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AKSARA NUSANTARA

A KIT OF STANDARD STARTUPS AGREEMENTS

[•]

**SHARE SUBSCRIPTION AGREEMENT**

between

**THE SUBSCRIBERS**

(AS DEFINED HEREIN)

and

PT [•]

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**THIS SHARE SUBSCRIPTION AGREEMENT** ("**Agreement**") is entered into on [●] by and between:

- (1) The persons whose names and addresses are set out in Part 1 of Schedule 1 (together the "**Subscribers**" and each a "**Subscriber**");
- (2) The persons whose names and addresses are set out in Part 2 of Schedule 1 (together the "**Founders**" and each a "**Founder**"); and
- (3) **PT [●]**, a limited liability company duly incorporated and existing under and by virtue of the laws of the Republic of Indonesia, with its registered office at [●] (the "**Company**")

(collectively, the "**Parties**" and each, a "**Party**").

**RECITALS:**

- (A) The Company is a limited liability company duly incorporated and existing under and by virtue of the laws of the Republic of Indonesia.
- (B) The Company has agreed to, amongst others, issue to the Subscribers, and the Subscribers have agreed to subscribe for, certain New Shares (as defined below) of the Company, with the terms and conditions as set out in this Agreement.

**IT IS AGREED** as follows:

**1. DEFINITION AND INTERPRETATIONS**

- 1.1 In addition to terms defined elsewhere in this Agreement, the definitions and other provisions in Schedule 7 (Definition and Interpretation) apply throughout this Agreement, unless the contrary intention appears.
- 1.2 In this Agreement, unless the contrary intention appears, a reference to a clause, subclause or schedule is a reference to a clause, subclause or schedule of or to this Agreement. The schedules form part of this Agreement.
- 1.3 The headings in this Agreement do not affect its interpretation.

**2. SUBSCRIPTION**

- 2.1 Subject to the terms and conditions set out in this Agreement, each Subscriber shall subscribe for, and the Company shall issue to each Subscriber, the New Shares at the Closing Date[●].
- 2.2 As consideration for the New Shares, the Subscribers shall pay to the Company the Subscription Amount on Closing Date.
- 2.3 On Closing Date, the shareholding structure of the Company shall be as set out in Schedule 5 of this Agreement.

**3. CONDITIONS**

- 3.1 Closing shall be subject to the satisfaction or waiver, as the case may be, of the following conditions on or prior to the Long Stop Date (the "**Conditions**"):<sup>1</sup>
  - (a) no Applicable Laws and Requirements being in effect, and no court order having been entered in any action or proceeding instituted by any party, which prohibits or restricts the Transaction; and
  - (b) the shareholders of the Company having passed a written shareholders' resolution, in the agreed form, under which the shareholders shall have:

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<sup>1</sup> This draft assumes that prior to the signing of this Agreement the due diligence on the Company has been completed to the Subscribers' satisfaction and all internal approvals of the Subscriber have been obtained.

- (i) approved the Transaction;
- (ii) approved the enactment of the Amended Articles;
- (iii) waived any and all pre-emptive rights it may have under the Articles or otherwise in respect of the issuance of the New Shares to be issued pursuant to this Agreement;
- (iv) **[approved the resignations of each of [●] and [●] as [directors/commissioners] of the Company;]**<sup>2</sup>
- (v) approved the appointment of [●] as a **[commissioner/director]** of the Company;
- (vi) **[●]**<sup>3</sup>; and

to be effective at Closing.

- (c) all approvals required to be obtained from a Governmental Authority and/or any third party for the complete consummation of the Transaction having been obtained by the Founders or the Company, as the case may be.

3.2 Each Subscriber may, to such extent as it thinks fit and is legally entitled to do so, waive any of the Conditions only in respect of itself, in whole or in part, by written notice to the Company.

3.3 If any of the Conditions are not satisfied (or waived by the relevant Subscriber in accordance with Clause 3.2 above) by the Long Stop Date, each Subscriber shall have the right, but not the obligation, to terminate this Agreement in respect of itself by serving a written notice to the Company. If this Agreement is so terminated, it shall cease to have effect immediately with respect to such Subscriber, except for the Surviving Provisions, but for the avoidance of doubt shall continue with respect to each other Subscriber that has not exercised its right to terminate this Agreement in respect of itself and the Company and the term "Subscriber" where used in this Agreement shall be interpreted accordingly following such termination.

#### 4. CLOSING

4.1 Subject to Clause 3.3 of this Agreement, Closing shall take place at the offices of **[the Company]** at **[10:00 am]** Jakarta time on the **[fifth]** Business Day after the date on which the last of the Conditions have been satisfied or waived by each of the Subscribers or at such other place, at such other time or on such other date as agreed in writing between the Company and the relevant Subscribers which undertakes the Closing.

4.2 On Closing, the following actions shall take place in the following sequence:

- (a) each Subscriber shall pay its respective Subscription Amount by wire transfer to the Company Bank Account and shall provide the Company with evidence of such payment in the form of an MT103 or SWIFT confirmation or otherwise from the relevant bank (which evidence may be provided by way of e-mail) showing that the wire has been commenced;
- (b) following completion of Clause 4.2(a) above, the Company shall:
  - (i) cause the public notary to submit to, and promptly process with, the MOLHR all relevant documentation in order to effect the notification to the MOLHR and obtain approval from MOLHR in connection with:
    - (A) the increase in the authorized, issued and paid-up capital of the Company sufficient for the issuance of the New Shares to the Subscribers;

<sup>2</sup> In case there will be director(s) and/or commissioner(s) that will resign from their position.

