

VERTICE BERHAD (“VERTICE” OR THE “COMPANY”)

MUTUAL TERMINATION OF THE ACCEPTANCE OF THE AWARD OF CONTRACT FOR THE CONSTRUCTION OF A BY-PASS FROM BANDAR BARU AYER ITAM CONNECTING TO LEBUHRAYA TUN DR. LIM CHONG EU (I.E., PACKAGE 2 PROJECT OF THE PENANG MEGA INFRASTRUCTURE PROJECT FOR A FIXED CONTRACT SUM OF RM815.00 MILLION)

(Unless otherwise stated, the abbreviations used herein shall be consistent with the circular to shareholders of Vertice dated 6 March 2019 (“Circular”) unless otherwise stated.)

The Board of Directors of Vertice (“**Board**”) wishes to announce that Buildmarque Construction (a 50%-owned subsidiary of Vertice Construction Sdn Bhd (“**Vertice Construction**”)), Vertice Construction (a 100%-owned subsidiary of Vertice) and Consortium Zenith have on 29 December 2021 entered into a deed of rescission and termination to mutually agree to terminate the award of contract pursuant to the letter of award dated 30 August 2018 and the supplemental letter of award dated 31 January 2019 in relation to the award of contract and all the other agreement(s) entered thereto between the Parties (collectively, “**LOA**”) (“**Mutual Termination**”).

1. BACKGROUND INFORMATION

On 6 March 2019, Vertice issued the Circular to its shareholders on the award of contract from Consortium Zenith to Buildmarque Construction for the Contract Works of Package 2 Project for a fixed contract sum of RM815.00 million (“**Award of Contract**”) seeking its shareholders approval for the acceptance of the Award of Contract.

On 21 March 2019, Vertice obtained the approval of its shareholders for the acceptance of the Award of Contract.

2. SALIENT TERMS OF THE DEED OF RESCISSION AND TERMINATION

The salient terms of the deed of rescission and termination (“**Deed**”) are as follows:

(a) Termination, release and discharge

Subject to the terms and conditions of the Deed and in consideration of mutual covenants of the parties (namely Buildmarque Construction*, Vertice Construction and Consortium Zenith (“**Parties**”, collectively)), the Parties confirm to mutually terminate, revoke and rescind the LOA.

Note:

* 50% equity interest of Buildmarque Construction is owned by Vertice Construction while Vizione Construction Sdn Bhd (a wholly-owned subsidiary of Vizione Holdings Berhad) holds the remaining 50% equity interest in Buildmarque Construction.

The Parties agree and confirm that:

- (i) the Parties shall be fully released and discharged from the rights, liabilities and obligations contained in the LOA;
- (ii) the LOA shall be terminated on the date of the Deed (“**Termination Date**”);
- (iii) the Parties shall have no further claims against each other pursuant to the LOA; and
- (iv) all the costs and expenses incurred in relation to the Contract Works of Package 2 Project after the date of the Deed shall be solely borne by Consortium Zenith without any further recourse against Buildmarque Construction.

(b) Parties' obligations pursuant to the LOA

Upon the execution of this Deed and the termination of the LOA, Consortium Zenith hereby covenants and undertakes with Buildmarque Construction that::

- (i) Consortium Zenith shall refund all deposits paid and reimburse Buildmarque Construction for all the claims for the work done for project ("**Amount**") in the following manner:

- (a) In respect of the Part A of the Amount (comprising deposits paid):

Due Date for Payment	Amount Payable (RM)
Within seven (7) days from the execution of the Deed	1,000,000
Within twelve (12) months from the execution of the Deed	1,666,666
Within eighteen (18) months from the execution of the Deed	2,666,667
Within twenty four (24) months from the execution of the Deed	2,666,667
TOTAL	8,000,000

- (b) In respect of the Part B of the Amount (comprising insurance premium, cash collateral of performance bond and deposits paid):

Due date for payment	Amount payable (RM)
Within 6 months from the execution of the Deed	76,623.00
Within 12 months from the execution of the Deed	76,623.00
Within 18 months from the execution of the Deed	76,623.97
TOTAL	229,689.97

- (c) in respect of the Part C of the Amount:

Progress claim	Amount payable (RM)
Progress claim submitted by Buildmarque Construction from November 2019 till December 2021	Amount to be verified by the Penang State Government or a professional quantity surveyors' firm to be mutually agreed between the Parties which assessment on the amount by the aforesaid parties shall be completed within two (2) months from the date of this Deed or an extension of time to be mutually agreed by the Parties

Consortium Zenith shall pay Part C of the Amount to Buildmarque Construction by way of 3 tranches of half yearly instalments with the first instalment to be commenced within 6 months from the date the said amount being verified for the correctness, accuracy and veracity by Penang State Government or a professional quantity surveyors' firm to be mutually agreed between the Parties which assessment on the amount by the aforesaid parties shall be completed within two (2) months from the date of this Deed or an extension of time to be mutually agreed by the Parties.

- (d) Buildmarque Construction and Vertice Construction confirmed that there are no other cost or expenses that has been incurred or contingent or potential liabilities arising from the LOA prior to the Termination Date save for those that has been indicated in the Deed and irrevocably agree to indemnify and held harmless Consortium Zenith for any claims, liabilities, damages, penalties, compensation or any losses that arises from the LOA prior to the Termination Date.
- (e) The Parties agreed that Consortium Zenith shall be liable to pay the late payment interest of 5% per annum of any of the amount due pursuant to the instalment schedules as set out above, calculated on daily basis, from the date of such amount due until the full payment thereof. Such late payment interest shall not prejudice the rights of Buildmarque Construction to terminate the Deed or any right or action or remedy of Buildmarque Construction under the Deed.
- (f) Notwithstanding the above and unless otherwise extended by Buildmarque Construction in writing at its absolute discretion, in the event that Consortium Zenith fails to make any of the instalment payments in the manner as set out in the Deed after 6 months the instalment payment falls due, all the Amount (after the deducting sum paid to Buildmarque Construction pursuant to the Deed) shall immediately become due and payable to Buildmarque Construction upon such default.
- (ii) Further thereto, both Buildmarque Construction and Consortium Zenith shall be responsible to procure the termination of the letters of awards as set out in Schedule 2 of the Deed which were entered between Buildmarque Construction with the relevant subcontractors for the purpose of the construction works for the Contract Works of Package 2 Project.
- (iii) Buildmarque Construction shall deliver and Consortium Zenith shall accept the delivery of the vacant possession from Buildmarque Construction of the sites for Contract Works of Package 2 Project immediately after the Deed is executed and in effect.

3. RATIONALE FOR THE MUTUAL TERMINATION

The following salient terms and conditions as stipulated in the LOA, among others, are noted from the Circular:

The acceptance of the LOA was conditional on, among others, the following conditions:

“2.1.3 Conditions precedent

The Proposed Construction is conditional upon the following:-

- (iv) *the receipt by Consortium Zenith of Buildmarque Construction's written declaration of its financial abilities to undertake Contract Works of Package 2 Project.”*

“2.1.4 Construction period

The construction period shall be for a period of 36 months from the commencement date or from the date of issuance of the notice to proceed, or such other period which may be agreed between Consortium Zenith and Buildmarque Construction.*

** The construction of Major Road 2 is expected to commence in September 2019 and complete in August 2022. The commencement date or the date of issuance of the notice to proceed will depend on the actual date on which Consortium Zenith gives possession of the site to Buildmarque Construction. For the avoidance of doubt, such date may not be the same as the Agreed Date of Possession (as defined in Section 2.1.5 of Part A of this Circular).*

“2.1.7 Payment of the contract sum

The arrangement for the payment of the contract sum is as follows:-

- (i) on a monthly basis, Buildmarque Construction to submit progress claim based on the work done on site and subject to retention contained with complete details and particulars as required by the project director or his representative enabling them to assess and ascertain the amount to be certified in the interim certificate;*
- (ii) the progress claim shall be made in accordance with the work done satisfactorily for the period that shall be accompanied by all forms of calculation and any other required documents to substantiate the claim;*
- (iii) Consortium Zenith shall, within 60 days from the submission of the progress claim, issue an interim certificate* to Buildmarque Construction;*

