

# **SMEs Go Digital Pre-Approval**

## **Terms and Conditions**

## 1. General

- 1.1. The Info-communications Media Development Authority (“**IMDA**”) is a statutory board constituted under the Info-communications Media Development Authority Act 2016, with its place of business at 10 Pasir Panjang Road, #03-01 Mapletree Business City, Singapore 117438, Republic of Singapore.
- 1.2. The SMEs Go Digital Pre-Approval programme (“**SMEs Go Digital Pre-Approval**”) is administered by IMDA with the aim to:
  - i. Nurture Infocomm Media (“**ICM**”) vendors to build or upgrade their digital solutions to achieve a certain standard in functionality, cybersecurity, compliance to Personal Data Protection Act, etc. so as to enhance their solutions’ scalability and marketability; and
  - ii. Assist Small and Medium Enterprises (“**SMEs**”) to use digital technologies to build strong capabilities in tech and participate in the Digital Economy.

## 2. Scope

- 2.1. This document is applicable to all ICM vendors applying to have their digital solutions pre-approved by IMDA under SMEs Go Digital Pre-Approval (“**Applicants**”) and all successful Applicants who have been appointed as SMEs Go Digital Pre-Approval Vendors. All SMEs Go Digital Pre-Approval Vendors and Applicants must comply strictly with these Terms and Conditions governing SMEs Go Digital Pre-Approval at all times.
- 2.2. These Terms and Conditions should be read in conjunction with the SMEs Go Digital Pre-Approval documents including but not limited to:
  - a. The SMEs Go Digital Pre-Approval Application Form;
  - b. The SMEs Go Digital Pre-Approval Appointment Letter;
  - c. the SMEs Go Digital Pre-Approval Guide; and
  - d. such other documents as the IMDA may issue from time to time

(Collectively referred hereinafter as the “**Programme Documents**”)

The guidelines, procedures, instructions and requirements contained therein the Programme Documents shall be deemed to be part of these Terms and Conditions.

- 2.3. These Terms and Conditions and the Programme Documents may be further amended, varied, modified, supplemented and/or replaced by IMDA at its sole and absolute discretion from time to time, and the updated versions will be made available on IMDA website: <https://www.imda.gov.sg/SMEsGoDigital>.

- 2.4. In the event of any conflict or inconsistency between any terms of the Programme Documents, unless the document expressly provides, the following documents shall prevail in the following priority:
  - a. The SMEs Go Digital Pre-Approval Terms and Conditions;
  - b. The SMEs Go Digital Pre-Approval Appointment Letter;
  - c. The SMEs Go Digital Pre-Approval Guide (“**Guide**”);
  - d. The SMEs Go Digital Pre-Approval Application Form (“**Application Form**”);
  - e. All other documents forming part of the Programme Documents.

### 3. **Application to be an SMEs Go Digital Pre-Approval Vendor**

- 3.1. Applicant shall submit the necessary application forms and supporting documents via [SMEs Go Digital Pre-Approval System](#) (“SGDPAS”).
- 3.2. An application shall be made to IMDA using the SGDPAS Application Form (which may be amended by IMDA from time to time).
- 3.3. By submitting the application, the Applicant undertakes to comply with these Terms and Conditions, and represents and warrants that all information contained in the SGDPAS Application Form and all supporting documents and materials are true, accurate, up-to-date, and complete.
- 3.4. IMDA reserves the right to and may at its sole and absolute discretion choose not to process any application if any information provided by the Applicant is deemed by IMDA to be misrepresented, false, misleading, inaccurate, insufficient, or on such other grounds whatsoever as IMDA in its sole and absolute discretion deems fit.
- 3.5. IMDA reserves the right to and may at its sole and absolute discretion reject any application without providing the Applicant with any reasons whatsoever for the rejection.

The Applicant/SMEs Go Digital Pre-Approval Vendor shall nominate an Appointed Representative (“**AR**”) to liaise with IMDA on all matters relating to SMEs Go Digital Pre-Approval, and to ensure that all the obligations as set out in these Terms and Conditions and the Programme Documents are fulfilled. The Applicant/SMEs Go Digital Pre-Approval Vendor shall also keep IMDA informed in writing of any changes in relation to the AR.

