

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 1 of 44



TASEK CORPORATION BERHAD

# ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 2 of 44

## TASEK CORPORATION BERHAD

### Contents

1	INTRODUCTION.....	4
2	MACC ACT 2018 .....	4
3	PURPOSE AND SCOPE .....	5
4	ZERO-TOLERANCE POLICY .....	5
5	BRIBERY OFFENCES .....	5
	5.1 Who Are Liable?.....	5
	5.2 The Penalty .....	6
6	TYPES OF OFFENCES.....	7
7	COMMERCIAL ORGANIZATIONS.....	8
8	DRIVERS OF CORRUPTION.....	8
	8.1 Opportunities .....	8
	8.2 Motive and Pressure.....	9
	8.3 Rationalization.....	9
9	COMMON INDICATORS OF CORRUPTION .....	9
	9.1 Lavish lifestyle – living beyond the means.....	9
	9.2 Unexplained sources of wealth.....	9
	9.3 Unusual close relationship with clients .....	9
	9.4 Unnecessary involvement in other division .....	10
	9.5 Heavy indebtedness .....	10
	9.6 Dealing with only staff.....	10
10	HOW INDIVIDUALS MAY AVOID LIABILITY FOR CORRUPTION .....	10
11	EXAMPLES OF CORRUPTIONS AND BRIBERY .....	11
	11.1 Pre-qualification and tender .....	11
	11.2 Project execution .....	11
	11.3 Dispute resolution.....	12
12	GIFT, ENTERTAINMENT AND CORPORATE HOSPITALITY .....	13
	12.1 No Gift Policy .....	13
	12.2 Receiving Gifts .....	13
	12.3 Providing Gifts.....	15
	12.4 Receiving Corporate Hospitality & Entertainment .....	15

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 3 of 44

12.5	Providing Entertainment and Corporate Hospitality.....	16
12.6	Dealing With Public Official.....	17
12.7	Donations And Sponsorships .....	18
12.8	Facilitation Payments .....	19
12.9	Dealing With Business Associates.....	19
13	STRICT LIABILITY FOR FAILING TO PREVENT BRIBERY.....	21
14	PARTICULAR RISKS FOR THE TCB GROUP.....	21
15	RELEVANT POLICIES & APPLICABILITY .....	22
16	"ADEQUATE PROCEDURES" DEFENCE.....	23
17	QUESTIONS AND REPORTING .....	23

**APPENDICES:**

Appendix 1:	Procedures and Guidance For MACC Act Compliance .....	24
Appendix 2:	MACC Act Questionnaire And Template For Cover Letter.....	29
Appendix 3:	Anti-Bribery And Anti-Corruption Questionnaire (Associated Person).....	32
Appendix 4:	Anti-Bribery And Anti-Corruption Clauses (Samples).....	35
Appendix 5:	Types Of Bribery And Corruption .....	38
Appendix 6:	Definition of Gratification.....	41
Appendix 7:	Definition of Commercial Organization .....	42
Appendix 8:	Due Diligence Log .....	43
Appendix 9:	Who Are Relatives As Per MACC Act? .....	44

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 4 of 44

**TASEK CORPORATION BERHAD  
ANTI-BRIBERY AND ANTI-CORRUPTION  
POLICY AND COMPLIANCE GUIDE**

## 1 INTRODUCTION

The Malaysian Anti-Corruption Commission Act was first enacted in 2009 ("MACC Act") in response to the need in preventing corruption in Malaysia. MACC Act came into effect on 01 January 2009 but subsequently amendments were passed by the Parliament on 04 May 2018 to include corporate liabilities on commercial organizations.

The Malaysian Anti-Corruption Commission Act (Amendment) 2018 ("MACC Act 2018" or "Act") was gazetted on 01 October 2018 but a grace period of two years was granted to allow corporations to develop defense mechanism in compliance with the Act. MACC Act 2018 is officially effective on 01 June 2020.

In the Act, there were four main criteria for corruption offence: (a) receiving or giving of gratification (bribery); (b) giving and accepting reward, inducement or favour; (c) influencing decision making with intention to deceive; and (d) involving in official dealings with abuse of power or position for gratification.

## 2 MACC ACT 2018

The MACC Act 2018 introduced significant changes to the concept of corporate liabilities on commercial organizations. The Act covers the actions or omissions of the following:

- extends the crime of bribery to all private sector transactions (not limited to transactions involving public officials and agents).
- a commercial organization needs to prove it has instituted measures to prevent bribery and corruption. An organization only has one defense to this offence if it can show it had "adequate procedures" in place to prevent bribery.
- offences are very broadly defined and the Act has significant extra-territorial reach.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 5 of 44

- includes criminal penalties for individuals and organizations.

Section 17(A) of MACC Act 2018 is modelled after the equivalent Section 7 of the UK Bribery Act 2010.

### 3 PURPOSE AND SCOPE

The purpose of the policy is to set out the responsibilities of business units in observing and upholding the position of Tasek Corporation Berhad ("TCB" or "Company") on bribery and corruption. This policy applies to all corporate offices, plants and subsidiaries; their agents, consultants and business partners.

### 4 ZERO-TOLERANCE POLICY

TCB takes a zero-tolerance approach to bribery and corruption and is committed to acting professionally, fairly and with integrity in all its business dealings and relationships.

It is the policy of TCB to conduct all of its business transactions in an honest, fair and ethical manner.

### 5 BRIBERY OFFENCES

The Act contains four offences, including:

- (a) offering, promising or giving a bribe;
- (b) requesting, agreeing to receive or accepting a bribe;
- (c) bribing a foreign public official to obtain or retain business;
- (d) for commercial organizations, failing to prevent bribery by those acting on the organization's behalf.

#### 5.1 Who Are Liable?

The following persons in the organization are deemed to be liable for the offences committed by the associated persons unless they can prove the offences are committed without their consents or connivance and they have exercised due diligence to prevent the commission of the offence. And for the commercial organizations, they have to prove that adequacy procedures

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 6 of 44

have been taken to prevent such offences:

1. Director
2. Controller
3. Officer
4. Partner
5. A person concerned in the management of the organization's affairs

There is no distinction made between an executive and non-executive director; or an active partner or sleeping partner. Those who are deemed to be liable will have to show that due diligence has been exercised to prevent the offence.

A controller can be an individual controller or a corporate controller. An individual controller is one "who has significant interest in, or significant control over, the company or the foreign company"<sup>1</sup>. A corporate controller means any legal entity, other than an individual, which has significant interests or control in such.

For the purposes of MACC Act 2018, an associate is a person who is associated with a commercial organization in the capacity as a director, partner or an employee of the commercial organization or he is a person who performs services for or on behalf of the commercial organization. By virtue of this wide interpretation, a supplier, consultant, contractor, agent, service provider, subsidiaries, intermediaries, joint venture partners etc. can be deemed to be associates of the commercial organization<sup>2</sup> and all of whom could render TCB Group guilty of corruption offences.

## 5.2 The Penalty

- a. A maximum fine of 10 times the sum of gratification, or RM1.0 million, whichever is higher;
- b. A maximum jail term of 20 years; or
- c. Both penalties of the fine and jail term

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<sup>1</sup> This interpretation is extracted from Companies Act of Singapore (Cap.50) as a guidance in this Policy. In Malaysia, the concept of controller is not defined in Companies Act.

<sup>2</sup> Malaysian Anti-Corruption Commission (Amendment) Act 2108, section 17A(1)(6).

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 7 of 44

## 6 TYPES OF OFFENCES

Categorically, there are three main types of offences:

1. Bribery - giving gratification and/or accepting gratification (Sec. 16 & 17)
2. False claims - giving or using false documents to make claims (Sec.18)
3. Abuse - abuse of public office for pecuniary advantage (Sec.23)

*Appendix 5: Types Of Bribery And Corruption* on page 38 outlines the common offences as described by Companies Commission of Malaysia ("CCM"). However, the list is not exhaustive or limited to the ones listed in *Appendix 5: Types Of Bribery And Corruption* on page 38.