** Interim certificate will be issued by Consortium Zenith to Buildmarque Construction for the purpose of certifying the progress of construction work done prior to disbursing payments to satisfy Buildmarque Construction's progress claim for the work done.*

- (iv) Consortium Zenith shall not delay in payment and shall monetise the Exchanged Lands in a timely manner to satisfy its payment obligations to Buildmarque Construction.*

Each tranche of payment by Consortium Zenith to Buildmarque Construction:-

- (a) shall be based on a cumulative progress claims of at least RM90 million but not more than RM250 million; and*
- (b) shall be made within 30 days from the date of receipt of each disposal proceeds from the sale of Exchanged Lands to interested buyer(s).*

Unless otherwise agreed by the parties, in the event that the receipt of disposal proceeds is delayed or is not forthcoming:-

- (a) for every outstanding cumulative progress claims of more than RM250 million, such amount shall be payable within 30 days from the date of the last progress claims adding up to such cumulative progress claims amount; and*
- (b) in respect of the final tranche of payment, such amount shall be payable within 120 days from the date of the last progress claims for the project;*

- (v) *In the event if Consortium Zenith fails to pay to Buildmarque Construction within the abovementioned timeline, Buildmarque Construction shall as it deems fit be entitled to stop all construction works, terminate the contract and/or proceed with legal recovery, as applicable; and*
- (vi) *Buildmarque Construction is entitled to charge overdue interest of 8% per annum on the outstanding amount under Section 2.1.7(iv) above from the due date to the date of receipt of such payment by Buildmarque Construction."*

As at date of this announcement, the status is as follows:

(i) Construction of Major Road 2 did not commence in September 2019

The construction of Major Road 2 did not commence in September 2019 as expected. Instead, Consortium Zenith and Buildmarque Construction mutually agreed to commence only the early works for the project in November 2019 which amounted to RM25.0 million.

Buildmarque Construction did not require financing to commence with the early works as its shareholders (namely Vertice Construction and Vizione Construction Sdn Bhd, both holding 50% equity interest in Buildmarque Construction) were able to finance the early works from their respective working capital and internally-generated funds.

(ii) Buildmarque Construction is unable procure Project Financing

At the time the payment terms were negotiated between Consortium Zenith and Buildmarque Construction for the LOA, Buildmarque Construction was in discussion with a financial institution which would enable Buildmarque Construction to drawdown borrowings of up to RM295.0 million to undertake the Contract Works of Package 2 Project ("**Project Financing**").

As set out above (i.e., as extracted from Section 2.1.7, Part A of the Circular), the payment terms involved, among others, cumulative progress claims of at least RM90 million but not more than RM250 million. Such terms were in line with the estimates made by the management of Vertice at that time for its cashflow management purposes, to undertake the Contract Works of Package 2 Project.

Buildmarque Construction was to fund the total estimated project costs for the contract works, overheads (such as salaries, office expenses as well as legal and professional fees) and interest costs in order to pay, among others, the sub-contractors and suppliers in a timely manner.

The Project Financing was necessary to support the cash flow requirements based on the management of Vertice's estimation in view of the above-mentioned payment terms. In this regard, the management of Vertice wishes to further clarify that the estimation was premised upon Buildmarque Construction achieving the 1st milestone payment from Consortium Zenith only after approximately 13 progress claims.

As such, Buildmarque Construction had been in discussions with a financial institution to procure the Project Financing from November 2019 until 19 January 2021 and the financial institution had provided 2 indicative term sheets.

On 19 January 2021, the said discussions to procure the Project Financing ceased, and Buildmarque Construction was unable to secure similar Project Financing from the same or another financial institution.

Vertice also wishes to clarify that based on Vertice's/ Buildmarque Construction's understanding prior to acceptance of the LOA, Consortium Zenith had in December 2018 procured an overall financing arrangement with the same financial institution (as mentioned above). The Project Financing was to be an extension to the overall financing

structure offered by the financial institution to Consortium Zenith, where the financial institution would identify buyers for the Exchanged Lands as well as provide the Project Financing. However, the said overall financing arrangement expired in December 2020.