### 4. **Fees**

- 4.1. IMDA may charge the Applicant such administrative fees as it may from time to time determine in relation to IMDA’s assessment of the application for pre-approval of the digital solution, and the appointment as an SMEs Go Digital Pre-Approval Vendor. All appointments as an SMEs Go Digital Pre-Approval Vendor are subject to full and timely payment of such fees (if any) as specified in the Guide (the “**Fees**”).

- 4.2. The fee payable (if any) for each year of appointment as an SMEs Go Digital Pre-Approval Vendor shall be as specified in the Guide, and the Applicant and/or SMEs Go Digital Pre-Approval Vendor shall pay the fee in full within thirty days from the due date.
- 4.3. No appointment as an SMEs Go Digital Pre-Approval Vendor shall be deemed to have been awarded until the fee in respect thereof has been fully paid.
- 4.4. All expenses of and incidental to the compliance with any of the requirements in connection with SMEs Go Digital Pre-Approval shall be borne by the Applicant/SMEs Go Digital Pre-Approval Vendor.
- 4.5. All fees paid are not refundable regardless of the outcome of the application.
- 4.6. Subject to clause 2.3 above, IMDA reserves the right to change the Fees at any time without any notice to the Applicant/SMEs Go Digital Pre-Approval Vendor.

## 5. Evaluation

- 5.1. Evaluation may be conducted by IMDA (“**Evaluation**”), in respect of:
  - a. application for appointment as an SMEs Go Digital Pre-Approval Vendor; and
  - b. interim/ad-hoc assessment or audit by IMDA at IMDA’s sole and absolute discretion from time to time.
- 5.2. The Evaluation are based on the requirements of SMEs Go Digital Pre-Approval set out in the Guide, as may be amended, varied, modified, supplemented and/or replaced by IMDA at its sole and absolute discretion from time to time (the “**Programme Requirements**”).
- 5.3. The Evaluation may include but not limited to the following:
  - a. Technical evaluation on the solution’s functionality and performance claims of the Applicant/SMEs Go Digital Pre-Approval Vendor’s digital solution;
  - b. Any other evaluation that IMDA at its sole and absolute discretion deems necessary for the purposes of SMEs Go Digital Pre-Approval.
- 5.4. IMDA shall at its sole and absolute discretion decide to conduct a full or partial Evaluation.
- 5.5. IMDA reserves the right to and may at its sole and absolute discretion appoint an external party to conduct any Evaluation.
- 5.6. It is the sole responsibility of the Applicant/SMEs Go Digital Pre-Approval Vendor to provide all relevant and supporting documents, material information, and/or records to IMDA to demonstrate how they have implemented, and fulfilled the Programme Requirements so as to enable IMDA to conduct an informed, fair, and objective Evaluation.

## 6. Waiver from SMEs Go Digital Pre-Approval Programme Requirements

- 6.1. The Applicant/SMEs Go Digital Pre-Approval Vendor may submit a written application with relevant and supporting documents to IMDA to request for waiver from any of the Programme Requirements that is not applicable to the Applicant/SMEs Go Digital Pre-Approval Vendor.
- 6.2. Any waiver from specific Programme Requirements granted by IMDA will be valid throughout the period of appointment unless otherwise stated.
- 6.3. IMDA reserves the right to review and rescind the waiver granted to the Applicant/SMEs Go Digital Pre-Approval Vendor at any time under Clause 6.2 at its sole and absolute discretion.
- 6.4. The Applicant/SMEs Go Digital Pre-Approval Vendor shall inform IMDA immediately if the conditions for the waiver(s) granted are no longer valid at any point of the period of appointment. IMDA reserves the right to direct the Applicant/SMEs Go Digital Pre-Approval Vendor to undergo an ad-hoc Evaluation. In such case, IMDA shall at its sole and absolute discretion decide on a full or partial ad-hoc Evaluation.