Under the MACC Act, the definition of corruption is not provided specifically. However, the Act refers to Section 16 (recap below) to determine what constitutes an offence under the law:

"Offence of accepting gratification:

16. Any person who by himself, or by or in conjunction with any other person-

(a) corruptly solicits or receives or agrees to receive for himself or for any other person; or

(b) corruptly gives, promises or offers to any person whether for the benefit of that person or of another person,

any gratification as an inducement to or a reward for, or otherwise on account of-

(A) any person doing or forbearing to do anything in respect of any matter or transaction, actual or proposed or likely to take place; or

(B) any officer of a public body doing or forbearing to do anything in respect of any matter or transaction, actual or proposed or likely to take place, in which the public body is concerned,

commits an offence."

What is a gratification? The definition is provided by the MACC Act and it is extracted for reference from *Appendix 6: Definition of Gratification* on page 41. In another words, it is any type of benefits in the form of payment, reward, offer, gifts or otherwise, which can cause inducement to commit a corruption offence.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 8 of 44

## 7 COMMERCIAL ORGANIZATIONS

Section 17 of MACC (Amendment) Act 2018 defines an offence by a commercial organization as follows:

- “17A. (1) A commercial organization commits an offence if a person associated with the commercial organization corruptly gives, agrees to give, promises or offers to any person any gratification whether for the benefit of that person or another person with intent—
- (a) to obtain or retain business for the commercial organization; or
  - (b) to obtain or retain an advantage in the conduct of business for the commercial organization.”

A more detailed definition of a commercial organization can be found in *Appendix 7: Definition of Commercial Organization* on page 42.

Under the definition, the following commercial organizations in the TCB Group must adopt the policy and guidelines outlined in this document:

4. Tasek Corporation Berhad
5. Tasek Concrete Sdn Bhd
6. Tasek Cement Quarries Sdn Bhd
7. Tasek Property Holdings Sdn Bhd
8. Tasek Industries Sdn Bhd
9. Tasek Holdings Pte. Ltd.

On the other hand, the following associate companies may not need to adopt the policy and guidelines from TCB on the premise that they have their own framework on MACC Act compliance. However, these associate companies are advised to adopt the policy and guidelines as much as possible in order to establish a set of standard compliance rules in line with TCB:

1. Cement Industries (Sabah) Sdn Bhd
2. Padu-Wangsa Sdn Bhd

TCB will ensure that these associate companies are fully aware of its policy by providing a copy of this policy to them.

## 8 DRIVERS OF CORRUPTION

The following are some of the motivational factors for people to commit a corrupt act:

### 8.1 Opportunities

People tend to take advantage of the opportunities opened up for them to capitalize on the weaknesses in the system and the social order. Among the causes are:

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 9 of 44

- Weak procedures e.g. lack of transparency and balance and checks
- Red tapes and bureaucratic environment
- High level of discretion
- Absolute power in the position
- Dictatorial command chain

### 8.2 Motive and Pressure

The motives and sense of pressure create the intensity and desire to use any means to achieve the ends without taking into consideration the moral implications of the actions:

- Heavy indebtedness creating the state of deprivation
- Pressure to maintain self-preservation e.g. fear in losing the job
- Greed and lack of moral values
- Desperately meeting target or KPI

### 8.3 Rationalization

Giving oneself a good reason to justify the action. This is usually derived from the wrong mind set and lack of moral values and beliefs.

- "I did not demand it, they wanted to give it to me"
- "If he did it and never got caught, why not me?"
- "It is a donation from a generous supplier"
- "I cannot help it, it is part of doing business"
- "If I don't take it, they say I don't give them face"

## 9 COMMON INDICATORS OF CORRUPTION

There are some common indicators and symptoms pointing to the likelihood of corruption being exploited in the organization. If an associated person is found to behave, act, or even display the following signs, a reasonable doubt that corruption or bribery could have been taken place cannot be discounted.

Human Resources Department is entrusted with the task to seek clarifications from the associated persons concerned.

- 9.1 Lavish lifestyle – living beyond the means.  
If the income level and the lifestyle of an associated person is not compatible, then it is reasonable to construe that the person is living on extra income of undisclosed source.
- 9.2 Unexplained sources of wealth  
Likewise, an upsurge of wealth and personal properties may have come from unknown sources.
- 9.3 Unusual close relationship with clients  
If an employee is found having an association with a client beyond professional relationship, it is the sign of an alert that the relationship

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 10 of 44

should be contained in a cordial manner.

9.4 Unnecessary involvement in other division

Personal involvement in unrelated matters may imply business intelligence gathering or information seeking.

9.5 Heavy indebtedness

Indebtedness may be due to gambling habit, business failure and financial predicament. This may drive the associated person to obtain money through means which are not so legitimate to repay debt within a short period of time.

9.6 Dealing with only staff

When suppliers or contractors consistently refuse to deal with other staff, there implies a personal dealing between employees and suppliers or agents. This practice is not to be encouraged. The refusal of suppliers or contractors to deal with other staff could signal the door for corruption to penetrate into the company.

## 10 HOW INDIVIDUALS MAY AVOID LIABILITY FOR CORRUPTION

In order to avoid liability for corruption, an individual should take all possible steps to ensure that he or she is not involved, whether directly or indirectly, in any corrupt activity. This includes, but is not limited to, the following:

- (1) The individual must not be involved in offering, paying, requesting or receiving bribes.
- (2) The individual must not be involved in any fraudulent or dishonest activity.
- (3) The individual must not authorize, expressly or impliedly, any corrupt activity.
- (4) The individual must not participate in any activity which could facilitate corruption.

Such activity may include authorizing payment of bribes, drafting illegal agreements, drafting fraudulent claims, falsifying evidence, and giving false evidence in legal proceedings.

- (5) The individual must not assist in the concealment of any corrupt activity.

This does not necessarily mean that a party must report corrupt activity (although in some countries failure to report may be an offence itself). It means that the individual must not take any positive steps to conceal the corruption.

- (6) The individual must not commit corrupt activity simply because he has been requested to do so by his company or by any senior manager.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 11 of 44

- (7) Where the individual is in a position of authority, the individual must not turn a blind eye to corrupt activity.

If the individual suspects that corruption has occurred, is occurring, or is likely to occur, the individual must make proper enquiries to establish what has happened or may happen, and take steps to prevent or stop it.

However, in all circumstances, the employee should not take any step which is likely to endanger his safety, or that of another person.

## 11 EXAMPLES OF CORRUPTIONS AND BRIBERY

One of the ways where the breeding area for corruption is the tender process. This is the place where instances of manipulations in pricing and bribery take place between several interested parties to tap the resources out from the cash flow legally or illegally.

The following actions are examples which are considered as acts of corruption and bribery. You are not supposed to have involvement in any of these actions. The consequence of breaching this rule will tantamount to dismissal or in the worst case, civil court charges against you.

