

## VIGILANT ASIA SERVICE AGREEMENT

This Service Agreement (“**Agreement**”) set forth the terms and conditions under which Vigilant Asia (M) Sdn Bhd (“**Vigilant Asia**”) shall supply the Service to Customer. By executing the Sales Order, Customer confirms its acceptance and agreement to be bound by the terms and conditions of this Agreement.

### 1. Definitions & Interpretation

1.1 The following expressions shall have the following meanings unless the context otherwise requires:

“**Application**” means all software, web-based service and sensors provided or procured by Vigilant Asia (or Customer pursuant to Annex 1) for the purposes of the Service.

“**Approvals**” has the meaning set out in Clause 4.2.1.

“**Confidential Information**” means (i) the fact of and the content of any discussions between the parties, (ii) any information of a confidential, private or proprietary character or nature belonging to either party, (iii) any and all information in connection with this Agreement which is disclosed, furnished or communicated to the receiving party or a third party acting on its behalf in connection with this Agreement, and information otherwise received or accessible to the receiving party as a result of this Agreement and evaluations and discussions relating thereto including, but not limited to information concerning any Data, personnel information, any method or methodology, any policy, practice, procedure, process, documents, notifications, intellectual property and proprietary rights, whether registered or registrable, economic, technical information or know-how and data, designs, drawings, specifications, object codes, software tools, software libraries, source codes, system architecture, concepts, reports, techniques, operations, devices and the like, trade information, financial and budgetary information, quotations, prices, commercial documentation, existing and potential business plans, and information in relation to development and production requirements, whether communicated in writing, orally, electronically, photographically, or in recorded or any other form of media and also includes information communicated or obtained through meetings, exchange of sight of documents, presentations, exhibits, telephone calls or correspondence between the parties and whether or not marked or otherwise identified as confidential, the terms of this Agreement and any agreement reached by the parties or proposed by any party (whether agreed or not) in connection with this Agreement, and any other information relating to the disclosing party or its customers, suppliers or partners to which the receiving party has gained access by reason directly or indirectly of this Agreement.

“**Customer**” means the party so described in the Sales Order.

“**Customer Employees**” has the meaning set out in Clause 14.3.

“**Customer Network**” means the network and facility Customer or Third Party User makes available to Vigilant Asia including Customer’s or Third Party User’s network, servers, applications and databases, for the purposes of the Service and which shall be further described in the Sales Order, Service Catalogue and other relevant documentation including the deployment sign-off).

“**Data**” means data collected and processed by Vigilant Asia including information system events, metadata, technical and evidential information for the purposes of anomaly detection and analytics in accordance with regulatory and compliance framework, Personal Data, corporate data and other information of Vigilant Asia, Customer or Third Party User whether commercial, financial, technical or otherwise (whether oral, in writing, machine readable or in any other form).

“**Data Subject**” means the person to whom the Personal Data relates.

“**Deliverables**” means the deliverables pursuant to the Service including those identified in the Sales Order.

“**Developed IP**” has the meaning set out in Clause 13.3.

“**Dispute**” has the meaning set out in Clause 29.

“**Event of Force Majeure**” has the meaning set out in Clause 19.1.

“**Fees**” means the fees for the managed security services as specified in the Sales Order.

“**Intellectual Property**” includes any and all intellectual and industrial property rights throughout the world, whether subsisting now or in the future, including rights of any kind in:

- (a) inventions, discoveries and novel designs, whether or not registered or registrable as patents, innovation patents or designs, including developments or improvements of equipment, technology, processes, methods or techniques;
- (b) literary works, dramatic works, musical works, artistic works, cinematograph films, sound recordings, television broadcasts, sound broadcasts, published editions of works, databases and any other subject matter in which copyright (including future copyright and rights in the nature of or analogous to copyright) may, or may upon creation of the subject matter, subsist anywhere in the world;
- (c) registered and unregistered trade marks and service marks, including goodwill in the business concerned in the relevant goods and/or services;
- (d) trade, business or company names;
- (e) ideas, discoveries, trade secrets or know-how; and
- (f) internet domain names;

whether created or in existence before or after the date of this Agreement and includes any thing, whether tangible or intangible, which incorporates, embodies or is based on any of the things referred to in clauses (a) to (f) inclusive of this definition.

“**Payment Due Date**” has the meaning set out in Clause 5.1.

“**Personal Data**” means any information which may directly or indirectly identify any individual.

“**Sales Order**” means the sales/work order issued by Vigilant Asia to Customer for the purchase and supply of the Service and the attachments thereto, as may be varied, supplemented, renewed or extended from time to time by a variation order or supplemental order duly signed off by Vigilant Asia and/or renewed or extended in writing by vigilat Asia. The Sales Order shall contain, *inter alia*, the description of the Service, scope of the Service, Service Levels, Customer Network, Technical Environment, Deliverables, Fees and other amounts payable by Customer in respect of the Service and shall include attachments thereto.

“**Service**” means the services that Vigilant Asia has agreed to provide to Customer for the purposes of internal use by Customer and/or Third Party User as set forth in the Sales Order and as further detailed in the Service Catalogue and all other relevant documentation (including the deployment sign-off), and includes Updates.

“**Service Catalogue**” means the service catalogue prepared by

Vigilant Asia for and in connection with the Service which contains, *inter alia*, further details on the on the scope of the Service, service levels, support services and customer representative responsibilities as may be varied and supplemented by Vigilant Asia from time to time.

“**Service Levels**” means the service levels to be met by Vigilant Asia as set forth in the Sales Order, Service Catalogue and/or Deployment Sign-Off and as measured solely by Vigilant Asia’s internal monitoring systems.