## 7. Appointment as SMEs Go Digital Pre-Approval Vendor

- 7.1 Applicants which IMDA has assessed to have passed the Evaluation and met the Programme Requirements will be appointed as an SMEs Go Digital Pre-Approval Vendor.
- 7.2 For the avoidance of doubt, the appointment as an SMEs Go Digital Pre-Approval Vendor by IMDA is neither guaranteed nor an endorsement that the solution provided by the SMEs Go Digital Pre-Approval Vendor is fit for any purposes, and/or free from any defects. IMDA is not liable for any loss or damage whatsoever and howsoever incurred by any party arising as a result of the use of, or any representations made in respect of the digital solution provided by the SMEs Go Digital Pre-Approval Vendor that has been pre-approved under SMEs Go Digital Pre-Approval (“**Pre-Approved Solution**”).
- 7.3 The appointment as an SMEs Go Digital Pre-Approval Vendor does not free the SMEs Go Digital Pre-Approval Vendor from its legal responsibility (if any) in case of any loss or damage incurred by any party arising from the use of the Pre-Approved Solution.
- 7.4 Notwithstanding any requests, IMDA reserves the right to and may, at its sole and absolute discretion, choose not to disclose to the SMEs Go Digital Pre-Approval Vendor and its customers, users, and potential customers of the Pre-Approved Solution, of the detailed results of the Evaluation.
- 7.5 IMDA will notify the Applicant of its award status and a letter of appointment (the “**Appointment Letter**”) will be issued.
- 7.6 The Appointment Letter shall remain the property of IMDA, and the SMEs Go Digital Pre-Approval Vendor’s right to use the Appointment Letter is subject to these Terms and

Conditions. The SMEs Go Digital Pre-Approval Vendor agrees not to assign, charge, licence, transfer or otherwise deal with the Appointment Letter in any way.

- 7.7 The appointment as an SMEs Go Digital Pre-Approval Vendor and the Appointment Letter are not transferable under any circumstances.
- 7.8 The appointment as an SMEs Go Digital Pre-Approval Vendor shall be valid until terminated by IMDA. IMDA shall have the absolute right to amend the appointment validity at any time after the appointment.
- 7.9 The appointment as an SMEs Go Digital Pre-Approval Vendor is conditional upon the SMEs Go Digital Pre-Approval Vendor's continued compliance with these Terms and Conditions including but not limited to the Scheme Requirements as set out in the Programme Documents, any of the terms and conditions set out in the Appointment Letter.
- 7.10 The SMEs Go Digital Pre-Approval Vendor shall inform IMDA as soon as reasonably practicable if, at any time, it becomes unable to perform its obligations as set out in these Terms and Conditions and Programme Documents.
- 7.11 IMDA reserves the right to and may, in its sole and absolute discretion, terminate the appointment without the need to give any reasons for such termination or refusal.
- 7.12 Without prejudice to Clause 6, IMDA may, in its absolute discretion, refuse to appoint if:
  - a. the application submitted by the Applicant/ SMEs Go Digital Pre-Approval Vendor is not in accordance with the form required by IMDA;
  - b. the Applicant/ SMEs Go Digital Pre-Approval Vendor fails to satisfy any of the Programme Requirements, including the failure to submit or make any declarations (if any) required under the Programme Documents;
  - c. the Applicant/ SMEs Go Digital Pre-Approval Vendor fails to pay any outstanding fee(s);
  - d. the Applicant/SMEs Go Digital Pre-Approval Vendor provides any information to the IMDA which is misrepresented, false, misleading, inaccurate or insufficient;
  - e. the Applicant/ SMEs Go Digital Pre-Approval Vendor is in breach of any of these Terms and Conditions;
  - f. the commencement of any proceedings for liquidation, insolvency, bankruptcy, receivership, winding up or judicial management of the Applicant/SMEs Go Digital Pre-Approval Vendor, or the making of any composition or schemes of arrangement by the Applicant/SMEs Go Digital Pre-Approval Vendor with its creditors;
  - g. the Applicant/SMEs Go Digital Pre-Approval Vendor ceases to carry on business;
  - h. the Applicant/SMEs Go Digital Pre-Approval Vendor contravenes any applicable laws or regulations in Singapore;

- i. the Applicant/SMEs Go Digital Pre-Approval Vendor suffers a cyberattack or cybersecurity breach, or is the subject of investigations arising out of or in connection with cyberattacks or cybersecurity breaches; or
- j. for any other reason, the IMDA at its sole and absolute discretion is of the opinion that it is undesirable to appoint the Applicant as an SMEs Go Digital Pre-Approval Vendor.