### 11.1 Pre-qualification and tender

1. Loser's fee
2. Price fixing
3. Manipulation of pre-qualification
4. Bribery to obtain main contract award
5. Bribery during sub-contract procurement
6. Corruptly negotiated contract
7. Manipulation of design
8. Specification of overly sophisticated design
9. Inflation of resources and time requirements
10. Obtaining a quotation only for price comparison
11. Concealment of financial status
12. Intention to withhold payment
13. Submission of false quotation
14. Falsely obtaining export credit insurance

### 11.2 Project execution

15. False invoicing: supply of inferior materials
16. False invoicing: supply short of materials

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 12 of 44

17. False work certificates
  18. Excessive repair work
  19. Overstating man-day requirements
  20. Inflated claim for variation
  21. False variation claim
  22. Issue of false delay certificate
  23. False extension of time application
  24. False assurance that payment will be made
  25. Delayed issue of payment certificates
  26. Concealing defects
  27. Set-off of false rectification costs
  28. Refusal to issue final certificate
  29. Requirement to accept lower payment than is due
  30. Extortion by client's representative
  31. Facilitation payment
  32. Overstating of profits
  33. False job application
- 11.3 Dispute resolution
34. Submission of incorrect contract claims
  35. Concealment of documents
  36. Submission of false supporting documents
  37. Supply of false witness evidence
  38. Supply of false expert evidence
  39. Bribery of witness
  40. Blackmail of witness
  41. False information as to financial status
  42. False statement as to settlement sum
  43. Over-manning by law firm
  44. Excessive billing by lawyer
  45. Complicity by lawyer

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 13 of 44

## 12 GIFT, ENTERTAINMENT AND CORPORATE HOSPITALITY

The following section is about the policy standard of TCB in regards to gifts, entertainment and corporate hospitality. If in any doubt, please refer to Human Resources Department for more details and clarification.

### 12.1 No Gift Policy

TCB has adopted a "No Gift" policy whereby directors, employees, agents, suppliers, service providers and joint venture partners and their relatives are prohibited from receiving or providing gifts, directly or indirectly.

Appendix 9: Who Are Relatives As Per MACC Act? on page 44 has an illustration on the extent of how far the relatives of associated person is covered by this policy.

- 12.1.1 TCB requires all employees to abide by this policy to avoid conflict of interest between TCB and the external parties as gifts can be seen as bribes that may tarnish the reputation of TCB and they may expose the Company in violation of anti-bribery and corruption laws.
- 12.1.2 Any gift of cash or cash value (e.g. vouchers, coupons, shares, commissions, etc.) is strictly prohibited at all times.
- 12.1.3 The exception to the above is: fruits, flowers, token souvenirs, promotional items such as diaries, pens, umbrellas, shirts, etc. with an approximate value of RM100 or less (the recipients must properly estimate the gift value), hampers (any values) which shall be shared amongst team members or placed in common area or pantry for staff consumption. In such a case, the staff could choose to accept the item without having to make the declaration.
- 12.1.4 Any gift which violates the terms of "No-Gift Policy" must be declined and returned with an explanation note from the employees thanking the giver for the gift but explains politely about "No-Gift Policy" of TCB with an apology.

### 12.2 Receiving Gifts

- 12.2.1 In spite of "No Gift" policy being adopted by TCB, there may have happened some instances where an external party insists on giving gifts as part of business etiquette to employees of TCB and their relatives.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 14 of 44

12.2.2 The Company is very much aware that in certain cultures or situations, gift giving is a central part of business etiquette. Despite acknowledging “No-Gift Policy”, some external parties may still insist in providing gifts to the employees of TCB and/or their family members.

12.2.3 TCB personnel are not allowed to receive or solicit for gifts from external parties. Under no circumstances should any personnel accept gifts in the form of cash or cash equivalent e.g. gift certificates, vouchers, loans, commission, coupons, discounts, payment on behalf, using and possessing complimentary assets and other related forms such as the following:

12.2.3.1 Gifts involving parties who are engaging in a tender or bidding exercise.

12.2.3.2 Gifts which may implicate direct or indirect suggestion, hint, understanding that a favour is expected in return for the gifts

12.2.3.3 Gifts which are illegal or in breach of local or foreign bribery and corruption laws

12.2.3.4 Gifts which are luxurious and lavish in nature. Their values are excessive and go beyond the maximum allowable threshold values acceptable to the company policy e.g. sports car, watches, real estate properties etc.

12.2.4 In the event the employee is unable to decline or return a gift with an approximate value of more than RM100, the employee must declare and surrender such gift to Human Resources Department for further decision.

Human Resources Department will in turn seek the Group Chief Operating Officer (GCOO)’s direction on the best way to dispose the gift. The GCOO, subject to his due considerations, will have the right to decide based on the following options, subject to always returning the gift to the giver in the first instance and advising the giver that giving of gifts may preclude the giver and its associates from having business dealings with TCB Group:

(i) donate the gift to charity; or

(ii) surrender it to Human Resources Department to be used for the staff welfare activities; or

(iii) register it as a company property to be used publicly by all employees; or

(iv) designate it as a display item; or

(v) share it with other employees; or

(vi) retain all the gifts and consume later as lucky draw items during company’s event and related staff activities; or

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 15 of 44

(vii) permit it to be retained by the employee.

### **12.3 Providing Gifts**

- 12.3.1 As a general rule, no employee is allowed to provide gifts to third parties except for GCOO and any officers who are authorized by GCOO to represent the company to distribute the gifts on its behalf.
- 12.3.2 Corporate gifts are to be made as business courtesy and they are to be distributed in social events in a transparent manner and the gifts are to bear the company logo printed on obvious positions of the gifts.
- 12.3.3 The corporate gifts given to external parties should meet the requirements of the Limits of Authority and they are to fulfill the following conditions and characteristics:
- 12.3.3.1 They are limited, customary and lawful under the circumstances;
  - 12.3.3.2 They do not have or are perceived to have (by either the giver or the receiver), any effect on actions or decisions.
  - 12.3.3.3 There must be no expectation of any specific favour or improper advantages from the intended recipients;
  - 12.3.3.4 The independent business judgment of the intended recipients must not be affected;
  - 12.3.3.5 There must not be any corrupt or criminal intent involved; and
  - 12.3.3.6 The giving out of the gift and hospitality must be done in an open and transparent manner
- 12.3.4 All expenses incurred to provide the corporate gifts must be properly kept, documented and recorded by the respective department for audit purposes.

### **12.4 Receiving Corporate Hospitality & Entertainment**

- 12.4.1 TCB strictly prohibits any of its employees from soliciting corporate hospitality and entertainment nor are they allowed to accept hospitality and entertainment that is excessive, inappropriate, illegal or given in response to, in anticipation of, or to influence a favourable business decision, particularly from parties engaged in a tender or competitive bidding exercise.
- 12.4.2 TCB recognizes that the occasional acceptance of an appropriate level of hospitality and entertainment given in the normal course of business is usually a legitimate contribution to building good business relationships.
- 12.4.3 However, it is important for employees to exercise proper care and judgement before accepting the hospitality and entertainment.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 16 of 44

This is not only to safeguard the Company's reputation, but also to protect employees from allegations of impropriety or undue influence.

- 12.4.4 Examples of entertainments could include golf, movies, karaoke, spa, orchestra, theatre, concerts etc. As for corporate hospitalities, the examples could include dining, conference, training, open-house, event tickets or invitation for events, additional discounts given on items bought from customer's companies etc.
- 12.4.5 In the event the employee finds that the corporate hospitality is beneficial to foster healthy business relationship, the staff can pursue the same but it has to be declared to Human Resources Department and prior approval be sought from the GCOO.
- 12.4.6 For the purpose of this policy, travelling is defined as corporate hospitality which typically involves travelling cost within the country or overseas paid by the third party.
- 12.4.6.1 Sponsorship of travelling, whether it is domestic or overseas travelling, paid by an external party to TCB's personnel and their relatives are not acceptable under this policy
- 12.4.6.2 The practice is tantamount to conflicts of interests which encourages corruption and bribery. The receiving personnel should reject the offer and report the case to Human Resources Department.

