

### 1. INTERPRETATION

#### 1.1. The definitions herein shall apply in these conditions (“Conditions”):

**"Contract"**: the contract between us for the supply of the Goods and/or Services, comprising our Sales Quotation and any documents incorporated by express reference on the face of the Sales Quotation, and your acceptance of the same, together with these Conditions and any written agreement pursuant to Clause 3.2, which shall form the entire agreement between us, and there are no other terms.

**"Goods"**: the goods agreed in the Contract to be supplied by us to you (including any part thereof).

**"Merchant Content"**: any and all data, information, logos, documents, images that you and/or your customers input into the Platform.

**"Platform"**: shall mean the Cloud-based server maintained by us in order to supply the Services to you.

**"Services"**: the services agreed in the Contract to be supplied by us to you.

**"Site"**: the address to which the Goods are to be delivered and/or the location at which the Services are to be provided, as stated in the Contract.

**"Warranty Period"**: the period specified in the Contract (or, in the absence of any such period being specified, the period of 12 months) in respect of the Goods, commencing upon the date of delivery of the same.

### 2. APPLICATION OF CONDITIONS

#### 2.1. These Conditions shall:

2.1.1. apply to and be incorporated into the Contract;

2.1.2. prevail over any terms or conditions contained in or referred to in your acceptance of the Sales Quotation, any correspondence or elsewhere or implied by law, trade custom, practice or course of dealing, unless otherwise agreed by us.

### 3. BASIS OF THE SALE

#### 3.1. We shall supply and you shall purchase the Goods and/or Services in accordance with the Contract.

3.2. No Contract may be cancelled, varied or suspended by you except with our agreement in writing and on condition that you shall indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by us as a result of the cancellation, variation (including but not limited to any changes to the technical/commercial requirements of the Goods), or suspension, as the case may be, save that your total liability to us in the event of your cancellation of the Contract shall not exceed the total Contract price.

### 4. DELIVERY AND INSTALLATION

4.1. We shall deliver the Goods to the Site, unless otherwise agreed by us in writing.

4.2. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract. A failure by us to deliver any one or more of the instalments in accordance with the Contract shall not entitle you to treat the Contract as repudiated.

4.3. You shall not withhold acceptance of the Goods in respect of the following:

4.3.1. defects which do not materially affect the function of the Goods;

4.3.2. defective installation that was not performed by us or our sub-contractor(s);

4.3.3. or any other reasons which are not within our reasonable control.

4.4. Further, you will be deemed to have accepted the Goods if you use the Goods for any purposes other than for testing.

4.5. In the event that we are required to carry out any installation on Site, it is your sole responsibility to ensure that the Site is available to and accessible by us and/or our sub-contractor(s), in order that we may proceed with the installation in an unobstructed and uninterrupted manner.

4.6. In the event that we are unable to effect the delivery and/or installation through no fault on our part, we shall be entitled to charge you for a fee on each failed attempt to do so.

4.7. In the event that, subsequent to the initial installation, you request that we attend at the Site or any location designated by you, to change or re-configure any setting in relation to the Goods, we shall be entitled to charge you a fee on hourly basis to effect the same.

4.8. We may provide a complimentary data import into the Goods prior to their installation, and it shall be your sole responsibility to submit to us such data in an Excel format 2 working days prior to such installation.