<sup>3</sup> Other conditions based on findings from the due diligence.

- (B) the amendment of the Articles to the Amended Articles to reflect, amongst other matters, the increase in the authorized, issued and paid-up capital of the Company;
- (C) the change in the shareholder composition of the Company as a result of the issuance of the New Shares to the Subscribers;
- (ii) update its NIB to reflect such change as set out in Clause 4.2(b) of this Agreement in the OSS system.

4.3 As soon as practicable and no later than 10 (ten) Business Days after the Closing Date, the Company shall provide to each Subscriber:

- (a) evidence of the approval and receipt of notification from the MOLHR of each of the matters described in Clause 4.2(b) of this Agreement (the “**MOLHR Approval**”, the date of the grant of the MOLHR Approval being the “**MOLHR Approval Date**”);
- (b) an updated copy of the share register of the Company reflecting the Subscribers as the holders of the New Shares; and
- (c) the relevant share certificate(s) dated on the MOLHR Approval Date evidencing each Subscriber’s ownership of the portion of the New Shares set out next to that Subscriber’s name in Part 3 of Schedule 1.

## 5. TERMINATION

5.1 This Agreement may be terminated at any time prior to Closing:

- (a) by mutual agreement of the Parties;
- (b) if Closing has not occurred by the Long Stop Date (or any other date as may be agreed by the Parties), each Subscriber shall have the right, but not the obligation, to terminate this Agreement in respect of itself by serving a written notice to the Company.

5.2 Upon termination, this Agreement shall cease to have effect (except for the Surviving Provisions), and, notwithstanding any other provision of this Agreement, no Party shall have any claim against any other Party hereunder. In order to give effect to the termination provisions set forth in this Clause 5, the Parties hereby waive the applicability of the second and third paragraphs of Article 1266 of the Indonesian Civil Code to the extent that a court decision is required for the termination of this Agreement.

## 6. WARRANTIES

9.1 The Founders and Company, jointly and severally, hereby represents and warrants to each of the Subscribers that:

- (a) on the MOLHR Approval Date, the New Shares issued to the Subscribers under this Agreement shall be duly authorised, allotted, validly issued and fully paid up, and shall represent:
  - (i) in aggregate at least [●]% of the total issued and paid up share capital of the Company on a Fully Diluted Basis; and
  - (ii) in respect of each Subscriber, at least that percentage of the total issued and paid up share capital of the Company on a Fully Diluted Basis set out next to its name in the last column of the table in Part 3 of Schedule 1 of this Agreement,

and the New Shares shall be free from all and any Encumbrances and no Person has or shall have any rights of pre-emption over the New Shares; and

- (b) as at the date of this Agreement and the Closing Date, the warranties as set out in Schedule 2 of this Agreement are true, accurate and not misleading.

9.7 Save for Clauses 6.1 above and 7 of this Agreement, no Party makes any other warranties, express or implied, to the other Parties and each Party acknowledges to the other Parties that it has not relied on or been induced by any other warranties made by the other Parties or their respective representatives to enter into this Agreement.

9.8 The Founders and Company, jointly and severally, hereby undertakes to notify each Subscriber as soon as practicable (and in any event within 5 (five) Business Days) upon discovery of any facts or circumstances that could give rise to a Company Claim.

## 10. GENERAL WARRANTIES

10.1 Each Party warrants to each other Party, in respect of itself only (and not in respect of any other Party), that as of the date of this Agreement and on the Closing Date:

- (a) there is no provision in its articles of association (or similar constitutive document) and no provision in any existing mortgage, indenture or contract, that conflicts with or in any way prevents the execution, delivery or performance of the terms of this Agreement or other documents or agreements referred to herein in accordance with their respective terms, unless otherwise provided in Clause 3.1 of this Agreement;
- (b) such Party, being a legal entity, has the full power and authority to enter into, execute and deliver this Agreement and to perform the transactions contemplated hereby, and such Party is duly incorporated or organized and existing and is of current standing under the laws of the jurisdiction of its incorporation or organization;
- (c) unless otherwise provided in Clauses 3.1 of this Agreement, the execution and delivery of this Agreement and the performance of the Transaction by such Party, being a legal entity, have been duly authorized by all necessary corporate or other action of such Party;
- (d) this Agreement constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms;
- (e) unless otherwise provided in Clauses 3.1 or 4.2 of this Agreement, it has obtained all necessary third-party approvals and consents required by it for it to perform the transactions contemplated by this Agreement; and
- (f) there is no action, proceeding, claim or investigation pending against such Party before any court or administrative authority that if determined adversely to such Party may reasonably be expected to have a Material Adverse Effect on such Party's ability to perform its obligations hereunder.

10.2 Each Subscriber hereby warrants to each other Party, in respect of itself only (and not in respect of any other Party) the following:

- (a) **Subscription for Investment.** It is subscribing for the New Shares for investment for its own account and not with a view to, or for sale in connection with, any distribution thereof.
- (b) **Information.** It acknowledges that it has sufficient knowledge and experience in finance and business that it is capable of evaluating the risks and merits of its investment in the New Shares and it is able financially to bear the risks thereof.

