

This Distributor Agreement (“**Agreement**”) is last updated on 1<sup>st</sup> January 2026

Between

- (1) **FELEMENT SDN. BHD. (Registration No. 201901041158 (1350488-V))**, a private limited company duly incorporated under the laws of Malaysia and having its registered address at **13-5, The Boulevard Offices, Mid Valley City, Lingkaran Syed Putra, 59200 Kuala Lumpur** (hereinafter referred to as “**FELEMENT**”); and
- (2) **[Name of Distributor]** (NRIC No. **[\*\*]**) of **[address]** (hereinafter referred to as “**Distributor**”).

(Hereinafter referred each as a “**Party**” and collectively, the “**Parties**”)

## **RECITALS**

- A. FELEMENT is engaged in the business of manufacturing and selling the Products (herein below defined).
- B. The Distributor is desirous and FELEMENT is agreeable to grant to a non-exclusive rights to the Distributor to participate in the distributorship program of FELEMENT subject to the terms and conditions set out in this Agreement and the Policies.
- C. By completing the registration process of Distributor on the Site, including selecting ‘Submit’ and/or tick the relevant checkboxes, the Distributor agrees to be bound by the terms of this Agreement and the Policies, and such electronic acceptance shall constitute the Distributor’s unconditional and irrevocable acceptance of this Agreement.

## **1. DEFINITIONS**

### **1.1 In this Agreement, unless the contrary intention appears:**

“**Account**” shall have the meaning ascribed to it in Clause 7.1;

“**Beneficiary**” shall have the meaning ascribed to it in Clause 15.1;

“**Business Support Materials**” means tools, resources, and documentation provided by FELEMENT, including but not limited to Retail Price of the Products, starter kit, sales aids, demonstration kits and operational guidelines, designed to support the Distributor in operating the distributorship effectively;

“**Business Centre**” means any branch office other than Head Quarter from which FELEMENT conducts its day-to-day operations, including sales, support, and administrative activities;

“**Commencement Date**” means the date specified in the registration notice issued by FELEMENT, on which this Agreement becomes effective;

“**Commissions**” means payment earned by the Distributor for the sale of the Products, including sales made directly by the Distributor and sales generated through the Distributor’s Sub-Distributors. The Commissions are calculated based on the remuneration system outlined in the Sales and Marketing Plan and subject to the terms and conditions of this Agreement;

**“Confidential Information”** means the confidential information of FELEMENT, whether in written, oral, electronic, or other form, which relates to the subject matter of this Agreement and includes:

- (a) trade secrets, financial data, pricing structures, profit margins and other commercially sensitive information;
- (b) technical information, including but not limited design, specifications, functionality, and development of the Products;
- (c) information relating to the personnel, policies, clientele or business strategies of FELEMENT;
- (d) information relating to the terms and conditions upon which the Products to be distributed pursuant to this Agreement and/or applicable Policies;
- (e) Intellectual Properties and IPR; and
- (f) any other information that is marked or identified as confidential, or by its nature should reasonably be understood to be confidential;

**“Cooling Period”** shall have the meaning ascribed to it in Clause **Error! Reference source not found.**;

**“Customers”** means the customers of the Distributor and/or the Sub-Distributor who are the retail consumer and/or consumer of the Products and/or FELEMENT;

**“Distributor Personnel”** shall have the meaning ascribed to it in Clause 17.1;

**“Distributors’ Policy”** means the policy, guidelines, standards and procedures published by FELEMENT that govern the conducts and responsibilities of the Distributor in relation to the distribution of the Products, as amended or updated by FELEMENT from time to time;

**“Defaulting Party”** shall have the meaning ascribed to it in Clause 12.2;

**“Wallet”** means the wallet set up by FELEMENT on its Site, which allows the Distributor to be credited with cash point in Ringgit Malaysia generating from its Commission in accordance with the this Agreement;

**“Expiry Date”** means the date specified in the registration notice, on which the distributorship terminates pursuant to the termination of this Agreement, unless it is renewed in accordance with this Agreement;

**“FELEMENT Personnel”** shall have the meaning ascribed to it in Clause 17.1;

**“Founder”** means the founder of FELEMENT, Datin Dr. Cherlin Cheah;

**“FELEMENT Value”** or **“FV”** means the reward points awarded by FELEMENT;

**“Head Quarter”** means FELEMENT’s principal place of business at 13-5, The Boulevard Offices, Mid Valley City, Lingkaran Syed Putra, 59200 Kuala Lumpur;

**“Inheritance”** shall have the meaning ascribed to it Clause 15.1;

**“Initial Term”** shall have the meaning ascribed to it in Clause 2.1;

**“Intellectual Property”** means all patents and patent rights, Trade Mark and trade mark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, processes, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, processes, designs, methodologies

and related documentation, technical information, manufacturing, engineering and technical drawings, knowhow and all pending applications for and registrations of patents, trademarks, service marks and copyrights, and all visual, audio, and digital content (including but not limited to images, videos, graphics and multimedia content used for marketing purpose);

“**IPR**” means the proprietary rights attached to the Intellectual Property;

“**Minimum Threshold**” shall have the meaning ascribed to it in Clause 8.1;

“**Non-Defaulting Party**” shall have the meaning ascribed to it Clause 12.2;

“**Order**” means the formal request submitted by the Distributor to FELEMENT for the purchase of Products, as governed by the terms and conditions of the Policies;