## **8. Non-Compliance with Terms and Conditions**

- 8.1 Without prejudice to any of the IMDA's powers and rights to take such action as it deems fit, an SMEs Go Digital Pre-Approval Vendor that fails to abide by any of these Terms and Conditions may be given a written warning by the IMDA. If the SMEs Go Digital Pre-Approval Vendor fails to comply with the demands of the written warning within the stipulated timeframe, IMDA may suspend or terminate the appointment immediately without further notice or reference to the SMEs Go Digital Pre-Approval Vendor.
- 8.2 For the avoidance of doubt, IMDA reserves the right to and may, in its sole and absolute discretion, suspend or terminate the appointment at any time if the SMEs Go Digital Pre-Approval Vendor is in default of any of these Terms and Conditions without issuing any prior notice or warning to the SMEs Go Digital Pre-Approval Vendor.

## **9. Compliance with Applicable Laws**

- 9.1 The Applicant/SMEs Go Digital Pre-Approval Vendor shall comply with all applicable laws and regulatory requirements.

## **10. Suspension and Termination of Appointment**

- 10.1 IMDA may, in its absolute discretion, terminate or suspend an appointment, if it is satisfied that the SMEs Go Digital Pre-Approval Vendor:
  - a. obtains the appointment by making or causing any false or fraudulent declaration, certification, or representation, either in writing or otherwise;
  - b. gives and/or declares false, misleading, misrepresented, or inaccurate information to IMDA;
  - c. receives 3 or more warning letters from IMDA;
  - d. fails to resolve customers complaints in a timely manner
  - e. fails to maintain or causes IMDA to suspect that the SMEs Go Digital Pre-Approval Vendor failed to maintain a standard that complies with the Programme Requirements;
  - f. fails to submit or make any declaration required under the Programme Documents;



- g. contravenes or fails to comply with any of the terms and conditions issued to the SMEs Go Digital Pre-Approval Vendor including but not limited to the SMEs Go Digital Pre-Approval Brand User Guide issued by IMDA under Clause 12 below;
  - h. fails to provide access to facilities, documents and/or personnel, or to comply with any other requirement imposed by IMDA, as may be reasonable and necessary to enable evaluators to perform their assessment and/or evaluation under these Terms and Conditions;
  - i. fails to rectify any default of these Terms and Conditions or such other requirements imposed by IMDA in connection with SMEs Go Digital Pre-Approval within the agreed time frame;
  - j. fails to pay all necessary fees payable and/or imposed by IMDA from time to time in a timely manner;
  - k. contravenes any applicable laws or regulations;
  - l. the initiation by the relevant authorities of any investigation into any alleged wrongdoing by the Applicant/SMEs Go Digital Pre-Approval Vendor and/or its officers in relation to the affairs of the Applicant/SMEs Go Digital Pre-Approval Vendor;
  - m. suffers a cyberattack or cybersecurity breach, or is the subject of investigations arising out of or in connection with cyberattacks or cybersecurity breaches, or
  - n. is for any other reason in IMDA's sole and absolute discretion, deemed unfit to continue to be appointed as an SMEs Go Digital Pre-Approval Vendor and/or its act or omission brings IMDA, SMEs Go Digital Pre-Approval, or the information communications and media industry into disrepute.
- 10.2 IMDA may, in its absolute discretion, terminate an appointment without cause by giving the SMEs Go Digital Pre-Approval Vendor thirty [30] days of prior written notice.
- 10.3 The SMEs Go Digital Pre-Approval Vendor will be informed in writing by IMDA of the suspension or termination of appointment. The letter will be sent to the contact address of the SMEs Go Digital Pre-Approval Vendor provided to IMDA.
- 10.4 The SMEs Go Digital Pre-Approval Vendor with a suspended appointment may have its appointment status reinstated, subject to any evaluations and/or conditions that IMDA may impose.
- 10.5 IMDA may, at any time and for such reason as it deems fit, vary the period for which the appointment has been suspended.
- 10.6 The SMEs Go Digital Pre-Approval Vendor may voluntarily withdraw its appointment by giving at least thirty (30) days of prior written notice to IMDA.
- 10.7 Once the SMEs Go Digital Pre-Approval Vendor is notified by IMDA that its appointment has been suspended or terminated or the SMEs Go Digital Pre-Approval Vendor voluntarily withdraws its appointment, the SMEs Go Digital Pre-Approval Vendor shall:



- a. immediately cease to hold itself out as and/or refer to itself as an SMEs Go Digital Pre-Approval Vendor;
- b. within fourteen (14) days notify its customers that it is no longer an SMEs Go Digital Pre-Approval Vendor;
- c. immediately cease its use of the Confidential Information and shall act in accordance with the said notice to return all copies of the Confidential Information;
- d. within fourteen (14) days return the original SMEs Go Digital Pre-Approval Appointment Letter to IMDA;
- e. immediately remove the SMEs Go Digital Pre-Approval Brand Mark from its official website;
- f. within fourteen (14) days cease to use marketing collateral with the SMEs Go Digital Pre-Approval Brand Mark or otherwise use the SMEs Go Digital Pre-Approval Brand Mark in any form or medium;
- g. Within thirty (30) days of such notification or withdrawal, confirm to IMDA that it has:
  - i. destroyed all such marketing collateral bearing the SMEs Go Digital Pre-Approval Brand Mark; and
  - ii. ceased the use of the SMEs Go Digital Pre-Approval Brand Mark in any form or medium.

10.8 Where pursuant to these Terms and Conditions, the SMEs Go Digital Pre-Approval Vendor has been appointed, or the appointment suspended or terminated by the IMDA, or withdrawn by the SMEs Go Digital Pre-Approval Vendor, IMDA may at its discretion publish a notification of the appointment, suspension, termination, or withdrawal.

10.9 Termination of the appointment of an SMEs Go Digital Pre-Approval Vendor by IMDA (pursuant to any provision of the Terms and Conditions or any Programme Documents), or the expiration of the Appointment Period of the SMEs Go Digital Pre-Approval Vendor shall not:

- a. release the said SMEs Go Digital Pre-Approval Vendor from any obligation or liability which, at the time of such termination or expiration, has already accrued or which is attributable to a period prior to such termination or expiration of the Appointment Period, and shall include, without limitation, the Vendor's obligations in respect of all approved grant applications (of companies that purchase digital solution(s) from the Vendor) to complete all outstanding projects as soon as possible and to meet all delivery and quality standards in respect of the same in accordance with the Programme Documents, such that the SMEs/companies involved are able to fully complete their grant claims; nor
- b. preclude IMDA from pursuing any rights and remedies it may have under the Programme Documents or at law or in respect to any breach of the terms of the Programme Documents by the SMEs Go Digital Pre-Approval Vendor.

## **11. Access to Records, Information and Documents**

### **11.1 The SMEs Go Digital Pre-Approval Vendor shall:**

- a. upon five (5) working days' prior written notice from IMDA, permit IMDA, funding agencies, and/or their appointed agents full and free access to its place of operation, sites of deployment, assets acquired for the purposes of SMEs Go Digital Pre-Approval; and
- b. within seven (7) working days from IMDA's written request, provide all relevant information in written form,

as may be required for the purpose of monitoring SMEs Go Digital Pre-Approval (including the benefits derived post implementation), any investigations (including suspected fraud or abuse of the SMEs Go Digital Pre-Approval) and conducting the Evaluation(s).

### **11.2 The SMEs Go Digital Pre-Approval Vendor shall allow IMDA, funding agencies and/or their appointed agents to inspect, copy or make extracts from such registers, statements, books, documents, papers, and information for the aforesaid purposes.**

### **11.3 For avoidance of doubt, "funding agencies" refers to the government agencies who give out grants or other funding support to companies that purchase digital solutions from the SMEs Go Digital Pre-Approval Vendor.**

## **12. Use of the SMEs Go Digital Pre-Approval Brand Mark**

### **12.1 Only the appointed SMEs Go Digital Pre-Approval Vendors are entitled to use the SMEs Go Digital Pre-Approval Brand Mark, provided always that such use is:**

- a. Solely in connection with the promotion and conduct of the offering of Pre-Approved Solution the SMEs Go Digital Pre-Approval Vendor provides in relation to the SMEs Go Digital Pre-Approval; and
- b. In accordance with these Terms and Conditions and the SMEs Go Digital Pre-Approval Brand User Guide.