## 11. LIMITATION OF LIABILITIES

The limitations set out in Schedule 6 shall apply to all Company Claims.

## 12. DISPUTE RESOLUTION

12.1 The Parties agree to use all reasonable efforts to attempt to resolve all disputes arising hereunder promptly, equitably and in good faith.

**12.2 [OPTION 1: COURT]**

[In the event the Parties are unable to resolve any dispute(s) arising in connection with this Agreement within 30 (thirty) days from the date such a dispute was raised by a Party and communicated to the other Party (or Parties) (or any other period mutually agreed between the relevant Parties), the dispute shall be resolved by District Court of [●].]

**[OPTION 2: ARBITRATION]**

[In the event the Parties are unable to resolve any dispute(s) arising in connection with this Agreement within 30 (thirty) days from the date such a dispute was raised by a Party and communicated to the other Party (or Parties) (or any other period mutually agreed between the relevant Parties), the dispute shall be referred to and finally resolved by arbitration in [Indonesia] through [Indonesian National Arbitration Agency whose, on the signing date of this Agreement, address is at Wahana Graha, Lantai 1 dan Lantai 2, Jl. Mampang Prapatan No. 2, Jakarta 12760 (Badan Arbitrase Nasional Indonesia or "BANI")] and in accordance with the prevailing Arbitration Rules and Procedures of [BANI and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution for the time being in force], which rules are deemed to be incorporated by reference in this Clause.

The Parties agree not to submit an objection or repudiation, in whatsoever form, on without limitation the competency, validity, enforceability, authority and/or decision of [BANI], particularly without limitation on the dispute process involving [BANI] with the other arbitration agency and will act in good faith in resolving the dispute through [BANI] as agreed in this Clause as the appointed arbitration agency and in implementing the decision rendered by [BANI].]

**13. NOTICES**

13.1 All notices shall be made in English and given by email, registered airmail or courier (return receipt requested), or by delivery in Person addressed as follows:

- (i) If to the Company:  
**Company**  
Address: [●]  
Attention: [●]  
Email: [●]
- (ii) if to any Subscriber, at the address or e-mail address set out against its name in Part 1 of Schedule 1; or
- (iii) if to any Founder, at the address or e-mail address set out against his name in Part 2 of Schedule 1,

or such other address as may be designated in writing by a Party in accordance with the foregoing.

13.2 In proving the giving of a notice it shall be sufficient to show:

- (a) in the case of any delivery by courier, that the notice or other document was duly delivered, as evidenced by a receipt;
- (b) in the case of delivery by electronic mail, the sender's receipt of an automated message confirming delivery or the lapse of four (4) hours after the time the electronic mail is sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered, whichever happens first; or
- (c) in the case of delivery by properly addressed, pre-paid registered airmail, the lapse of 5 (five) Business Days after the day the airmail is sent.



13.3 For evidentiary purposes, in the case of delivery by electronic mail, the Party serving the notice shall use reasonable endeavours to serve a copy by courier within 7 (seven) Business Days of the service of such notice by electronic mail. The non-delivery of the hardcopies shall not invalidate the delivery by electronic mail under this Clause 10.

**14. MISCELLANEOUS**

**14.1 Severability**

If any provision of this Agreement or part thereof is rendered void, illegal or unenforceable by Applicable Laws and Requirements to which it is subject, it shall be rendered void, illegal or unenforceable to that extent and it shall in no way affect or prejudice the enforceability of the remainder of such provision or the other provisions of this Agreement.

**14.2 No partnership**

Nothing contained in this Agreement shall constitute or be deemed to constitute a partnership between the Parties and no Party shall have any authority to bind the others in any way.

### **14.3 Waiver**

No delay or failure by any Party to exercise or enforce at any time any right or provision of this Agreement shall be considered a waiver thereof, unless made in writing. No single waiver shall constitute a continuing or subsequent waiver. A breach of or default under this Agreement is not waived by any failure or delay in exercising or partial exercise of any right, power, authority, discretion or remedy under this Agreement.

### **14.4 Assignment**

Save as otherwise provided herein, the benefits and obligations of a Party are personal to that Party and shall not be capable of being assigned, delegated, transferred or otherwise disposed of save with the prior written consent of the other Parties, consent of which shall be at the sole discretion of the other Parties.

### **14.5 Costs and expenses**

All costs, expenses and fees incurred in connection with the negotiation, preparation and execution of this Agreement, including their respective legal counsel's costs, shall be borne by each Party respectively.

### **14.6 Entire agreement**

This Agreement shall constitute the entire agreement between the Parties in relation to the subject matter hereof. This Agreement shall supersede all prior negotiations, agreements, arrangements, commitments and understanding relating to the subject matter hereof.

### **14.7 Amendments and variation**

No amendments or variation of this Agreement shall be valid or effective unless made in writing and signed by each of the Parties.

### **14.8 Counterparts**

This Agreement may be signed by any number of counterparts and all such counterparts taken together are to be deemed to constitute one and the same instrument. Each counterpart may be signed and executed by the Parties and transmitted by electronic mail transmission and shall be as valid and effective as if executed as an original.