“**Personnel**” means in relation to a body corporate, that body corporate’s directors, officers, employees, agents, contractors and subcontractors and employees of its agents, contractors and subcontractors;

“**Policies**” means any policies applicable to the Distributor including the Distributors’ Policy, procedures and/or standard of procedures, Partner Handbook, which may be amended from time to time by FELEMENT and published on FELEMENT’s Site;

“**Products**” means the products under the marks, logos, trade and/or brand name of ‘**FELEMENT**’; bearing the Trademark;

“**Presentation Deck**” shall have the meaning ascribed to it in Clause 6.2(e);

“**Promotional Contents**” shall have the meaning ascribed to in Clause 10.5;

“**Renewal Term**” shall have the meaning ascribed to it in Clause 2.2;

“**Retail Price**” means the selling price of the Products as determined by FELEMENT from time to time;

“**Sales and Marketing Plan**” means the system used to calculate the Commission based on product sales achieved by the Distributor and its Sub-Distributors;

“**Site**” means official website of FELEMENT, including any associated online platforms, sub-domains, or mobile applications that are owned, maintained or controlled by FELEMENT;

“**Sub-Distributor**” means such sub-distributor appointed by the Distributor in accordance with Clause 9 and “Sub-Distributors” shall be construed accordingly;

“**Term**” shall refer to the Initial Term and the Renewal Term collectively; and

“**Trademark**” means the ‘**FELEMENT**’ trade mark and trade name whether registered and/or unregistered (as may be amended from time to time by FELEMENT in its absolute discretion) and all other trademarks, logos, slogans, insignia, emblems and symbols, whether or not registered or capable of registration owned by FELEMENT.

## 2. DURATION

2.1 This Agreement will commence on the Commencement Date and shall valid, binding and continue until the Expiry Date (“**Initial Term**”) unless revoked or terminated in accordance with Clause 12 of this Agreement.

2.2 Provided the Distributor shall have complied with all terms and conditions hereof, this Agreement may be renewed for a succeeding term equivalent to the Initial Term (“**Renewal Term**”) upon expiration of the Initial Term subject always to the Distributor serving at least a one (1) month’s notice to FELEMENT on its desire to renew this Agreement. This clause shall apply, *mutatis mutandis*, for subsequent terms after expiry of the Renewal Term.

### **3. COOLING-OFF PERIOD**

3.1 For every sale of the Product to a Customer or a Sub-Distributor, the Distributor shall offer a cooling off period of ten (10) working days from the date of the order (“**Cooling Period**”) during which the Customer or a Sub-Distributor shall have the option to cancel the order by written notice given to the Distributor.

3.2 During the Cooling Period, the Distributor will not deliver the Products or fulfil any order to the Customer or a Sub-Distributor. Notwithstanding thereof, if the Customer or a Sub-Distributor has placed an order and issued a written notice to the Distributor to deliver the order during the Cooling Period, it shall constitute that the Customer or the Sub-Distributor has waived its right to cancel the order under Clause **Error! Reference source not found.** subject always that such written notice may only be issued and valid after the expiry of seventy-two (72) hours commencing from the time of the order.

### **4. GRANT OF RIGHTS**

4.1 FELEMENT shall grant to the Distributor a non-exclusive, non-perpetual, and non-transferable distributorship right in Asia or any other countries as may be authorised by FELEMENT to market, promote, sell and distribute the Products during the Term of this Agreement.

### **5. ORDERS, DELIVERY AND PAYMENT**

5.1 The Distributor, including acting on behalf of the Customer, may purchase the Products directly from FELEMENT by placing an Order at the Site. The placing of order for purchase of Products, delivery and payment shall be subject to the Distributors’ Policy separately issued by FELEMENT.

### **6. PARTIES’ OBLIGATIONS**

6.1 FELEMENT shall, during the Term of this Agreement:-

- (a) remit any Commissions payable to the Distributor on a timely basis upon the Distributor achieving the predefined target in accordance with Sales and Marketing Plan (as may be amended by FELEMENT at its sole discretion from time to time); and
- (b) procure commercially efforts to ensure that the Order placed by the Distributor is delivered in accordance with the agreed-upon timeframe.

6.2 The Distributor shall, during the Term of this Agreement:-

- (a) conduct its distributorship in a professional and ethical manner at all times and shall not engage in any deceptive, misleading or unethical practices or advertising deemed by FELEMENT, in its sole discretion, detrimental to FELEMENT’s business, reputation or interests;

