

TECHNOLOGY LICENSING AGREEMENT**GENERAL TERMS AND CONDITIONS****Table of Contents**

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1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires:

"Affiliates" means shareholders, directors, officers, employees and other representatives of a Party;

"Applicable Laws" means any law, statute, rule, regulation, ordinance, decree, directive, code, notice or requirement issued, adopted, promulgated, implemented or otherwise put into effect by or under any Relevant Authority, and **"Relevant Authority"** means any governmental body, ministry, authority, supervisory or regulatory body, department or unit having appropriate jurisdiction and authority to provide any consent, approval, clearance, permit, licence, or to accept any filing, or to make any rules or orders in Singapore or any other jurisdiction(s) where the Licensee concerned is incorporated, located or doing business;

"Business Day" means any day other than a Saturday, Sunday or a gazetted public holiday in Singapore;

"Confidential Information" means any information that IMDA has conveyed to the Licensee in confidence and excludes any information which at the time it is so acquired or disclosed is already in the public domain or becomes so other than by reason of any breach or non-performance by the Licensee of any of the provisions contained in this Agreement;

"Force Majeure Event" means any circumstance beyond the reasonable control of any Party including acts of God, war or warlike hostilities, acts of terrorism, civil commotion, riots, blockades, embargoes, sabotage, strikes, sanctions, lockouts, shortage of material or labour, or accidents;

"Foreground IP" shall have the meaning given to it in **Clause 6.2**;

"Intellectual Property Rights" means all patents, copyrights, design rights, all rights of confidence in trade secrets, confidential information, data, know-how, (including but not limited to designs, drawings, blue prints, and any other commercial information relating to research, design, development or sale), whether registered or not and whether registrable or not, and all applications of the foregoing;

"Licence" means the licence to exploit and use the Technologies granted by IMDA to the Licensee, as set out in the Form of Agreement;

"Licence Fee" means the fees payable by the Licensee to IMDA for the Licence provided, as set out in the Form of Agreement;

"Open-Sourced Components" shall have the meaning given to it in **Clause 6.1**.

"Purposes" means the purposes for which the Licensee shall use the Technologies under the Licence, as set out in the Form of Agreement;

"SIAC" means the Singapore International Arbitration Centre;

“Technologies” means the data, concepts, algorithms, software, hardware, middleware, systems, documents, source codes, processes, methodologies, inventions, writings, knowledge and other proprietary material, whether in oral or machine-readable form, which belong exclusively to IMDA, and which are described in the Form of Agreement;

“Unauthorised Person” means a person other than bona fide Affiliates, contractors or consultants of the Licensee; and

“Unauthorised Use” means the use of the Technologies in a manner which is not authorised under this Agreement.

1.2 Interpretation

In this Agreement, unless otherwise specified:

- (a) words importing the singular shall include the plural and vice versa, and words importing a gender shall include every gender;
- (b) the headings in the Agreement are inserted for convenience only and do not affect the interpretation;
- (c) references to Annexes, Schedules and Appendices are to be construed as references to the annexes, schedules and appendices to this Agreement;
- (d) references to documents or agreements (including the Agreement) include references to amendments, replacements, and supplementary documents or agreements relating to such documents or agreements (including the Agreement) and shall be binding upon the Parties;
- (e) references to any Party includes its successors and permitted substitutes or assigns;
- (f) references to a third party shall mean any person that is not a Party to this Agreement;
- (g) wherever the words “include”, “includes” or “including” are used, they will be deemed to be followed by the words “without limitation”;
- (h) all references to a number of days shall mean calendar days, and the words “months” or “monthly” as well as all references to a number of months mean calendar months;
- (i) references to a “person” shall be construed to include any individual, firm, company, corporation or other body corporate, association, partnership, council, committee or representative body (whether or not having separate legal personality);
- (j) references to any persons related with another shall include corporations so related by virtue of the Singapore Companies Act (Chapter 50); and
- (k) any reference to a statutory provision shall include such provision and any regulations made pursuant to such statutory provision as from time to time modified or re-enacted whether before or after the date of this Agreement so far as such modification or reenactment applies or is capable of applying to any transactions entered into prior to the date of this Agreement.

