

FGV



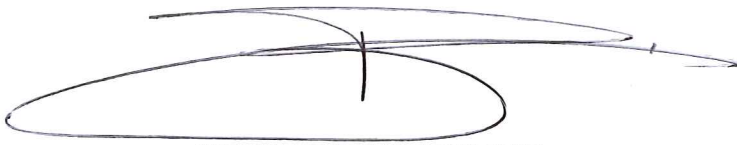
**BOARD TENDER COMMITTEE
TERMS OF REFERENCE**

FGV HOLDINGS BERHAD

(VERSION 5.0)

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Chairman, Board of Directors

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1. INTRODUCTION

- 1.1. This Board Tender Committee's Terms of Reference ("TOR" or the "Terms of Reference") sets out the requirements of the Board of Directors of FGV Holdings Berhad for the establishment of a Board Tender Committee, and the delegation of responsibilities to such committee, as at the date hereof.
- 1.2. Unless otherwise stated the following applies:
- "FGV" or "the Company" refers to FGV Holdings Berhad;
 - "Group" refers to FGV Holdings Berhad Group of Companies¹;
 - "the Board" refers to the Board of Directors of the Company;
 - "BTC" or "the Committee" refers to the Board Tender Committee of FGV; and
 - "Top Management" refers to the Group Chief Executive Officer ("Group CEO"), the Sector Heads (Chief Operating Officers), FGV Group Chief Financial Officer, FGV Chief Internal Auditor, Head of Group Governance & Risk Management, FGV Company Secretary and all positions from Senior Vice President and above.
- 1.3. The Terms of Reference aims to set out the terms of conduct of the FGV BTC with respect to its delegated responsibilities to assist the Board in fulfilling the Board's statutory and fiduciary responsibilities in relation to the review of significant procurements.

2. PURPOSE

- 2.1. The purpose of the Committee is to review, monitor and recommend to the Board significant matters related to procurements of the Group, in line with FGV's prevailing Group's Limit of Authorities ("Group LOA") and Group Procurement Policy ("GPP").
- 2.2. The Committee shall facilitate the Main Board's statutory and fiduciary responsibility relating to the functions and duties of the Committee.

3. COMPOSITION

- 3.1. The Committee membership and the Chairman of the Committee shall be appointed by the Board of FGV, and shall comprise of not less than three (3) members from amongst the Directors of FGV Board.
- 3.2. Majority of the Committee members shall be Independent Non-Executive Directors.
- 3.3. Chairman of the Committee shall be a Non-Executive Director.

¹ FGV Group refers to FGV's operating Subsidiaries, Associates and Jointly-Controlled Entities in which FGV holds a controlling interest, as established under the corporate structure of FGV Holdings Berhad.

- 3.4. No Alternate Director shall be appointed as a member of the Committee.
- 3.5. All Committee members shall possess the following skills and knowledge:
 - 3.5.1. financial literacy to read, analyse and interpret procurements to understand the impact of procurements towards the Group's financial performance and position; and
 - 3.5.2. knowledge on the markets and industries in which FGV's businesses operate and appreciation of risk and governance would be an added advantage
- 3.6. Quorum
 - 3.6.1. In order to form a quorum for the Committee meeting, at least two (2) members (including Chairman of the Committee) shall be present at the meeting, with at least one (1) Independent Non-Executive Director.
- 3.7. The Board of FGV may also appoint any other persons with relevant qualification and experience as the Board thinks appropriate to be Independent Advisors of the Committee, subject to the formalisation of his/her appointment via letter of appointment signed by the Chairman of the Board of FGV. There shall not be more than two (2) Independent Advisors appointed to the Committee at any given point of time.

Independent Advisors shall perform an advisory role in the Committee and shall not be considered as members of the Committee. Independent Advisors shall not be considered in meeting quorums nor do they carry voting rights in the Committee's decisions.

4. CHAIRMAN OF THE COMMITTEE

- 4.1. The Chairman of the Committee shall provide leadership and steer the Committee through its decision-making process.
- 4.2. The Chairman shall ensure that sufficient time is dedicated to discussion of pertinent matters at each meeting and a consensus is reached for the decisions made at the meeting. Dissenting views are to be recorded in the meeting minutes.
- 4.3. The Chairman shall invite Management, Independent Advisors and/ or external parties (e.g. consultants/professionals) as required, to provide clarification/ detailed explanations on issues that fall within the scope of functions and responsibility of the Committee.

5. SECRETARY OF THE COMMITTEE

- 5.1. The FGV Company Secretary shall be the Secretary of the Committee.
- 5.2. The Secretary of the Committee shall be present to record proceedings of the Committee meetings.