- (b) may operate his/her own social media accounts (including but not limited to Facebook, Instagram, TikTok and XiaoHongShu) to promote the Products by including “FELEMENT” in his/her display name (such as “Felement – xxx”), PROVIDED THAT the Distributor’s name or branding is prominently displayed to avoid confusion with FELEMENT’s official social media account;
- (c) not organise or conduct any activities, including any rewards programme or incentive schemes based on task completion, without the prior written approval of FELEMENT;
- (d) not to contact, either directly or indirectly, FELEMENT’s vendors, suppliers, advisory board of distributors, basic research partners, partner universities, or any other advisors or consultants of FELEMENT without the prior written consent of FELEMENT;
- (e) not in any manner whatsoever modify, amend and/or change any of the Business Support Materials but may prepare its own presentation decks, which shall include but not limited to website, social media contents, live streams or articles referencing FELEMENT story, and history and Products, based on the Business Support Materials for marketing purposes (“**Presentation Deck**”). The Presentation Deck shall be subject to FELEMENT’s written approval prior to publication to the third party(ies) including the Sub-Distributor and/or the Customer by way of Zoom, offline session, social media live streaming;
- (f) ensure the Presentation Deck shall incorporate a minimum **two (2)** slides summarising the following:-
  - (i) FELEMENT’S company profile;
  - (ii) the Founder explicitly crediting her expertise in coaching, teaching, training, and conducting seminars, talks and programs; and
  - (iii) the Founder is the creator of such 5 Elements Numerology and/or any other FELEMENT’s programs.
- (g) not make any promises, representations, warranties and/or guarantees with reference to the Products to the Sub-Distributor and/or Customer except such as are expressly authorised by FELEMENT in writing;
- (h) comply with any and all applicable laws, rules, regulations, and Policies related to the advertising, sale, distribution and marketing of the Products.

## 7. ACCOUNT

- 7.1 The Distributor is required to create an account (“**Account**”) at the Site in order to access the Distributor’s business activities. This Account will include details of the Distributor’s distributorship including its sales volume, Commissions accrued, performance of Sub-Distributor and such other function as added by FELEMENT from time to time.
- 7.2 The Distributor’s permission to access the Site is conditional upon the Distributor’s agreement that the Distributor will provide accurate, complete and current information when creating the Account or registering with FELEMENT. FELEMENT has the absolute discretion to reject, approve, suspend or terminate the Distributor’s creation of the Account with FELEMENT and/or the Distributor’s usage of the Site.

- 7.3 The Distributor is solely responsible for the activity that occurs on the Distributor's Account even if such activities or uses were not committed by the Distributor, and the Distributor must keep its account password secure. If a legal dispute or law enforcement action has been commenced which is related to the Distributor's Account for any reason, FELEMENT may terminate the Distributor's Account immediately with or without notice. FELEMENT shall not be responsible or liable, directly or indirectly, in any way for any loss or damage of any kind incurred as a result of, or in connection with, the Distributor's failure to comply with this Clause 7.3.
- 7.4 The Distributor must notify FELEMENT immediately of any breach of security or unauthorized use of its Account. FELEMENT shall not be liable for any losses caused by any unauthorized use of the Account.
- 7.5 If no Order has been made by the Distributor within five (5) days from the registration of its Account, FELEMENT reserves the right to deactivate the Distributor's Account and/or terminate the distributorship. In such event, the Distributor may be required to re-create a new account if he/she desires to continue to be appointed a distributor.

## **8. COMMISSION**

- 8.1 To remain eligible for the Commissions, the Distributor shall make a minimum cumulative purchase(s) worth fifty (50) FELEMENT Value (equivalent to Products' value of RM488.00 only) in each calendar month ("**Minimum Threshold**"), failing which, FELEMENT may suspend the Distributor's eligibility to earn Commissions until the Minimum Threshold is fulfilled.
- 8.2 The Commissions shall be calculated by predefined metrics of the remuneration system set out in the Sales and Marketing Plan and/or the Distributors' Policy, as determined and amended by FELEMENT from time to time.

## **9. SUB-DISTRIBUTORS**

- 9.1 The Distributor may appoint Sub-Distributors, provided that the Distributor must at its own expense and with the assistance of FELEMENT:
- (a) provide adequate training to the Sub-Distributors to successfully distribute, market and sell the Products;
  - (b) ensure that each Sub-Distributor complies with FELEMENT's marketing, advertising and other promotional material and/or initiatives for the Products, and all rules, regulations and policies as may be published by FELEMENT from time to time, including the Sales and Marketing Plan;
  - (c) only enter into a sub-distribution agreement with such Sub-Distributors on terms and conditions consistent with the terms and conditions of this Agreement; and
  - (d) must comply with all reasonable directions of FELEMENT in relation to its dealings with each of such Sub-Distributor to the extent that such dealings relate to this Agreement, including any direction to terminate a sub-distribution agreement, to the extent that the agreement relates to FELEMENT.
- 9.2 The Distributor must provide FELEMENT with such other information as FELEMENT may reasonably request in relation to any Sub-Distributor from time to time.
- 9.3 The Distributor will:

- (a) not be relieved of any of its obligations under this Agreement by entering into any sub-distribution agreement;
- (b) remains responsible for the acts and omissions of all Sub-Distributors; and
- (c) act as a communication channel to discuss, negotiate and communicate all matters arising between FELEMENT and all Sub-Distributors.

