

DATED THE                      DAY OF                      2019

BETWEEN

XXXXX (CO. NO.:                      )

AND

UNIVERSITI TEKNOLOGI MARA

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**MEMORANDUM OF AGREEMENT**

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**THIS MEMORANDUM OF AGREEMENT** (hereinafter referred to as “this Agreement”) is made on the ..... Day of ..... 2019

**BETWEEN**

**XXXX** (Company No. (.....)), a company incorporated in Malaysia under Companies Act 2016, having its registered address at ..... (hereinafter called “XX”) and shall include its lawful representatives and permitted assigns of the one part;

**AND**

**UNIVERSITI TEKNOLOGI MARA** an institution of higher learning established under the Universiti Teknologi MARA Act 1976 (Act 173) having its address at the Chancellery, Universiti Teknologi MARA, 40450 Shah Alam, Selangor

(hereinafter called “UiTM”) and shall include its lawful representatives and permitted assigns of the other part.

(XX and UiTM hereinafter referred to singularly as “the Party” and collectively as “the Parties”)

**WHEREAS**

- A. XX is a .....
- B. UiTM is an established University with a track record of educational excellence and research and with a dynamic program of collaborative arrangements with many international counterparts.
- C. XX has entered into a lease agreement with UiTM for three (3) years effective from ..... to operate a gourmet coffee outlet under the name and style of “..... at ..... (hereinafter referred to as “XX@PA”);
- D. XX endeavours to appoint UiTM as a joint training provider for its barista training course known as “.....” (hereinafter referred to as the “Course”) to be offered to prospective targeted participants and students of UiTM ..... branch (“Participants”).

- E. The Parties agree that this Agreement will be operationalized on behalf of UiTM by the Faculty of ..... (hereinafter referred to as “FYY”) whose address is at Universiti Teknologi MARA, Puncak Alam Campus, 42300, Selangor.
- F. The Parties shall in good faith take all necessary actions in this Agreement for the successful implementation of the relationship in accordance with the principles set out in this Agreement’

**NOW THEREFORE** in consideration of the premises and the mutual covenants herein contained, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**1. APPOINTMENT**

- 1.1 XX hereby appoints UiTM and UiTM hereby accepts the appointment as a joint training provider for the Course in accordance to the training module as set out in Schedule I attached hereto (hereinafter referred to as the “Module”).
- 1.2 Pursuant to the appointment, XX hereby authorized UiTM to impose a service fee in the sum to be mutually agreed by the Parties payable by the Participants directly to UiTM.

**2. OBLIGATIONS OF THE PARTIES**

**2.1 UiTM’s Obligations**

- i. To promote, market and/or advertise the Course to the prospective participants.
- ii. To provide training venue and facilities for the Course at UiTM premise.
- iii. To give one (1) month’s notice to XX prior to the commencement of the Course at UiTM.
- iv. To make the necessary arrangements with the franchisee appointed by XX for the purpose of conducting the Course.
- v. To bear all the costs of conducting the Course arranged by UiTM for its students.

## **2.2 XX's Obligations**

### **2.2.1 Barista Training Course**

- i. To provide the minimum of two (2) Course sessions per semester to UiTM students at a date to be mutually agreed by the Parties.
- ii. To award the Course Certification duly recognized by Gloria Jean's Coffee University to the Participants who have successfully completed their COURSE training.
- iii. Not to impose any fee on UiTM and/or Participants, except for the costs of the raw materials used in the Course.
- iv. To provide a minimum of one (1) trainer for practical class and a minimum four (4) trainers for theoretical class throughout the Course.

### **2.2.2 Discounted Price**

To provide 10% discount for all purchases made by UiTM Staffs and Students at XX@PA.

### **2.2.3 Advertisement and Promotional Exercise**

- i. To include FYY & UiTM logo for promotional exercise involving XX@PA in social media and/or other medium of advertisement.
- ii. To allow UiTM to advertise their programs/projects/activities at the LED menu board located at XX@PA.

### **2.2.4 Internship**

- i. To offer two (2) internship places at XX to FYY students during every academic semester.
- ii. Subject to availability, to give priority to FYY students as part time employee at XX@PA with the minimum pay rate of RM7.00 / hour.

### **2.2.5 Simulation Ground**

To allow XX@PA to be used as simulation training ground for relevant subjects offered by FYY.

### **2.2.6 Corporate Social Responsibility**

Subject to availability, to give priority in the allocation of its CSR funds for programs/projects/activities to be undertaken by FYY students.

### **2.2.7 Services**

To provide free WIFI to UiTM students and staff within and in the vicinity of XX@PA.