## **12.5 Providing Entertainment and Corporate Hospitality**

- 12.5.1 Employees should always bear in mind that this is an area where perception is often regarded as more important than facts.  
Therefore, they should always exercise proper care and judgement when providing entertainment to third parties especially when it involves public officials to ensure compliance with local anti-bribery and corruption laws.
- 12.5.2 Employees are strictly prohibited from providing or offering to provide entertainment with a view to improperly cause undue influence on any party in exchange for some future benefit or result.  
Any acts of this nature, whether provided directly or indirectly through an intermediary, may be construed as an act of bribery and contrary to the general values and principles of the Code of Conduct Policy
- 12.5.3 All expenses incurred to provide the entertainment must be properly kept, documented and recorded for audit purposes.
- 12.5.4 TCB recognizes that providing corporate hospitality to all stakeholders be it through corporate events, sporting events or other public events, is a legitimate way to network and build goodwill in business relationships.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 17 of 44

- 12.5.5 It is customary for TCB to issue complimentary invitations in the form of passes, tickets or invitations to third parties for events organized or sponsored by TCB as well as events organized or sponsored by external organizations.
- 12.5.6 While providing corporate hospitality is a reflection of courtesy and goodwill, the staff and the respective head of department must exercise proper care to protect the Company's reputation against any allegations of impropriety or the perception of bribery especially when the arrangements could influence or be perceived to influence the outcome of a business decision.

## **12.6 Dealing With Public Official**

- 12.6.1 Public official means an individual having public official functions or acting in a public official capacity, and includes any of the following:
- (a) An official or employee of any government, or any agency, statutory body, ministry or department of the government (of any level);
  - (b) Police, military and judicial official (of any level);
  - (c) Member of Dewan Undangan Negeri and Dewan Negara;
  - (d) Senator;
  - (e) Member of Parliament;
  - (f) Any individual acting in an official capacity for a government (of any level);
  - (g) Official or employee of a company or enterprise wholly or partially state-owned (of any level);
  - (h) A political party or official of a political party (of any level); and
  - (i) A candidate for political party
- 12.6.2 Public officials include immediate family members, close associates and companies related to such individuals in their capacity as directors, members of management or beneficial owners.
- 12.6.3 Family members are individuals who are related to a public official either directly (consanguinity) or through marriages. A family member of the public officials includes his or her parents, siblings, spouse, children, and spouse's parents (biologically and non-biologically).
- 12.6.4 Any business relationship with TCB involving interests of a public official who otherwise has a direct relationship with TCB, and which interests are not prohibited by the TCB's Code of Conduct Policy, requires disclosure.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 18 of 44

- 12.6.5 In addition, the specific approval for establishing business relationships with such customers must be obtained at the appropriate committee level.
- 12.6.6 All TCB staff are prohibited from paying for non-business travel, entertainment and hospitality for any public official or his/her family members at any amount without permission from the GCOO.
- 12.6.7 If approval is obtained to provide gift, entertainment or corporate hospitality to public officials, the staff must ensure that the gift (only corporate gift is allowed), entertainment or corporate hospitality is not excessive and lavish, and must commensurate with the official designation of the public official and not his personal capacity.
- 12.6.8 Care should be exercised to ascertain the status and the position of public official if it is appropriate for gifts and entertainment. The entertainment is accorded to his position rather than his popularity, political standing, connection or possible benefits to be derived in the future.

## **12.7 Donations And Sponsorships**

- 12.7.1 All donations and sponsorships must fulfill the following requirements before payment is made:
- 12.7.2 Criteria as set out in the Authority of Limits of TCB; and
- 12.7.3 Due diligence is conducted that the recipients are genuine beneficiaries. If the recipient is a charitable organization, its registration and tax exemption status (if any) is to be obtained; and
- 12.7.4 Requirements of Corporate Social Responsibilities (CRS) policy
- 12.7.5 Any CSR, donations and sponsorship activities must not be used as conduits to circumvent, avoid, or evade the laws or regulatory requirements.  
More importantly, they shall not be used to facilitate corruption, illegal and money laundering activities.
- 12.7.6 All CSR, donations and sponsorship requests must be carefully examined for legitimacy and not be made to improperly influence a business outcome
- 12.7.7 All payments for CSR, donations and sponsorship activities are to be recorded in the accounting books of TCB and they are not to be used as means to cover up an undue payment or bribery.  
Examples of red flags to look for are:
  - (a) The proposed recipient or organization has close affiliations with a public official or their relatives; or
  - (b) The contribution is made on behalf of a public official; or

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 19 of 44

- (c) The proposed recipient is based in a high risk country or the activities take place in a high risk country
- 12.7.8 TCB expects employees to use good judgment and common sense in assessing the requests. When in doubt, employees should seek further advice from GCOO to establish the authenticity of such requests.
- 12.7.9 As a matter of general policy, TCB does not make or offer monetary or political contributions in kind to political parties, political party officials or candidates for political office.

### **12.8 Facilitation Payments**

- 12.8.1 A payment or other provision made personally to an individual in control of a process or decision. It is given to secure or expedite a routine or administrative duty or function.
- 12.8.2 Facilitation payment is defined as a payment made to secure or expedite the performance by a person performing a routine or administrative duty or function.
- 12.8.3 Offering, promising or requesting facilitation payments is just as prohibited as actually paying or receiving facilitation payments. Facilitation payments need not involve cash or other financial asset, it can be any sort of advantage with the intention to influence them in their duties.
- 12.8.4 TCB prohibits accepting or obtaining, either directly or indirectly, facilitation payments from any person for the benefit of the employee himself or for any other person.
- 12.8.5 The reason underlying this prohibition is that facilitation payment is seen as a form of bribery and corruption.
- 12.8.6 All employees must not offer, promise, give, request, accept or receive anything which might reasonably be regarded as a facilitation payment. If the staff receives a request or is offered facilitation payments, he/she must immediately report to Human Resources Department or follow the procedures as provided under Whistleblowing Policy & Procedures.

### **12.9 Dealing With Business Associates**

- 12.9.1 All business associates (including external providers such as consultants, advisors, suppliers, service providers and agents) acting on behalf of TCB are required to comply with this Policy, the Code of Business Ethics, and all other policies relating to them.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 20 of 44

- 12.9.2 In circumstances where TCB retains controlling interest, such as in certain joint venture agreements, business associates are required to adhere to this Policy and Code of Business Ethics. Where TCB does not have controlling interest, associates are encouraged to comply the same.
- 12.9.3 Due diligence should also be carried out with regards to any business associates intending to act on the Company's behalf as an agent or in other representative roles, to ensure that the entity is not likely to commit an act of bribery or corruption in the course of its work with TCB.
- 12.9.4 The extent of the due diligence should be based on a bribery and corruption risk assessment. Due diligence may include a search through relevant databases, checking for relationships with public officials, self-declaration, and documenting the reasons for choosing one particular business associate over another.
- 12.9.5 The results of the due diligence process must be documented, retained for at least seven years and produced on request by the custodian of the process. For the purposes of this Policy, Human Resources Department is the custodian of the process.
- 12.9.6 TCB shall include standard clauses in all contracts with business associates enabling the Company to terminate the contract in the event that bribery or an act of corruption has been proven to have occurred.
- 12.9.7 When dealing with business associates, all TCB personnel shall not:
- (a) express unexplained or unjustifiable preference for certain parties;
  - (b) make any attempt at dishonestly influencing their decisions by offering, promising or conferring advantage;
  - (c) exert improper influence to obtain benefits from them;
  - (d) directly or indirectly offer or make promise or corrupt payments, in cash or in kind for a specific favour or improper advantage from them.
- 12.9.8 During an active or anticipated procurement or tender exercise, personnel participating in the exercise in any way whatsoever, shall not:
- (a) receive gifts or hospitality or any kind from any external party participating, planning to participate, or expected to participate, in the procurement or tender exercise;
  - (b) provide anything other than a corporate gift and token hospitality to any external/third party related to the exercise;
  - (c) be involved in any discussions regarding business or employment opportunities, for personal benefit or for the benefit of a business associate;
  - (d) abuse the decision-making and other delegated powers given by the

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 21 of 44

- top management; and
- (e) bypass normal procurement or tender process and procedure.

