

IT HOTLINE AND SUPPORT SERVICES AGREEMENT

Terms & Conditions

1 SERVICES

1.1 Scope of Services:

KM shall provide the Services in accordance with the terms and conditions as set out in this Agreement.

1.2 Additional Project:

The Customer may occasionally require additional services not covered by this Agreement (the "Additional Project"). The Customer understands that separate quotation(s) will be generated for any Additional Project before any additional work to be performed by KM.

1.3 All provisions of Services pursuant to this Agreement shall be made in accordance with individual quotation or change order in Clause 1.2 above placed by KM with the Customer. Acceptance by KM of any such confirmation order shall be indicated by written acknowledgement thereof by both parties. In the event of any conflict between the terms and conditions of any quotation or change order and the terms and conditions of this Agreement, the latter shall prevail subject to the express agreement by the parties that the former should prevail.

2 TERM

This Agreement shall be commenced from a term set out in Part A of this Agreement or until otherwise terminated pursuant to the provisions of this Agreement.

3 SERVICE CHARGES AND PAYMENT

3.1 In consideration for the Services contemplated by this Agreement, the Customer shall pay KM the services charges ("Service Charges") as set out in Part C of this Agreement. The first payment shall be paid by the Customer in advance upon commencement of Services.

3.2 The Customer shall pay the Services Charges to KM in advance for that month. The payment due date shall be 14 days from the date of KM's invoice.

3.3 Without limiting any other remedies or rights that KM may have hereunder, if the Customer does not pay KM on time, KM shall have the rights to cancel or suspend any other outstanding order until the Customer has paid the outstanding amounts or terminate this Agreement.

3.4 Without prejudice to any other of KM's right hereunder and without any way affecting or relieving the Customer's obligation to make punctual payments, interest shall be charged at the default interest rate on all overdue payments and on all other overdue payments payable under this Agreement. The default interest rate shall be 2.5% per calendar month ("Default Rate"), interest shall run day to day and accrue after as well as before any judgment until payment and shall be compounded at monthly intervals. Each payment and all other overdue payments is an independent and additional liability and shall survive the termination of this Agreement.

4 DUTIES OF THE CUSTOMER

4.1 The Customer shall provide a safe workplace with adequate access to facility for the performance of Services by the Employee.

4.2 The Customer shall provide a proper system and network access for the performance of Services by the Employee.

4.3 The Customer shall provide all necessary and proper tools and software, including but not limited to installation media and licence, for performing the Services.

4.4 The Customer shall provide clear and reasonable instructions for the Employee to follow. A single point of contact from the Customer shall be assigned for coordination and arrangement of the performance of Services.

4.5 The Customer shall response to KM's enquiries as soon as possible and provide the necessary information or records for the performance of Services by KM.

5 DUTIES OF KM

5.1 KM shall ensure to provide appropriate Employee and tools to provide high quality of services.

5.2 KM should have full insurance for the Employee. Under no circumstances would KM be responsible for any damage or loss to the Customer's staff and equipment.

- 5.3 As the employer of the Employee, KM shall (i) maintain all personnel and payroll records for the Employee, (ii) pay directly the salaries and other fringe benefits (if any) to the Employee, (iii) ensure the Employee are covered by all necessary and relevant insurance policies and Mandatory Provident Fund as required by law. The Employee assigned shall remain employees of KM at all times and shall not be entitled to participate in any of the Customer's employees plans, including but not limited to any pension, welfare, insurance, bonus, vacation pay or otherwise.
- 5.4 The Employee is assumed to perform the Services at the Customer's designated premises, details as set out in Part B hereof. Should there be any other works to be carried out in the locations not specified in this Agreement, such extra transportation expenses should be arranged or responsible by the Customer and payable to KM.
- 5.5 Should any Employee be unable to perform the Services due to illness, resignation or other causes beyond KM's control, KM will not replace such employee and will have no other liability to the Customer.
- 5.6 The Employee will report to Customer's designated point of contact and will perform the Services under the Customer's reasonable supervision and instructions.
- 5.7 If necessary, the Employee will coordinate with KM's helpdesk and back-end support on special incidents and follow up with the outstanding incidents.