## 10. INTELLECTUAL PROPERTY

- 10.1 The Distributor agrees and acknowledges that all IPR pursuant to this Agreement, including but not limited to the Business Support Materials, Sales and Marketing Plan, designs, compositions, image, and content, are and shall remain the exclusive property of FELEMENT.
- 10.2 FELEMENT shall, during the continuance of this Agreement, grant the Distributor a non-exclusive, non-transferable, revocable, and limited rights to use FELEMENT's Intellectual Property, logos and other marketing materials solely for the purposes of marketing, promoting and sell the Products in accordance with this Agreement.
- 10.3 The Distributor agrees and acknowledges any usage of the Intellectual Property by the Distributor will inure to the benefit of FELEMENT and shall be deemed to be usage by FELEMENT. The Distributor shall not, by virtue of this Agreement, obtain or claim any right, title or interest in or to the Intellectual Property except such rights of use as are specifically set out in this Agreement, and hereby acknowledges and agrees that all such use shall at all times inure for the benefit of the FELEMENT.
- 10.4 The Distributor shall not:-
- (a) alter, remove or tamper with, or otherwise interfere with any Intellectual Property used on or in relation to the Products; and
  - (b) use any trade marks, branding, or intellectual property in connection with the Products other than the Intellectual Property without FELEMENT's written approval, save and except in the ordinary course of trade and in carrying out marketing, sales, and distribution activities related to the Products in accordance with this Agreement and the Distributorship Policy.
- 10.5 Subject to Clause 10.4, the Distributor's use of the Intellectual Property shall strictly adhere to the Policies, including but not limited to commercially reasonable for the size, placement, formatting and contextual presentation. The Distributor further agrees and acknowledges that any and all promotional contents, materials or posts incorporating or displaying any of FELEMENT's Intellectual Property published by the Distributor ("**Promotional Contents**") for the purpose of promoting FELEMENT's marketing campaigns, products or services via any social media platform, digital channel or advertising medium, including but not limited to Facebook, Instagram, X, Xiaohongshu, Douyin (抖音) and TikTok, shall adhere strictly with the terms and conditions of this Agreement and the FELEMENT's branding guidelines.
- 10.6

FELEMENT reserves the right, at its sole discretion, to review, approve or require amendments or deletion to the Distributor actual or intended use of the Intellectual Property and/or the Promotional Contents at any time. For the purposes of this Agreement, the Distributor shall not, in any circumstances, alter, edit or modify Intellectual Property that is being used for marketing purposes, including but not limited to videos, audio recordings, images, graphic and social media posts, unless otherwise with FELEMENT's prior written approval.

10.7 In the event that FELEMENT, at its sole and absolute discretion, determines that any Promotional Contents published by the Distributor:

- (a) breaches the terms and conditions of this Agreement or the FELEMENT's branding guidelines;
- (b) constitutes an infringement of any third party's intellectual property rights; or
- (c) may reasonably be expected to or have already, directly or indirectly, compromised or impaired the reputation or image of FELEMENT,

FELEMENT reserves its right, at its sole discretion, to

- (a) instruct such Distributor to remove, disable or cease further publication of such offending Promotional Contents immediately; and/or
- (b) pursue any remedy available at law or in equity, including damages, injunctive relief and specific performance, arising from the Distributor's breach of this Clause 10 or damages, losses, liabilities, harm caused by the Distributor to FELEMENT, including but not limited to reputation, defamation or analogous harm.

10.8 The Distributor shall not create, register, or use any domain name, mobile application, or other digital or online presence incorporating, misspelling, or bearing a confusingly similar variation of any Intellectual Property owned by or licensed to FELEMENT.

## **11. CONFIDENTIALITY**

11.1 The Distributor shall keep strictly confidential and not to use, disclose or divulge to any third party or to enable or cause any person to become aware of any Confidential Information during and after the expiry or termination of this Agreement without prior written consent of FELEMENT. Notwithstanding this, the Distributor may disclose such Confidential Information to its directors, officers, employees, financial institutions and professional advisers provided that it is on a need-to-know basis and that such person agrees to maintain the confidentiality obligations under this Agreement.

11.2 The Confidential Information shall not be disclosed by the Distributor, its agents or employees without prior written consent of FELEMENT save and except in the event that such information:

- (a) is already known to the Distributor or in its possession before the disclosure hereunder free of any obligation to keep it confidential;
- (b) is or becomes publicly known through no wrongful act or default of the Distributor;
- (c) is received from a third party without similar obligations of confidence and without breach of this Agreement;
- (d) is already possessed or independently developed by the Distributor without use or reference to the Confidential Information;



- (e) is disclosed to a third party by FELEMENT without similar restrictions on that third party's rights of disclosure;
  - (f) is approved for release by written authorization of the FELEMENT; or
  - (g) is required by law to be disclosed or pursuant to a lawful order or request of a court or government or regulatory agency including applicable securities exchanges to disclose, provided that the Distributor provides FELEMENT written notice of such order or request prior to disclosure to the extent legally permitted.
- 11.3 The Distributor shall ensure that its officers and employees comply with the provision of this Clause 11 and agrees to take all reasonable precautions to prevent the disclosure to outside parties of such information, including without limitation, the terms of this Agreement except as may be necessary by reason of legal, accounting or regulatory requirements imposed by any competent authority.
- 11.4 Notwithstanding to the foregoing(s), the Distributor agrees that in the event of use or disclosure by the Distributor other than as specifically provided for in this Agreement, FELEMENT shall be entitled to equitable relief and any direct, consequential, indirect or special losses, damages, costs or expenses, and as may be suffered or incurred by the FELEMENT in respect thereof.
- 11.5 The obligations of the Distributor under this Clause 11 shall survive the termination of this Agreement.