2. LICENCE

IMDA hereby grants to the Licensee the right to use the Technologies in accordance with the terms of the Licence and subject to the terms of this Agreement.

3. LICENCE FEE

The Licence Fee shall be payable by the Licensee to IMDA in accordance with the Form of Agreement.

4. RIGHTS AND OBLIGATIONS OF IMDA

4.1 IMDA shall deliver the Technologies to the Licensee in a suitable format within 1 calendar month from the date of commencement of the Licence.

5. RIGHTS AND OBLIGATIONS OF THE LICENSEE

5.1 The Licensee shall use the Technologies in accordance with the Licence and the terms of this Agreement for the Purposes.

5.2 The Licensee shall have the right to:

- (a) adapt, modify, expunge, make derivative works of, disassemble, decompile, reverse engineer, republish, download, or copy and part of the Technologies for further developing and commercialising the Technologies strictly for the Purposes; and
- (b) sub-license any part of the Technologies to third parties for the furtherance of the Purposes.

5.3 The Licensee commits to the exploitation and the commercialisation of the Technologies for the benefit of its industry by using the Technologies to further the Purpose on a best-efforts basis. To that end:

- (a) The Licensee undertakes to maintain complete and accurate written records of its activities and innovations developed based on the Technologies;
- (b) IMDA shall have the right to inspect the Licensee's business records to assess the Licensee's compliance with the provisions of this Agreement upon reasonable notice to the Licensee. In such event, the Licensee shall comply with IMDA's request and shall promptly provide any clarifications to any follow-up queries which IMDA may have.

5.4 The Licensee undertakes that it shall:

- (a) not assign the Licence to any third party;
- (b) not permit any Unauthorised Person to use or copy any materials or documents relating to the Technologies;
- (c) not permit any Unauthorised Person access to the Technologies;

- (d) not represent to any third party, whether explicitly or implicitly, or directly or indirectly, that the Technologies are the property of the Licensee;
 - (e) ensure that none of its employees, agents, contractors or consultants who have access to the Technologies make any Unauthorised Use of such Technologies;
 - (f) comply with all Applicable Laws, and obtain all governmental, regulatory, fiscal or other approvals necessary for the use of Technologies; and
 - (g) comply with all advice, directions and instructions issued by IMDA with regard to the use of any part of the Technologies.
- 5.5 IMDA is entitled to immediate remedial action without further recourse to the Licensee if the Licensee breaches any of its undertakings above including, without limitation, removing or disabling access to the Technologies and terminating this Agreement in accordance with the terms of this Agreement.
- 5.6 All costs, expenses and disbursements in relation to the use of the Technologies by the Licensee under the Licence, including but not limited to customising and development costs, shall be borne by the Licensee.

6. INTELLECTUAL PROPERTY

- 6.1 The Licensee acknowledges and agrees that all Intellectual Property Rights in and to the Technologies provided and licensed by IMDA to the Licensee under this Agreement shall be and remain the absolute property of IMDA with the exception of certain open source material contained within the Technologies (“**Open-Sourced Components**”) which IMDA has licensed from third party sources. These Open-Sourced Components are listed in Annex 1 of the Form of Agreement. The Licensee further acknowledges and agrees that it may modify or adapt any of such Open-Sourced Components only to the extent that such modification or adaptation is in compliance with (a) the applicable terms and conditions governing the use of the Open-Sourced Components (including those that have been set out in the URL links provided at Annex 1 of the Form of Agreement) and (b) the terms of this Agreement.
- 6.2 In the event that the Licensee creates new Intellectual Property Rights (“**Foreground IP**”) using any part of the Technologies, the Parties agree that the ownership of this Foreground IP shall vest exclusively in the Licensee.
- 6.3 The Licensee further acknowledges that the value of such Technologies would be substantially and irreversibly damaged by unauthorised disclosure. To that end, the Licensee shall maintain absolute and complete confidentiality with regard to the proprietary aspects of the Technologies, and agrees to:
- (a) not disclose, copy, or reproduce, or permit any of its Affiliates, contractors, consultants or any other entity or person to disclose, copy, or reproduce any of the Technologies save where otherwise expressly permitted in writing to do so by IMDA; and
 - (b) limit and restrict the use of and access to the Technologies to its bona fide Affiliates, contractors or consultants whose use of or access to the Technologies must be necessary to and consistent with the Licensee's use of the Technologies in accordance with this Agreement, and in line with the Purpose.