### **12.2 A copy of the SMEs Go Digital Pre-Approval Brand User Guide that specifies the application of the SMEs Go Digital Pre-Approval Brand Mark appropriately and correctly across all communications platforms may be provided by IMDA to the SMEs Go Digital Pre-Approval Vendor upon appointment.**

### **12.3 The SMEs Go Digital Pre-Approval Vendor may use the SMEs Go Digital Pre-Approval Brand Mark on a variety of communication materials such as brochures, advertisements and website in accordance with these Terms and Conditions and the SMEs Go Digital Pre-Approval Brand User Guide. Save as expressly permitted in these Terms and Conditions and the SMEs Go Digital Pre-Approval Brand User Guide, the SMEs Go Digital Pre-Approval Vendor shall not state or imply, in any form, in its marketing publications that the Pre-Approved Solution is so approved or any other referrals to imply endorsement by IMDA on the Pre-Approved Solution.**

- 12.4 The appointment as an SMEs Go Digital Pre-Approval Vendor is not tantamount to endorsement or recognition by IMDA of the fitness for purpose or satisfactory quality of digital solution provided by the SMEs Go Digital Pre-Approval Vendor. Nothing in this section affects the scope of the SMEs Go Digital Pre-Approval Vendor's statutory duties, including but not limited to the statutory duties as defined in the Sale of Goods Act 1979 and Supply of Goods Act 1982.
- 12.5 The SMEs Go Digital Pre-Approval Vendor shall immediately discontinue the use of the SMEs Go Digital Pre-Approval Brand Mark upon the expiry, suspension, or termination of the appointment.
- 12.6 The right to use the SMEs Go Digital Pre-Approval Brand Mark does not extend to any other marks of IMDA. Any goodwill attaching to the SMEs Go Digital Pre-Approval Brand Mark from the SMEs Go Digital Pre-Approval Vendor's use shall inure to the benefit of IMDA.
- 12.7 The Applicant/ SMEs Go Digital Pre-Approval Vendor shall not:
- a. Challenge IMDA as to the sole, absolute or exclusive owner of all right, title and interest in the SMEs Go Digital Pre-Approval Brand Mark and the goodwill associate therewith;
  - b. Challenge the validity, control or use of the SMEs Go Digital Pre-Approval Brand Mark;
  - c. Register, use, adopt or promote any mark that is confusing or similar to the SMEs Go Digital Pre-Approval Brand Mark;
  - d. Take or encourage any action which would impair the rights of IMDA in and to the SMEs Go Digital Pre-Approval Brand Mark or any goodwill associated therewith;  
or
  - e. Infringe the SMEs Go Digital Pre-Approval Brand Mark or any other marks owned by IMDA.
- 12.8 In addition to IMDA's rights arising under these Terms and Conditions, IMDA reserves the right to take such civil and/or criminal action against any person or party who misuses or misrepresents the SMEs Go Digital Pre-Approval Brand Mark in any way.

### **13. Undertakings of the Applicant/SMEs Go Digital Pre-Approval Vendor**

- 13.1 The Applicant/ SMEs Go Digital Pre-Approval Vendor shall furnish to IMDA in a timely manner all relevant information and documentation relating to the Applicant's/ SMEs Go Digital Pre-Approval Vendor's solution for the purpose of IMDA's evaluation of the application for appointment as an SMEs Go Digital Pre-Approval Vendor.
- 13.2 The SMEs Go Digital Pre-Approval Vendor shall inform IMDA forthwith if, at any time, it becomes unable to perform its obligations as set out in these Terms and Conditions or Programme Documents.