## **12. TERMINATION**

- 12.1 This Agreement shall continue and remain in full force and effect throughout the Term, either Party shall have the right to terminate this Agreement by giving written notice of one (1) month to the other Party without assigning any reason.
- 12.2 **Termination for Breach by a Party**

During the Term and without prejudice to any other rights that either Party may have under this Agreement or at law, either Party ("**Non-Defaulting Party**") shall have the right to terminate this Agreement with immediate effect giving written notice to the other party ("**Defaulting Party**") if:

- (a) the Defaulting Party commits a material breach of this Agreement which breach is not remediable or (if such breach is remediable) fails to remedy that material breach within a period of fourteen (14) calendar days after being notified in writing to do so by the Non-Defaulting Party;
- (b) the Defaulting Party is a body corporate or an entity, a petition is presented (and such petition is not stayed or struck-out within sixty (60) calendar days of the petition being served), a resolution is passed or an order is made, for or in connection with the winding up of the defaulting Party, whether compulsory or voluntary (except for the purposes of a bona fide reconstruction or amalgamation), or if the defaulting Party is an individual, has bankruptcy proceedings initiated against such individual, or becomes an undischarged bankrupt;
- (c) the defaulting Party is a body corporate or an entity, it suspends or ceases, or threatens to suspend or cease, carrying on all or a significant part of its business;
- (d) the defaulting Party becomes insolvent or is unable to pay its debts or admits in writing its inability to pay its debts as they fall due in the normal course of business, or enters into any composition or arrangement with its creditors or makes a general assignment for the benefit of its creditors; or

- (e) the defaulting Party is convicted of or pleads guilty or does not contest to a charge of violating a law or regulation, which affects the ability of the defaulting Party to continue to carry out the terms of this Agreement.

### 12.3 Termination for Breach by the Distributor

Notwithstanding to the provisions in this Agreement and without prejudice to enforcement of any other legal right or remedy, FELEMENT shall have the right to terminate this Agreement immediately if:

- (a) the Distributor fails to comply strictly with the terms of this Agreement and/or Policies including any sale of Products at a price other than the Retail Price;
- (b) the Distributor provides false, misleading and fraudulent information to the Customer, prospective customers and/or other third party, including but not limited to:
  - (i) misrepresenting the benefits of participating in FELEMENT's distributorship program and/or marketing network;
  - (ii) making false claims about the nature, quality and use of the Products;
  - (iii) providing inaccurate or exaggerated descriptions about FELEMENT's activities or business opportunities to entice others to participate in the marketing or selling of the Products; and
  - (iv) makes remarks, comments, statements or representations, or otherwise communicate, directly or indirectly, in writing, orally or otherwise, or take any action which may, directly or indirectly, disparage FELEMENT or any of its subsidiaries or associates or their respective officers, directors, employees, advisors, businesses or reputations.
- (c) the Distributor's negligence, actions or omissions have resulted in FELEMENT being unable to fulfil its primary obligations under this Agreement for a continuous period of at least three (3) months due to no fault on the part of FELEMENT.

### 12.4 Consequences of Termination and Expiration

Upon termination and expiration of this Agreement for any reason:-

- 12.4.1 the Distributor shall immediately cease carrying out any sale activities as authorised by FELEMENT under this Agreement;
- 12.4.2 the Distributor shall immediately cease using FELEMENT's Intellectual Property to carry out any sales activities in connection with the Products;
- 12.4.3 FELEMENT shall be entitled to set-off from all Commissions payable to the Client against any and all outstanding sum due and owing to FELEMENT;
- 12.4.4 the Distributor shall immediately return to the FELEMENT or otherwise dispose of or destroy as the FELEMENT shall direct all Business Support Materials, Sales and Marketing Plan and all other documents or materials belonging to FELEMENT and/or bearing any of the Intellectual Property;
- 12.4.5 the Distributor shall not divulge or use any Confidential Information;

- 12.4.6 the Distributor shall fulfil and complete all transactions between the Distributor and the Sub-Distributors and the Customers and any Order submitted by the Distributor prior to such termination and/or expiration of this Agreement;
- 12.4.7 each Party shall immediately pay to the other Party the full amount of all monies then or thereafter due together with any interest thereon up until the date of payment;
- 12.4.8 the Distributor shall return all business card issued to act as an authorised distributor of FELEMENT and shall refrain from any actions, representations or conduct that would create confusions or misunderstandings regarding its relationship with FELEMENT;
- 12.4.9 the Distributor agrees and acknowledges that FELEMENT shall have no obligation to compensate the Distributor for any consequences, losses, or damages arising from or in connection with the termination of this Agreement, without regard of the cause or nature of such termination;
- 12.4.10 the Distributor shall withdraw all available cash point in its Wallet in accordance to the manner set out in the Distributor's Policy within thirty (30) calendar days from the date of termination, failing which the available cash point shall automatically expire and be forfeited by FELEMENT absolutely;
- 12.4.11 the Distributor shall be deemed to have relinquished its entitlements and rights to (i) re-sell the Products back to FELEMENT in Clause 12.5; (ii) claim any and all unpaid bonuses, Commissions, rewards, and other economic benefits recorded in FELEMENT database and/or the Wallet; and (iii) such other entitlements and rights held by the Distributor as stated in the Business Support Materials, the Sales and Marketing Plan and Distributor's Policy, if the Distributor fails to exercise such right and/or make such claim under this Clause 12.4.11 within three (3) months of the date of termination; and
- 12.4.12 the Distributor shall deliver to FELEMENT a list containing the particulars of all Customer and/or prospective customers within five (5) days of the date of request.