“**Technical Environment**” means Customer’s or Third Party User’s computer system and related system software, which is necessary for the Service to operate and which shall be in accordance with the specifications described in the Sales Order, Service Catalogue and any other relevant documentation (including the deployment sign-off) or as further specified by Vigilant Asia from time to time.

“**Term**” has the meaning set out in Clause 6.

“**Territory**” means the territory described in the Sales Order.

“**Third Party User**” has the meaning set out in Clause 2.5.

“**Updates**” means fixes for the tools or software used for the Service that are not working as intended by Vigilant Asia or minor software enhancement and capabilities, and which are designated by Vigilant Asia as an Update.

“**Vigilant Asia IP**” means all products, systems and materials including but not limited to the Service, Application, Updates, Deliverables, computer programs, source codes, object codes, software tools, software libraries, software engines, system framework, system architecture, business process flows, documentations (including data, diagrams, charts, reports, specifications, sketches, inventions and working papers or similar materials thereto), etc. and any other items owned by or licensed to Vigilant Asia.

“**Working Days**” means Monday to Friday of each week save for national and public holidays in Malaysia.

“**Zero-Day Event**” means a zero day event, also known as zero-hour or 0-day or day zero, and refers to a vulnerability, which is an undisclosed computer-software vulnerability that a person can exploit to adversely affect any computer programme, data, computer or a network.

1.2 In this Agreement, unless the context otherwise requires:

1.2.1 Words importing the singular include the plural and vice-versa, words importing a gender include every gender and references to persons include bodies corporate and unincorporate.

1.2.2 References to Clauses are to clauses in to this Agreement. The headings to the Clauses do not affect the interpretation of this Agreement. The Sales Order, and Service Catalogue are an essential part of this Agreement.

1.2.3 A reference to a statute or any provision thereof include any modification, extension, re-enactment or replacement thereof in force at a particular time and all regulations, rules, orders, directives, notices and other instruments then in force and made under that statute.

1.2.4 No rule of construction applies to the disadvantage of a party because that party or its solicitor prepared this Agreement or any part of it.

1.2.5 Reference to an agreement or document includes any schedules and appendices to the agreement or

document, the relevant agreement or document as amended, supplemented or novated from time to time, and any document which amends, waives, is supplemental to or novates the terms of the relevant agreement or document.

1.2.6 Reference to a party to a document includes that party’s successors and permitted assigns.

1.2.7 The word “including” wherever used shall not imply any limitation and shall be deemed to be followed by the words “without limitation”.

1.2.8 References to time and date refer to Malaysian time and date.

1.3 References to “**Agreement**” herein shall means this Agreement, the Sales Order, the Service Catalogue, Annex 1 and any other documentation prepared by Vigilant Asia for or in connection with the Service, all of which shall be read and construed together as one document. However, in the event of ambiguity, discrepancy, conflict or inconsistency between the terms in the body of this Agreement, Sales Order, Service Catalogue, Annex 1 and the other relevant documentation, the order of precedence in resolving such ambiguity, discrepancy, conflict or inconsistency shall be in accordance with the following order, with sub-clause 1.3.1 ranking highest in terms of precedence and sub-clause 1.3.5 ranking the lowest, save as specifically stated otherwise in a particular document:

1.3.1 Sales Order;

1.3.2 Service Catalogue

1.3.3 the body of this Agreement;

1.3.4 Annex 1; and

1.3.5 other relevant documentation.

## 2. Service

### Service

2.1 Subject to the terms and conditions set forth in this Agreement and in consideration of the full payment of all amounts payable by Customer under the Sales Order including the Fees, Vigilant Asia shall provide to Customer the Service in the Territory only for the purposes of internal use by Customer and Third Party User (if specified in the Sales Order) only and not for any other purpose. As part of the Service, Vigilant Asia shall:

2.1.1 develop, configure and provide the Service in accordance with the specifications and features outlined in the Sales Order and Service Catalogue;

2.1.2 provide the installation and deployment services in accordance with the Sales Order and Service Catalogue; and

2.1.3 procure the licence to utilise the Application, if necessary, in accordance with Clause 3.

2.2 The provision of the Service (including the procurement of any licence to the Application) by Vigilant Asia under this Agreement excludes use of or access to any source code.

2.3 If Customer or Third Party User wishes to use the Service in any territory outside the Territory, Customer shall obtain prior written

approval from Vigilant Asia, and once approved, agrees to pay the additional fees to be agreed by the parties.

- 2.4 Nothing contained in this Agreement shall be construed to convey any Intellectual Property to Customer or third party.

#### *Special Terms*

- 2.5 If the Service is provided to a third party and/or affiliates and related companies as stated in the Sales Order ("**Third Party User**"), the terms set out in **Annex 1** shall also apply to the Service.

#### *Updates*

- 2.6 From time to time during the Term, Vigilant Asia may provide Updates. However, failure to pay the Fees or any other amount specified in the Sales Order will result in the immediate cessation of all Updates. Customer acknowledges that such Updates may result in changes the appearance or functionality of the Service and may not be compatible with the Customer's or Third Party User's or third party software or services. Vigilant Asia does not guarantee the suitability of the Update or its quality and function and shall not be liable for any loss, damage or disruption directly or indirectly caused by the Update.

#### *Service Levels*

- 2.7 Vigilant Asia shall use reasonable endeavours to provide the Service in accordance with the Service Levels. Any request or necessity to exceed the limits or levels described in the Service Levels will be considered a request for additional services for which additional fees may be payable by Customer.