6 ENTRY INTO CUSTOMER'S PREMISES

- 6.1 The Customer shall provide the Employee with reasonable access to the Customer's facilities, network, equipment and software at all reasonable times to provide the Services. Customer, at its own expense, shall make available to the Employee who are familiar with the Customer's equipment, network, software and/or applications, and shall provide suitable working space, reasonable communication privileges, including internet access, and other facilities as KM reasonably requires. Customer will, at its expense, provide onsite high speed data line access and cabling as KM reasonably requires to provide the Services. Customer shall keep available to KM the latest issue of software used by the Customer.
- 6.2 KM will take all reasonable measures to avoid damages to the premises or properties of the Customer but KM will not accept any liability and/or responsibility for any damage done accidentally.

7 TERMINATION

The parties hereto may terminate this Agreement, and its respective obligations under this Agreement, as follows:

- (a) by KM, if any of the sums payable hereunder or any other indebtedness is not paid by the Customer within 14 days from the due date;
- (b) by KM, if a bankruptcy petition relating to the Customer is presented, or the Customer enters into compulsory or voluntary liquidation, or have a receiving order made against it, or makes any arrangement with its creditors or makes any assignment for the benefit of such creditors;
- (c) by any party hereto upon written notice to the other party if the other party hereto materially breaches any term of this Agreement or otherwise fails to satisfy any promise or covenant made herein, and further provided that such party shall fail to cure said breach or failure within 30 days' period;
- (d) by KM, with or without cause, upon 30 days' written notice of intent to terminate to the Customer;
- (e) by either party, if any of the Force Majeure Events set out hereunder happened.

8 EFFECTS OF TERMINATION

- 8.1 Termination of this Agreement for any reason shall not affect the right of KM to:-
 - (a) recover from the Customer any monies due to KM on or before such termination or in consequence thereof including any sums which, if incurred prior to the relevant date, would be payable;
 - (b) recover from the Customer any costs and expenses incurred by KM in collecting any payments due under this Agreement or otherwise in obtaining the due performance of the obligations of the Customer under this Agreement;
 - (c) recover from the Customer any damages for breach of this Agreement;
 - (d) suspend any further Services or other obligations to the Customer (without being liable to Customer for any losses so caused).
- 8.2 Without prejudice to KM's rights to claim damages, if the Customer terminates this Agreement prior to the expiration of this Agreement, the Customer become immediately liable to pay to KM an amount comprising the aggregate of:
 - (a) all arrears of monies accrued due and unpaid under the terms of this Agreement together with interest

- thereon at the Default Rate; and
 - (b) any costs and expenses incurred by KM in collecting any payments due under this Agreement or otherwise in obtaining the due performance of the obligations of the Customer under this Agreement; and
 - (c) all payments which would have been payable for the remainder of the term of this Agreement.
- 8.3 Termination of this Agreement by KM shall not discharge the Customer from any existing obligations accrued due on or prior to the date of termination.
- 8.4 The rights and remedies granted to KM pursuant to this Agreement are in addition to, and shall not limit or affect, any other rights or remedies available at law or equity.

9 INDEMNITY

Each Party agrees to indemnify and hold harmless the other Party, and its respective affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

10 LIMITATION OF LIABILITY

- 10.1 KM shall not be responsible for any damages or loss to the information/data saved in the Customer's network or any damages or loss caused to the Customer or its employees or properties save and except the same is caused by the wilful act or default of the Employee.
- 10.2 KM shall not be liable for any delay or deficiency in providing the Services if such delay or deficiency results from the Customer's failure to perform its duties under this Agreement or due to any cause beyond KM's reasonable control.
- 10.3 KM shall have no liability for any claims, actions, damages or other costs arising out of or in connection with any content, material, documents or other information (including without limitation trademarks, copyrighted material) provided to KM by the Customer.
- 10.4 In no event shall KM be liable to Customer, any employee, agent or contractor of Customer, or any third party, for any loss of profits, loss of business, or indirect, incidental, special, consequential, exemplary or punitive damages arising out of or related to this Agreement even if KM has been advised of the possibility thereof. KM's liability to Customer under this Agreement shall in no event exceed one month worth of Service Charge pursuant to this Agreement for the Services.