- 12.9.9 When dealing with external parties in a position to make a decision to the benefit of the Company (such as a Government official or client), TCB personnel shall not:
- (a) offer, promise or make any attempt at dishonestly influencing the person's decision by directly or indirectly offer or make promise of corrupt payments, in cash or in kind;
  - (b) be involved in any discussions regarding business or employment opportunities, for their own personal benefit or for the benefit of the external party;
  - (c) otherwise abuse the decision-making and other delegated powers given by the top management, in order to illicitly secure an outcome which would be to the commercial advantage to themselves and/or the Company; and
  - (d) exert improper influence to obtain personal benefits from them.

## 13 STRICT LIABILITY FOR FAILING TO PREVENT BRIBERY

By the definition of the Act, TCB is a commercial organization and any of its affiliated companies and subsidiaries (**TCB Group**) commits an offence if a person **associated** with it bribes another person for the benefits of the organization.

A person is "associated" with the TCB Group if he performs services for or on behalf of the TCB Group. This is construed broadly and applies to consultants, finders, agents, contractors, employees, subsidiaries, intermediaries, joint venture partners and suppliers, all of whom could render the TCB Group guilty of the corruption offence.

## 14 PARTICULAR RISKS FOR THE TCB GROUP

Given the nature of the TCB Group's business, employees must pay particular attention to, and ensure that "adequate procedures" are taken in respect of the following commercial activities:

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 22 of 44

- **Corporate hospitality and gifts:** There is a risk that corporate hospitality, such as customer or supplier entertainment and the giving or receiving of gifts, might be seen as bribery, especially in dealings with foreign public officials. Lavish hospitality or gifts must be avoided, both the giving and the receiving.
- **Facilitation payments:** These are the payments demanded by officials or others to secure or expedite the performance of their normal duties (for example, granting a licence, allowing goods to cross a border, and so on).  
These may seem common in some jurisdictions, but the making of such payments, regardless of how small in monetary value, is an offence under the Act.
- **Operations in high risk countries:** Some countries may carry higher risks in terms of corruption than the others. Transparency International UK publishes a list of countries which assesses the intensity of corruption in the order of ranking.  
The Corruption Perception Index ("CPI") measures how widespread corruption is in each country. As a general rule, precaution is to be taken in any countries below the ranking of Malaysia should a business dealing be conducted in the countries concerned.
- **Procurement and contracting for services:** The TCB Group may contract with agents to provide services or act on its behalf, including sales agents, contractors, service providers, suppliers, intermediaries and joint venture partners.

## 15 RELEVANT POLICIES & APPLICABILITY

The TCB Group takes a zero-tolerance approach to bribery and corruption and there are a number of relevant anti-bribery, anti-corruption and related policies with which you must adhere to.

Please familiarize yourself with these.

**Failure to comply with these policies could give rise to disciplinary action or dismissal.**

The applicable policies include the following:

1. Malaysian Anti-Corruption Commission Act policy;

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 23 of 44

2. Whistleblowing policy;
3. Code of Ethics and Business Conduct;
4. Business Hospitality and Gifts policy;
5. Charity and Donation policy.

Unless otherwise stated in the policies, all employees of the TCB Group corporate offices and subsidiaries must comply with these policies, subject to any regional variations.

## 16 “ADEQUATE PROCEDURES” DEFENCE

It may be a defence to a charge of bribery or corruption if the TCB can prove that it had implemented and enforced "adequate procedures" to prevent bribery.

As noted above, all employees ensure that they enforce and maintain *Appendix 1: Procedures and Guidance For MACC Act Compliance* on page 24.

## 17 QUESTIONS AND REPORTING

Please contact your manager (if appropriate) or the Chief Financial Officer or the Head of Human Resources if any employee has any questions or need clarification in relation to anti-bribery or anti-corruption compliance.

If an employee suspects or has evidence of any unlawful activity, please report this IMMEDIATELY to the Head of Human Resource or to the Company Secretariat team at [www.tasekcement.com](http://www.tasekcement.com). All notifications will be treated as confidential and will be shared only on an as-needed basis.

Endorsed by the Board of Directors of Tasek Corporation Berhad on 05 May 2020  
Last updated on 05 May 2020

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 24 of 44

*Appendix 1: Procedures and Guidance For MACC Act Compliance*

**PROCEDURES AND GUIDANCE FOR MACC ACT COMPLIANCE**

**A. READ AND UNDERSTAND APPLICABLE TCB GROUP POLICIES AND ATTEND AND MAINTAIN ANTI-BRIBERY TRAINING FOR ALL TCB GROUP EMPLOYEES**

- 1. Who:** All employees of TCB Group
- 2. Action:** Read and understand the applicable TCB Group policies, including:
  - Anti-Bribery Act policy;
  - Whistleblowing policy;
  - Code of Ethics and Business Conduct;
  - Business Hospitality and Gifts policy;
  - Charity policy.

In particular, note that all employees will need to register and obtain proper approval for gifts and entertainment received or, depending on the value or source, refuse such gifts or entertainment.

Copies of the TCB Group policies are available at Tasek Corporation Berhad's website at:

[www.tasekcement.com](http://www.tasekcement.com)

As these policies may be updated or amended from time to time, you should regularly refer to the applicable policies.

- 3. Training:** Human Resources Department must ensure that each employee receives appropriate training on the relevant policies at the time of the employee's induction into the TCB Group and that such training is refreshed on an annual basis.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 25 of 44

Appendix 1....

**B. CONDUCT DUE DILIGENCE ON NEW AND EXISTING ASSOCIATES/  
COUNTERPARTIES**

1. **Who:** Commercial team responsible for initiating a new contract or other business relationships with a service provider (e.g. procurement, operations, sales and marketing and others)
2. **Action:** Carry out a risk assessment on all "associates" and contracting counterparties in order to identify *high risk* associates or counterparties.

A "**high risk associate**" means any person or company with one or more of the following (or similar) factors present:

- a **red flag** is raised (see examples below);
- the contract is particularly significant (e.g. long-term, high value, involves the performance of services for multiple batching plants, etc);
- The services to be performed are high risk (e.g. require legal or Board authorization or permit, government contracting or with public officials, significant construction or development work);
- The associate is a proposed broker, joint venture partner, distribution network owner or logistics operator.

Examples of a "**red flag**" includes:

- Due diligence searches which indicate evidence or allegations of previous corruption or other red flags;
- The associate is a public official or related to a public official (e.g. owner, director, etc.);
- An unusual or inappropriate payment request is made (e.g. requesting payment be made to a third party other than the contractual counterparty, or requesting some other request for a benefit);
- The associate objects to inclusion of appropriate anti-bribery or anti-corruption clauses in the agreement;
- The associate refuses to answer reasonable due diligence queries or provide the requested information, including the identity of its directors or beneficial owners;

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 26 of 44

Appendix 1.....

- The associate does not perform the contracted services or have a substantive commercial role or qualification other than to influence others or help get a deal completed;
- The associate requests for substantial payment in advance (30% or more of the total contract value) before and/or after the commencement of work.

**3. How:** You must conduct adequate background checks on the associate or counterparty which, depending on whether the associate/counterparty is "High Risk" or "Low Risk", must include the following:

**(a) If deemed *Low Risk*, carry out *standard due diligence checks*, as follows:**

- (i) Complete the "standard supplier request form" for new suppliers;
- (ii) Conduct internet searches of the company and its officers and directors for any applicable information, including adverse media;
- (iii) Conduct any other reasonable background checks;
- (iv) Check the business/companies register to confirm the validity and existence of the named entity and, if registered, check that it has not been dissolved or would up
- (v) Details of the associate/counterparty including name, registration number, address, name of principals/directors and any other information provided by the associate to be checked for accuracy.

