for all or any part of the sums hereby guaranteed nor shall such collateral or other security to which you may be otherwise entitled or the liability of any person or persons not parties hereto for all or any part of the sums or matters thereby secured be in any wise prejudiced or affected by this Guarantee.
6. I/we acknowledge and agree that none of our liabilities under this Guarantee shall be reduced, discharged or otherwise adversely affected by: -
 - (a) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which you may now or hereafter have from or against the Obligor and any other person in connection with the Obligations and/or any of the Obligations;
 - (b) any act or omission by you or any other person in taking up, perfecting or enforcing any security or guarantee from or against the Obligor and any other person;
 - (c) any termination, amendment, variation or novation in respect of the Obligations;
 - (d) any grant of time, indulgence, waiver or concession to the Obligor and/or any other person;
 - (e) the insolvency, liquidation, winding-up and/or any change in the constitution, name and style of the Obligor;
 - (f) any invalidity, illegality, unenforceability, irregularity or frustration of or relating to the Obligations or any part thereof;
 - (g) any claim or enforcement of payment from the Obligor or any other person;
 - (h) the lack of authority of any person appearing to act for the Obligor in any matter in respect of any indebtedness or by any other fact or circumstances (whether known or not to us, the Obligor or you);

- (i) any amalgamation, reconstruction, reorganisation, merger, sale or transfer by or involving you or your assets;
 - (j) any act or omission which but for this provision might operate to exonerate or discharge or otherwise reduce or extinguish our liability under this Guarantee;
 - (k) any assignment of rights and interest of the Obligor to any person, with or without your prior knowledge or consent.
- 7. The Obligations or any obligation and liabilities expressed to be undertaken by us under this Guarantee are those of a primary obligor and not merely a surety and in order to give full effect to the provisions of this Guarantee, I/we hereby waive all rights inconsistent with such provisions and which we might otherwise as surety be entitled to claim or enforce.
- 8. You shall not be obliged, before taking steps to enforce any of your rights and remedies under this Guarantee:
 - (a) to take action or obtain judgement in any court against the Obligor;
 - (b) to make or file any claim in a bankruptcy, liquidation, administration or insolvency in respect of the Obligor; or
 - (c) to make demand, enforce or seek to enforce any claim, right or remedy against the Obligor.
- 9. You may in your sole discretion resort for your own benefit to any other means of payment at any time and in any order as you may think fit without thereby diminishing our liabilities hereunder. You may also at your sole discretion exercise your rights under this Guarantee whether for the payment of the ultimate balance or for the balance due at any time notwithstanding that other means of payment have not been resorted to and we shall not be entitled to any benefit from such other means of payment as long as the Obligations or any part thereof remains unsatisfied.
- 10. I/we hereby expressly agree that you are entitled at all times, without prejudice to this Guarantee, and without discharging or in any way affecting our liability hereunder and without any notice to us, to:
 - (a) determine or vary any terms of payment relating to the Obligations;
 - (b) grant to the Obligor or to any other person any time, forbearance or indulgence;

- (c) take any other securities or guarantees from the Obligor or any other person;
 - (d) deal with exchange release modify or abstain from taking perfecting or failing to correct any invalidity in enforcing any securities or other guarantees or rights which you may now or hereafter have from or against the Obligor or any other person;
 - (e) compound with the Obligor or with any other person or guarantor.
11. I/we warrant to you that we have not taken or received, and agree not (except on your written direction and in such manner and on such terms as you may require) to take, exercise or receive the benefit of any security or other right or benefit (whether by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from dividend, contribution or otherwise, all together "Rights") from or against the Obligor and any other person in respect of any liability of or payment by us under this Guarantee or otherwise in connection with this Guarantee.
- (a) If any of such Rights is taken, exercised or received by us, whether on your written direction or otherwise, we declare that our Rights and all monies at any time received or held by us in respect of such Rights shall be held by us on trust for you for application in or towards the discharge of our liabilities to you under this Guarantee.
 - (b) We agree that all other Rights and all monies from time to time held on trust by us for you under or pursuant to the foregoing shall be transferred, assigned or, as the case may be, paid to you promptly following your demand.
12. This Guarantee is a continuing security and shall not be considered as satisfied by any intermediate payment or satisfaction of the whole or any part of any sum owing as aforesaid but shall be a security and shall extend to cover any sum or sums of money which shall for the time being constitute the balance due from the Obligor to you.
13. This Guarantee shall be in full force and binding upon us and our legal representatives notwithstanding any change in the name style or constitution of the Obligor howsoever such change in the name style or constitution of the Obligor shall be effected and notwithstanding our insolvency.
14. Any money received hereunder may be placed and kept to the credit of a suspense account for so long as you think fit without any obligation in the meantime to apply the same or any part thereof in or towards discharge of any money or liabilities due or incurred by the Obligor to you. Notwithstanding any such payment, in the event of any proceedings in or analogous to liquidation composition or arrangement you may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money and liabilities in the same manner as if this Guarantee had not been given.