### 5. SERVICES

5.1. Where we are required to provide any Services, you shall ensure that the Services may proceed in an uninterrupted manner. In particular, you shall be responsible for all things related to the Site and shall provide at your expense and in a timely manner the following, where applicable:

- 5.1.1. such assistance as may be required by us in relation to getting our and/or our sub-contractors' personnel and equipment to the Site to carry out the Services;
- 5.1.2. make available any information required concerning the location of concealed electric power, gas and water lines or of similar installations as well as the necessary structural data; and
- 5.1.3. all utilities including but not limited to energy, water, telecommunications services, heating and lighting;
- 5.1.4. all reasonable measures to protect our and our sub-contractors' personnel and property at the Site;
- 5.2. Should you be unable to provide or fulfil to our satisfaction the required obligations in condition 5.1, we shall be entitled to take all relevant measures in order to carry out the Services and you shall bear all associated costs in this connection, provided that we have notified you of your non-compliance and you then fail to remedy the same within seven (7) days.
- 5.3. We will grant you a non-exclusive, limited, and non-transferable licence to use the Services in accordance with these Conditions. We reserve the right to immediately and indefinitely deny you the use of the Services and/or terminate this licence at any time in the event of your breach of these Conditions or without cause.
- 5.4. You warrant and undertake that ensure that any and all Merchant Content:
  - 5.4.1. shall not amount to an infringement of third party's rights, including but not limited to intellectual property rights such as registered design, trademark, copyright, whether or not under Singapore law; and
  - 5.4.2. shall comply with any and all relevant laws and regulations, including but not limited to the Personal Data Protection Act 2012.
- 5.5. You agree to grant us a non-exclusive, limited, and non-transferable licence to use the Merchant Content insofar as we continue to make available the Services to you, provided always that the Merchant Content shall remain your sole property.
- 5.6. We shall, and procure our agents and/or subcontractors shall, at all times keep the Merchant Content confidential and to comply with the Personal Data Protection Act 2012 of Singapore, and undertake that we shall not, and procure that our agents and/or subcontractors shall not, disclose the Merchant Content to any third party without your prior written consent, save as required by law or pursuant to any legal process.
- 5.7. All Merchant Content will be backed-up daily to our server at our data centres in Singapore.
- 5.8. We will implement reasonable measures to preserve the integrity and security of all Merchant Content, in line with prevailing industry practices, and use our best efforts to render the Services available at all times save for planned down-time for maintenance.
- 5.9. For cloud-based Services provided to you on a subscription basis, we will notify you 15 calendar days prior to the expiry of the subscription period as to your payment for the renewal of the said period. We shall effect the renewal upon our receipt of your said payment prior to the expiry of the subscription period, but not otherwise, in which case the Services shall be terminated at the expiry of the subscription period.
- 5.10. You acknowledge and accept that all Services provided by us under the Contract are on an "AS IS" and "AS AVAILABLE" basis, and we expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement. In particular, we make no warranty that the Services will meet your requirements, that they will be uninterrupted, timely, secure, or error free; nor do we make any warranty as to the results that may be obtained from the use of the Services or as to the accuracy or reliability of any information obtained through the Services or that defects in the Services will be corrected.
- 5.11. You further acknowledge and accept that we or any of our information providers make any warranties concerning the accuracy, correctness, or reliability of the messages received or requested via the Services or any of the information, material or content contained therein (the "**Content**"). You understand and agree that any Content and/or data downloaded or otherwise obtained through the use of or from the Services is done at your own discretion and risk and that you will be solely responsible for any damage to your mobile telecommunication device and/or computer system or loss of data that results from the download of such Content and/or data. We make no warranty and shall not be liable for any goods, services, information or other material displayed, purchased or obtained through or from the Services or any transaction entered into through the Services. We shall not be liable for any delays, omissions or errors in the Content and shall not be liable for any reliance thereon. No advice or information, whether oral or written, obtained by you from or through the Services shall create any warranty not expressly stated herein. In no event shall we, our subsidiaries, affiliates, officers, or employees, be liable, whether in contract, warranty, tort (including negligence) or any other form of liability, for:
  - 5.11.1. any direct, indirect, incidental, special or consequential damages suffered by you; and
  - 5.11.2. any loss of income, business, profits (whether direct or indirect), use, data or other intangible suffered by the Client, even if we have been advised or made aware of the possibility of such damages.