### **14.9 Successors and assigns**

This Agreement shall be binding on and shall inure for the benefit of the respective heirs, personal representatives, successors-in-title and permitted assigns of each of the Parties.

### **14.10 Further assurances**

The Parties hereto recognise that it is impracticable to make provisions for every contingency that may arise in the course of performance of the provisions hereof and accordingly declare their intention that this Agreement shall operate between them with fairness and without detriment to the interest of any Party and covenant and agree with each other that they shall do, execute and deliver or procure to be done, executed and delivered all such further acts, deeds, things and/or documents as may be necessary for the complete performance of their duties and obligations under this Agreement or otherwise to implement fully and to give full effect to the terms of this Agreement in the spirit in which it was agreed.

### **14.11 Survival**

Clauses 9, 10 and 11 of this Agreement (excluding Clause 11.11) (the "**Surviving Provisions**") shall survive the termination or early termination of this Agreement.

### **14.12 Remedies**

No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy which is otherwise available at Applicable Laws and Requirements, and each and every other remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at Applicable Laws and Requirements. The election of any one or more of such remedies by any of the Parties shall not constitute a waiver by such Party of the right to pursue any other available remedies.

#### 14.13 Governing Law

The validity, construction, interpretation, enforcement and the rights of the Parties hereunder (including under Clause 9 of this Agreement), shall be determined under, governed by, and construed in accordance with, the Applicable Laws and Requirements of the Republic of Indonesia.

#### 14.14 Confidentiality

11.15.1 Each of the Parties shall (and shall procure that its advisers and any of its related companies or Affiliates, shall) not make any announcement or disclose any information to third parties concerning the Transaction and the confidential information relating to the business of the Company ("**Confidential Information**") save, in each case, where:

- (i) the Parties mutually agree in writing to make such announcement or disclosure and the announcement is in a form agreed by the Parties; or
- (ii) the Confidential Information disclosed comprises only information set out in an announcement in a form agreed by the Parties; or
- (iii) the Confidential Information is required to be disclosed or announced by Applicable Laws and Requirements, any court of competent jurisdiction, any competent regulatory body or the rules of any relevant stock exchange regulator, but if a Party is so required to make any announcement or to disclose any confidential information, the relevant Parties shall promptly notify the other Parties in writing, where practicable and lawful to do so, before the announcement is made or disclosure occurs (as the case may be) and shall co-operate with the other Parties regarding the timing and content of such announcement or disclosure (as the case may be) or any action which the other Parties may reasonably elect to take to challenge the validity of such requirement.

11.15.2 Nothing in this Clause prevents any Confidential Information being disclosed to the extent:

- (i) required to enable any Party to enforce its rights under this Agreement [**or the Shareholders' Agreement**] (as may be amended and restated from time to time)] or for the purpose of any judicial proceedings;
- (ii) that the information is disclosed on a strictly confidential basis by a Party to its professional advisers, auditors, bankers, or its direct or indirect limited partners, or shareholders;
- (iii) that the information is disclosed by any of the Parties on a strictly confidential and need to know basis to any of its related companies or Affiliates; or
- (iv) that the information is in or comes into the public domain otherwise than as a consequence of a breach by the relevant Party of its obligations under this Clause.

#### 1.7 Language

- (a) This Agreement is executed in English language. In compliance with the Law of the Republic of Indonesia No. 24 of 2009 on Flag, Language, National Emblem, and National Anthem (“**Law 24**”), the Parties agree to execute the Indonesian language text of this Agreement no later than 45 (forty five) days from the date of this Agreement and the Indonesian language agreement will be deemed to be effective from the date the English-language text is executed.<sup>4</sup>
- (b) In the event of any inconsistency between the Indonesian-language text and the English-language text of this Agreement, or should there be any dispute on the meaning or interpretation of certain provisions of this Agreement, the Parties hereby agree that the English-language text shall prevail, and the Indonesian-language text will be deemed to be amended to conform with and to make the relevant Indonesian-language text consistent with the relevant English-language text.
- (c) No Party will (nor will it allow or assist any Party to) challenge the validity of, or raise or file any objection to, this Agreement or the transactions contemplated herein in any manner or forum in any jurisdiction on the basis of any failure to comply with Law 24 or any of its implementing regulations when issued.

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<sup>4</sup> This shall be prepared in bilingual version, but subject to the timing of signing

SCHEDULE 1

**Particulars of the Subscribers and the Founders**

**Part 1  
The Subscribers**

Name	Address and Notice Details
[•], [an individual, holder of [Indonesian Identification Card/Passport] No. [•]] / [a company incorporated under the laws of the [•]]	Address: [•] E-mail address: [•]
[•], [an individual, holder of [Indonesian Identification Card/Passport] No. [•]] / [a company incorporated under the laws of the [•]]	Address: [•] E-mail address: [•]

**Part 2  
The Founders**

Name	Address and Notice Details
[•], [an individual, holder of [Indonesian Identification Card/Passport] No. [•]]	Address: [•] E-mail address: [•]
[•], [an individual, holder of [Indonesian Identification Card/Passport] No. [•]]	Address: [•] E-mail address: [•]

**Part 3  
New Shares**

Name of Subscriber	Number of New Shares		Price per New Share	Subscription Amount	% of Fully Diluted Share Capital
	Series A				
	Series A				
	Series A				
<b>TOTAL</b>					

## SCHEDULE 2

### Company Warranties<sup>5</sup>

#### 1. INFORMATION

##### 1.1 Information in this Agreement

The particulars relating to the Group Companies and the Shares in this Agreement as set forth in Schedule 3 are true and accurate in all respects and are not misleading. Details of all Group Companies are contained in Schedule 3 of this Agreement.