6.4 The Licensee shall promptly inform IMDA of:

- (a) any claim brought against the Licensee on the basis that the Licensee's use of the Technologies infringes on the Intellectual Property Rights of a third party; and
- (b) the Licensee's discovery that a product, program, or software infringes on IMDA's Intellectual Property Rights in the Technologies. If IMDA makes a claim against a third party (including but not limited to filing a lawsuit) in respect of such infringement, IMDA may request the Licensee to provide the necessary assistance on the condition that IMDA would reimburse the Licensee for expenses reasonably incurred in providing the said assistance.

7. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS

7.1 Each Party represents and warrants to the other Party that:

- (a) it is legally established under the laws of Singapore;
- (b) it has the necessary legal capacity and authority to enter into this Agreement;
- (c) the signatories for and on behalf of that Party are authorised and fully empowered to execute this Agreement on that Party's behalf; and
- (d) the signing of this Agreement and the performance of its obligations hereunder does not constitute any breach of any agreements or articles of association entered into by it or violate laws, regulations or rules known to it.

7.2 Save as provided for in this Clause, IMDA does not provide any other warranty, express or implied, on any other matter, including but not limited to any warranty of merchantability or fitness in relation to any of the Technologies. To that end, the Licensee expressly acknowledges that the License is provided on an "as is" basis, and IMDA hereby disclaims any warranty:

- (a) as to the accuracy, completeness, correctness, reliability, timeliness, quality or fitness for any particular purpose of any of the Technologies;
- (b) that any of the Technologies, will be uninterrupted or error-free, or that defects will be corrected, or that any hardware or software system on which any of the Technologies operates or resides is and will be free of all viruses and/or other harmful elements.

Accordingly, IMDA shall also not be liable for any damage or loss of any kind caused as a result of the use of, and/or reliance placed on any part of the Technologies, or any function associated with the Technologies.

8. INDEMNITY

8.1 The Licensee shall indemnify and hold harmless IMDA from and against any and all liability, suits, losses, claims, damages, costs, expenses (including taxes and legal costs), and any other actions and liabilities suffered or incurred by the Licensee in connection with any breach by the Licensee of this Agreement.

8.2 The Licensee shall also indemnify IMDA from and against any and all liability suits, losses, claims, damages, costs, expenses (including taxes and legal costs) payable to a third party by the Licensee in respect of any claim or action that IMDA's use of the Foreground IP infringes the Intellectual Property Rights of any third party,

9. LIMITATION OF LIABILITY

9.1 IMDA shall not be liable to the Licensee, whether in contract, tort (including negligence) or otherwise for special, indirect, consequential or special damages, or for any loss of profits, opportunity or data, under any circumstances whatsoever, in connection with this Agreement.

9.2 Whilst IMDA shall use all reasonable endeavours to ensure that the Licensee's use of the Technologies does not infringe on the Intellectual Property Rights of any third parties, it makes no warranty, express or implied, that the Licensee's use as such will not infringe the Intellectual Property Rights of third parties as such, and will not be held responsible for any claim by any third party arising in relation to the Licensee's use of the Technologies under the Licence.

9.3 Without prejudice to any other clause in this Agreement and to the extent permitted by Applicable Laws, each Party's maximum aggregate liability for all claims made against it by the other Party will be limited to the maximum of Ten Thousand Singapore Dollars (SGD10,000) save for (a) indemnity claims made under **Clause 8** and (b) claims made by IMDA against the Licensee for the Licensee's failure to fulfil its payment obligations under **Clause 3** which shall not be subjected to any limit.