- 2.8 The Service Levels do not apply and Vigilant Asia shall not be responsible to the Customer and the Third Party User for any failure resulting from:

2.8.1 misuse or misconduct of Customer or Customer Employees or a third party;

2.8.2 failure or deficient performance of power, Customer Network, Technical Environment, hardware, software or systems not provided by Vigilant Asia;

2.8.3 outages or failure of Service resulting from scheduled maintenance that may affect availability of all or any part of the Service;

2.8.4 delay caused or requested by Customer or a third party;

2.8.5 Service interruptions, deficiencies, degradations or delays due to any access lines, cabling or equipment or telecommunications link provided by Customer or a third party;

2.8.6 Service interruptions, deficiencies, degradations or delays during any period in which Vigilant Asia or its representatives are not afforded access to the Customer Network;

2.8.7 Service interruptions, deficiencies, degradations or delays caused by an Event of Force Majeure; or

2.8.8 Zero-Day Event.

#### *Training*

- 2.9 Customer may request training for the Service from Vigilant Asia. Any such request will be considered a request for additional services for which additional fees may be payable by Customer.

### **3. Grant of Licence**

- 3.1 Subject to the terms and conditions set forth in this Agreement and in consideration of the full payment of the amounts specified in the Sales Orders, Vigilant Asia shall procure a limited, non-exclusive, non-transferable, non-assignable licence for Customer to access and use the Application together with any documentation solely as part of the Service and insofar as this is necessary for the proper utilization of the Service and only as expressly permitted in this Agreement and for the duration of the Term.

- 3.2 The licence procured by Vigilant Asia to Customer is subject to additional terms as may be imposed by Vigilant Asia or its licensor including the terms of the open source licences governing the components included in the Application, any additional licensing restrictions and limitations specified by Vigilant Asia or its licensor and the limitations set out in Clause 4. Any third party Application delivered to Customer under this Agreement are provided in accordance with the corresponding third party licence(s). Vigilant Asia shall have no liability for Customer use of any third party Application.

- 3.3 Customer acknowledges and agrees that the Service may be dependent on the use of the Application and therefore undertakes to comply with all requirements referred to in Clause 3.2 and this Agreement, and ensure that the licence remains valid and in effect throughout the Term.

### **4. Service Restrictions and Customer's Undertakings**

- 4.1 Unless expressly permitted under this Agreement or otherwise agreed by Vigilant Asia in writing, Customer and Third Party User shall not, directly or indirectly, do any of the following or allow or cause any third party to do any of the following:

4.1.1 (i) resell, redistribute, market, sublease, sublicense, or otherwise transfer in whole or in part the Service (including the Application); (ii) capture, copy, duplicate, modify or translate any aspect of the Service (except for temporary copies for facilitating a technical computing process); (iii) reverse engineer, decompile, or disassemble or otherwise uncover the source code of the Service, (iv) create derivative works based on the Service, (v) merge the Service with another product for any reason whatsoever unless expressly allowed by Vigilant Asia;

4.1.2 hack, infiltrate or otherwise do any thing which may compromise the Service in any manner;

4.1.3 authorise any other person to do any act which would, if that act were to be done by Customer, infringe any Intellectual Property of Vigilant Asia or its licensors;

4.1.4 use the Service in a manner that implies that Customer and Vigilant Asia have any connection other than that of principal and independent contractor;

4.1.5 tamper with any technical security measures which has been implemented in connection with the Service;

4.1.6 delete, uninstall, reconfigure, modify the Service or any aspect thereof, including the hardware, Applications and related equipment and software, and

4.1.7 use the Service in any way that is unlawful, illegal, fraudulent or harmful or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity. An "unlawful, illegal, fraudulent or harmful purpose or activity" for the purposes of this clause includes the

transmission, storage or distribution of any information, data, material or code that is obscene, defamatory or constitutes an illegal threat or that is otherwise in violation of any applicable law, statute, rule or other regulation;

4.1.8 use the Service for any malicious purposes or in any way that would affect the enjoyment of the Service by any other person.

4.2 Customer shall:

4.2.1 comply with all applicable laws and requirements in respect of receiving, deploying and making use of the Service, including obtaining all necessary approvals, licences, acceptance, consents, permits, clearance and similar action ("**Approvals**");

4.2.2 provide Vigilant Asia promptly with any information which Vigilant Asia may require from time to time to enable Vigilant Asia to proceed uninterrupted with the performance of this Agreement, and update Vigilant Asia in writing on any changes in such information. Customer shall be solely responsible for any consequences caused by failure or delay in providing or updating such information;

4.2.3 be responsible for ensuring that its own systems and equipment including Customer Network comply with the Technical Environment and other technical requirements as specified by Vigilant Asia that are necessary to use the Service, and prevent itself from the risk of losing data, files and programs by making regular backups and using antivirus software updated regularly;

4.2.4 ensure that any content, data, documentation or materials provided to Vigilant Asia (including Data) is:

- (a) complete, correct and accurate;
- (b) provided in accordance with all applicable laws; and
- (c) provided with the consents and authorisations as are necessary to permit Vigilant Asia to use such data for the purposes of this Agreement;

4.2.5 supervise, control and be responsible for (a) the use of the Service by Customer Employees and; (ii) the content or information provided by Customer Employees in connection with the Service, and its transmission;

4.2.6 keep any devices or hardware, which are required to be installed for the provision of the Service, secure and to ensure that adequate measures are maintained to safeguard the Service from unauthorized access, use or copying;

4.2.7 comply with all instructions and directions given by Vigilant Asia from time to time in respect of the Service and this Agreement; and

4.2.8 enter into appropriate supply and support/maintenance agreements with the third party suppliers as may be identified in the Sales Order for the supply and support/maintenance of hardware or third party software deemed by Vigilant Asia to be necessary for the Service. For the avoidance of doubt, there is no agency or partnership relationship between Vigilant Asia and the third party supplier.

4.3 In the event Customer fails to comply with any of the requirements under this Clause 4 or this Agreement, Vigilant Asia has the right to immediately suspend or discontinue the provision of the Service to Customer.