#### 2. CORPORATE MATTERS

##### 2.1 Due Incorporation

Each of the Group Companies has been duly incorporated and validly exists under the Applicable Laws and Requirements, and is not in receivership or liquidation. No Group Company has operations or assets outside of the Republic of Indonesia.

##### 2.2 Share Capital

- (a) Except as stipulated in the Transaction Documents, there are no options, warrants, rights (including conversion or pre-emptive rights and rights of first refusal or similar rights) to acquire, mortgage, charge, pledge, lien or other forms of security or Encumbrance on, over or affecting the shares or capital in any Group Company, securities convertible into or exchangeable for shares of any Group Company, or any of the assets or businesses of any Group Company, and there is no agreement or commitment, orally or in writing, to give or create any of the foregoing.
- (b) The table in Schedule 5 of this Agreement sets forth the capitalization of the Company immediately following the MOLHR Approval Date on a Fully Diluted Basis.
- (c) Except as contemplated in the Transaction Documents, no shareholder of the Company has entered into any agreements with the Company with respect to the voting of capital shares of the Company, nor, so far as the Company is aware, are there any such agreements to which the Company is not party.

##### 2.3 Shares in the Company

The shares specified as having been issued by the Group Companies in Schedule 3 and 5 comprise all of the issued share capital of the Group Companies, have been properly and validly issued and are each fully paid-up. The New Shares when issued in accordance with this Agreement, will be properly and validly issued, fully paid-up, free of restrictions on transfer (other than restrictions on transfer under the Transactions Documents and issued in compliance with all Applicable Laws and Requirements and the Transaction Documents).

#### 3. SUBSIDIARY

- 3.1 The Company legally and beneficially owns, directly or indirectly, all the issued shares of the Subsidiary.
- 3.2 Other than shares held in the Subsidiary, no Group Company is the legal or beneficial owner or holder of any share or has any interest of any description in any other corporation. There is no Encumbrance, and no commitment to give or create any Encumbrance, on, over or affecting any of the shares of any Group Company other than the Company, and no Person has claimed to be entitled to any such Encumbrance. No Group Company is a participant in any joint venture, partnership or similar arrangement.

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<sup>5</sup> The Company to check all the warranties

#### 4. LICENCES

- 4.1 Save, in each case, where any failure to do so would not result in a Material Adverse Effect, [all permits, consents, licences and authorisations required for the Group Companies to carry on the Business as currently carried on (the “**Business Licenses**”) have been obtained and are in full force and effect].
- 4.2 To the knowledge of the Company:
- (a) no Business Licence will be revoked, suspended, cancelled, varied or not renewed as a result of the execution or performance of this Agreement or any document referred to or contemplated in this Agreement to be executed at or before Closing; and
  - (b) there are no circumstances likely to result in any Business License being revoked, suspended, cancelled, varied or not renewed.

## SCHEDULE 3

### Particulars of the Company and its Subsidiaries

#### 1. THE COMPANY

*Company name:* PT [•]  
*Principal office:* [•]  
*Business activities:* [•]  
*Date and place of establishment and Minister of Law and Human Rights approval date for such establishment:* [•]  
*Management structure:* **Board of Directors**  
 President Director – [•]  
 Director – [•]  
**Board of Commissioners**  
 President Commissioner – [•]  
 Commissioner – [•]  
*Financial year end:* [31 December]  
*Authorised share capital:* [•] shares with a total nominal value of IDR[•]  
*Issued shares (including identity of shareholders and number of shares):* See Schedule 5 for shareholding information on and immediately following the MOLHR Approval on a Fully Diluted Basis.

#### 2. SUBSIDIARY

*Company name:* PT [•]  
*Principal office:* [•]  
*Business activities:* [•]  
*Date and place of establishment and Minister of Law and Human Rights approval date for such establishment:* [•]  
*Management structure:* **Board of Directors**  
 President Director – [•]  
 Director – [•]  
 Director – [•]  
**Board of Commissioners**  
 President Commissioner – [•]  
 Commissioner – [•]  
*Financial year end:* [31 December]  
*Authorised share capital:* [•] shares with a total nominal value of IDR[•]  
*Issued shares (including identity of shareholders and number of shares):* As per table below

Shareholders	Number of Shares	Percentage of Shareholding in the Company (%)
<b>Ordinary Shares</b>		
[•]	[•]	[•]
[•]	[•]	[•]
[•]	[•]	[•]



[•]  
Total

[•]  
[•]

[•]  
100

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SCHEDULE 4

**Company Bank Account**

**Company Bank Account**

Bank name [•]

Bank address [•]

SWIFT [•]

Beneficiary name [•]

Account number [•]