## 6. PRICES AND PAYMENT

- 6.1. All prices shall be as stated in the Contract and are not subject to adjustment save as specifically provided in these conditions.
- 6.2. You shall not be entitled to set off, withhold, or deduct any sum from the price.
- 6.3. Unless otherwise agreed by us in writing, parties shall abide by the following payment terms:
  - 6.3.1. You shall make full payment for any and all Goods/Services prior to their delivery by making payment to Singapore Data Hub Pte. Ltd.

- 6.3.2. All payments made by you under the Contract, insofar as they were due and payable, are strictly non-refundable under any circumstances.
- 6.4. Without prejudice to any other right or remedy, in the event that you fail to make payment on any of our invoices, we shall be entitled to the following:
  - 6.4.1. suspend any further delivery of the Goods and/or Services to you and/or terminate the Contract pursuant to condition 12 without any liability to you; and/or
  - 6.4.2. impose interest on the amount unpaid, at the rate of 1.5% per month, calculated on a monthly rest basis, from the payment due date until payment in full is made.

## 7. OUR WARRANTY

- 7.1. We warrant the following during the Warranty Period:
  - 7.1.1. the Goods will conform to the description of the Goods stated in the Contract;
  - 7.1.2. we will carry out any installation with reasonable care and skill by reference to the Service Level Agreement below hereto.
- 7.2. Notwithstanding Condition 7.1, we shall not be liable to you whatsoever in respect of the following:
  - 7.2.1. any defect in the Goods arising from fair wear and tear, as well as any wilful damage, negligence, misuse/alteration/repair of the Goods, and/or improper or inadequate maintenance, on your part; and/or
  - 7.2.2. if the price for the Goods has not been paid in full by the due date for payment.
- 7.3. Save for the warranties in Condition 7.1, all other warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law. We specifically disclaim the implied warranties for merchantability or fitness for any particular purpose.
- 7.4. No claim under the warranties in Condition 7.1 is valid unless you issue us a written notice stating the basis of the claim and providing all relevant supporting documents and information within the Warranty Period.
- 7.5. Our sole and total liability in respect of any valid claim under the warranties in Condition 7.1 shall be as follows:
  - 7.5.1. in respect of any of the Goods, to either repair or replace the same;
  - 7.5.2. in respect of any installation, to refund you the price of the same.
- 7.6. At the expiry of the Warranty Period, we shall be entitled to charge you fees for any relevant Services requested by you to be performed at the Site or such other place as you may designate.
- 7.7. Condition 7 sets out your sole and exclusive remedy for all warranty claims during the Warranty Period.

## 8. RISK AND PROPERTY

- 8.1. All risks in respect of the Goods shall pass to you upon delivery to the Site.
- 8.2. Notwithstanding anything to the contrary in the Contract, ownership of the Goods shall not pass to you until we have received payment in full of the price of the Goods. In the event that payment in full is not made within 5 working days of the delivery of the Goods, we shall be entitled to repossess the Goods at the Site, and you undertake to grant us full access to do so.

## 9. INDEMNITY

- 9.1. You shall indemnify and hold us harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, us as a result of or in connection with your breach or negligent performance of the Contract.

## 10. LIMITATION OF LIABILITY

- 10.1. Notwithstanding anything to the contrary in the Contract and except to the extent required by law, our total liability, including that of our personnel, affiliates and sub-contractors, for any act or omission, whether in contract, tort (including negligence or strict liability), by way of indemnities, at law or in equity, shall not exceed the price of the Goods and/or Services under the Contract.

## 11. CONFIDENTIALITY AND OUR PROPERTY

- 11.1. You shall keep in strict confidence all technical or commercial knowledge, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to you by us or our agents, and any other confidential information concerning our business or its products which you may obtain. You shall restrict disclosure of such confidential material to such of your employees as may need to know the same for the purpose of discharging your obligations to us.
- 11.2. Condition 11 shall survive the termination of the Contract, howsoever arising.