9.4 Neither Party shall be liable to the other Party for any loss and/or damage caused by a Force Majeure Event.

10. TERMINATION

10.1 This Agreement may be terminated in the following situations:

- (a) by IMDA upon giving the Licensee thirty (30) days prior written notice of its intention to terminate this Agreement;
- (b) by a Party immediately upon written notice, if the other Party commits any material, non-remediable breach of any term of this Agreement;
- (c) by either Party in accordance with **Clause 12** in response to a Force Majeure Event;
- (d) by a Party immediately upon written notice, in the case of a breach capable of being remedied, where such a breach has not been remedied within fourteen (14) days of a written request by the non-defaulting Party to remedy the same. A breach is capable of being remedied if the defaulting Party can comply with the provision in question in all respects other than time of performance (provided that time of performance is not of the essence); or
- (e) by a Party immediately upon written notice, if the other Party:
 - (i) undergoes reorganisation, petitions for reorganisation, or is petitioned to undergo reorganisation;

- (ii) undergoes dissolution, has, by resolution, decided to undergo dissolution, or has been ordered to undergo dissolution;
- (iii) undergoes a merger, or has by resolution decided to undergo a merger;
- (iv) declares bankruptcy, petitions for a declaration of bankruptcy, or has petitioned to declare bankruptcy;
- (v) has its main assets seized or is unable to repay its debts as and when they fall due, or
- (vi) where there is sufficient evidence to establish that any of the aforesaid is likely to occur.

10.2 In the event of termination of this Agreement, the Licensee shall immediately cease its use of the Technologies and return or destroy (at the option of IMDA) all documents and materials related to the Technologies and shall prove to the satisfaction of IMDA that it has done so.

11. CONFIDENTIALITY

11.1 The Licensee covenants with, and undertakes to IMDA that it shall not, and shall ensure that its Affiliates and professional advisers do not, both during the Term of this Agreement and thereafter:

- (a) disclose the contents of this Agreement to a third party, except that the Licensee is permitted to freely disclose the fact of existence of this Agreement to any third party; and
 - (b) disclose any of IMDA's Confidential Information to a third party, other than to such of its Affiliates or professional advisors on a 'need to know' basis, and only provided that it shall ensure that each such Affiliate or professional advisor shall keep such Confidential Information confidential and shall not use any of it for any purpose other than those for which it is authorised to use.
- 11.2 The Licensee shall require that all of its Affiliates be aware of and comply with this provision. Except for the purpose of performing this Agreement, the Licensee shall not use IMDA's Confidential Information for any other purposes.
- 11.3 Without limiting the above provisions, and save as required by Applicable Laws, existing contractual obligations or any applicable Competent Authority to which the Licensee subject (wherever situated), the Licensee shall not make any public announcement, issue any press release or make any form of statement to the public about this Agreement or any ancillary matter without the prior written consent of IMDA.
- 11.4 This Clause shall survive termination of this Agreement.

12. FORCE MAJEURE

12.1 If a Party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event, such affected Party shall not be in breach of this Agreement or

otherwise liable for any such failure or delay in the performance of such obligations. In such a situation, the time for performance of such obligations shall be extended accordingly.

- (a) the affected Party shall as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under this Agreement; and

- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

- 12.2 If the Force Majeure Event prevails for a continuous period of more than one (1) month, either Party may terminate this Agreement by giving at least five (5) Business Days written notice to the other Party. Such termination shall be without prejudice to the rights of the Parties in respect of any breach of this Agreement occurring prior to such termination.

13. NOTICES

- 13.1 All Notices shall be in writing, in the English language, and delivered personally or sent by local courier or by electronic mail addressed to the intended recipient at its address or electronic mail address and marked for the attention of such person designated by it for the purposes of the Agreement, as set out in the Form of Agreement.

- 13.2 Any such notice, demand or communication shall be deemed to have been duly served:

- (a) if given or made by letter, immediately if hand delivered or three (3) Business Days after sending by local courier and in proving the same it shall be sufficient to show the receipt from the local courier showing that package was duly addressed and the date on which it was sent; or
- (b) if given or made by electronic mail, immediately and in proving the same it shall be sufficient to show the receipt of the electronic mail.

14. GOVERNING LAW

This Agreement (including any questions over its validity and existence) shall be governed by and construed in accordance with the laws of Singapore.