## 5. Payment

5.1 Customer shall pay Vigilant Asia the Fees and all other amounts in accordance with the Sales Order, including the payment timelines specified therein ("**Payment Due Date**").

5.2 Unless otherwise expressly specified by Vigilant Asia, all Fees and amounts specified as payable by Customer in the Sales Order hereunder are exclusive of all applicable taxes, levies, duties, retentions, fees, fiscal charges and withholding taxes imposed by any government which shall be borne by Customer.

5.3 Without prejudice to any other right or remedy of Vigilant Asia, including the right to terminate this Agreement, in the event that any invoiced amount is not paid by the Payment Due Date, such sums shall bear interest from day to day at a monthly rate of interest equal to 1.5%, commencing from the Payment Due Date until such time that payment in full is made to Vigilant Asia. All charges and expenses incurred to collect outstanding amounts from Customer, including but not limited to attorney fees and legal expenses, shall be borne by Customer.

5.4 Customer shall have no right of set off in relation to any monies due by Vigilant Asia to Customer.

## 6. Term

6.1 This Agreement shall come into effect on the date the Sales Order is accepted and executed by Customer and shall continue for as long as the Sales Order is in effect unless earlier terminated in accordance with Clause 17 of this Agreement (the "**Term**").

6.2 Termination or expiration in whole or in part of this Agreement does not affect those clauses, provisions and obligations which by their nature survive or are capable of surviving termination or expiry.

## 7. Disclaimer

7.1 Except as otherwise expressly provided in this Agreement, the Service and any other information or materials provided by Vigilant Asia under this Agreement are provided "AS IS" and without any warranty of any kind and Customer acknowledges and understands that:

7.1.1 the scope of Service is as specified in the Sales Order and the Service Catalogue;

7.1.2 it is Customer's responsibility that the Service is utilised by Customer pursuant to the requirements or specifications provided by Vigilant Asia;

7.1.3 except for the Service Levels, the Service may not meet any specific levels and may not be timely, secure or free of interruptions, errors or bugs, and the existence of any minor errors or bugs shall not constitute a breach of this Agreement;

7.1.4 the Service is intended for use on the Technical Environment only;

7.1.5 the Service will only cover Customer Network;

7.1.6 the Service including any content, data, information or reports generated therefrom is not designed to provide advice or recommend courses of action in respect of Customer's or any third party's business. The content, data, information and reports generated from the Service are for general information only and do not in any way constitute professional advice or the provision of professional services, and shall not be relied on as such. Customer assumes the entire risk of relying on any content, data, information or reports generated from

the Service;

application to the Service or act or omission of Customer or any third party (including Third Party User); or

- 7.1.7 the provision of the Service is dependent on a stable internet connection and any downtime or unavailability of the Service which results from internet outages, disruptions to telecommunication lines, electricity cuts or other outages of a similar nature shall not be deemed to be a breach of Vigilant Asia of its obligations under this Agreement;
  - 7.1.8 the need for routine maintenance and error correction may result in down time of the Service and such down time may occur without any prior notice given to Customer or Third Party User; and
  - 7.1.9 Vigilant Asia may from time to time procure from third parties certain software, hardware or other equipment items on behalf of Customer or in order to provide the Service. Customer acknowledges that Vigilant Asia is not the manufacturer of such items. With the exception of the manufacturer's or licensor's warranties which Vigilant Asia is able to pass through for Customer's benefit, such items are provided AS IS, without warranty.
- 7.2 Except as otherwise expressly provided in this Agreement and to the furthest extent permitted by law, Vigilant Asia expressly excludes all warranties and conditions, express or implied, in respect of the provision of the Service, including but not limited to the implied warranties or conditions of merchantability, fitness for a particular purpose, satisfactory quality and non-infringement.
- 7.3 Further, Vigilant Asia does not warrant, guarantee or make any representations regarding the use or the results of the use of the Service in terms of correctness, accuracy, reliability, availability or otherwise. No oral or written advice or information given by Vigilant Asia, its affiliates, agents or employees shall create a warranty and Customer or its Third Party User may not rely on such advice or information.

## 8. Limitation of Liability and Indemnities

- 8.1 This Clause 8 provides Vigilant Asia's entire liability (including any liability for the acts and omissions of its sub-contractors and any affiliates) under or in connection with this Agreement.
- 8.2 Notwithstanding any other provision to the contrary in this Agreement, Vigilant Asia shall not be liable for any damage or loss incurred by Customer or any third parties (including Third Party User):
  - 8.2.1 arising from Customer's or Third Party User's use of the Services including relating to any inaccuracies, inconsistencies, unreliability or errors in the Service, including any output, data or results generated by the Service;
  - 8.2.2 arising from any acts or omissions (whether negligent or otherwise) by Vigilant Asia in connection with the Service;
  - 8.2.3 due to loss or corruption of data caused by the Service, including any misuse of the Service by Customer or Third Party User or any use which is not in accordance with this Agreement;
  - 8.2.4 caused by Customer's or Third Party User's use of a release or version of the Service that is no longer supported by Vigilant Asia or provided hereunder;
  - 8.2.5 caused by any equipment, software or services not provided by Vigilant Asia, or their combination with or