13.3 The Applicant/ SMEs Go Digital Pre-Approval Vendor warrants and undertakes to the IMDA that:

- a. the Applicant/ SMEs Go Digital Pre-Approval Vendor shall not contravene any applicable laws or regulations or cause IMDA to be in breach of any applicable laws or regulations in the course of its appointment as an SMEs Go Digital Pre-Approval Vendor;
- b. the Applicant/ SMEs Go Digital Pre-Approval Vendor's Pre-Approved Solution does not violate or infringe any intellectual property right, or any right of privacy or publicity of any third party or any other right of any person or entity;
- c. the Applicant/SMEs Go Digital Pre-Approval Vendor will immediately notify IMDA of any material changes to any information provided in connection with the Applicant's/SMEs Go Digital Pre-Approval Vendor's participation in SMEs Go Digital Pre-Approval programme including but not limited to any changes in the Applicant's/SMEs Go Digital Pre-Approval Vendor's legal entity, financials, location, business type, or Pre-Approved Solution offered;
- d. it will keep a record of any material defects reported to and remedial actions taken by the Applicant/ SMEs Go Digital Pre-Approval Vendor, if any, relating to the Pre-Approved Solution and make such record available to IMDA when requested;
- e. it will keep a record of all material feedback, complaints, and remedial actions, if any, relating to the Pre-Approved Solution and make such record available to IMDA when requested;
- f. comply with such other requirement or conditions as may be stipulated by the IMDA and/or the relevant authorities from time to time.

#### **14. Confidentiality**

14.1 Save as provided herein, all information, materials and documents supplied by the Applicant/SMEs Go Digital Pre-Approval Vendor to IMDA under SMEs Go Digital Pre-Approval shall be treated as Confidential Information. For the avoidance of doubt, Confidential Information shall NOT include any of the following:

- a. Information that was already known to or in the possession of IMDA prior to disclosure by the Applicant/SMEs Go Digital Pre-Approval Vendor;
- b. Information which is independently learned or developed by IMDA without use of any of the information disclosed by the Applicant/ SMEs Go Digital Pre-Approval Vendor to IMDA under SMEs Go Digital Pre-Approval;
- c. Information which is received by IMDA from a third party who has the right to disclose such information and/or who is not bound by duties or obligations of confidentiality to the Applicant/SMEs Go Digital Pre-Approval Vendor;
- d. Information that is or becomes publicly available without the IMDA's breach of these Terms and Conditions; and

- e. Information that the Applicant/ SMEs Go Digital Pre-Approval Vendor has given or gives its written authorisation for release or use.

14.2 Subject always to Clause 14.3 below, IMDA agrees and undertakes:-

- a. not to directly or indirectly disclose or make available any Confidential Information, in whole or in part, to any person or party whom the Applicant/ SMEs Go Digital Pre-Approval Vendor notifies IMDA in writing, or who is not expressly authorised to receive such information pursuant to or in accordance with these Terms and Conditions;
- b. to take reasonable precautions to prevent unauthorised access to Confidential Information by any person or party by using at least the same protective measures as are used by the Applicant/SMEs Go Digital Pre-Approval Vendor to protect its own confidential and/or proprietary information and in any event, not less that at a reasonable standard of care; and
- c. to notify the Applicant/SMEs Go Digital Pre-Approval Vendor in writing as soon as reasonably practicable upon discovery of any unauthorised use or disclosure of Confidential Information by IMDA, and to co-operate with Applicant/SMEs Go Digital Pre-Approval Vendor in a reasonable way to help the Applicant/ SMEs Go Digital Pre-Approval Vendor regain possession of the Confidential Information, and prevent further unauthorised use and/or disclosure of the same.

14.3 IMDA may use the Confidential Information or disclose the same:

- a. To evaluate the Applicant's/ SMEs Go Digital Pre-Approval Vendor's compliance with the requirements of the SMEs Go Digital Pre-Approval, including but not limited to the purposes of the Evaluation referred to in Clause 5 and investigations (including suspected fraud or abuse of the SMEs Go Digital Pre-Approval);
- b. To monitor or benchmark the Applicant's/ SMEs Go Digital Pre-Approval Vendor's performance and/or the performance of SMEs Go Digital Pre-Approval;
- c. To perform any of its rights, obligations and/or responsibilities under these Terms and Conditions;
- d. To facilitate the performance of (a), (b) and/or (c) above by a third party appointed by IMDA for the purposes of SMEs Go Digital Pre-Approval;
- e. With the prior written consent of the Applicant/SMEs Go Digital Pre-Approval Vendor but subject to any terms and/or limitations which may be imposed by the Applicant/SMEs Go Digital Pre-Approval Vendor for such disclosure;
- f. If required to do so pursuant to any law or regulation, subpoena, order of court or pursuant to other judicial or administrative process, except that IMDA shall give prompt notice of any such impending disclosure to the Applicant/SMEs Go Digital Pre-Approval Vendor; or
- g. To such of its officers, employees and/or professional advisors who need to know the same for the purpose(s) of SMEs Go Digital Pre-Approval or for seeking advice

on any matter arising out of these Terms and Condition or SMEs Go Digital Pre-Approval provided that IMDA shall ensure that any of its officers, employees and professional advisors to whom Confidential Information is to be disclosed are made aware of, and agree to abide by the confidentiality obligations in these Terms and Conditions before any disclosure to them is made.