- 5.3. The Secretary of the Committee shall have the following responsibilities:
- 5.3.1. ensuring meetings are arranged and held accordingly;
 - 5.3.2. assisting the Chairman of the Committee in planning and drafting the Committee's activities for the financial year;
 - 5.3.3. drawing up meeting agenda in consultation with the Chairman of the Committee, and circulate the agenda, together with the relevant papers, at least five (5) business days prior to each of the Committee meeting;
 - 5.3.4. ensuring structured communication (i.e. formal and prompt reporting) between the Board and the Committee;
 - 5.3.5. ensuring proceedings of meetings are minuted and endorsed by the Chairman of the Committee before disseminating them to all Board members; and
 - 5.3.6. ensuring the Committee's recommendations presented to the Board are supported by explanatory papers, including report of the Committee or minutes that explains the rationale of the Committee's recommendations.

6. AUTHORITY

- 6.1. The Board has authorised the Committee, within the scope of its duties and responsibilities set out in this Terms of Reference to:
- 6.1.1. perform the activities required to discharge its responsibilities within its terms of reference and make relevant recommendations to the Board;
 - 6.1.2. approve procurements within the limits set out in the Group LOA and GPP;
 - 6.1.3. recommend to the Board procurements above the Committee's limits set out in the Group LOA and Group Procurement Policies and Procedures;
 - 6.1.4. acquire the resources from internal and external professionals, as it deems necessary, to assist the Committee in the proper discharge of its roles and responsibilities, at the expense of the Company and in accordance with the Group LOA of the Committee;
 - 6.1.5. meet exclusively among itself, whenever deemed necessary; and
 - 6.1.6. obtain independent professional advice, as deemed necessary, to assist the Committee or any individual member of the Committee in the proper discharge of its roles, responsibilities and duties, at the expense of the Company and in accordance with the authority delegated to the Committee as stated in the Standard Operating Procedure Directors Seeking Independent Professional Advice. The Committee or any individual member of the Committee may seek waiver of para 6.3 - 6.6 of the Standard Operating Procedure Directors Seeking Independent Professional Advice to directly engage the independent professional advice through the

Secretaries of the Committee with approval of the Committee or Chairman of the Committee or Chairman of the Board.

- 6.2. The Committee shall be assisted by the Group CEO, FGV Group Chief Financial Officer and FGV Chief Procurement Officer to drive good procurement initiatives across the FGV Group.

7. RESPONSIBILITIES AND DUTIES

- 7.1. The main responsibility of the Board Tender Committee shall be to assist the Board in reviewing and recommending to the Board, significant matters related to procurements of the Group.
- 7.2. The scope and functions of the Board Tender Committee are set out below:
- 7.2.1 review GPP, including its Framework to adopt best and transparent practices in procurement and any changes to the Framework and development of new policies, for subsequent Board approval;
 - 7.2.2 review and recommend procurement related items as listed in the Group LOA and the GPP for subsequent Board approval;
 - 7.2.3 review the efficiency and effectiveness of the Group's centralised procurement initiatives;
 - 7.2.4 review and endorse any procurement not covered in or vary from the GPP or vary from any standard contract term for subsequent Board approval;
 - 7.2.5 review and approve list of tenderers to be invited for selective tender and direct negotiation procurement methods for procurements under the GPP within limits set out therein.
 - 7.2.6 review and approve tender awards under the GPP for capital expenditures ("CAPEX") and operating expenses ("OPEX") within limits set out in the Group LOA inclusive of consumable goods, services and non-commodity inventory (e.g. fertilizers, spare parts, packing materials etc.) that are not governed by any specific procurement policies.
 - 7.2.7 review and approve any procurements beyond five (5) year period for CAPEX and OPEX covering consumable goods, services and non-commodity inventory (e.g. fertilizers, spare parts, packing materials etc.) which are not governed by any specific procurement policies;
 - 7.2.8 review and approve any variation order for awarded contracts and the limit of such variation order as set out in the Group LOA and GPP;
 - 7.2.9 review, recommend and/or approve the termination of procurements under the GPP within limits set out in the GPP. For the avoidance of any doubt, in the event where any procurement was approved by BTC, then its termination shall be made by BTC and reported to the Board. Where any procurement was approved by the Board, then its termination shall only be made by the Board, and not by BTC;

- 7.2.10 review status reports on procurement transactional efficiency and effectiveness, including amongst others, completion and delivery, spending against budget annually; and
- 7.2.11 undertake any other necessary duties, as mutually agreed by the Board Tender Committee and the Board or any other authority, which are empowered by law or regulated by any Government in which FGV operates in.

NOTE :

- (1) Where transactions are with related parties reference shall be made to FGV's Related Party Transactions and Recurrent Related Party Transactions Policy and Procedures.**
- (2) Where purchases and disposals of similar items are made within a 12 month period, reference shall be made to the Rule of Aggregation (Practice Note 14, Main Market Listing Requirements of Bursa Malaysia Securities Berhad).**

8. REPORTING

- 8.1. The Committee has specific duties to fulfil, particularly, to oversee the procurement activities of the Group.
- 8.2. The Committee shall submit a report on the Committee's resolutions and recommendations at the next immediate Board meeting. The report shall include summary of deliberations of the Committee, proposed resolutions and recommendations, tabled for the Board's deliberation and approval.
- 8.3. Copies of signed minutes of each meeting of the Committee shall be circulated to all Board members together with the report prepared by the Committee.
- 8.4. The Chairman of the Committee shall draw the Board's attention to any matter of major importance.