## 12.5 **Option to Purchase**

FELEMENT may, at the Distributor's request, re-purchase any Products then in the Distributor's possession or control at the time of termination, provided the Products satisfy the following conditions:

- (i) The Product is in a good condition, unused and re-sellable for their intended purpose;
- (ii) Not more than 90 days has lapsed commencing from the Distributor's receipt of the Product;
- (iii) The Product has not expired and has a minimum six (6) months expiry period commencing from the date of receipt of the Product by FELEMENT; and
- (iv) The Product is not seasonal product or promotional product.

- 12.6 Subject to this Clauses 12.5 and 12.6, if FELEMENT agrees to re-purchase the Product and/or Business Support Materials (if applicable), FELEMENT shall refund the total original amount paid by the Distributor to purchase the Product and/or the Business Support Material less 10% of administrative costs chargeable by FELEMENT. In such event, the Distributor shall be liable to refund any Commissions, bonuses and/or other economic benefits received by the Distributor in connection with the receipt of such Product, and such refund may be set-off against the amount to be refunded by FELEMENT in respect of the re-purchase of the Product and/or Business Support Materials (if applicable).
- 12.7 The termination of this Agreement shall be without prejudice to the accrued rights of the parties to this Agreement and any provision hereof which relates to or governs the acts of the parties to this Agreement hereto subsequent to such expiry or termination hereof shall remain in full force and effect and shall be enforceable notwithstanding such expiry or termination.

### 13. REPRESENTATIONS AND WARRANTIES

- 13.1 The Distributor represents and warrants to FELEMENT that:
- (a) it has the capacity to enter into this Agreement and be bound by all the terms and provisions herein contained;
  - (b) the execution and performance of this Agreement does not contravene any provision of its constitutional documents and/or any applicable laws;
  - (c) it is not engaged in and is not aware of any pending or threatened litigation or governmental investigation or proceedings which may have a materially adverse effect on its ability to enter into this Agreement and to fulfil its obligations hereunder; and
  - (d) the Distributor has obtained all necessary licenses, permits, approvals from relevant authorities and has expertise and know-how to perform its obligations under this Agreement.

### 14. NO ASSIGNMENT

- 14.1 The Distributor shall not assign and/or transfer its rights under this Agreement (in whole or in part) to any individual, firm or corporation without prior written consent of FELEMENT.

### 15. DEATH AND INHERITANCE

#### 15.1 Distributorship With Sub-Distributors Appointed

- (i) If the Distributor is an individual and has appointed Sub-Distributor(s), upon his/her death, the benefits and entitlement deriving from the deceased Distributor's distributorship in this Agreement may be passed on to its beneficiary(ies) ("**Beneficiary**") whether by will, intestate succession, or otherwise, subject to the applicable succession laws in Malaysia and the following process and conditions ("**Inheritance**"):
  - (a) The Beneficiary shall provide FELEMENT with the sealed copy of grant of probate (if Distributor died testate) or letter of administration (if the Distributor died intestate) as the proof of its entitlement to the deceased Distributor's estate;
  - (b) The Beneficiary shall agree to comply with the terms and conditions of this Agreement and execute any legal documentations as FELEMENT deems necessary to effect the Inheritance ("**Inheritance Documents**");

- (c) all Commissions, bonuses and rewards accrued from the date of the Distributor's death until the date of signing of the Inheritance Documents shall be held on trust by FELEMENT and shall be paid to the Beneficiary, free of interest, upon the signing of the Inheritance Documents;
- (d) all payout of the Commission shall be subject to the following terms and conditions:-
  - (1) the Distributor's Account must fulfil the Minimum Threshold to remain active and continue qualifying for commission payments generated from her team, which are subject to the team's performance;
  - (2) pending fulfilment of Clauses 15.1(i)(a) and 15.1(i)(b) above, the Minimum Threshold shall be satisfied by deducting the required 50 FV each month from the available balance in the deceased Distributor's Wallet;
  - (3) upon fulfilment of Clauses 15.1(i)(a) and 15.1(i)(b) above and after deducting all the required points to satisfy the Minimum Threshold up to the date of the Inheritance Documents, all balance cash point in the deceased Distributor's Wallet (if any) shall be released to the Beneficiary; and
  - (4) thereafter, the Minimum Threshold shall be satisfied by deducting such amount from the monthly withdrawal of cash point in the Wallet before the remaining balance is paid to the Beneficiary.
- (ii) For the purpose of satisfying the Minimum Threshold, the Beneficiary shall have the option to select the Products to be purchased using the deducted points by informing FELEMENT, FELEMENT will then purchase such Products on their behalf and these item(s) will be made available for (i) collection at FELEMENT's designated location; or (ii) delivery to the Beneficiary's designated address through FELEMENT's preferred logistics provider at the cost and risk of the Beneficiary, subject always to the delivery fee imposed by FELEMENT set out in Distributor's Policy.
- (iii) Subject always to fulfilment of the conditions stated in Clause 15.1, only the benefits and entitlement deriving from the deceased Distributor's distributorship, i.e, the Commissions (except commission tabulated based on personal performance and/or achievement of the deceased Distributor which are no longer applicable due to his/her death), shall be transferred to the Beneficiary. The Beneficiary acknowledges that all such Commission deriving from the deceased Distributor's downline team are subject to their performance and FELEMENT does not guarantee any such Commission will be generated and paid to the Beneficiary.
- (iv) The right to manage, control and/or access of the deceased Distributor's Account will not be transferred to the Beneficiary, unless otherwise agreed and approved by FELEMENT, and FELEMENT shall have the absolute right and power to appoint any other qualified person as it deems fit to manage and handle such Account. If the Beneficiary shall be desirous to manage and handle the deceased Distributor's Account, FELEMENT reserves its right approve or reject such application by conducting an evaluation on the Beneficiary's ability to fulfil the obligations of a distributor under this Agreement, whereby FELEMENT's decision in relation thereto shall be final and no appeal will allowed by the Beneficiary.