## 8.2.6 Zero-Day Event.

- 8.3 Further, Vigilant Asia shall not be liable to Customer for any type of indirect, consequential, incidental or special damages or losses, including loss of anticipated profits or revenue, loss of business, loss or interruption of use, loss or corruption of data, damage to networks, equipment (or hardware, or the cost of procurement of substitute goods or technology), losses suffered by third parties or loss of goodwill (including any loss or damage suffered by Customer as a result of an action brought by a third party) arising out of this Agreement or with respect to the installation, implementation, customisation, use, operation or support of the Service, even if Vigilant Asia has been apprised of the possibility of such damages or losses and regardless of whether such action arises under contract, tort (including negligence) or otherwise.
- 8.4 Without prejudice to any other provision in this Agreement, if Vigilant Asia is held or found liable to Customer for any matter under this Agreement or any collateral agreement based on a claim, action or cause of action in contract, tort (including negligence), or otherwise, Vigilant Asia's maximum aggregate liability to Customer shall be limited to a sum equal to the total Fees as stated in the applicable Sales Order paid by Customer to Vigilant Asia in the calendar year in which the cause of action arose.
- 8.5 Without prejudice to any other rights and remedies of Vigilant Asia under this Agreement, Customer shall indemnify, hold harmless and at Vigilant Asia's request defend Vigilant Asia and its successors and assigns (and its and their officers, directors, employees, representatives, sublicensees, customers and agents) from and against any and all claims, demands, damages, losses, liabilities, costs and expenses (including attorney's fees on a solicitor client bases and other costs of litigation) arising out of, with respect to or incurred in connection with the Service and/or arising out of any breach of Customer of this Agreement, including any claims made by third parties (including Third Party User).

## 9. Additional Services

- 9.1 Customer may from time to time request additional services or any new requirements outside the scope of Service from Vigilant Asia during the Term on terms to be mutually agreed between the parties including the additional charges, which shall be in the form of a new Sales Order and/or Service Catalogue or variation to an existing Sales Order and/or Service Catalogue.
- 9.2 For avoidance of doubt, the following are additional services which will be provided by Vigilant Asia subject to additional charges:
  - 9.2.1 support in legal investigations and proceedings in prosecutions against intruders; and
  - 9.2.2 evaluation of detected incidents and Customer's information, networked systems and implementation of post-mortem services including elimination of installed back-doors, Trojan horses, elimination of ghost accounts, changing of passwords on affected systems, assisting in the complete reinstallation of affected systems, assisting in the implementation of security lessons learnt from evaluation, including the review of the Customers' security measures, and the conduct of security education and training.

## 10. Zero-Day Event

The Service does not cover services for Zero-Day Event.

Additional services to address Zero-Day Event shall be mutually agreed between the parties including the additional charges, which shall be in the form of a new Sales Order.

requested by Vigilant Asia from time to time to confirm and implement the intent of the preceding sentence.

## 11. Technical Environment

11.1 Customer shall provide and ensure Third Party User provides the Technical Environment as stipulated in the Sales Order, Service Catalogue or as otherwise specified by Vigilant Asia from time to time. Vigilant Asia does not guarantee that it shall support, at all times, the version of the Technical Environment as of the time the Sales Order was executed. If Vigilant Asia has notified Customer that the Technical Environment needs to be changed or updated, Customer shall notify Third Party User and if Customer and/or Third Party User (as the case may be) opts not to do so, Vigilant Asia shall not be required to continue the Service, including any support services or Updates for the Service.

13.5 Customer shall promptly notify Vigilant Asia in writing upon discovery of any unauthorised use of the Vigilant Asia IP or Developed IP or infringement of Vigilant Asia's proprietary rights therein.

13.6 Customer also acknowledges that such trade marks, copyrights and other rights belonging to Vigilant Asia or its licensor are only used by Customer with the consent of Vigilant Asia and during continuation of this Agreement.

13.7 Customer shall not during or after the expiry or termination of this Agreement, without the prior written consent of Vigilant Asia, use or adopt any name, trade name, trading style or commercial designation used by Vigilant Asia or its licensor. If a third party claims that use of the Service infringes that person's Intellectual Property, Customer shall:

11.2 The Customer shall promptly notify Vigilant Asia of any addition, changes and modification to the Technical Environment. If any additional services or installation or deployment services is required due to the aforesaid new Technical Environment, it will be considered a request for additional services by Vigilant Asia for which additional fees may be payable by Customer.

13.7.1 promptly notify Vigilant Asia in writing of the claim or the possibility of a claim; and

13.7.2 permit Vigilant Asia to arrange control over any such claim or action and cooperate fully with Vigilant Asia in the defence of the claim and related settlement of the dispute.

## 12. Audit

12.1 Vigilant Asia, its auditor and its authorized representatives shall have the right at any time to audit Customer's or Third Party User's use of the Service for compliance with the terms of this Agreement, upon reasonable notice.

13.8 Vigilant Asia shall have no liability to Customer in respect of any claim of Intellectual Property infringement in relation to the Service if the same results from any alteration, modification or adjustment to the Service by Customer.

12.2 Customer shall and shall ensure the Third Party User shall permit Vigilant Asia such use of the Technical Environment and other computing and office facilities at Customer's or Third Party User's premises, free of charge, as may be reasonably required by Vigilant Asia to perform any of its obligations under this Agreement.

13.9 Except as expressly authorised by Vigilant Asia, Customer agrees not to use, copy, imitate, or incorporate any trade mark, service mark, trade dress, company name, or product name of Vigilant Asia or its licensor in a way that is likely to cause confusion. Customer also agrees not to remove, obscure, or alter Vigilant Asia's or any third party's copyright notice, trade marks, or other proprietary rights notices affixed to or contained within or accessed in conjunction with or through the Service.

12.3 Customer shall notify Vigilant Asia of all security, procedures, rules and regulations implemented at Customer's or Third Party User's premises.

## 13. Intellectual Property

13.1 Customer hereby acknowledges that any and all rights, title and interest including Intellectual Property subsisting in or arising from Vigilant Asia IP (including any revisions, applications, improvements, enhancements, modifications, translation, abridgment, condensation, expansion, derivatives or variations thereof) are and will remain at all times the sole and exclusive property of Vigilant Asia.