In the absence of such Project Financing, Vertice/ Buildmarque Construction is unable to comply with the above-mentioned payment terms to continue to undertake Contract Works of Package 2 Project.

Buildmarque Construction had requested for Consortium Zenith to vary the payment terms i.e., for payments to be made to Buildmarque Construction after each progress claim. However, the request was denied by Consortium Zenith.

Premised on the above, in particular Buildmarque Construction's inability to procure the Project Financing, the Board is of the view that it is no longer feasible for Vertice/ Buildmarque Construction to continue to undertake the Contract Works of Package 2 Project.

4. CHRONOLOGY OF EVENTS LEADING TO THE MUTUAL TERMINATION

Further details on the chronology of events leading to the Mutual Termination are as follows:

No.	Date	Event
1.	21 March 2019	<ul style="list-style-type: none"> Vertice obtained its shareholders' approval to accept the LOA to undertake the Contract Works of Package 2 Project.
2.	November 2019	<ul style="list-style-type: none"> Buildmarque Construction commenced construction of early works for the Contract Works of Package 2 Project.
3.	April 2020	<ul style="list-style-type: none"> Buildmarque Construction reiterated to Consortium Zenith that the Project Financing is subject to the following: <ul style="list-style-type: none"> (i) execution of the sale and purchase agreement between Consortium Zenith and identified land buyers (for the Exchanged Lands); and (ii) execution of tripartite agreement between Consortium Zenith, CRCC Malaysia Berhad ("CRCC") and Buildmarque Construction*. <p style="margin-left: 40px;">* As a fulfilment of the contractual obligation of Consortium Zenith to CRCC pursuant to the CRCC Contract, Buildmarque Construction in its capacity as project manager agrees and undertakes to cause the award of civil and structural construction works under the CRCC Contract to CRCC.</p> Buildmarque Construction also reiterated to Consortium Zenith that the Contract Works of Package 2 Project is subjected to Buildmarque Construction obtaining the Project Financing.
4.	September 2020	<ul style="list-style-type: none"> Buildmarque Construction sought updates from Consortium Zenith with regards to the status of outstanding payment for the early work done and interim certificates for the total cumulative amount of

No.	Date	Event
		<p>7 payment certificates, with a total sum of RM5,861,571.16.</p> <ul style="list-style-type: none"> Buildmarque Construction further sought confirmation from Consortium Zenith in respect of the status of Exchanged Lands and the following ancillary documents which shall be the pre-requisite documents for Buildmarque Construction to procure the Project Financing: <ul style="list-style-type: none"> (i) sale and purchase agreement between Consortium Zenith and identified land buyers (for the Exchanged Lands); and (ii) tripartite agreement between Consortium Zenith, CRCC and Buildmarque Construction. Consortium Zenith explained to Buildmarque Construction that the payments due to Buildmarque Construction are dependable on the monetization of the Exchanged Lands which Consortium Zenith has not received the relevant letter from the Penang State Government to commence the land alienation for the Exchanged Lands.
5.	December 2020	<ul style="list-style-type: none"> Based on the monthly progress meetings held between the Parties, Consortium Zenith required Buildmarque Construction to commence the main work on or around 14 December 2020. Buildmarque Construction reiterated to Consortium Zenith that the commencement of the Contract Works of Package 2 Project is subject to the above-mentioned ancillary documents (as mentioned in September 2020) to be in place, for Buildmarque Construction to obtain the Project Financing. Buildmarque Construction also highlighted to Consortium Zenith the unresolved operational issues such as encumbrances, structures and design approvals in relation to the Contract Works of Package 2 Project. Expiry of the overall financing arrangement with a financial institution procured by Consortium Zenith. The said financing was for, among others, the Contract Works of Package 2 Project as well as to identify potential buyers for the Exchanged Lands and provide financing to the potential buyers for the acquisitions of the Exchanged Lands. <p>Based on the Vertice's/ Buildmarque Construction's understanding prior to acceptance of the LOA, Consortium Zenith had in December 2018 procured an overall financing arrangement with a financial institution. However, the said overall financing arrangement expired in December 2020.</p>

