

AGREEMENT IN RELATION TO THE USE OF THE LOGO FOR THE DATA PROTECTION ESSENTIALS SCHEME

This Agreement governs the terms and conditions upon which the Organisation may use the logo for the Data Protection Essentials Scheme, and is made and entered into by and between:

(1) **INFO-COMMUNICATIONS MEDIA DEVELOPMENT AUTHORITY (DESIGNATED AS THE PERSONAL DATA PROTECTION COMMISSION)**, a statutory authority established to administer and enforce the Personal Data Protection Act 2012 (No. 26 of 2012), and which office is at 10 Pasir Panjang Road, #03-01, Mapletree Business City, Singapore 117438 (**Owner**); and

(2) the Organisation.

(where each is a **Party**, and together **Parties**).

BACKGROUND

- (A) The Owner operates the Data Protection Essentials Scheme (the **Scheme**) and is the owner of the Logo.
- (B) The Organisation is assessed to have qualified for the Scheme and the Owner is willing to grant the Organisation a licence to use the logo on the terms and conditions set out in this Agreement and the Organisation agrees to undertake the obligations set out herein.

IT IS HEREBY AGREED AS FOLLOWS:

1. Interpretation

- 1.1 In this Agreement, the following words and phrases shall, unless the context **otherwise** requires, have the following meanings:

Agreement means this agreement entered into between the Owner and Organisation.

Scheme means the Data Protection Essentials Scheme in which organisations are recognised for their implementation of basic data protection and security practices through the use of the Service.

Logo refers to refers to any logo set out in Annex A.

Service means the one-stop professional service as defined, and amended from time to time, in www.imda.gov.sg/dpe.

SIAC Rules has the meaning set out in Clause 16.

- 1.2 In this Agreement, the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) the words “including”, “such as” and similar expressions are not used as, nor are intended to be interpreted as, words of limitation;

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- (e) a reference to a “person” includes a natural person, corporation, partnership, joint venture, association, trust or other body corporate;
- (f) any reference to an enactment or statutory provision is a reference to it as it may have been, or may from time to time be modified, consolidated or re-enacted; and
- (g) any reference to an agreement includes its schedules, exhibits and/or annexes and is a reference to it as it may have been, or may from time to time be amended.

2. Representations and Warranties

2.1 The Organisation warrants, represents and undertakes to the Owner that:

- (a) the Organisation is an organisation (which is not an individual acting in a personal or domestic capacity) either (i) formed or recognised under the laws of Singapore, or (ii) resident, or having an office or a place of business, in Singapore;
- (b) the Organisation has full legal right, corporate power and capacity to execute, deliver and perform all its obligations under this Agreement;
- (c) the Organisation has obtained all corporate authorisations and all other applicable consents, licences, permits, approvals, waivers or exemptions required to enter into and to perform its obligations under this Agreement;
- (e) the Organisation is at the effective date of this Agreement in compliance with all applicable laws (including data protection laws) and is not in default of any of its data protection obligation(s) under any agreement; and

2.2 The representations and warranties set out in Clause 2.1 above shall be deemed to apply throughout the Term of this Agreement with reference to the facts and circumstances then existing.

2.3 The Organisation undertakes to notify the Owner in writing promptly if it becomes aware of any circumstance arising during the Term which would cause any representations and warranties set out in Clause 2.1 above (if the representations and warranties were repeated with reference to the facts and circumstances then existing) to become false or misleading in any respect.

3. Right to use the Logo

3.1 Subject to the terms of this Agreement, the Owner hereby grants to the Organisation a non-exclusive right to use the Logo for the sole purpose of indicating that the Organisation has qualified for the Scheme.

3.2 The Organisation acknowledges and agrees that:

- (a) no rights or licences are conferred on the Organisation pursuant to this Agreement except those expressly set out in this Agreement;
- (b) the Owner shall have full legal right, title and interest in the Logo, and the Owner may accordingly use the Logo as it considers appropriate; and
- (c) the Organisation does not have any legal right, title or interest in the Logo or any updates or improvements thereto, save as specifically set out in this Agreement.