## 12. TERM AND TERMINATION

- 12.1. The term of the Contract shall be for the period stated in the Sales Quotation and effective as of the date of the Contract, and Parties may agree in writing to extend term for such further period and on such further terms to be agreed between the Parties.

- 12.2. Without prejudice to any of our rights under general law, we may terminate the Contract without liability to you if:
- 12.2.1. you are in breach of the Contract and fail to remedy that breach within 14 days of receiving written notice from us requiring its remedy;
  - 12.2.2. in our reasonable opinion, there occurs a material change in your financial position or the control of your business which is likely to affect your ability to perform your obligations under the Contract; or
  - 12.2.3. you notify us of your intention to cancel the Contract;

- 12.3. Upon termination of the Contract, we shall return or destroy (at your option) any and all Merchant Content in our possession or control.
- 12.4. Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly or implicitly stated to survive termination.

### 13. NON-PARTNERSHIP/NON-SOLICITATION

- 13.1. Nothing in the Contract shall be construed to constitute the parties as partners, the agent of the other, or employer/employee, and each party undertakes not to incur liability on behalf of, or otherwise purport to bind, the other party.
- 13.2. Each party undertakes, during the Contract and for a period of one (1) year thereafter, not to, whether directly or indirectly, by itself or with or for another third party, canvass by any means, seek or solicit, any client and/or employee of the other party, unless the client is also a client of the first-mentioned party at the time parties entered into the Contract.

### 14. FORCE MAJEURE

- 14.1. We shall not be liable to you or be deemed to be in breach of the Contract by reason of any delay or failure to perform any of our obligations under the Contract if and to the extent that such delay or failure is due to force majeure.
- 14.2. Force majeure shall mean the following:
- 14.2.1. strike or other industrial actions;
  - 14.2.2. civil commotion, civil war, insurrection, riot, act of terrorism, national emergency, threat of war or preparation for war;
  - 14.2.3. fire, explosion, storm, flood, earthquake, subsidence, hurricane, infectious diseases, epidemics or other acts of God;
  - 14.2.4. any act of interference by any government or authorities;
  - 14.2.5. non-issuance of licences, non-clearance of import or export regulations, embargoes, or sabotages; and
  - 14.2.6. shortages in material or supply.
- 14.3. If the force majeure prevails for a continuous period in excess of one (1) month, parties shall negotiate in good faith to alleviate the effects of the force majeure or to agree to alternative arrangements, save that either party shall be entitled to terminate the Contract if the force majeure prevails for a continuous period of three (3) months from its first occurrence.

### 15. WAIVER

- 15.1. A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 15.2. Unless specifically provided otherwise, rights arising under the Contract are in addition to and do not exclude rights provided by law.

### 16. ASSIGNMENT

- 16.1. You shall not, without our express prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under the Contract.
- 16.2. We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under the Contract.
- 16.3. Upon our request, you will agree to a novation of this Contract to our nominated sub-contractor, thereby becoming its employer, and will do all things necessary to effect such a novation on terms reasonably proposed by us.

### 17. THIRD PARTY RIGHTS

A person who is not party to the Contract shall have no right whether under the Contracts (Rights of Third Parties) Act (Chapter 53B, Revised Edition 2002) or by law to enforce any term of the Contract.

### 18. NOTICES

Any notice required to be given under the Contract shall be in writing and shall be delivered by hand or sent by registered post to the other party at its address set out in the Contract (or such other address as may have been notified by that party for such purposes), or sent by fax to the other party's fax number as set out in the Contract.

## 19. SEVERANCE

- 19.1. If a court or any other competent authority finds that any provision (or part of any provision) of the Contract is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 19.2. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

## 20. GOVERNING LAW AND JURISDICTION

- 20.1. The Contract shall be governed by and construed in accordance with the laws of Singapore, and the parties irrevocably submit to the exclusive jurisdiction of the Singapore Courts.