## 14. Customer's Representations, Warranties and Undertakings

14.1 Customer hereby represents, warrants and undertakes that:

14.1.1 Customer has full power and authority to enter into this Agreement;

14.1.2 this Agreement constitutes the legal and binding obligations of Customer in accordance with their respective terms;

14.1.3 the execution, delivery and performance of this Agreement is within Customer's corporate power, have been duly authorised by all necessary corporate action and does not violate any law regulation or judgement, order or decree of any governmental authority of Malaysia or in any other country of which it is aware;

13.2 Nothing in this Agreement shall be construed to convey or transfer any ownership or proprietary interest in any Intellectual Property in the Service to Customer or any third party.

14.1.4 Customer shall perform and will continue to perform its obligations under this Agreement in accordance with all applicable laws in force at the date of this Agreement and it is Customer's intent to continue to adhere to the applicable laws from time to time in force and will comply with all directions, orders, requirement and instructions whatsoever given by the authority competent to do so;

13.3 Customer further acknowledges that Vigilant Asia (and its licensors) will be the entire legal and beneficial owner of all Intellectual Property in any works (including any translations, adaptations, improvements, customisations, enhancements or modifications) created whether jointly by the parties or solely by Vigilant Asia in the course of carrying out its obligations under this Agreement ("Developed IP").

13.4 To the extent that Customer has or is deemed to have acquired any right, title or interest in any part of the Vigilant Asia IP or in any Developed IP, Customer hereby assigns and transfers all such right, title and interest to Vigilant Asia. Customer further agrees to execute and deliver such documents as may be

- 14.1.5 Customer shall be responsible for any government procuring licences and other regulatory approvals that may be required for the performance of this Agreement, including the receipt, deployment, supply and use of the Service. All costs incurred in relation to such licence and approvals shall be borne by Customer;
- 14.1.6 Customer shall designate in the Service Catalogue representative(s) who will act as the primary point of contact between the Customer and/or Third Party User and Vigilant Asia ("**Customer representative**"). Vigilant Asia shall be entitled to rely and act on all instructions, information and authorisations provided by such Customer representative. It is the Customer's responsibility to notify Vigilant Asia of any change or update to the Customer and/or Third Party User representative or their contact details. For the avoidance of doubt, Vigilant Asia's obligation to notify Customer of the occurrence of any incident under this Agreement is deemed given if Vigilant Asia has notified the Customer and/or Third Party User representative.
- 14.1.7 Customer owns or is entitled to use, and is entitled to grant Vigilant Asia the right to access, operate, modify and otherwise use Customer Network; Customer Network is free of any third party claims; and all Customer Network will be in good working condition and proper working order and compliant with all applicable laws relating to their use.
- 14.2 At Customer's sole cost and expense, Customer shall provide to Vigilant Asia access to Customer Network as required by Vigilant Asia to provide the Service. Customer shall procure for Vigilant Asia the right to access, operate, modify and otherwise use any third party software and hardware licensed or leased or otherwise provided to Customer as may be necessary for Vigilant Asia to provide the Service.
- 14.3 Customer shall provide and manage the personnel necessary to perform Customer's obligations under this Agreement ("**Customer Employees**"). Vigilant Asia shall not be responsible for the acts, errors or omissions of Customer Employees; defects in any software, hardware, system, network and equipment that is not provided by Vigilant Asia; or circumstances beyond its reasonable control.
- 14.4 All Vigilant Asia's property held on the premises of Customer or a third party designated by Customer shall be so held at the sole risk and responsibility of Customer.
- 14.5 Where any Approvals is required to be obtained by Customer in relation to the Service, Customer shall do so at its own cost. If the Approvals are not obtained, Vigilant Asia shall be entitled to claim against Customer for all losses and damages suffered without prejudice to any other rights or remedies available to Vigilant Asia under this Agreement or at law for Customer's breach of its obligations under this Agreement including the right to terminate this Agreement.

## 15 Confidentiality

- 15.1 As used herein, the party disclosing Confidential Information is the "**disclosing party**" and the party receiving the Confidential Information is the "**receiving party**". Subject to Clause 15.3 and notwithstanding any termination or expiry of this Agreement, the receiving party shall keep Confidential Information confidential and not disclose the Confidential Information, in whole or in part, to any third party without the disclosing party's prior written consent. Access to the Confidential Information shall be restricted to the receiving party's employees on a need to know

such information basis for purposes solely related to this Agreement.

- 15.2 All Confidential Information made available under this Agreement, including copies of the same in any form, shall be returned to the disclosing party or destroyed upon the first to occur of (a) termination or expiry of this Agreement or (b) request by the disclosing party. The receiving party's obligations under this clause shall survive the return or destruction of such Confidential Information.
- 15.3 Nothing in this clause shall prohibit or limit either party's use of information (i) previously known to it prior to disclosure, (ii) independently developed by or for it, (iii) acquired by it from a third party which was not under an obligation to the disclosing party not to disclose such information, (iv) which is or becomes publicly available through no breach by the receiving party of this clause, or (v) required to be disclosed by an order from a court of competent jurisdiction or in accordance with the requirements of any law, regulatory body or the rules and regulations of any recognised stock exchange.