**(b) If deemed *High Risk*, carry out *enhanced due diligence checks*, as follows:**

- (i) Complete all "*Low Risk*" due diligence checks (set out at (a), above);
- (ii) Request associate/counterparty to complete and return the **MACC Act Questionnaire** (attached at *Appendix 3: Anti-Bribery And Anti-Corruption Questionnaire (Associated Person)* on page 32).

A suitable template for a cover letter to be sent with the questionnaire has been also provided for your convenience (*Appendix 2: MACC Act Questionnaire And Template For Cover Letter*, page 29);

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 27 of 44

- (iii) If dealing with individuals, request a copy of passport photo page or identification card;
- (iv) Check/confirm references;
- (v) In exceptional circumstances, where additional checks are deemed necessary, escalate the matter to your Human Resources Department or Company Secretariat team so that they can conduct an enhanced background search using the CTOS Credit Checks Systems online service

#### **4. Maintenance, Monitoring and Reporting**

Information which is compiled as part of any background checks pursuant to the due diligence process must be treated as confidential information and filed with a copy of the executed contract as evidence that such checks have been carried out.

Information about associates and counterparties must be monitored on an ongoing basis, and at least annually, by the commercial teams (marketing, purchasing, logistics, finance and operations departments) responsible for managing that relationship.

For the purpose of this policy, the heads of the commercial team will submit the results of the due diligence on every **5<sup>th</sup> day** of January to Human Resources Department for filing and review.

In relation to "*high risk*" associates and counterparties, you must maintain a "*Due Diligence Log*" that records the background checks carried out and must highlight the reasons why the counterparty was deemed as high risk. A template "**Due Diligence Log**" is attached at *Appendix 8: Due Diligence Log* on page 43.

Please send a copy of this log to Human Resources Department each month. The Human Resources Department is responsible for compiling a "Master Log" of all high risk associates and reviewing the list in order to identify any potential risks to the TCB Group.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 28 of 44

Appendix 1....

**C. INCORPORATE ANTI-BRIBERY & ANTI-CORRUPTION CLAUSES INTO ALL COMMERCIAL AGREEMENTS**

1. **Who:** Commercial teams<sup>3</sup> who are responsible for initiating a new contract or other business relationships with a service provider.

2. **Action:** All contracts with “associates” and/or service providers entered into by TCB Group of companies must include appropriate anti-bribery and anti-corruption provisions.

Note that all TCB Group of companies are subject to the Malaysian Anti-Corruption Commission Act due to the extra-territorial scope of that Act.

3. **How:** Examples of **anti-bribery clauses** are set out at *Appendix 4: Anti-Bribery And Anti-Corruption Clauses (Samples)* on page 35.

Such clauses should be incorporated into all TCB Group contracts with “associates” and/or service providers. Please contact your Human Resources Department if you need assistance in preparing a suitable contract incorporating these terms.

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<sup>3</sup> Notably, marketing, purchasing, logistics, finance and operations departments

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 29 of 44

*Appendix 2: MACC Act Questionnaire And Template For Cover Letter*



**Tasek Corporation Berhad**

Persiaran Tasek, Tasek Industrial Estate  
31400 Ipoh  
Perak, Malaysia  
Tel.: +60-5-290 9000

Mr. Lee C. H.  
Managing Director  
Dominion Trading Sdn Bhd  
345 Industrial Park  
Taiping  
68100 Perak

Date : 13 April 2020

Dear Mr. Lee,

**Compliance With The Malaysian Anti-Corruption Commission Act**

It is Tasek Corporation Berhad (**TCB**)'s policy to conduct all of its business in an honest, fair and ethical manner. TCB takes a zero-tolerance approach to bribery and corruption and is committed to acting professionally, fairly and with integrity in all its business dealings and relationships.

Further, TCB is bound by the provisions of the Malaysian Anti-Corruption Commission Act (MACC Act) which makes it an offence for any company to which the Act applies and any company providing services on behalf of that company to:

- offer, promise or give a bribe to another person;
- request, agree to receive or accept a bribe from another person;
- bribe a foreign public official; and/or
- fail to prevent bribery.

A bribe is giving or receiving something of value to influence a commercial transaction.

For the avoidance of doubt, any payment made to a public official (or other person) to secure or expedite the performance of routine actions (known as a "**facilitation payment**"), is deemed to be a bribe under the MACC Act.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 30 of 44

Appendix 2.....

As you are an Associated Person engaged by TCB to act on its behalf either in providing services to third parties or/and to supply goods and services to TCB, you must:

- a) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the MACC Act (**Relevant Requirements**);
- b) not engage in any activity, practice or conduct which would constitute an offence under the MACC Act;
- (d) comply with Code of Ethics and Anti-bribery Policy of TCB, available in hardcopy upon request or at:

[www.tasekcement.com](http://www.tasekcement.com)

as TCB may update them from time to time (**Relevant Policies**);

- (e) have and shall maintain in place throughout the term of the service agreement with TCB, your own policies and procedures, including adequate procedures under the MACC Act, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate.

In particular, you should:

- not pay bribes in any form to any person while performing a service for or engaged on behalf of TCB;
- take all reasonable and proportionate steps to ensure that your officers, employees and agents do not pay bribes in any form to any person while performing a service for or acting on behalf of TCB; and
- notify us immediately if you have reasonable grounds to believe that a bribe of any form has been made by any person to secure business or other advantage for TCB.

So that we may conduct our due diligence checks, please complete the attached questionnaire and return it to us with a signed and dated copy of the acknowledgement below.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 31 of 44

Should you have any questions regarding this letter and the attached questionnaire, please do not hesitate to contact us.

Thank you.

Yours sincerely,

.....  
**LIAN KA SIEW**  
 Group Chief Operating Officer  
 Tasek Corporation Berhad

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**ACKNOWLEDGEMENT**

I confirm that I have read, understood and agree to comply with the above anti-bribery and anti-corruption terms.

**Signed:** .....

**Date:** 22 April 2020

**Name:** Mr. Lee C. H.

**Position<sup>4</sup>:**  
 Managing Director

**Company:** Dominion Trading Sdn Bhd

**Address:** 345 Industrial Park  
 Taiping

68100 Perak

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<sup>4</sup> Only authorized persons such as Managing Directors, Partners, Company Secretaries or Head Compliance Officers may execute this letter

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 32 of 44

*Appendix 3: Anti-Bribery And Anti-Corruption Questionnaire (Associated Person)*



**ANTI-BRIBERY & ANTI-CORRUPTION QUESTIONNAIRE  
(ASSOCIATED PERSON)**

Notes

- Reference to "you" or "your" means the Associate, including any individual, corporate entity or partnership, as applicable.
- Reference to "TCB", "TCB Group" or "Tasek Cement" is a reference to Tasek Corporation Berhad and its subsidiaries, affiliates and joint ventures, where applicable.