11 WARRANTIES

- 11.1 KM makes no warranties of any kind, expressed or implied regarding the functionality of hardware or software, but instead relies on the warranties provided by the manufacturer of each equipment or device. Except as expressly stated in any service agreement or their general terms and conditions, KM does not make, and hereby disclaims, any and all express or implied warranties, including, but not limited to, warranties of merchantability, fitness for a particular purpose, non-infringement and title, and any warranties arising from a course of dealing, usage or trade practice.
- 11.2 KM hereby warrants that any equipment or materials or devices to be used by KM under this Agreement shall be performed or installed by KM in a workmanlike manner, consistent with generally prevailing industry standards for comparable services, and in compliance with the requirements of this Agreement.
- 11.3 Due to the complexity and hidden factors in the IT system environment, KM makes no warranties that it can fix or resolve all hardware or software issues. KM will use its endeavours to provide alternative solutions or workarounds to achieve the best possible outcome to Customer. For the avoidance of doubt, the effectiveness of the Services is governed by the effectiveness of the software and tools of the Customer.

12 CONFIDENTIALITY

- 12.1 Confidential information (the "Confidential Information") refers to any data or information relating to the Customer, whether business or personal, which would reasonably be considered to be private or proprietary to the Customer and that is not generally known or where the release of that Confidential Information could reasonably be expected to cause harm to the Customer.
- 12.2 KM agrees that it will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which KM has obtained, except as authorized by the Customer or as required by law. The

- obligations of confidentiality will apply during the term of this Agreement and will survive indefinitely upon termination of this Agreement until the Confidential Information is no longer confidential.
- 12.3 Notwithstanding Clause 12.1 above, the following information shall not be deemed as Confidential Information and KM shall have no obligation with respect to such information:
- (a) which is already in the possession of KM at the time of disclosure; or
 - (b) which is already available to the public at the time of disclosure; or
 - (c) which becomes available to the public without fault of KM; or
 - (d) which is subsequently rightfully received by KM from a third party without notice of restriction on further disclosure; or
 - (e) which is developed by KM independently of this Agreement.
- 13 **PERSONAL DATA (PRIVACY) ORDINANCE**
KM acknowledges that the Confidential Information may consist of personal data and be subject to the provisions of the Personal Data (Privacy) Ordinance, Chapter 486 of the laws of the Hong Kong Special Administrative Region (“PDPO”). KM agrees to comply with the provisions of the PDPO, and all other relevant laws and regulations, with respect to the Confidential Information, as if it were a data user as defined in the PDPO.
- 14 **FORCE MAJEURE**
Neither party hereto shall be deemed in default of this Agreement to the extent that performance of its obligations (other than an obligation of payment) or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, civil disturbance, terrorism, acts or omissions of suppliers and other third parties, act of government, strikes, unavailability of material, facilities, telecommunications services or supplies or any other cause beyond the reasonable control of such party (each, a “Force Majeure Event”).
- 15 **ASSIGNMENT OF RIGHTS**
KM may at any time assign all or part of its interest in this Agreement or its rights hereunder to any person or corporation. The Customer may not without the prior written consent of KM assign or transfer all or part of its interest in this Agreement or its rights hereunder to any person or corporation.
- 16 **MODIFICATIONS, WAIVER AND SEVERABILITY**
The parties hereto may, by mutual agreement, amend any provision of this Agreement, and any party hereto may grant consent or waive any right to which it is entitled hereunder or any condition to its obligations hereunder, provided that each such amendment, consent or waiver shall be agreed by both parties and shall be in writing. If any terms and conditions of this Agreement shall become illegal, invalid or unenforceable for any reason, the legality, validity or enforceability of the remaining provisions shall not be in any way be affected or impaired.
- 17 **INDEPENDENT CONTRACTOR**
In providing the Services under this Agreement, it is expressly agreed that KM is acting as an independent contractor and not as an employee. KM and the Customer acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for services.
- 18 **CONTRACTS (RIGHTS OF THIRD PARTIES) ORDINANCE**
The parties hereby declare that nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong Special Administrative Region).
- 19 **ENTIRE AGREEMENT**
This Agreement and other attachments thereto constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, quotation, purchase orders, understandings and negotiations, whether oral or written, between the parties hereto with respect to such subject matter, unless otherwise explicitly agreed in writing by the parties.
- 20 **LAWS AND JURISDICTION**

This Agreement shall be governed and construed in accordance with the laws of the Hong Kong Special Administrative Region and any disputes arising from this Agreement shall be subject to the exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.

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