## 16 Data Protection

- 16.1 Customer represents, warrants and undertakes that:
- 16.1.1 any Data provided by Customer or that Vigilant Asia receives or otherwise has access to pursuant to this Agreement has been lawfully obtained from the relevant parties including the Data Subject;
- 16.1.2 any access and use of any Data by Customer for the purposes contemplated under this Agreement is in compliance with all applicable laws and does not infringe the rights, including any data protection rights, of the Data Subject or of any third party;
- 16.1.3 Customer has complied with all requirements under applicable laws to enable Vigilant Asia and any agent or sub-contractor appointed by Vigilant Asia to use, process, disclose and transfer the Data as envisaged under the Agreement, including providing notification to and obtaining consent from the relevant parties such as the Data Subject;
- 16.1.4 all instructions provided by Customer in respect of the Data shall at all times be in accordance with all applicable laws;
- 16.1.5 Customer acknowledges and agrees that Vigilant Asia shall be permitted to use, process and disclose any Data where required by applicable law, regulatory body or authority and for survey, statistical and analytical purposes (in anonymised form) and Customer shall ensure all necessary steps are taken to comply with applicable laws to permit such processing and disclosure by Vigilant Asia (including providing the relevant notifications and obtaining any required consents);
- 16.1.6 Customer shall notify Vigilant Asia immediately of any communication, requests or directives from the relevant parties including the Data Subjects and/or any regulatory body(ies) in relation to any Data, including without limitation any withdrawal of consents, or requests to access and correct Data; and
- 16.1.7 Customer shall notify Vigilant Asia immediately of any infringement, suspected infringement, or alleged infringement of the rights of any person in relation to the Data. Further, Customer shall promptly notify Vigilant Asia in the event of any claims being asserted or any

actions threatened against Customer or Vigilant Asia by any third party arising out of the access, use and processing of any Data.

from the first party specifying such breach.

16.2 Pursuant to this Agreement, Data may be disclosed by Vigilant Asia to Customer or may otherwise be obtained directly or indirectly by Customer. In such case, Customer represents, warrants and undertakes the following:

17.2 This Agreement may be terminated immediately by either party by notice in writing from the party not at fault if the other party other has a receiver, administrator, administrative receiver or manager appointed over the whole or a substantial part of its assets, becomes insolvent, commits any act of bankruptcy, is wound up or goes into liquidation, or if the other suffers any analogous proceedings under foreign law.

16.2.1 to comply with the laws in the course of processing any Data. If Customer is unable to comply with such laws, Vigilant Asia is entitled to suspend the provision of Data to Customer and/or terminate this Agreement;

17.3 Vigilant Asia may terminate this Agreement at any time (without liability and without entitling Customer to receive any compensation in respect of the termination of this Agreement) by giving at least thirty (30) days prior written notice to Customer.

16.2.2 that it will not use or process the Data for any purpose other than for the purposes of this Agreement;

17.4 Notwithstanding any other term in this Agreement, Vigilant Asia reserves the right to terminate this Agreement by giving fourteen (14) days written notice to Customer if Customer fails to pay any of the amounts payable under or pursuant to this Agreement in accordance with the Sales Order.

16.2.3 to carry out all processing Data in compliance with Vigilant Asia's procedures and instructions as may be notified by Vigilant Asia from time to time;

17.5 Any termination of this Agreement pursuant to this Clause 17 shall be without prejudice to any other rights or remedies of either party hereunder and shall not affect any accrued rights or obligations of either party at the date of termination.

16.2.4 to have in place appropriate technical and organisational security measures so that the Data is protected against unauthorised or unlawful processing and against accidental access, disclosure, alteration, loss, destruction or damage and shall take steps to ensure compliance with these security measures.

17.6 In the event of termination or expiry of this Agreement, Vigilant Asia shall discontinue provision of the Service to Customer and Customer shall immediately destroy or delete all copies of any Vigilant Asia IP, including photographs, videos or screen captures of the Service in Customer's possession. Vigilant Asia shall also have the right to access Customer Network, Technical Environment and relevant premises to uninstall or remove any components, devices or hardware utilised for the Service at the Customer's costs.

16.2.5 to deal promptly and properly with all inquiries from Vigilant Asia relating to Customer's processing of Data and to abide by the advice of the regulatory authority with regard to the processing of the Personal Data;

17.7 Save in accordance with Clause 17, each party shall have no right to terminate this Agreement.

16.2.6 to not disclose Data to any third party other than at Vigilant Asia's specific request or as otherwise set out in this Agreement. Customer shall ensure that any recipients of the Data are subject to a binding duty of confidentiality relating to such Data. This obligation shall survive the expiry or termination of this Agreement; and

## 18 Entire Agreement

This Agreement (including the Sales Order, Service Catalogue, Annex 1 and other relevant documentation prepared by Vigilant Asia for or in connection with the Service and any documents attached or otherwise referred to in this Agreement) constitutes the entire agreement between the parties relating to its subject matter and supersedes any and all previous or contemporaneous communications, representations, proposals, commitments, arrangements, understandings, or agreements between the parties (whether written, oral or otherwise) regarding that subject matter.

16.2.7 to not do anything, or permit anything to be done, which may lead to a breach by Vigilant Asia of any applicable laws;

## 19 Force Majeure

16.3 The Customer agrees that Vigilant Asia may use Data to collect, develop, create, extract, or otherwise generate statistics and other information and to otherwise compile, synthesize and analyze such Data.

19.1 Neither party hereto shall be liable for any delay or failure to perform its obligations hereunder resulting from causes beyond its control including but not limited to fires, strikes (other than of its own employees) insurrection or riots, embargoes, typhoons, Zero-Day Event requirements or regulations of any civil or military authority ("**Event of Force Majeure**").

16.4 Customer shall defend, fully indemnify and hold Vigilant Asia harmless from and against all loss, charges, demands, claims, suits, damages, costs, liability and expenses (including legal fees on a reasonable basis), arising out of any claim, action, demand, suit and/or proceeding by any third party against Vigilant Asia arising out of Customer's breach of its obligations, representations and warranties set forth in this Agreement.