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- 3.3 The Organisation's right to use the Logo is subject to the following conditions:
- (a) the Organisation shall ensure that the goods and/or services sold or otherwise supplied by the Organisation are compliant with all applicable laws, regulations, industry standards and codes of practice;
 - (c) the Organisation shall ensure that its advertising, marketing and promotion activities shall in no way reduce or diminish the reputation, image and prestige of the Logo;
 - (d) the Organisation shall comply with all reasonable instructions and requests from the Owner in relation to any matters contemplated under this Agreement;
 - (e) the Organisation shall not, and shall not permit any person to, save with the Owner's prior written approval, apply for the registration of any intellectual property which may be confusingly similar to any Logo, or which indicates a connection with the Logo or the Owner;
 - (f) the Organisation shall not license or sub-license (or purport to license or sub- license) any person to use any Logo, other than as expressly permitted by the Owner or specified under this Agreement;
 - (g) the Organisation shall not use the Logo in any way, other than as expressly permitted and specified under this Agreement;
 - (h) the Organisation shall use all reasonable efforts not to do anything that may adversely affect the Owner's legal right or title to the Logo; and
 - (i) the Organisation shall use all reasonable efforts not to do anything that is or may be inconsistent with the Owner's legal right, title and interest in the Logo.
- 3.5 If the Organisation learns of any threatened or actual misuse of the Logo, it shall immediately inform the Owner, giving all such details as the Owner may request.
- 3.6 The Owner shall have conduct of any proceedings relating to the Logo and may take whatever action it, in its sole and absolute discretion, decides in respect of any infringement or alleged infringement of it, or arising from its use. The Organisation shall co-operate fully with, and shall take all such actions as may be required by, the Owner in respect of such proceedings.
- 4. No Assignment or Subcontracting**
- 4.1 The Organisation shall not, without the prior written consent of the Owner, assign, transfer, sub-contract, delegate or deal in any other manner with this Agreement or any of its rights and obligations hereunder or any document referred to in it.
- 4.2 The Owner may, at any time, assign (in whole or in part), transfer, novate or deal in any other manner with the benefit of any or all of the Organisation's or any other party's obligations or any benefit arising under this Agreement, including without limitation novating this Agreement to its subsidiary. The Organisation agrees to promptly execute and deliver any document and perform any acts that may reasonably be required for the purpose of the Owner effecting such assignment, transfer, novation or dealing.

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5. Indemnity

- 5.1 The Organisation shall indemnify the Owner against all actions, liabilities, costs, expenses, damages and losses (including all legal costs calculated on a full indemnity basis), suffered or incurred by the Owner, arising out of or in connection with:
- (a) any breach, negligent performance, or non-performance by the Organisation of any terms in this Agreement; and
 - (b) the Owner's enforcement of this Agreement.

6. Disclaimers

- 6.1 The Owner may at any time change, suspend, or discontinue the Scheme, any of its content, its framework, and/or its applicability to the Organisation, for any reason without liability.
- 6.2 The Owner may also impose limits on the extent to which the Logo can be displayed by the Organisation without notice or liability.
- 6.3 The Owner, its directors, employees, officers, agents and representatives, shall not be liable for any actions, liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation, interest, penalties, legal costs, and all other professional costs and expenses) suffered or incurred by the Organisation and/or its directors, employees, officers, agents and representatives arising from any suspension or termination of this Agreement and/or the Scheme.
- 6.4 To the fullest extent permitted by law, the Organisation hereby acknowledges and agrees that the Owner makes no and expressly disclaims all conditions, warranties, representations or other terms which may apply to the Scheme, whether express, implied or statutory, including without limitation, warranties of accuracy, adequacy, completeness, timeliness, merchantability, currency, reliability, satisfactory quality, fitness for a general or particular purpose, non-infringement of third party rights and authenticity of any material or claim, continued availability or compatibility with any data protection regimes or frameworks, and to any implied warranty arising from the course of dealing, usage or trade.
- 6.5 The Owner does not give any representations, warranties, guarantees, or any other commitments, or accept any liability, to the Organisation in respect of the Scheme and/or the Logo. Any information provided in connection with the Scheme is only for general information or use. They do not constitute advice and should not be relied upon in making (or refraining from making) any decision. No oral advice or written information given throughout the Scheme, whether by the Owner or its employees, agents and authorised representatives shall create a warranty nor shall the Organisation rely on any such information or advice.

7. Termination

- 7.1 Notwithstanding anything in this Agreement, the Owner shall be entitled to terminate this Agreement at any time, at its sole and absolute discretion.
- 7.2 The Organisation is required to inform the Owner if it discontinues or terminates its use of the Service.

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8. Consequences of Termination

- 8.1 On termination or expiry of this Agreement for any reason whatsoever, any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement, including (but not limited to) Clauses 2 (Representations and Warranties), 4 (No Assignment or Subcontracting), 5 (Indemnity), 6 (Disclaimers), 7 (Termination), 8 (Consequences of Termination) and 14 (No Agency Relationship), shall remain in full force and effect.
- 8.2 Any termination or expiry of this Agreement shall not affect any rights or liabilities that have accrued prior to such termination or expiry.
- 8.3 On termination or expiry of this Agreement for any reason whatsoever:
- (a) all rights and licences granted pursuant to this Agreement shall cease;
 - (b) the Organisation shall:
 - (i) cease to use the Logo or any other proprietary names associated with the Owner, the Info-communications Media Development Authority and/or the Personal Data Protection Commission in any way, and not hold itself out as an organisation that has qualified for the Scheme or do anything that may indicate any relationship between it and the Scheme; and
 - (ii) promptly destroy, at its sole cost and expense, all stationery, packaging, and/or advertising, marketing or promotional material bearing the Logo.
- 8.4 If the Organisation fails to fulfil its obligations under this Clause 8 within a reasonable time, without prejudice to any other rights or remedies that the Owner may have, the Organisation hereby undertakes not to object to any claim, action or demand which is made by the Owner against the Organisation with the aim of fulfilling any outstanding obligations.