9. MEETINGS ADMINISTRATIONS

- 9.1. Frequency and attendance
- 9.1.1. The Committee meetings shall be conducted upon request by Management on a need basis depending on the expediency required for any related procurement process.

- 9.1.2. The Committee meeting shall normally be conducted in a face-to-face manner to enable effective discussion. Nevertheless, if a member of the Committee is unable to be physically present, the member may choose to participate via video or tele-conferencing, or other appropriate means as determined by the Committee. Participation via video or tele-conferencing shall contribute to quorum of the Committee meeting.

Resolutions of the members of the Committee at a meeting or adjourned meeting of the Committee shall be adopted by a majority of votes of all members present.

- 9.1.3. In addition to the members of the Committee, other Directors of the Board, Independent Advisors of the Committee, other executives of the Group, and/or any party which the Committee deems necessary may attend the Committee meetings upon invitation of the Committee. Participation of invitees may not be required for the full duration of the Committee meeting.
- 9.1.4. Any of the Committee member or invited participant, including Independent Advisors, with conflicting interest shall abstain from discussion and participating in decisions or voting of the related matter. The member of the Committee and/ or invited participant, including Independent Advisors, shall excuse himself/herself from the Committee meeting during discussions or deliberations of any matter which he/she has interest in or gives rise to perceived conflict of interest situation for him/her.
- 9.1.5. The Chairman of the Committee shall exercise the right to request those who are in attendance to leave the room if matters discussed are confidential or the deliberation may be impaired due to the presence of individuals concerned.
- 9.1.6. In the event matters requiring the Committee's decision arise between meetings, such matters shall be resolved through circular resolution which shall be supported by relevant papers setting out details of the subject matters. The members of the Committee may obtain more information from Management and express their view points by facsimile, electronic mail or any other means of telecommunication before arriving at a decision on the subject matter. All such resolutions shall be signed by all the members of the Committee and shall be submitted for confirmation at a meeting of the Committee following the passing of the circular resolutions.

9.2. Notice and agenda

- 9.2.1. Proper notice shall be issued for any Committee meeting and the Chairman shall ensure that proper agenda is prepared for the Committee meeting.
- 9.2.2. The agenda and relevant papers for the Committee meeting must be circulated at least five (5) business days prior to each of the Committee meeting.

9.3. Minutes of the meeting

- 9.3.1. The discussions and conclusions of the Committee meetings shall be minuted, in a clear, accurate (reflect the deliberations and decisions), consistent, complete and timely manner.
- 9.3.2. The minutes shall be entered into the minutes Register kept by FGV Company Secretary together with the attendance sheet.
- 9.3.3. Keeping of the minutes shall comply with the requirements of the relevant law and regulations, e.g. Companies Act, 2016 and Income Tax Act, 1967.
- 9.3.4. Reproduction of any part of the minutes shall only be performed through/by FGV Company Secretary.

Practice 1.5
MCCG 2017

10. THE COMMITTEE'S PERFORMANCE

- 10.1. On an annual basis, the Board shall evaluate the Committee's performance and extent to which the Committee has met the requirements of its Terms of Reference. This performance assessment shall constitute a part of the annual Board Effectiveness Assessment, pertaining to the assessment of Board Committees.

Practice 5.1
MCCG 2017

11. THE COMMITTEE'S ETHICS AND PROCEDURES

- 11.1. All members of the Committee shall safeguard all internal communications and treat them as strictly private and confidential, and for the use of the Committee members only.
- 11.2. The Committee shall work diligently amongst the members of the Board in performing its assessments and adhere to all relevant laws and regulations as well as the prescriptions rendered in the Directors' Code of Ethics and Conduct and the Directors' Code of Business Practice.
- 11.3. All members of the Committee shall maintain their independence and shall not be involved in the investment process, namely due diligence, and negotiations with buyers/sellers. In the event a site visit by the Committee as a whole is necessary for its decision making, the Committee shall escalate its request to the Board for approval.

12. REVIEW OF COMMITTEE TERMS OF REFERENCE

- 12.1. The Committee Terms of References and work plans shall be reviewed periodically, as and when required especially when there are changes to Main Market Listing Requirements of Bursa Malaysia Securities Berhad, Malaysian Code of Governance 2017 and Companies Act, 2016 or at least every three (3) years. This review shall be facilitated by FGV Chief Procurement Officer, Head of Group Governance & Risk Management, FGV Chief Internal Auditor and FGV Company Secretary.
- 12.2 All amendments to the Terms of References of the Committee must be approved by the FGV Board.