- (v) FELEMENT will only disclose the information and details pertaining to the deceased Distributor's Account and distributorship, including the available balance in the Wallet and statement of Commissions, upon receipt of a sealed copy of grant of probate (if Distributor died testate) or letter of administration (if the Distributor died intestate).

## 15.2 **Distributorship Without Sub-Distributors Appointed**

- (i) If the Distributor is an individual and has not appointed any Sub-Distributor, upon his/her death, this Agreement shall be automatically terminated upon the death of the deceased Distributor.
- (ii) Upon the termination of this Agreement in accordance with Clause 15.2, all benefits and entitlements deriving from the deceased Distributor's distributorship up to the date of death of the deceased Distributor, may be passed on to its Beneficiary whether by will, intestate succession, or otherwise, subject to the applicable succession laws in Malaysia and the Inheritance process:
  - (a) The Beneficiary shall provide FELEMENT with the sealed copy of grant of probate (if Distributor died testate) or letter of administration (if the Distributor died intestate) as the proof of its entitlement to the deceased Distributor's estate;
  - (b) FELEMENT will only disclose the information and details pertaining to the deceased Distributor's Account and distributorship, including the available balance in the Wallet and statement of Commissions, upon receipt of a sealed copy of grant of probate (if Distributor died testate) or letter of administration (if the Distributor died intestate); and
  - (c) all Commissions, bonuses and rewards accrued up to the date of the Distributor's death shall be held on trust by FELEMENT and shall be paid to the Beneficiary, free of interest, upon fulfilment of Clause 15.2(ii)(a) above.
- (iii) Upon payment of the accrued Commission to the Beneficiary, the Beneficiary hereby irrevocably release, discharge and waive any and all claims, demands, causes of action against FELEMENT arising from or related to this Agreement, including but not limited to further compensation, damages or future obligations.

## 16. **GOVERNING LAW**

- 16.1 This Agreement shall be governed and construed in accordance with the laws of Malaysia. In the event of any unresolved dispute, the Parties shall submit such dispute to the inherent jurisdiction of the courts in Malaysia.

## 17. **INDEMNITY**

- 17.1 The Distributor shall indemnify and hold FELEMENT and each of its respective directors, officers, employees, consultants, agents, permitted assignees and affiliates (collectively "**FELEMENT Personnel**") harmless from any claims, damages, loss, cost, penalties, fines, or liability, including reasonable legal fees and the cost of enforcing this indemnity, which results from, is related to or arises out of:
  - (a) any material misrepresentation, breach of warranty or non-fulfilment of any provision or terms on the part of the Distributor or its respective directors, officers, employees, consultants, agents, permitted assignees and affiliates (collectively "**Distributor Personnel**") under this Agreement or from any misrepresentation in or omission from any

warranty, schedule, statement, document or instrument furnished pursuant hereto or in connection with the negotiation, execution or performance of this Agreement;

- (b) any deliberate or negligent act, error or omission by the Distributor or the Distributor Personnel;
- (c) any breach of clause 10 of this Agreement; and
- (d) failure to comply with or contravention of any laws, applicable present and future authorisations, registrations, duties of care, codes of conduct, regulations, notices, permits, consents, approvals and licenses issued, imposed or directly by any relevant body, including but without limitation any matter relating to the protection of the environment, damage to or use of any property or harm to human health.

17.2 FELEMENT and FELEMENT Personnel shall not be liable for any special, indirect, direct, incidental, punitive, or consequential damages, including loss of profits, arising from or related to the breach of this Agreement. The Distributor agrees that the aggregate liability of FELEMENT for any claim whatsoever related to Distributor's relationship with FELEMENT, including but not limited to any cause of action arising in this Agreement, tort, or equity, will be limited to the amount paid by the Distributor in connection with the purchase price of the relevant Product(s) giving rise to such claim and/or breach.

17.3 The provisions of this Clause 17 shall survive the termination of this Agreement.

## **18. STATUTORY OBLIGATIONS**

18.1 The Distributor shall be responsible with regards to the payment of personal income tax and other taxes in accordance with the laws in Malaysia. The Distributor shall maintain a proper set of books and records for the business of the Distributor and FELEMENT has the right to request the Distributor to provide such documents for justification of payment of taxes and other statutory financial obligations by the Distributor.

18.2 The Distributor agrees that FELEMENT has the rights:-

- (a) to divulge to the relevant authorities in Malaysia regarding the transaction records and/or details between FELEMENT and the Distributor;
- (b) to withhold and deduct any applicable taxes, including but not limited to personal income tax, withholding tax (applicable for Distributors outside Malaysia), or other levies, from commission, bonuses and other economic benefits payable to the Distributor and pay such tax amount to Inland Revenue Board of Malaysia in accordance with the applicable laws (if applicable);
- (c) to request the Distributor to provide full name, permanent address and taxpayer identification number or other necessary information for the purposes of the administration system or for reporting reasons; and
- (d) to share or disclose the Distributor's personal information including but not limited to Distributor income/earnings under the requirement of relevant authorities if requested.