- h. To the Government of Singapore, provided always that where such information consists of the source codes, schematics and any information that is expressly marked as “proprietary”, IMDA will first seek written consent of the ICM vendor before sharing with the Government of Singapore

14.4 IMDA shall not be liable for any damages or losses suffered by the Applicant/SMEs Go Digital Pre-Approval Vendor as a result of any disclosure of information by IMDA other than due to the wilful default or gross negligence of IMDA or its representatives.

14.5 The Applicant/SMEs Go Digital Pre-Approval Vendor, its staff and agents shall keep confidential and shall not disclose to any third party:

- a. information relating to its application for the appointment as an SMEs Go Digital Pre-Approval Vendor, until such appointment is made or rejected by IMDA; and
- b. all correspondences between the Applicant/SMEs Go Digital Pre-Approval Vendor and IMDA.

## 15. Exclusion and Limitation of Liability

15.1 IMDA shall in all events not be liable to the Applicant/ SMEs Go Digital Pre-Approval Vendor and its proprietors, directors, shareholders, officers, employees, personnel, agents or contractors for any claims, expenses, losses or damages (including solicitors’ fees) whether direct or indirect suffered by the Applicant/ SMEs Go Digital Pre-Approval Vendor or and its proprietors, directors, shareholders, employees, personnel, agents or contractors (whether such claims, expenses, losses or damages have been informed by Applicant/SMEs Go Digital Pre-Approval Vendor to the IMDA) as a consequence of:

- a. the SMEs Go Digital Pre-Approval Vendor’s appointment, the Evaluation and/or as a result of the assessment of the Applicant/ SMEs Go Digital Pre-Approval Vendor’s compliance with the Programme Requirements by IMDA; or
- b. IMDA’s refusal to appoint, suspend or terminate the appointment, for any reason whatsoever.

15.2 In the event that IMDA is found liable by the operation of the law, the maximum amount of IMDA’s liability shall be limited to the fees paid by the Applicant/SMEs Go Digital Pre-Approval Vendor to IMDA for SMEs Go Digital Pre-Approval.

## 16. Indemnity

16.1 The Applicant/ SMEs Go Digital Pre-Approval Vendor agrees and undertakes to indemnify IMDA and its directors, shareholders, officers, employees, personnel, agents



or contractors fully against all claims, expenses, losses or damages (including solicitors' fees) suffered by IMDA including but not limited to all claim(s) by any third parties against IMDA ("**3P Claims**"), arising from the Applicant/ SMEs Go Digital Pre-Approval Vendor appointment and/or the Applicant/SMEs Go Digital Pre-Approval Vendor's breach of these Terms and Conditions.

## **17. Governing Law and Dispute Resolution**

17.1 These Terms and Conditions shall be governed by and construed in accordance with the laws of the Republic of Singapore.

17.2 Any dispute arising out of or in connection with these Terms and Conditions, including any questions regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in the English language by a sole arbitrator in accordance with the arbitration rules of the Singapore International Arbitration Centre for the time being in force which rules are deemed to be incorporated by reference to this Clause 17.2.

## **18. Miscellaneous**

18.1 The invalidity, illegality or unenforceability of any part of these Terms and Conditions shall not affect the validity, legality and enforceability of the other parts of these Terms and Conditions.

18.2 No third party shall have any right to enforce any of the provisions under the Contracts (Right of Third Parties) Act 2001.

18.3 Clauses 11, 15 and 16 herein shall survive termination or expiry of these Terms and Conditions.

18.4 These Terms and Conditions together with the Programme Documents form the entire agreement between the Applicant/SMEs Go Digital Pre-Approval Vendor and IMDA with respect to the matters stated herein.