15. RESOLUTION OF DISPUTES

- 15.1 In case any dispute shall arise between the Parties as to the construction of this Agreement or any matter of whatsoever nature arising under or in connection with this Agreement, including any question regarding its existence, validity or termination, such dispute shall first be settled through informal mediation with a view to reaching an amicable agreement between the Parties. The Parties agree to participate in the mediation in good faith and undertake to abide by the terms of any settlement reached.

In the event that such dispute cannot be amicably settled by mediation within three (3) months from the date of notice of mediation, the dispute shall be submitted to the exclusive jurisdiction of the courts of Singapore.

15.3 Provisional Remedies and Interim Relief

Each Party has the right to seek preliminary injunctions, specific performance and other equitable or provisional relief from the appropriate courts if damages would not be an adequate remedy for any breach or threatened breach of this Agreement. Notwithstanding any preliminary injunctions or other provisional remedies sought, the Parties shall continue to participate in the procedures set forth above.

16. GENERAL

16.1 Entire Agreement

This Agreement (including the Form of Agreement, any accompanying annexes, schedules or appendices) constitutes the entire agreement between the Parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.

Each Party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. No Party shall have any claim for innocent or negligent misrepresentation based upon any statement in this Agreement.

16.2 Variation

No amendment, variation, revocation, cancellation, substitution or waiver of, or addition or supplement to, any of the provisions of this Agreement shall be effective unless made by a written instrument signed by both Parties (or their authorised representatives).

16.3 No Partnership or Joint Venture

Nothing contained in the Agreement shall be construed as creating or constituting a partnership, joint venture or association of any kind between the Parties or renders any Party liable for the debts or liabilities of the other Party.

16.4 Costs and Expenses

Unless otherwise agreed, each Party shall bear its own legal, professional and other costs and expenses incurred by it in connection with the negotiation, preparation and execution of this Agreement and any documents referred to in it.

16.5 Survival

Clauses that expressly or by implication survive termination of the Agreement shall continue in full force and effect unless otherwise agreed by the Parties.

16.6 Agreement to Bind Successors and Assignees

This Agreement shall benefit and be binding on the Parties, their respective successors and any permitted assignee or transferee of some or all of a Party's rights or obligations under this Agreement.

16.7 Assignment

IMDA may at any time assign or novate this Agreement (whether in whole or in part) to any person, body, firm, company or organisation, and the Licensee hereby consents to such assignment or novation and undertakes to execute within a reasonable time following written demand by IMDA, all necessary documents to effect such assignment or novation.

16.8 Invalidity and Severability

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Agreement under the Applicable Laws of any jurisdiction or as may be adjudged by a court, shall not affect the validity, enforceability or legality of the other provisions.

If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification as is necessary to give effect to the commercial intention of the Parties.

16.9 Remedies and Waivers

Any waiver of any right or remedy or any consent given under this Agreement is only effective if it is in writing and signed by the waiving or consenting Party. It shall apply only in the circumstances for which it is given and shall not prevent the Party giving it from subsequently relying on the relevant provision.

No failure to exercise, nor any delay in exercising any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by Applicable Laws.

16.10 No Rights of Third Parties

Unless expressly provided to the contrary in this Agreement, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act (Chapter 53B) of Singapore to enforce or enjoy the benefit of this Agreement.

16.11 Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

Transmission of an executed counterpart of this Agreement (but for the avoidance of doubt not just a signature page) (i) by fax, or (ii) by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement. If either method of delivery in this Clause is adopted, without prejudice to the validity of the agreement thus made, each Party shall provide the other Party with the original of such counterpart as soon as reasonably possible thereafter.

16.12 Further Assurance

Each Party agrees to perform (or procure the performance of) all further acts and things and execute and deliver (or procure the execution and delivery of) such further documents, as may be required by law or as may be necessary or reasonably desirable to implement and/or give effect to this Agreement and the transaction contemplated by it.

16.13 Procurement of Third Party

At its own expense, each Party shall, and shall use all reasonable endeavours to procure that any necessary third party shall execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.