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SCHEDULE 5

**Fully Diluted Share Capital of the Company Immediately Following the MOLHR Date**

**[to be completed]**

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## SCHEDULE 6

### Limitation of Liabilities

#### 1. Exclusions

The Founders and Company shall not be liable to any Subscriber in respect of a Company Claim to the extent that the matter or circumstance giving rise to that claim:

- (a) would not have arisen but for, or is increased as a result of a change in or enactment of any statute, statutory instrument or other legislative act
- (b) after the date of this Agreement (whether or not the change or withdrawal purports to be effective retrospectively in whole or in part);
- (c) has been or is made good or is otherwise compensated for without cost to the relevant Subscriber within 30 (thirty) Business Days of the date of the notice; or
- (d) if, and to the extent that, the relevant Subscriber or any of their respective directors, officers or employees are both (i) aware or has become aware of the fact, matter, event or circumstance which is the subject matter of the Company Claim prior to Closing, and (ii) aware that such fact, matter, event or circumstance could form the basis of a Company Claim.

#### 2. De minimis claims

Subject to paragraph 1(b) of this Schedule 6, the Founders and Company shall not be liable in respect of any Company Claim (other than any Fundamental Claim) unless the aggregate amount of damages to which the Subscribers would, but for this paragraph, be entitled as a result of that Company Claim is at least **IDR[●].-**.

#### 3. Threshold

Except in respect of any Fundamental Claim, the Founders and Company shall not be liable for a Company Claim from any Subscriber (a "**Claiming Subscriber**") unless the aggregate amount of the Fundamental Claim exceeds **IDR[●]**, in which case the Founders and Company shall be liable in respect of the full amount of all Company Claims and not only to the extent of the excess.

#### 4. Maximum aggregate limit

- (a) The Founders and Company shall not be liable for a Company Claim from a Claiming Subscriber in an amount exceeding:
  - (i) in respect of Fundamental Claims, 100% of the Subscription Amount paid by such Claiming Subscriber as set out next to its name Part 3 of Schedule 1 of this Agreement; or
  - (ii) in respect of Company Claims other than Fundamental Claims, **[●]**% of the Subscription Amount paid by such Claiming Subscriber as set out next to its name Part 3 of Schedule 1 of this Agreement.
- (b) The maximum aggregate liability of the Founders and Company for all Company Claims arising out of or in connection with this Agreement shall not exceed 100% of the aggregate Subscription Amounts received by the Company.
- (c) The liability of the Founders and Company in respect of a Company Claim shall mean the amount in respect of the Company Claim for which the Founders and Company:
  - (i) admits liability in writing; or

- (ii) is found to be liable:
  - (A) by a court or tribunal of competent jurisdiction and the Company has no right of appeal or is debarred by passage of time or otherwise from making an appeal; or
  - (B) by an arbitral tribunal in accordance with Clause 9 of this Agreement which has made a final binding arbitral award and the Company has no right of appeal or is debarred by passage of time or otherwise from making an appeal.

## 5. Time limits

- (a) The Founders and Company shall not be liable for:
  - (i) any Company Claim (other than Fundamental Claims) which are notified to the Company (as applicable) after [●] ([●]) months from the Closing Date; and
  - (ii) any Fundamental Claim, which are notified to the Company after [●] ([●]) years from the Closing Date,

provided that, subject to paragraph 5 (b) of this Schedule 6, the liability of the Company in respect of a Company Claim notified within these time limits shall terminate if proceedings in respect of such Company Claim have not been commenced within three (3) months after the date of notice of that Company Claim.
- (b) To the extent that any Company Claim arises out of a liability which at the time that it is notified to the Company in accordance with paragraph 5(a) of this Schedule 6 is contingent only, the liability of the Founders and Company in respect of such Company Claim shall terminate if:
  - (i) such liability does not become an actual liability that is due and payable within the later of [twelve (12) months] after the date of the notice of that Company Claim and [twelve (12) months] after the relevant time period in paragraph 5(a) of this Schedule 6; or
  - (ii) proceedings in respect of such Company Claim have not been commenced within [three (3) months] after the date on which such Company Claim ceased to be contingent.

## 6. No Duplication of Recovery

No Subscriber shall be entitled to recover damages or obtain payment, reimbursement, restitution or indemnity more than once in respect of the same Loss, regardless of whether more than one Company Claim arises in respect of it.

## SCHEDULE 7

### Definition and Interpretation

1. In this Agreement, unless the context otherwise requires, the following expressions shall bear the following meanings:

**"Affiliates"** means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by or under common Control with such first Person;

**"Amended Articles"** means the amended Articles in the form and substance mutually agreed by the Parties;

**"Applicable Laws and Requirements"** means in respect of any person, any national, provincial, local, municipal or other prevailing laws, regulation, administrative decree, constitution, ordinance, decree, binding government policy, statute or treaty of the Republic of Indonesia (or any other country) or any Governmental Authority (within or outside Indonesia) applicable to such person or any of such person's properties, necessary for the conduct of such person's business as it is now being conducted, and for consummation of the matters contemplated under this Agreement;

**"Articles"** means the articles of association of the Company, as may be amended from time to time by its shareholders pursuant to and in compliance with Applicable Laws and Requirements;