19.2 In every case the delay or failure to perform must be beyond the control and without the fault or negligence of the party claiming excusable delay. The party claiming excusable delay must give written notice to the other party upon becoming aware of an Event of Force Majeure. Such notice must contain details of the circumstances giving rise to the Event of Force Majeure and an estimate of the extent and duration of its inability to perform, and must use its reasonable endeavours to overcome the effect of such Event of Force Majeure.

## 17 Termination and Expiry

17.1 This Agreement may be terminated immediately by notice in writing by either party if the other party commits any material breach of any term of this Agreement and, in the case of a material breach capable of being remedied, fails to remedy the breach within thirty (30) days of the receipt of notice in writing



- 19.3 Any Event of Force Majeure shall suspend the obligations arising from this Agreement for as long as such event shall last.
- 19.4 If a party is prevented from performing its obligations under this Agreement by an Event of Force Majeure which continues for more than one month then the party not in default shall be entitled to terminate this Agreement by giving written notice to the other party. Neither party shall have any liability to the other party in respect of the termination of this Agreement due to an Event of Force Majeure.
- 20 Amendments**
- This Agreement may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of Vigilant Asia.
- 21 Severability**
- If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision with a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- 22 Costs and Expenses**
- The stamp duties payable in respect of this Agreement (including any penalties) shall be borne and paid by Customer. Save as aforesaid, each party shall bear its own legal costs and other costs and expenses arising in connection with the drafting, negotiation, execution and registration (if applicable) of this Agreement.
- 23 Waiver**
- The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.
- 24 Assignment and Sub-Contracting**
- Customer shall not assign or sub-contract any of its rights or obligations under this Agreement to any third party without first obtaining the express written consent of Vigilant Asia. Vigilant Asia has the right to assign any of its rights or novate or sub-contract any of its obligations under this Agreement.
- 25 Notices**
- Any notice required under this Agreement shall be given in writing and in the English language and sent to the address of the party for which it is intended to be given as set out in the head of this Agreement, or such other address as shall have been notified to the other party in accordance with this clause and be sent by registered post or equivalent, facsimile, courier or other electronic transmission; and:
- 25.1 if posted, shall be deemed to have been received five (5) Working Days after the date of posting or, in the case of a notice to an addressee not in the country of the sender, ten (10) Working Days after the date of posting; or
- 25.2 in the case of facsimile or other electronic transmission, upon confirmation of complete receipt being given by the intended recipient party; or
- 25.3 if couriered, on delivery.
- 26 Invalidity and Severability**
- If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision with a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- 27 Independent Contractor Relationship**
- Vigilant Asia's relationship with Customer is that of an independent contractor, and nothing in this Agreement is intended to or should be construed to create a partnership, agency, association, trust or joint venture relationship between the parties. Each party is responsible only for its obligations as set out in this Agreement.
- 28 Survival**
- Clause 4 (Service Restrictions and Customer's Undertakings), Clause 5 (Payment), Clause 7 (Disclaimer), Clause 8 (Limitation of Liability and Indemnities), Clause 13 (Intellectual Property), Clause 14 (Customer's Representations, Warranties and Undertakings), Clause 15 (Confidentiality), Clause 16 (Data Protection), Clause 17 (Termination and Expiry), Clause 22 (Costs and Expenses), Clause 25 (Notices), Clause 30 (Governing Law) and all other clauses and provisions of this Agreement which are intended to survive or capable of survival due to their nature or purpose shall survive the termination or expiry of this Agreement.
- 29 Disputes**
- All claims, disputes, controversies or differences between the parties arising out of or in connection with this Agreement or arising out of the breach, termination or invalidity thereof ("Dispute") shall be amicably resolved between the parties through discussion and negotiation. If the parties fail to settle the Dispute through discussion and negotiation within 60 days, the Parties agree to submit to the exclusive jurisdiction of the courts of Malaysia.
- 30 Governing law**
- This Agreement is made under and shall be governed by and construed in accordance with the laws of the Malaysia.
- 31 Anti-bribery**
- Customer and Third Party User, including their affiliates, directors, officers, employees, agents and representatives shall comply strictly with all applicable laws, statutes, orders, regulations and government rules relating to anti-bribery and anti-corruption including the Malaysian Anti-Corruption Commission Act 2009 and the Malaysian Anti Corruption Commission (Amendment) Act 2018.

## Annex 1

### Special Terms

1. If required by Vigilant Asia, Customer must procure or purchase a separate end user licence for Third Party User to access and use the Application together with any documentation solely as part of the Service and insofar as this is necessary for the proper utilization of the Service and only as expressly permitted in this Agreement and for the duration of the Term.
2. The licence purchased or procured for Third Party User is subject to additional terms as may be imposed by Vigilant Asia or its licensor including the terms of the open source licences governing the components included in the Application, any additional licensing restrictions and limitations specified by Vigilant Asia or its licensor and the limitations set out in Clause 4 of the Agreement. Any third party Application delivered to Third Party User by Customer shall be provided in accordance with the corresponding third party licence(s).
3. Customer shall enter into a written contract with Third Party User ("**Third Party Contract**") and ensure that Third Party User observes the obligations and restrictions applicable to Customer contained in the Agreement as if they directly applied to Third Party User to enable the provision of the Service to Third Party User. The Third Party Contract is solely between Customer and Third Party User. Customer is responsible for its services to Third Party User and for dealing with any claims or complaints by Third Party User. Customer acknowledges and agrees that Vigilant Asia does not assume any responsibility arising out of or in connection with the Third Party Contract, nor is Vigilant Asia an agent of Customer. For the avoidance of doubt, Vigilant Asia shall have no liability to Third Party User or any other third party for the use of the Service by Third Party User or any other issue arising out of or in connection with the Third Party Contract, and any breach or default of the terms of this Agreement by the Third Party User shall be deemed to be Customer's breach or default.