## **3. ENTRY INTO EFFECT AND DURATION**

- 3.1 This Agreement shall become effective as of the date of signatures of both parties, or if the dates vary, then the date of the later signature.
- 3.2 This Agreement shall remain in force for a period of three (3) years from the effective date of this Agreement.
- 3.3 This Agreement may be extended for such further period as may be agreed in writing by both Parties.
- 3.4 Notwithstanding anything in this Article, either Party may terminate this Agreement by notifying the other Party of its intention to terminate this Agreement by a notice in writing at least three (3) months prior to its intention to do so.
- 3.5 In the event of the expiry and/or termination of this Agreement, the Parties shall ensure that all obligations to the Participants and any third party under this Agreement including the suppliers and vendors are met with no liabilities.

## **4. CONFIDENTIALITY**

- 4.1 Each Party shall undertake to observe the confidentiality and secrecy of documents, information and other data received from or supplied to, the other

- party during the period of the implementation of this Agreement or any other agreements made pursuant to this Agreement.
- 4.2 For purposes of Sub-Clause 4.1 above, such documents, information and data include any document, information and data which is disclosed by a party (the Disclosing party) to the other party (the Receiving party) prior to, or after, the execution of this Agreement, involving technical, business, marketing, policy, know-how, planning, project management and other documents, information, data and /or solutions in any form, including but not limited to any document, information or data which is designated in writing to be confidential or by its nature intended to be for the knowledge of the Receiving party or if orally given, is given in the circumstances of confidence.
- 4.3 Both Parties agree that the provisions of this Clause shall continue to be binding between the Parties notwithstanding the expiry and/or termination of this Agreement unless the said information and data is public knowledge.

## **5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1 UiTM acknowledges that ownership of and title in and to the Course is and will remain with XX, unless otherwise agreed by the Parties.
- 5.2 The protection of intellectual property rights shall be enforced in conformity with the respective national laws, rules and policies of the Parties.
- 5.3 The use of the name, logo and/or official emblem of any of the Parties on any publications, document and/or paper is prohibited without the prior written approval of the Party.
- 5.4 The ownership of all foreground intellectual property rights arising out of this Agreement shall be expressly subject to a joint development agreement to be mutually agreed by the Parties. For the purpose of this Agreement, foreground intellectual property rights shall include any intellectual property rights that arise, or are obtained or developed, created, written, prepared and discovered jointly by the Parties, arising or otherwise brought into existence pursuant to this Agreement.
- 5.5 Any commercialization of the foreground intellectual property which is jointly owned by XX and UiTM shall be subject to terms and conditions to be mutually agreed upon in a subsequent agreement.

5.6 Neither Party grants any licenses, by implications or otherwise, under any patent, copyright, trademark, trade secret or other rights by disclosing confidential information under this Agreement.

## **6. SETTLEMENT OF DISPUTES**

6.1 Any difference or dispute between the Parties concerning the interpretation and/or implementation and/or application of any of the provisions of this Agreement shall first be settled amicably through mutual consultation and/or negotiations between the Parties.

6.2 In the event of non-resolution of the dispute referred in Sub-Clause 6.1, reference will be made to a mediator jointly appointed by the Parties who will mediate the dispute or difference in question.

6.3 If any matter, dispute, difference or claim arising out of relating to this Agreement, or the breach, termination or invalidity thereof, which cannot be settled amicably by the Parties after exhausting the method as stated under this Agreement, it shall be settled by action in court of Malaysia.

## **7. FORCE MAJEURE**

Neither of the Parties will be liable to the other for any delay or failure to fulfil their obligations under this project to the extent that any such delay or failure arises from causes beyond their control, including but not limited to fire, floods, acts of God, acts of regulations or any governmental or supranational authority, war, riot, strike, lockouts and industrial disputes.

## **8. VARIATIONS OF TERMS**

It is hereby expressly agreed and declared by the Parties hereto that notwithstanding any of the provisions of this Agreement to the contrary, the provisions and terms of this Agreement may at time to time be varied or amended by means of an exchange of letters or such other means as the parties may agree from time to time in writing and executed by the Parties and thereupon such amendments and variations shall be deemed to have been amended or varied accordingly and shall be read and construed as if such amendments and variations

have been incorporated into and had formed part of this Agreement at the time of execution hereof.