## **19. NOTICE**

19.1 Any notice or other communication given to a Party under or in connection with this Agreement shall be in writing and shall be deemed to be served and received by the addressee:-

- (i) if delivered by hand, at the time of delivery; or
- (ii) if sent by registered post, courier or other postal service, within five (5) days of despatch or posting; or
- (iii) if sent by email or facsimile, upon completion of transmission.

## **20. FORCE MAJEURE**

20.1 Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control (including, without limitation, any strike, lockout, industrial disputes, riots, war, Act of God, pandemic, epidemic, lockdown, partial lockdown, any form of movement control order and impediment by government regulations). In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for thirty (30) days, the Party not affected may terminate this Agreement by giving fourteen (14) days' written notice to the affected Party.

## **21. COSTS AND EXPENSES:**

21.1 Except as otherwise provided in this Agreement, each Party shall be responsible for its own costs, charges and expenses incurred in connection with the negotiation, preparation entering into and completion of this Agreement. The stamp duty payable for this Agreement shall however be borne by the Distributor.

## **22. ACT OF PRINCIPAL**

22.1 The relationship between FELEMENT and the Distributor under this Agreement is that of an independent distributor and the Distributor will not assume any obligations or make any representations on behalf of FELEMENT or any company related to FELEMENT save and except in accordance with the terms of this Agreement.

## **23. ENTIRE AGREEMENT**

23.1 This Agreement and the Policies shall constitute the entire agreement and understanding of the Parties. This Agreement and the Policies shall supersede any prior written or oral communications, negotiations, understandings and agreements between the Parties.

## **24. INDULGENCE**

24.1 Any indulgence or time given by the FELEMENT shall not constitute a waiver of or prejudice the FELEMENT's rights herein contained.

## **25. SEVERABILITY**

25.1 If any provision of this Agreement is held by any court of competent authority to be invalid, illegal or unenforceable in whole or in part, the validity, legality and enforceability of the remaining provisions or remainder thereof shall not in any way be affected or impaired.



## **26. NON-SOLICITATION**

26.1 During the Term of this Agreement and for a period of twenty-four (24) months following the termination of this Agreement, the Distributor shall not:

- (i) in any manner solicit any business from any sources that have been made available by and through FELEMENT hereto, nor in any manner shall access, contact and/or solicit such said sources, without the expressed and specific permission of FELEMENT;
- (ii) shall not disclose any client, customer or business contact information revealed by FELEMENT to any third parties and shall not attempt to do business with, or enter into direct and/or indirect offers, negotiations and/or transaction with such contacts revealed by FELEMENT who made the contact(s) available;
- (iii) solicit employees, independent contractor or officers of FELEMENT nor divert or seek to divert any employee, independent contractor or officer of FELEMENT including any person who occupied a senior or managerial position in relation to FELEMENT or any of its subsidiary undertakings and with whom the Distributor had regular dealings in the course of its appointment; and
- (iv) solicit customers, former customers, supplier, distributor or agent or prospective customers, supplier, distributor or agent of FELEMENT's business or divert or seek to divert any customer, supplier, distributor or agent or customers, supplier, distributor or agent from FELEMENT with whom the Distributor has had contact or become aware of through its employment with FELEMENT; and
- (v) provide any services or assistance to any third party in a manner that could reasonably be expected to diminish or harm the business or competitive advantage of FELEMENT by exploiting FELEMENT's Confidential Information in any manner whatsoever including for any commercial purposes.

## **27. PROHIBITION OF COERCIVE OR FRAUDULENT SALES PRACTICES**

27.1 The Distributor shall strictly refrain from engaging in any coercive, persuasive, misleading, fraudulent or otherwise unethical sales practices in the course of marketing, promoting, or selling the Products.

27.2 Without limiting the generality of the foregoing, the Distributor shall not, without the prior written approval of FELEMENT:

- (i) conduct or participate in any form of sales activities involving lucky draws, lotteries, raffles, or chance-based promotions;
- (ii) offer, promise, or distribute any free gifts, discounts, sponsorships, rebates, or other benefits or inducements to Customers, prospective customers, or Sub-Distributors that are not expressly approved or authorised by FELEMENT;
- (iii) design, issue, print, distribute, or otherwise disseminate any brochures, leaflets, flyers, catalogues, advertisements, or other sales or marketing materials that have not been provided, authorised, or approved in writing by FELEMENT.

27.3 Any breach of this Clause by the Distributor shall constitute a material breach of this Agreement, entitling FELEMENT to take immediate action including but not limited to:

- (i) issuing a written notice of breach and requiring rectification within a specified period;

- (ii) suspending or withholding any Commissions, bonuses or other economic benefits;
- (iii) terminating this Agreement in accordance with Clause 12 and pursuing all remedies available at law or in equity.

## **28. PRIVACY AND COLLECTION OF PERSONAL DATA**

- 28.1 The Distributor hereby consents, acknowledges and agrees that FELEMENT may collect and process the Distributor's or its personnel's personal data as required or permitted by the Personal Data Protection Act 2010. FELEMENT may collect the various types of personal data including but not limited to name, identification/ passport number, designation, contact information and email address.
- 28.2 The FELEMENT undertakes that the collection, usage, processing, disclosure and storage of the Distributor's or its personnel's personal data shall be in compliance with the Personal Data Protection Act 2010.

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