No.	Date	Event
6.	January 2021	<ul style="list-style-type: none"> • Cessation of discussions with the financial institution for Buildmarque Construction to procure the Project Financing. • The Project Financing was to be an extension to the overall financing structure offered by the same financial institution, where the financial institution would identify buyers for the Exchanged Lands as well as provide the Project Financing. • Buildmarque Construction was also unable to secure similar Project Financing from the same or another financial institution.
7.	March 2021	<ul style="list-style-type: none"> • Buildmarque Construction requested Consortium Zenith to change the mode of payment for the progress claims of RM7,487,149.26 to be payable on monthly basis. • Buildmarque Construction requested for Consortium Zenith to vary the payment terms i.e., for payments to be made to Buildmarque Construction after each progress claim. However, the request was denied by Consortium Zenith. • Commencement of discussion between Consortium Zenith and Buildmarque Construction to mutually terminate the LOA.

5. EFFECTS OF THE MUTUAL TERMINATION

5.1 Issued share capital and substantial shareholders' shareholdings

The Mutual Termination does not have any effect on the Company's issued share capital and substantial shareholders' shareholdings as the Mutual Termination does not involve any issuance of new ordinary shares in Vertice.

5.2 Net assets and gearing

The Mutual Termination is not expected to have a material impact on the net assets or gearing of the Vertice group for the financial year ending 31 March 2022. Section 2 of this announcement sets out, among others, that the Parties shall release each other from all obligations under the LOA. In addition, Vertice/ Buildmarque Construction has not secured any borrowings to finance Contract Works of Package 2 Project and therefore the Mutual Termination is not expected to have a material impact to the gearing of the Vertice group.

5.3 Earnings and earnings per share

Since the commencement date of 1 November 2019 up to 30 November 2021 (being the latest practicable date prior to this announcement, ("LPD")), Buildmarque Construction has derived revenue, cost and profit from the early works for the project carried out as follows:

	<u>Amount (RM'000)</u>
Revenue	24,394
Cost	20,554
Profit	<u>3,840</u>

In view that the contract sum for the Contract Works of Package 2 Project is RM815.0 million, the Mutual Termination would have a material impact on the future earnings of the Group.

As a result of the Mutual Termination, Buildmarque Construction will not be able to recognise further earnings, if any from the Contract Works of Package 2 Project. Correspondingly, Vertice will not be able to recognise its future share of earnings, if any in Buildmarque Construction. Nevertheless, in the absence of the Project Financing, Vertice/ Buildmarque Construction is unable to comply with the above-mentioned payment terms to continue to undertake Contract Works of Package 2 Project.

Buildmarque Construction had requested for Consortium Zenith to vary the payment terms i.e., for payments to be made to Buildmarque Construction after each progress claim. However, the request was denied by Consortium Zenith.

As such, the Board is of the view that it is no longer feasible for Vertice/ Buildmarque Construction to continue to undertake the Contract Works of Package 2 Project.

6. APROVALS REQUIRED

The Mutual Termination is not subject to the approval of the shareholders of Vertice and/ or any other relevant authorities or parties.

7. INTERESTS OF DIRECTORS, MAJOR SHAREHOLDERS AND/ OR PERSONS CONNECTED

None of the Directors, major shareholders of Vertice and/ or persons connected with them has any interest, direct or indirect, in the Mutual Termination.

8. DIRECTORS' STATEMENT

The Board, having considered, among others, the rationale for the Mutual Termination and salient terms of the Deed, chronology of events and effects of the Mutual Termination, is of the opinion that the Mutual Termination is in the best interest of the Company.

9. ESTIMATED TIMEFRAME FOR COMPLETION OF THE MUTUAL TERMINATION

The Mutual Termination takes effect today (i.e., upon the signing of the Deed).

10. DOCUMENT AVAILABLE FOR INSPECTION

A copy of the Deed is available for inspection at the Company's registered office at Datamet Merchant Consultants Sdn Bhd, B-3-9, 3rd floor, Block B, Megan Avenue II, No.12 Jalan Yap Kwan Seng, 50450 Kuala Lumpur, during normal business hours on Mondays to Fridays (except public holidays) for a period of 3 months from the date of this announcement.

This announcement is dated 29 December 2021.