**"Business"** means the business of [●] in the Republic of Indonesia;

**"Business Day"** means any day, other than a Saturday, Sunday or public holiday on which banks located in Jakarta, Indonesia, and [●] are open for the purpose of conducting commercial banking business;

**"Business Licenses"** has the meaning given in paragraph 4.1 of Schedule 2 this Agreement;

**"Claiming Subscriber"** has the meaning given in paragraph 3 of Schedule 6 of this Agreement;

**"Closing"** means the closing of the Transaction in accordance with Clause 4 of this Agreement;

**"Closing Date"** means the date on which Closing occurs;

**"Company"** has the meaning given in the preamble;

**"Company Bank Account"** means, with respect to the Company, the bank account set forth in Schedule 4 hereof and, with respect to each Subscriber, a bank account with such details as notified by that Subscriber to the Company;

**"Company Claim"** means a claim against the Company for a breach of the representations and warranties in Clauses 6.1 or 7 of this Agreement;

**"Conditions"** has the meaning given in Clause 3.1 of this Agreement;

**"Confidential Information"** has the meaning given in Clause 11.15 of this Agreement;

**"Control"** means the possession, directly or indirectly, of the ability to control the voting of more than 50% (fifty per cent) of the issued voting securities and/or rights in a Person (which will be conclusively presumed to exist if a Person holds, directly or indirectly, more than 50% (fifty per cent) of the issued voting securities in another Person) or possession, directly or indirectly, of the right to appoint or remove more than half of the members of the board of directors or board of commissioners or similar governing or management bodies of that Person and/or to direct the affairs (including policies) of the other Person, whether through the ownership of voting securities, by contract or otherwise (and the term **"Controlled by"**, **"Controlling"** and **"common Control"** shall be construed accordingly);

**“Disclosure Letter”** means, in relation to each Subscriber, the letter of the same date as this Agreement from the Company to that Subscriber disclosing information against the Warranties;

**“Encumbrance”** means any mortgage, charge, pledge, lien, restriction, assignment, hypothecation, security interest, title retention or any other agreement or arrangement the effect of which is the creation of security, or any other interest, equity or other right of any person (including any right to acquire, option, right of first refusal or right of pre-emption), or any agreement or arrangement to create any of the same;

**“Founder”** or **“Founders”** has the meaning given in the preamble;

**“Fully Diluted Basis”** means, with respect to the share capital of the Company as at any date of determination, the aggregate of:

- (a) all the Shares issued on that date; and
- (b) all the Shares to be issued upon full exercise of all outstanding option, rights, or warrants or any other securities convertible into, exchangeable for or redeemable with new Shares;

**“Fundamental Claim”** means a Company Claim for a breach paragraphs 2.1 and 2.3 of Schedule 2 of this Agreement;

**“Governmental Authority”** means:

- (a) the government of any jurisdiction (including any national, state, municipal or local government or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, central bank, commission or other authority thereof, including but not limited to any entity directly or indirectly owned (in whole or in part) or controlled (minority or majority) thereby;
- (b) any public international organization or supranational body and its institutions, departments, agencies and instrumentalities; and
- (c) any quasi-governmental or private body, or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, law enforcement, regulatory, licensing, competition, tax, importing or other governmental or quasi-governmental authority;

**“Group”** means the Company and the Subsidiary, taken as a whole;

**“Group Companies”** means the Company and its Subsidiary, and **“Group Company”** means any of them;

**“IDR”** means Indonesian Rupiah, the lawful currency of the Republic of Indonesia;

**“Law 24”** has the meaning as set out in Clause 11.3(a) of this Agreement;

**“Long Stop Date”** means the date that is [60 (sixty)] calendar days from the date of this Agreement or any later date as agreed by the Parties;

**“Loss”** means any loss, action, proceeding, damage, liability, claim, cost, expense, fine, penalty, expense and other professional costs and expenses;

**“Material Adverse Effect”** means a material and adverse effect on the business, financial condition, prospects or results of operations of the Group, excluding any such effect arising out of:

- (a) the entry into, announcement or consummation of this Agreement or Transaction;
- (b) changes or conditions generally affecting the businesses that the Group is involved in in Indonesia, except to the extent that such changes have an impact on the Group that is materially disproportionate to the effect on other companies operating in the same business the Group is involved in in Indonesia;

**“MOLHR”** means the Ministry of Law and Human Rights of the Republic of Indonesia;

**“MOLHR Approval”** has the meaning given in 4.3(a) of this Agreement;

**“MOLHR Approval Date”** has the meaning given in Clause 4.3(a) of this Agreement;

**“New Shares”** means the [Series B Shares] set out against each of the Subscribers’ name in Part 3 of Schedule 1.

**“NIB”** means Business Registration Number (*Nomor Induk Berusaha*) in the OSS;

**“OSS”** means the online single submission system for the issuance of business licences in Indonesia (*perizinan berusaha terintegrasi secara elektronik*);

**“Person”** means any individual, corporation, company, partnership, firm, voluntary association, joint venture, trust, unincorporated organisation, Governmental Authority or any other entity whether acting in an individual, fiduciary or other capacity;

**“Series A Shares”** means series A shares of the Company with a par value of IDR[●] per share carrying normal voting rights and being subject to the restrictions as set out in the Articles set out in the Articles;