---

1. Do you have one or more written policies or codes of conduct **prohibiting** the following? Tick all that apply:

---

- |  |                          |
|--|--------------------------|
| a) Bribery of government officials                                 | <input type="checkbox"/> |
| b) Commercial (private sector) bribery                             | <input type="checkbox"/> |
| c) Falsification of books and records                              | <input type="checkbox"/> |
| d) Use of charitable contributions as bribes                       | <input type="checkbox"/> |
| e) Use of gifts, entertainment and corporate hospitality as bribes | <input type="checkbox"/> |
- 

2. Does your organization have an anti-corruption policy and training process? Tick all that apply:

---

- |                                       |                          |
|---------------------------------------|--------------------------|
| a) Anti-corruption policy             | <input type="checkbox"/> |
| b) Anti-corruption training programme | <input type="checkbox"/> |
- 

3. Does your organization have a whistle-blowing policy and hotline? Tick all that apply:

---

- |                           |                          |
|---------------------------|--------------------------|
| a) Whistle-blowing policy | <input type="checkbox"/> |
| b) Hotline                | <input type="checkbox"/> |

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 33 of 44

- 
4. Do you permit "facilitation payments", either directly or through third parties?  Yes  No
- Facilitation payments, also known as 'grease' or 'speed' payments, are sums paid to government officials to procure or expedite the performance of routine governmental functions, e.g. issuing visas or import licences.
- If "Yes", please provide details:
- 
5. Have you, or has any of your organization's directors, officers, partners or employees ever been the subject of an investigation or prosecution for bribery, corruption or a money-laundering offence in any country?  Yes  No
- If "Yes", please provide details:
- 
6. Have you, or has any of your officers/partners or employees, ever been convicted of a bribery, corruption or money-laundering offence in any country?  Yes  No
- If "Yes", please provide details:
- 
7. Have you, or has any of your officers/partners, employees, agents or representatives, made a bribe to any person in connection with the services you will provide, or have in the past provided, to any Tasek Corporation Berhad entity or employee?  Yes  No
- If "Yes", please provide details:
- 
8. Do you make (or have you made) payments to any charity or community group on behalf of Tasek Corporation Berhad?  Yes  No
- If "Yes", please provide details:
- 
9. Do you make (or have you made) any payment to a public official on behalf of Tasek Corporation Berhad?  Yes  No
- If "Yes", please provide details:
-

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 34 of 44

- 
10. Have you provided any gift or hospitality to TCB in the last 12 months?  Yes  No  
 If "Yes", please provide details:

- 
11. Have you provided any gift or hospitality to third parties on behalf of TCB in the last 12 months?  Yes  No  
 If "Yes", please provide details:

---

I confirm that the statements and answers provided in this questionnaire are true and I am duly authorized to make this statement for and on behalf of the Associated Person named below.

I agree to notify Tasek Corporation Berhad promptly if there are any material changes to the information provided herein.

Name: \_\_\_\_\_ Company: \_\_\_\_\_  
 Position\*: \_\_\_\_\_ Date: \_\_\_\_\_  
 Signed: \_\_\_\_\_

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\*Only the entity's principals such as directors, partners or other authorized signatories such as chief executive, manager or legal representative (with proof of any signing authority) may execute this document.

Please sign, date, scan and return this questionnaire by email to your business contact at Tasek Corporation Berhad.

Thank you.

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<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 35 of 44

*Appendix 4: Anti-Bribery And Anti-Corruption Clauses (Samples)*

**ANTI-BRIBERY & ANTI-CORRUPTION CLAUSES (SAMPLES)**

**1. LONG FORM ANTI-BRIBERY AND ANTI-CORRUPTION CLAUSE:**

*(generally applicable to contracts of significant value i.e. >RM100,000)*

1.1. *The [Agent/Supplier] shall:*

- a) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including, but not limited to, the Malaysian Anti-Corruption Commission Act (**Relevant Requirements**);
- b) not engage in any activity, practice or conduct which would constitute an offence under Section 17 of the Malaysia Anti-Corruption Commission Act, if such activity, practice or conduct had been carried out in Malaysia;
- c) comply with the Code of Ethics and Business Conduct and Anti-Bribery and Anti-Corruption policies of Tasek Corporation Berhad located at: [www.tasekcement.com](http://www.tasekcement.com) as Tasek Corporation Berhad may update them from time to time (**Relevant Policies**);
- d) have and shall maintain in place throughout the term of the Agreement its own policies and procedures, including adequate procedures under the Malaysian Anti-Corruption Commission Act, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate;
- e) promptly report to Tasek Corporation Berhad (TCB) any request or demand for any undue financial or other advantage of any kind received by [Agent/Supplier] in connection with the performance of the Agreement;
- f) immediately notify TCB (in writing) if a foreign public official becomes an officer or employee of the [Agent/Supplier] or acquires a direct or indirect interest in the [Agent/Supplier], and the [Agent/Supplier] warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of the Agreement.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 36 of 44

1.2. *The [Agent/Supplier] shall:*

Appendix 4.....

- (a) The [Agent/Supplier] shall ensure that any person associated with the [Agent/Supplier] who is performing services in connection with the Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the [Agent/Supplier] in this clause [1] (**Relevant Terms**).
- (b) The [Agent/Supplier] shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to TCB for any breach by such persons of any of the Relevant Terms.

1.3. Breach of this clause [1] by the [Agent/Supplier] shall be deemed a material breach.

1.4. For the purpose of this clause [1], the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 17 of the Malaysian Anti-Corruption Commission Act (and any guidance issued under section 17 of that Act).

1.5. For the purpose of this clause [1], a person associated with the [Agent/Supplier] includes but is not limited to any agent, delegate or subcontractor of the [Agent/Supplier].

## **2. SHORT FORM ANTI-BRIBERY AND ANTI-CORRUPTION CLAUSE**

2.1. The [Agent/Supplier] shall:

- (a) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Malaysian Anti-Corruption Commission Act (**Relevant Requirements**);
- (b) not engage in any activity, practice or conduct which would constitute an offence under the Malaysian Anti-Corruption Commission Act if such activity, practice or conduct had been carried out in Malaysia;
- (c) comply with Ethics and Anti-Bribery Policy located on the website of Tasek Corporation Berhad:

[www.tasekcement.com](http://www.tasekcement.com)

as Tasek Corporation Berhad may update them from time to time (**Relevant Policies**);

- (d) have and shall maintain in place throughout the term of the Agreement its own policies and procedures, including adequate procedures under

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 37 of 44

the Malaysian Anti-Corruption Commission Act, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate;

**OR**

#### **4. ANTI-BRIBERY & ANTI-CORRUPTION**

- 4.1 Each party shall comply with all applicable laws relating to anti-bribery and anti-corruption including but not limited to the Malaysian Anti-Corruption Commission Act of Malaysia
- 4.2 Neither party shall offer or agree to give any employee, agent or representative of the other party any gift or consideration of any kind as an inducement or reward for doing or for bearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the [Contract] or for showing or forbearing to show favour or disfavour to any person in relation to the [Contract].
- 4.3 In the event of any breach of this clause by either party or by anyone employed by it or acting on its behalf (with the knowledge of that party), the other party shall be entitled to terminate the [Contract].

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 38 of 44

## *Appendix 5: Types Of Bribery And Corruption*

### **TYPES OF CORRUPTION**

The United Nations Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators lists the more commonly encountered forms of corruption, which include:

#### **PETTY CORRUPTION**

Also known as administrative corruption, it involves the exchange of very small amounts of money and the granting of small favors. These however, can result in considerable public losses.

#### **I. GRAND CORRUPTION**

It spreads through the highest levels of government, bringing about major abuses of power, disobedience of the rule of law, economic instability and the breakdown of good governance.

#### **II. ACTIVE AND PASSIVE CORRUPTION**

The former refers to the act of offering or paying a bribe (where the payment of a bribe has taken place) and the latter refers to the request or receiving of a bribe (a bribe was offered but not accepted).

#### **III. BRIBERY**

Bribery is the most common form of corruption. It is described as the act of conferring a benefit in order to influence an action or decision. It comes in the form of cash, company shares, inside information, sexual or other favours, entertainment, employment or future benefits such as a retirement job. The benefit can pass directly to the person bribed, or indirectly to a third party such as a friend, relative, associate, favourite charity, private business, political party or election campaign. Once bribery has occurred, it can lead to other forms of corruption.

