

DATED

INTRODUCTION AGREEMENT

between

ABC SDN. BHD.

and

INTRODUCER

CONTENTS

CLAUSE

1.	Interpretation	1
2.	Introductions	2
3.	Commission and payment	3
4.	Obligations of the Payr	3
5.	Confidentiality	4
6.	Commencement and duration	4
7.	Termination	4
8.	Consequences of termination	5
9.	No partnership or agency	5
10.	Entire agreement	5
11.	Variation	6
12.	Assignment and other dealings	6
13.	Waiver	6
14.	Severance	6
15.	Notices	7
16.	Third party rights	7
17.	Governing law	7
18.	Jurisdiction	7

THIS AGREEMENT is dated [DATE]

PARTIES

- (1) [ABC Sdn. Bhd.] incorporated and registered in Malaysia with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Payer**).
- (2) [FULL COMPANY NAME] incorporated and registered in [Singapore] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS](**Introducer**).

BACKGROUND

- (A) The Introducer has a large number of contacts, and can meet further contacts, who may be interested in purchasing [Zen Hotel, Penang World City located at Bayan Mutiara, Penang] (“Hotel”) from a contact of the Payer.
- (B) The Payer wishes to be introduced to such contacts, and is willing to pay the Introducer a commission on the terms of this agreement if such contacts purchase the Hotel from its’ contact and the Introducer is willing to effect these introductions in return for this commission.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in Penang, Malaysia when banks in Penang are open for business.

Commencement Date: has the meaning given to it in clause 6.

Commission: has the meaning given to it in clause 3.2.

Introduction: the provision to the Payer of the contact details of a Prospective Buyer who knows one or more individuals at the Introducer and is of sufficient seniority to authorise or recommend the purchase of the Hotel from the contact of the Payer.
Introduce, Introduces and Introduced shall be interpreted accordingly.

Introduction Date: the date during the term of this agreement on which the Introducer first Introduces the Prospective Buyer to the Payer.

Introduction Period: the [12 month period] from the Introduction Date.

S&P Price: the purchase consideration made to the seller of the Hotel under a Contract.

Prospective Buyer: a person to whom the Payer or the seller of the Hotel has not been in bona fide negotiations to sell the Hotel in the [six] months before the Introduction Date].

Relevant Contract: a contract for the sale and purchase of the Hotel entered into during the Introduction Period between the seller of the Hotel and a Prospective Client who was Introduced by the Introducer.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.3 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time **OR** it is in force as at the date of this agreement.
- 1.4 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time **OR** as at the date of this agreement under that statute or statutory provision.
- 1.5 A reference to **writing** or **written** includes fax and e-mail.
- 1.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.7 References to clauses are to the clauses of this agreement.

2. INTRODUCTIONS

- 2.1 The Payer appoints the Introducer on a non-exclusive basis to identify Prospective Buyer for the purchase of the Hotel and to make Introductions of such persons on the terms of this agreement.
- 2.2 The Introducer shall:
- (a) serve the Payer faithfully and diligently and not to allow its interests to conflict with its duties under this agreement;
 - (b) use its best endeavours to make Introductions of Prospective Buyer; and
 - (c) comply with all reasonable and lawful instructions of the Supplier.
- 2.3 The Introducer shall have no authority, and shall not hold itself out, or permit any person to hold itself out, as being authorised to bind the Payer or the seller of the

Hotel in any way, and shall not do any act which might reasonably create the impression that the Introducer is so authorised. The Introducer shall not make or enter into any contracts or commitments or incur any liability for or on behalf of the Payer and/or the seller of the Hotel or the price for them, and shall not negotiate any terms with Prospective Buyer.

3. COMMISSION AND PAYMENT

3.1 The Introducer shall be entitled to Commission if a Prospective Buyer Introduced by the Introducer enters into a Relevant Contract.