**“Series B Shares”** means series B [preferred] shares in the capital of the Company with a par value of IDR[●] per share, [carrying preferred rights as set out in [●] of the Shareholders’ Agreement and being subject to the restrictions set out in the Articles], and each a **“Series B Share”**;

**“Shareholders’ Agreement”** means the shareholders’ agreement between the Company, the Founders (as defined therein), and the Subscribers to be effective on Closing Date;

**“Shares”** means the issued and fully paid-up shares of the Company from time to time, which as at Closing Date shall consist of the Series A Shares and Series B Shares;

**“Subscriber”** or **“Subscribers”** has the meaning given in the preamble;

**“Subscription Amount”** means the amount set out against each of the Subscribers’ name in Part 3 Schedule 1, which will be paid by each Subscriber for the subscription of its portion of the New Shares;

**“Subsidiary”** means any subsidiary of the Company and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the Closing Date hereof;

**“Surviving Provisions”** has the meaning given in Clause 11.12;

**“Transaction”** means the issue and subscription of the New Shares;

**“Transaction Documents”** means this Agreement, [the Shareholders’ Agreement] and [the Disclosure Letter]; and

**“Warranties”** mean the warranties given under Clauses 6.1 and 7.1 of this Agreement.

**2.** In this Agreement, unless the context otherwise requires:

- (a) words denoting any gender shall include all genders and words denoting the singular shall include the plural and vice versa;
- (b) any part of speech or grammatical form or equivalent cognate expression of a word or phrase defined in this Agreement has a corresponding meaning;
- (c) reference to any Recital, Clause or Schedule is to a Recital, Clause or Schedule of or to this Agreement;



- (d) the Recitals are included to provide the background to this Agreement only and in the event of a conflict between the provisions of the Recitals and the operative provisions of this Agreement, the operative provisions of this Agreement shall prevail;
- (e) the Schedules to this Agreement form an integral part of this Agreement and shall be taken, read and construed as an integral part of this Agreement;
- (f) reference to this Agreement includes the Schedules to this Agreement;
- (g) headings and under-linings are for convenience only and do not affect the interpretation of this Agreement and shall be ignored in construing this Agreement;
- (h) words denoting natural persons include any corporation or other body corporate or unincorporated, partnership, association, public authority, two or more persons having a joint or common interest, or any other legal or commercial entity or undertaking and vice versa (including the person's executors, administrators, successors, substitutes, transferees and permitted assigns);
- (i) reference to any agreement or document (including but not limited to this Agreement) includes a reference to such agreement or document as from time to time modified or varied in any manner or respect whatsoever and any other instruments or documents from time to time issued or executed supplemental thereto, in addition thereto or in substitution thereof whether before or after the date of this Agreement;
- (j) reference to any law, statute, regulation, proclamation, ordinance, order, decree or guidelines includes a reference to a law, statute, regulation, proclamation, ordinance, order, decree or guidelines as may from time to time be amended, modified, varied, consolidated, repealed or extended whether before or after the date of this Agreement and includes all by-laws, instruments, orders, rules and regulations made thereunder;
- (k) a reference to a Party includes that Party's successors, nominees, personal representatives and permitted assigns;
- (l) unless expressed otherwise, a warranty, representation, undertaking, indemnity, covenant or agreement on the part of two or more persons binds them severally, and for the avoidance of doubt the liability of the Subscribers under this Agreement shall in all cases be several and not joint or joint and several;
- (m) reference to a time and date concerning the performance of any obligation by a Party is reference to the time and date in Jakarta, Indonesia, unless otherwise stated;
- (n) a day, month or year means a day, month or year, as the case may be, reckoned according to the Gregorian calendar;
- (o) where the day on or by which anything is to be performed falls on a day that is not a Business Day, that thing must be done on or by the next Business Day (as applicable);
- (p) a document in the "**agreed form**" is a reference to a document in a form approved and for the purposes of identification initialled by or on behalf of the Company and each of the Subscribers upon or before entry into this Agreement;
- (q) any agreement, notice, consent, approval, disclosure or communication under or pursuant to this Agreement must be in writing and any reference to "writing" or cognate expressions includes a reference to electronic mail or comparable means of communications;
- (r) the words "include", "includes" and "including" are not limiting and shall be deemed to be followed by the words "without limitation", whether or not so followed;
- (s) words denoting an obligation on a party to do an act, matter or thing includes an obligation to procure that it be done, and words placing a Party under a restriction, include an obligation not to do and not to permit an infringement of the restriction;

- (t) where a Warranty is qualified by the words “so far as the Company is aware” or any form of words with a similar meaning, then the Company shall be deemed to be aware of any fact, matter or circumstance in the actual knowledge of any of the Founders as at the date of this Agreement;
- (u) no rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of this Agreement or any part of it; and
- (v) general words shall not be given a restrictive meaning because they are followed by words which are particular examples of the acts, matters or things covered by the general words.

DRAFT

**IN WITNESS WHEREOF** this Agreement has been entered into on the date stated at the beginning.

**[Subscriber]**

By: \_\_\_\_\_  
Name:  
Title:

DRAFT

PT [●]

By: \_\_\_\_\_  
Name:  
Title:

DRAFT

**[Founder]**

By: \_\_\_\_\_  
Name:

DRAFT