15. Until all money and liabilities due or incurred by the Obligor to you have been paid or discharged, we will not by paying off any sum recoverable hereunder or by any other means or on any other ground claim any set off or counterclaim against the Obligor in respect of any liability on our part to the Obligor or claim or prove in competition with you in respect of any payment by us hereunder or be entitled to claim or have the benefit of any set-off counterclaim or proof against or dividend composition or payment by the Obligor or the benefit of any other security which you may now or hereafter hold for any money or liabilities due or incurred by the Obligor to you or to have any share therein.
16. This Guarantee shall not be determined by you being reconstructed or absorbed by or amalgamating with or taking over any other company or firm or corporation or by the transfer of your business to any other company or entity but shall endure and be effective as a security on the terms herein in respect of all past and subsequent dealings with the Obligor and all other purposes for or by the absorbing or amalgamated company or concern or by the company to whom your business shall be transferred.
17. I/we hereby agree that you may at any time without any notice whatsoever set-off or transfer any sum standing to our credit with you in or towards satisfaction of any moneys obligations or liabilities owing by the Obligor to you whether such liabilities be present future actual contingent primary collateral several or joint.
18. No assurance security or payment which may be avoided by any provisions of the Companies Act 2016 or by any provisions of the Insolvency Act 1967 and no release settlement or discharge which may have been given on the faith of any such assurance security or payment shall prejudice or affect your right to recover from us to the full extent of this Guarantee as if such assurance security payment release settlement or discharge (as the case may be) had never been granted given or made.
19. You are at liberty but not bound to resort for your benefit to any other means of obtaining payment or securing performance at any time and in any manner or order as you may deem fit without affecting the security evidenced by this Guarantee. You may exercise and enforce your rights under this Guarantee either before resorting to other means of obtaining payment or securing performance or after such means have been resorted to in respect of any balance due or outstanding liabilities or obligations and in the latter case without entitling us to any benefit from such other means so long as any sum liability or obligation remains due or owing or payable or outstanding (whether actual or contingent) from the Obligor to you.
20. No delay or omission on your part in exercising any right power privilege or remedy in respect of this Guarantee shall impair such right power privilege or remedy or be construed as a waiver nor shall any single or partial exercise of any such right power privilege or remedy preclude any further exercise thereof or the exercise of any other right power privilege or remedy. The rights powers privileges or remedies provided in this Guarantee are cumulative and not exclusive of any rights powers privileges or remedies provided by law.

21. The time provided for in law for recovery of every money and liabilities under this Guarantee shall not run until demand has been made by you.
22. Demands under this Guarantee may be made from time to time, and our liabilities and obligations under this Guarantee may be enforced, irrespective of:
 - (a) whether any steps or proceedings are being or have been taken against the Obligor and/or any third party; or
 - (b) whether or in what order this Guarantee or any other security to which you may be entitled in respect of the monies hereby secured is enforced.
23. You shall be entitled in your sole and absolute discretion to commence such legal proceedings against us at such time and in such order as you may deem fit. Without prejudice to the generality of the foregoing, you may commence legal proceedings against us hereunder before commencing legal proceedings against the Obligor or vice versa or commence legal proceedings against us and the Obligor simultaneously.
24. Any notice or demand made by you hereunder may be served on us at our address last known to you or stated in the Schedule hereto thereon and if sent by post shall be conclusively deemed to have been received by us within seven (7) days after the date of posting irrespective of whether the same is actually received by us or not.
25. In the event of any action in respect of this Guarantee being begun the process by which it is begun may be served on us or shall be deemed to have been sufficiently served on us if it is forwarded by ordinary post to our address last known to you or stated in the Schedule hereto thereon and shall be deemed to have been received by us seven (7) days after the date of posting irrespective of whether the same is actually received by us or not.
26. Any statement of indebtedness in writing by any of your authorised employees or officers shall be binding and conclusive proof of the Indebtedness of the Obligor to you and binding against us in all courts of law.
27. Our liability hereunder shall be joint and several and every agreement and undertaking on our part shall be construed accordingly and all references to us herein contained shall where the context requires or admits be construed as references to both or either of us and you shall be at liberty to release or discharge any of us from the liabilities of this Guarantee or to accept any composition from or make any other arrangements with any of us without releasing or discharging the rest of us or otherwise prejudicing or affecting your rights and remedies against the rest of us and none of us shall be nor shall this Guarantee be released or discharged by the death of any of us.

28. To give effect to this Guarantee, you shall be at liberty to act as though we and each of us were principal debtors or principal debtor to you for all payments guaranteed by us as aforesaid, and notwithstanding: -

- (a) the failure of any one of us the intended guarantors to complete this Guarantee; or
- (b) the fact that for any reason whatsoever the signature of any one of us the intended guarantors to this Guarantee shall not bind him or his estate; or
- (c) the release by you of any one of us from further liability under this Guarantee; or
- (d) the fact that any one of us may have committed or hereafter commit an act of bankruptcy or may have been or hereafter be adjudicated bankrupt;

the rest of us shall be bound by this Guarantee and it shall be and remain a security as to the rest of us.

29. In these clauses where the context so permits:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes all genders and person includes a corporation;
- (c) every agreement covenant term stipulation and undertaking expressed to be made by and on the part of us shall be deemed to be made by or binding upon us jointly and severally and every reference to us herein shall be deemed to include a reference to us jointly and severally;
- (d) every reference to you herein shall be deemed to include a reference to any one or more of you.

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IN WITNESS WHEREOF the Guarantor has executed this Guarantee.

Signed by (**Name of guarantor**))

(**NRIC**))

in the presence of:)

Signature of Witness

Name:

NRIC:

APPENDIX 1
(AS AN ESSENTIAL PART OF ANNEXTURE OF THIS AGREEMENT)

-Attach herewith a copy of the duly executed and approved Credit Facility Form-