3.2 The amount of commission payable shall be 2% of the S&P Price under the Relevant Contract (**Commission**).

3.3 The Payer shall promptly notify the Introducer in writing of the following:

- (a) the date the seller of the Hotel enters into the Relevant Contract;
- (b) the dates on which payments for the Commission are payable,

no later than [3] Business Days after the execution of the Relevant Contract

3.4 Subject to the seller of the Hotel having received a sum of (“First Payment”) not less than 10% of the S&P Price upon execution of the Relevant Contract , the Commission payable pursuant to clause 3.2 shall be due to the Introducer (whether invoiced or not) within [7] Business Days from the date of the First Payment.

3.5 The Introducer shall invoice the Payer for the Commission payable.

3.6 Commission shall be payable to the Introducer in the currency in which it is received by the Payer.

3.7 All sums payable under this agreement:

- (a) are inclusive of any applicable tax including withholding tax in Malaysia and/or Singapore;
- (b) shall be paid in full without any deductions (including deductions in respect of items such as income, corporation, or other taxes, charges and/or duties) except where the payer is required by law to deduct withholding tax from sums payable to the payee.

4. OBLIGATIONS OF THE PAYR

4.1 The Payer must at all material times act in good faith towards the Introducer.

4.2 The Payer shall provide the Introducer at all material times with the information the Introducer reasonably requires to carry out its duties, including marketing information for and details of the Hotel, and information about the Hotel.

4.3 The Payer shall not be responsible for any costs incurred by the Introducer.

5. CONFIDENTIALITY

5.1 Each party undertakes that it shall not at any time during this agreement, and for a period of [five] years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs and in respect of the confidentiality obligation of the Introducer, information about the Hotel, except as permitted by clause 5.2.

5.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall procure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 5; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

5.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement.

5.4 All documents and other records (in whatever form) containing Confidential Information supplied to or acquired by the Introducer from the Supplier shall be returned promptly to the Supplier on termination of this agreement, and no copies shall be kept.

6. COMMENCEMENT AND DURATION

This agreement shall commence on the date when it has been signed by all the parties] (**Commencement Date**) and shall continue throughout the Introduction Period, unless terminated earlier in accordance with clause 7.

7. TERMINATION

Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [5] days after being notified [in writing] to do so;
- (b) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) [other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (c) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company).

8. CONSEQUENCES OF TERMINATION

8.1 **On termination of this agreement, the following clauses shall continue in force: clause 1, clause 3, clause 5 and clause 8 to clause 17 (inclusive).**

8.2 Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

9. NO PARTNERSHIP OR AGENCY

9.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

9.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

10. ENTIRE AGREEMENT

10.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

10.2 Each party acknowledges that in entering into this agreement it does not rely on[, and shall have no remedies in respect of,] any statement, representation, assurance or

warranty (whether made innocently or negligently) that is not set out in this agreement.

10.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

10.4 Nothing in this clause shall limit or exclude any liability for fraud.

11. VARIATION

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12. ASSIGNMENT AND OTHER DEALINGS

This agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

13. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

14. SEVERANCE

14.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

14.2 If [one party gives notice to the other of the possibility that] any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15. NOTICES

15.1 Any notice given to a party under or in connection with this contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by fax to its main fax number.

15.2 Any notice shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt [or at the time the notice is left at the proper address];
- (b) if sent by pre-paid first-class post or other next Business Day delivery service, at [9.00 am] on the [second] Business Day after posting [or at the time recorded by the delivery service].
- (c) if sent by fax, at [9.00 am] on the next Business Day after transmission.

15.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include e-mail.

16. THIRD PARTY RIGHTS

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

17. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Malaysia.

18. JURISDICTION

Each party irrevocably agrees that the courts of Malaysia shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Signed by [NAME OF DIRECTOR]
for and on behalf of the [Payer]

.....
Director

Signed by [NAME OF DIRECTOR]
for and on behalf of the [Introducer]

.....
Director

