

COMPETITION ACT 2010 [Act 712]

Undertaking pursuant to section 43 of the Competition Act 2010 [Act 712] by Borneo Kreatif Enterprise PLT ("Borneo Kreatif") to the Malaysia Competition Commission ("the Commission").

PERSONS GIVING THIS UNDERTAKING

1. This Undertaking is given to the Malaysia Competition Commission ("the Commission") by Borneo Kreatif Enterprise PLT ("Borneo Kreatif") (LLP0010657-LGN), a partnership incorporated in Malaysia under Limited Liability Partnerships Act 2012 [Act 743] and having its registered office at H-08-06, Level 8, Aeropod Commercial Square, Jalan Aeropod Off Jalan Kepyayan, 88200, Kota Kinabalu, Sabah. Borneo Kreatif was registered on 22 February 2017.

BACKGROUND

2. Borneo Kreatif's principal business activities include the provision of food services, building cleaning services, transportation support activities, sewerage and construction of buildings.
3. The Commission has commenced an investigation against Borneo Kreatif under section 14(1) of Act 712, where the Commission has reason to suspect Borneo Kreatif has infringed or is infringing section 4(1) read with section 4(2)(d) and section 4(3) of Act 712 in connection with bid submissions for the following tenders listed in Table 1:

No.	Tenders	Zones
A.	Tender for the supply of fresh food (GERAKAN) to the Royal Malaysia Police Sabah Brigade ("PDRM"), Sabah PGA Region ("PGA Fresh Food")	i. PGA Fresh Food Beluran Zone; ii. PGA Fresh Food for Kota Kinabalu Zone; iii. PGA Fresh Food for Lahad Datu Zone; iv. PGA Fresh Food at Sandakan Zone; and v. PGA Fresh Food at Tawau Zone;
B.	Tender for the distribution services for essential goods, LPG and community drumming ("Logistic Tender")	i. Logistic Tender for Long Pasia Zone ii. Logistic Tender for Lumadan Gadong Zone iii. Logistic Tender for Pagalungan Zone iv. Logistic Tender for Sindumin Zone

Table 1

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4. Following the investigation, the Commission identified competition concerns in relation to Borneo Kreatif's participation in all tenders listed in Table 1. In response to these concerns, Borneo Kreatif offered an undertaking to the Commission to address the competition concerns by adhering to the following commitments.

COMMITMENT ON THE UNDERTAKING

5. Borneo Kreatif commits that it shall:
- (i) refrain from engaging in any conduct that contravenes section 4 of Act 712 including any form of bid rigging in respect of any future procurement or tender process;
 - (ii) refrain from communicating, directly or indirectly, with any actual or potential competitor for the purpose of discussing, coordinating or otherwise influencing any aspect of a procurement or tender process including but not limited to the preparation, submission or pricing of bids;
 - (iii) refrain from exchanging, disclosing or receiving any commercially sensitive information with any actual or potential competitor in connection with any procurement or tender process including information relating to prices, bid strategies, bid intentions, tender participation, costs, margins or any other information that may facilitate or give rise to bid rigging or any other anti-competitive conduct; and

- (iv) engage a competition law expert approved by the Commission to conduct a competition law compliance programme for its partners, management and relevant employees within two (2) months from the date of acceptance of this Undertaking by the Commission.
6. Having considered the circumstances of the case and the commitments offered by Borneo Kreatif, the Commission considers it appropriate to accept the undertaking pursuant to section 43 of Act 712.
7. This Undertaking takes effect when:
- (i) The Partners of Borneo Kreatif duly execute the Undertaking; and
 - (ii) The Commission accepts the Undertaking.
8. Thereafter, the Commission shall close the investigation without making any finding of infringement and shall not impose a penalty against Borneo Kreatif.

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UNDERTAKING

9. Borneo Kreatif acknowledges and agrees that should it fail to comply with any of the terms and conditions of the undertakings contained in **paragraph 5 (i),(ii) and (iii)** above or otherwise engage in any conduct that constitutes an infringement of Act 712 after the signing of this Undertaking, the Commission reserves the right to commence an investigation into any new conduct which may constitute an infringement of Act 712 and recommence with the investigation into the competition concerns identified by the Commission in **paragraphs 2 to 4** of this Undertaking, which investigation was closed following the Commission's acceptance of this Undertaking.
10. In respect of **paragraph 5(iv)**, any failure by Borneo Kreatif to comply with this obligation shall constitute a breach of this Undertaking. In such event, the Commission reserves the right to enforce this Undertaking pursuant to section 43(4) of Act 712 and to recommence with the investigation into the competition concerns identified in **paragraphs 2 to 4** of this Undertaking. Should the Commission subsequently determines from the investigation that there has been an infringement of the relevant prohibition under Act 712, the Commission may issue a decision pursuant to section 40 of Act 712, and such decision may include the imposition of a financial penalty and/or such other directions as the Commission considers appropriate.

ACKNOWLEDGEMENTS

11. Borneo Kreatif acknowledges that:

- (i) pursuant to section 43(3) of Act 712, the Commission shall make this Undertaking available for public inspection by publishing it on the Commission's website; and
- (ii) the Commission may, from time to time, make public reference to this Undertaking including in media statements, publications and other public communications issued by the Commission.

Executed by:



PARTNER

Name: *MOHAMMAD NAIBEEEN BIN AWANG HAJI*

Position: *DIRECTOR*



PARTNER

Name: *CATHY TEN YEE LING*

Position: *DIRECTOR*

This *26* day of *SEPT* 2026.

Accepted by the Malaysia Competition Commission.



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TAN SRI DATO' SRI IDRUS BIN HARUN

Chairman

Malaysia Competition Commission

This.....²⁶ day of.....*september*.....2026.