9. Notices

- 9.1 Any notice, request, waiver, consent, approval or other communication under this Agreement shall be in writing and shall be deemed to have been duly given or made when it is delivered by hand, or by prepaid registered post, or by email, to the Organisation to which it is required or permitted to be given and made at such Party's contact particulars specified in Clause 9.2, or such other particulars as any Party may from time to time notify the other Party, whichever is the latest. Such notice, request, waiver, consent, approval or communication shall be deemed to have been received:
- (a) if delivered by hand, immediately on the day of delivery;
 - (b) if sent by prepaid registered post, twenty-four (24) hours after posting; or
 - (c) if delivered by email, immediately on the day of transmission, and in proving the same it shall be sufficient to show the receipt of the email, including by way of automatic delivery receipt or read receipt.

This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other methods of dispute resolution.

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9.2 The contact particulars of the Owner as referred to in Clause 9.1 above are as follows:

| | |
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| Attention: | IMDA Data Protection Certifications |
| Address: | 10 Pasir Panjang Road, #03-01, Mapletree Business City, Singapore 117438 |

10. Acknowledgement

10.1 This Agreement is deemed to be executed upon the Owner's receipt of an acknowledgement of the Agreement from the Organisation.

11. Entire Agreement

11.1 This Agreement contains the entire and whole agreement between the Parties and supersedes all prior written or oral commitments, representations, arrangements, understandings or agreements between the Parties.

11.2 Each Party warrants to the other that it has not entered into this Agreement on the basis of any prior written or oral commitments, representations, arrangements, understandings or agreements between them.

12. Waiver and Variation of Agreement

12.1 Subject to any express terms to the contrary (including Clause 12.2 of this Agreement), no waiver or variation (whether oral or otherwise) of this Agreement shall be of any force unless such waiver or variation is expressly agreed upon in writing and signed by an authorised officer or representative of each of the Parties to this Agreement.

12.2 Notwithstanding Clause 12.1 of this Agreement, the Owner may, from time to time in its sole and absolute discretion, vary the terms of this Agreement or any part thereof by amending the version of the Agreement on the Owner's website (www.imda.gov.sg/dpe). The continued use of the Logo by the Organisation after the effective date of such variation shows that the Organisation agrees to the Agreement continuing as varied by such notification.

12.3 Any waiver granted under this Agreement may be subject to conditions. Such waiver shall be effective only in the instance and for the strict purpose for which it is given.

12.4 No waiver of any breach of this Agreement shall be deemed to be a waiver of any other or of any subsequent breach.

12.5 In no event shall any delay, failure or omission on the part of either of the Parties in enforcing or exercising any right, power, privilege, claim or remedy, which is conferred by this Agreement, at law or in equity, or arises from any breach by the other Party, be deemed to be or be construed as:

- (a) a waiver or variation thereof, or of any other such right, power, privilege, claim or remedy, in respect of the particular circumstances in question; or
- (b) operate so as to bar the enforcement or exercise thereof, or of any other such right, power, privilege, claim or remedy, in any other instance at any time or times thereafter.

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13. Third Party Rights

- 13.1 Unless otherwise expressly stated in this Agreement, a person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act (Cap. 53B, Statutes of the Republic of Singapore) to enforce any of the terms set out in this Agreement.

14. No Agency Relationship

- 14.1 Nothing in this Agreement shall render the Organisation (and each of its respective members, directors, employees, officers, agents, representatives and subcontractors) an employee, worker, agent, subcontractor or partner of the Owner, and the Organisation and each of its respective employees, workers, agents, subcontractors and partners, shall not hold itself out as such.

15. Applicable Law

- 15.1 This Agreement and all its subsequent variations are subject to, governed by and interpreted in accordance with the laws of the Republic of Singapore for every purpose.

16. Dispute Resolution

- 16.1 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (SIAC Rules) for the time being in force, which rules are deemed to be incorporated by reference in this Clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one (1) arbitrator to be appointed by the Chairman of the SIAC. The language of the arbitration shall be English.

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ANNEX A