## **9. EVENT OF DEFAULT**

### **9.1 Events**

If:

#### **(a) Breach of Obligations**

Either Party fails to observe or perform any of their respective obligations under this Agreement or under any undertaking or arrangement entered into in connection herewith unless of being remedied to the satisfaction of the other Party within seven (7) days of the breach;

#### **(b) Misrepresentation**

Any representation, warranty or statement which is made (or acknowledge to have been made) by either Party to this Agreement or which is contained in any certificate, statement, legal opinion or notice provided under or in connection herewith proves to be incorrect in any material respect, or if repeated at any time with reference to the facts and circumstances subsisting at such time would not be accurate in all material respects;

#### **(c) Cessation of Business**

Either Party changes or threatens to change the nature or scope of its business, suspends or threatens to suspend a substantial part of its present business operations which it now conducts directly or indirectly, or any governmental authority expropriates or threatens to expropriate all or part of its assets and the result of any of the foregoing is adversely to affect the ability of the party concerned to observe or perform their respective obligations under this Agreement;

#### **(d) Appointment of Receiver, legal Process**



Any encumbrancer takes possession of, or a trustee or administrative or other receiver or similar officer appointed in respect of, all or any part of the business or assets of either party or distress or any form of execution is levied or enforced upon or sued out against any such assets and it's not discharged within (7) days after being levied, enforced or sued out;

(e) Legal Proceedings

Any legal proceedings, suits, actions, litigation, arbitration or administrative proceedings is commenced or threatened against either party and which, in the opinion of the other Party, will affect the party concerned ability to observe or perform its obligations under this Agreement;

(f) Change In Law

Any law is brought into effect which purports to render ineffective or invalid the provisions of this Agreement or which would prevent either Party from performing any of their respective obligations under this Agreement;

(g) Licence

Any licence authorization, approval, consent, order, exemption, registration, filing or notarisation required by either Party to fulfill its obligations under this Agreement is revoked or withheld or modified is or is otherwise not granted or fails to remain in full force and effect;

Then this Agreement shall terminate with immediate effect.

## **10. NOTICES**

Any communication under this Agreement shall be in writing in the Malay or English language and delivered by registered mail to the address or sent to the electronic mail address or facsimile number as shown below of Universiti Teknologi MARA or XX, as the

case may be, shown below or to such other address or electronic, mail address or facsimile number as either Party may have notified the other.

To **XX**:

Attention :  
Tel. No. :  
Fax. : -  
E-mail :

To **Universiti Teknologi MARA**:

Attention :  
Tel. No. :  
Fax. :  
E-mail :

#### **10.1 UPON TERMINATION OF THIS AGREEMENT:**

- a) Each party shall return to the other Party (s), as soon as practicable but in no event later than seven (7) days after termination all Confidential Information obtained by it in relation to this Agreement from the other Party(s);
- b) No party shall have any claim against the other Party(s) except for breach by the other Party(s) of its obligations under this Agreement; and
- c) Save for any antecedent breach, it is agreed that no Party is entitled to any compensation for termination or severance payment as a result of termination of this Agreement.

#### **11. SAVE HARMLESS**

XX agrees to hold and save UiTM harmless and at its own expense to defend UiTM, from and against all damage suits, claims and demands of any nature in connection with the

operation of XX@PA and from liability for any injury suffered by the Participants or any other person whomsoever in connection to COURSE training.

## **12. MISCELLANEOUS**

- 12.1 Time shall be of the essence of this Agreement.
- 12.2 This Agreement, including any attachments or referenced documents forms the entire agreement between the Parties relating to the project. It replaces and supersedes any previous proposals, correspondence, understandings or other communications whether written or oral.
- 12.3 Notwithstanding Sub-Clause 9.2, where any provision of this Agreement are inconsistent or in conflict with any provision in its attachments or referenced documents, the provisions in this Agreement shall prevail.
- 12.4 A waiver of any of the rights or remedies available to any Party hereto shall not be valid and effective unless expressed in writing and executed by the duly authorised representative(s) of the Party. Such a waiver by any of the parties hereto shall not be construed as a waiver in respect of any other breach, antecedent or future.
- 12.5 Each Party shall be solely responsible for their respective tax implications (if any) arising out of the performance of the terms and conditions of this Agreement.
- 12.6 Neither Party shall assign, or purport to agree to assign this Agreement or all or any rights hereunder without the prior written approval of another Party.
- 12.7 Neither Party is an agent to another and has no power to pledge the credit of another Party, nor purport to enter into any contract on behalf of another Party. Nothing in this Agreement shall be construed so as to create a partnership, joint venture, agency or employment relationship between XX and UiTM.

*--This section is intentionally left blank--*

**IN WITNESS WHEREOF**, the parties here to have caused this Agreement to be signed in their respective names as of the day and year first above written.

For and on behalf of the  
**XXXXX :**

For and on behalf of  
**UNIVERSITI TEKNOLOGI MARA :**

.....  
**TBC**  
  
Director  
XXXXX

.....  
**EMERITUS PROFESSOR IR DR  
MOHD AZRAAI BIN KASSIM**  
Vice-Chancellor  
Universiti Teknologi MARA

In the presence of:

In the presence of:

.....  
**TBC**  
**TBC**  
Operation Manager  
XXXXX

.....  
Dean/Rector  
Universiti Teknologi MARA  
... Branch

**SCHEDULE I  
TRAINING MODULE**