#### **IV. EMBEZZLEMENT, THEFT AND FRAUD**

Embezzlement, theft and fraud involve stealing by an individual exploiting his or her position of employment. Fraud involves the use of false or misleading information to induce the owner of property to part with it voluntarily. Theft is universally regarded as falling within corruption definitions where it occurs, carrying with it as it does, a breach of a fiduciary duty.

#### **V. EXTORTION**

Extortion relies on coercion to induce cooperation, such as threats of violence or the exposure of sensitive information.

#### **VI. ABUSE OF FUNCTION**

The abuse of function or position is the performance of or failure to perform an act by a public official, in violation of the law, to obtain an undue advantage for himself/herself or for another person or entity.

#### **VII. FAVOURITISM AND NEPOTISM**

Favouritism, nepotism and clientelism all involve abuses of discretion. Such abuses usually do not involve a direct personal benefit to an official but promote the interests of those linked to the official, be it through family, political party, tribe or religious group.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 39 of 44

## Appendix 5....

### VIII. CREATING AND EXPLOITING CONFLICTING INTEREST

Most forms of corruption involve the creation or exploitation of some conflict between the professional responsibilities of an individual and his or her private interest. The offering of a bribe creates such a conflict where none may have existed hitherto. In both the public and private sectors, employees and officials are routinely confronted with circumstances in which their personal interests conflict with their responsibility to act in the best interests of the state or their employer. Well-run organizations have systems to manage these situations, usually based on clear codes of conduct.

### IX. IMPROPER POLITICAL CONTRIBUTION

Donations made with the intention or expectation that the party will, once in office, unduly favour the interests of the donor, is tantamount to the payment of a bribe.

### TYPES OF BRIBERY

Types of Bribery	Definition
<b>Corruption against the rule</b>	A payment is made to ensure that the giver or someone connected to him/her actually receives a service to which they are not entitled.
<b>Corruption with the rule</b>	A payment is made to ensure that the giver or someone connected to him/her actually receives a service to which they are lawfully entitled.
<b>Offering or receiving improper gifts, gratuities, favours or commissions</b>	Accepting tips or gratuities in exchange for a service, frequently in violation of relevant codes of conduct. As links always develop between payments and results, such payments become difficult to distinguish from bribery or extortion.
<b>Bribery to avoid liability for taxes</b>	Officials in revenue collecting agencies, such as tax and customs, may be asked to reduce the amounts demanded or to overlook evidence of wrongdoing, including evasion or similar crimes. They may also be invited to ignore illegal imports or exports, or to turn a blind eye to illicit transactions, such as money-laundering
<b>Bribery in support of fraud</b>	Payroll officials may be bribed to participate in abuses such as listing and paying non-existent employees.
<b>Bribery to avoid criminal liability</b>	Law enforcement officers, prosecutors, judges or other officials may be bribed to ensure that criminal activities are not properly investigated and prosecuted or, if they are prosecuted, to ensure a favourable outcome.

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 40 of 44

Types of Bribery	Definition
<b>Bribery in support of unfair competition for benefits or resources</b>	Public or private sector employees responsible for making contracts for goods or services (public procurement) may be bribed to ensure that contracts are made with the party that is paying the bribe, and on unjustifiably favourable terms. Where the bribe is paid out of the contract proceeds, it is described as a 'kickback' or a secret commission.
<b>Private sector bribery</b>	Corrupt banking and finance officials are bribed to approve loans that do not meet basic security criteria and are certain to default, which may lead to widespread economic damage to individuals, institutions and economies. Just as bribes can be offered to public officials conducting procurements so too can bribes pollute procurement transactions within the private sector
<b>Bribery to obtain confidential or 'inside' information</b>	Employees in the public and private sectors are often bribed to disclose confidential information and protected personal details for a host of commercial reasons.
<b>Influence peddling</b>	Public officials or political or government insiders illicitly sell the access they have to decision-makers. Influence peddling is distinct from legitimate political advocacy or lobbying (see Article 18 of the UN Convention Against Corruption).

Source: 2016, Companies Commission of Malaysia (SSM); A Guide To Implement The Corporate Integrity System Malaysia

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 41 of 44

*Appendix 6: Definition of Gratification*

“gratification” means-

- (a) money, donation, gift, loan, fee, reward, valuable security, property or interest in property being property of any description whether movable or immovable, financial benefit, or any other similar advantage;
- (b) any office, dignity, employment, contract of employment or services, and agreement to give employment or render services in any capacity;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any valuable consideration of any kind, any discount, commission, rebate, bonus, deduction or percentage;
- (e) any forbearance to demand any money or money’s worth or valuable thing;
- (f) any other service or favour of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty; and
- (g) any offer, undertaking or promise, whether conditional or unconditional, of any gratification within the meaning of any of the preceding paragraphs (a) to (f)”

Source: Malaysian Anti-Corruption Commission Act 2009, Section 3: Interpretation

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 42 of 44

*Appendix 7: Definition of Commercial Organization*

“For the purposes of this section, “commercial organization” means–

- (a) a company incorporated under the Companies Act 2016 [Act 777] and carries on a business in Malaysia or elsewhere;
- (b) a company wherever incorporated and carries on a business or part of a business in Malaysia;
- (c) a partnership–
  - (i) under the Partnership Act 1961 [Act 135] and carries on a business in Malaysia or elsewhere; or
  - (ii) which is a limited liability partnership registered under the Limited Liability Partnerships Act 2012 [Act 743] and carries on a business in Malaysia or elsewhere; or
- (d) a partnership wherever formed and carries on a business or part of a business in Malaysia.”

Source: Malaysian Anti-Corruption Commission Act (Amendment) 2018, Section 17(A)(8)

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 43 of 44

*Appendix 8: Due Diligence Log*

DATE OF ENTRY	TCB CONTRACTING ENTITY/ COMPANY NAME	ASSOCIATE NAME & ADDRESS	COMPANY REGISTRATION NUMBER, COUNTRY OF INCORPORATION AND PRINCIPAL CONTACT/DIRECTOR NAME	DESCRIPTION OF SERVICES & CONTRACTED (OR ESTIMATED) VALUE	DESCRIPTION OF CHECKS CONDUCTED & DATE OF CHECKS	DESCRIBE DOCUMENTS/INFORMATION PROVIDED BY ASSOCIATE E.G. BRIBERY ACT QUESTIONNAIRE, PASSPORT, ETC	REASON FOR IDENTIFYING ASSOCIATE AS "HIGH RISK"

Prepared by: \_\_\_\_\_ (name) Position: \_\_\_\_\_  
Date: \_\_\_\_\_ Signed: \_\_\_\_\_

**DUE DILIGENCE LOG FOR YEAR ENDED : \_\_\_\_\_  
(INCLUDING DETAILS OF CHECKS ON "HIGH RISK" ASSOCIATES OR COUNTERPARTIES)**

<b>TASEK CORPORATION BERHAD</b>	ANTI-BRIBERY AND ANTI-CORRUPTION POLICY AND COMPLIANCE GUIDELINES	
	DOCUMENT NO.: TCB/HR/OP/322	REVISION NO.: 0.0
	DATE: 20 APRIL 2020	PAGE: 44 of 44

“relative”, in relation to a person, means—

- (a) a spouse of the person;
- (b) a brother or sister of the person;
- (c) a brother or sister of the spouse of the person;
- (d) a lineal ascendant or descendant of the person;
- (e) a lineal ascendant or descendant of a spouse of the person;
- (f) a lineal descendant of a person referred to in paragraph (b);
- (g) the uncle, aunt or cousin of the person; or
- (h) the son-in-law or daughter-in-law of the person;

### Appendix 9: Who Are Relatives As Per MACC Act?

