

# ALC-TECH HOSTING SERVICES AGREEMENT

## 1. Definitions

In this Agreement, unless the context otherwise requires: -

- a) **"Business Day"** means any day other than, Saturdays, Sundays or public holidays gazetted for Kuala Lumpur.
- b) **"Confidential Information"** means any information, including, data or material, of any nature, directly or indirectly, expressly or impliedly, pre or post termination/expiry in relation to this Agreement whether marked as confidential and, disclosed, furnished or made available by a Party to the other Party and if release prejudices the Party's interest, other than information which are in public domain ;
- c) **"Content"** means Customer's or End User's, files, web pages, data, works, information or materials, on, within, displayed, linked or transmitted, including any, trademarks, service marks, images, photographs, illustrations, graphics, audio clips, video clips, email, messages, meta tags, domain names, software or text, in any content or resources, which is, located on or used, from or through, the server space on, ALC-TECH's system allocated to Customer or Customer's Hardware.
- d) **"Data Centre"** means the premises located and used by ALC-TECH for the provision of Services.
- e) **"End User"** means any third party, as permitted under this Agreement, who uses Customer's Content.
- f) **"Force Majeure Events"** means any event or circumstance, which, (i) is beyond a Party's reasonable control, (ii) could not be addressed by a reasonable person before entering this Agreement, (iii) having arisen, could not reasonably be overcome, and (iv) materially disrupts the performance of this Agreement, and subject to the foregoing being satisfied, a Force Majeure Event includes, inclement weather beyond the norm, lightning strikes, natural disaster, damage to facilities, supplier's, default or failure, the conduct of third parties, acts of God, war, riot, malicious acts of damage, civil commotion, labour, strike, lockout or industrial dispute (other than those by the employees, representatives or agents of the Party claiming the Force Majeure Event), commercial power failure, fire, other casualties, orders of any authorities or orders of any persons acting for such authorities PROVIDED THAT a Force Majeure Event shall not include the financial inability of a Party to perform its payment obligations under this Agreement or, death or personal injury, suffered by a Party, its representatives, servants, agents, contractors, licensees or invitees, in the Data Centre.
- g) **"Fees"** means the prevailing fees as prescribed under Schedule A or as amended from time to time.
- h) **"General Terms"** means this General Terms and Conditions.
- i) **"Hardware"** means server, router, switches, hub, console, terminal, uninterrupted power supplies, printer, modem, solid state storage devices, network attached storage, virtual tape libraries or other related peripheral equipment installed at the Data Centre.
- j) **"Intellectual Property"** means copyright and related rights, brand, trade name, logos, registered and unregistered trademark, service marks, other proprietary identifying symbols, get-up or trade dress, patent, know how, confidential information, trade secret, industrial design, registered and unregistered design, utility model, circuit layout, domain names, computer programs (including source code and executable codes), database, inventions, processes and including other intellectual property.
- k) **"Intellectual Property Rights"** means: rights to inventions; right to sue for passing off; all Intellectual Property: rights; benefits; title; proprietary rights; interest in licenses; permits; and any other intellectual property rights; for any of the foregoing anywhere in the world (whether registered or not and including all applications, right to apply, renewals or extensions in the same).
- l) **"ALC-TECH's Property"** shall have the meaning ascribed to it in Clause (8).
- m) **"Mean Time to Respond"** refers to the duration indicated as Mean Time to Respond in Table 1 associated with the problem reported by the Customer.
- n) **"Mean Time to Repair"** refers to the duration indicated as Mean Time to Repair in Table 1 associated with the problem reported by Customer.
- o) **"Services"** means the Services subscribed by the Customer under Schedule A (which Services ALC-TECH from time to time may, in part or whole, change, deprecate or discontinue, at its sole discretion, including, any application programming interface).
- p) **"Service Date"** means:
  - (i) the date ALC-TECH notifies the Customer that Services are ready for use provided that all installations of v hardware have been completed on services rendered with ALC-TECH hardware;
  - (ii) The 45th day, inclusive of the grace period of 15 days, after the Customer has been granted one month of uninterrupted access to perform their own hardware installations on services rendered without ALC-TECH hardware regardless of the installation progress.
- q) **"Service Term"** means the period of the Subscribed Term in Schedule A which commences on the Service Date.
- r) **"Service Unavailability"** shall have the meaning ascribed to it in Clause (9).
- s) **"Specific Terms"** means the Specific Terms and Conditions.
- t) **"Down Credit"** means a portal credit offered by ALC-TECH to customers which are not convertible nor refundable in cash terms. These portal credit can be used in exchange for services offered by ALC-TECH with terms apply.
- u) **"the Space"** refers to the area that has been allocated for customer to place their equipment and / or hardware.

In this Agreement, unless expressly indicated otherwise:

- a) any references to, Clauses, Schedules, Appendices or Exhibits, in a document means, Clauses, Schedules, Appendices or Exhibits, of that document;
- b) headings do not affect the interpretation of this Contract;
- c) words in the singular include the plural and vice-versa;
- d) words denoting a gender includes all genders;
- e) the meaning of a defined expression extends to the expression's other grammatical forms;
- f) "in writing" means a, printed or written document, signed by an authorized representative;

- g) a reference to any Law includes that Law as, modified or replaced;
- h) a reference to "person" means, an individual, incorporated or unincorporated body, joint venture, association, firm, sole proprietorship, partnership, trust or other legal entity;
- i) a reference to "include" means include but not limited to;
- j) a reference to a time by which an act must be done includes any other period agreed by the Parties;
- k) "day", "month" and "year" means day, month and year respectively in accordance with a Gregorian calendar; "Business Day" means a day that banks in KL are open for business; "Normal Working Hours" means 9am to 6pm;
- l) the date by which an act must be done commences from the date specified;
- m) if the date by which an act must be done is not a Business Day, the act must be done before the next Business Day;
- n) any act to be performed on or before a particular day means on or before the end of Normal Working Hours of that day;
- o) unless the context requires otherwise, references to "day" refers to a 24 hours period; in the event of any inconsistency between provisions in a Contract Document, later provisions prevail over earlier provisions;
- q) technical terms, unless otherwise defined, shall have its general meaning in Malaysia;
- r) concurrence, approvals, consents, directions and instructions, must be in writing;
- s) any, consent or approval, by a Party shall:
  - (i) not be unreasonably withheld or delayed;
  - (ii) not constitute as waivers of the other Party's, duties, responsibilities, obligations or liabilities, under this Agreement; and
  - (iii) relate only to the specific event for which it was given.

## 2. Representations and Warranties

Each Party represents and warrants to the other Party that all information furnished by the Party under this Agreement are correct and are not misleading without requiring or obliging the other Party to verify such information. And each Party acknowledges that the other Party has entered into this Agreement in reliance of the representations under this Clause.

**The Party represents to the other Party that as at the execution date:**

- a) the Party is duly organized or registered in the jurisdiction of its formation;
- b) the Party has all necessary regulatory to carry on its business and perform the obligations under this Agreement;
- c) each Party, has the right as an individual or as an individual under its corporate power/authorization to enter into this Agreement ;
- d) the Party has taken all corporate actions to authorize entering into this Agreement and performing the obligations under this Agreement;
- e) the Party is adequately and properly financed to meet its obligations under this Agreement;
- f) the Party is not aware of any non-conformance of the foregoing; and
- g) this Agreement is legal, valid, binding and enforceable, against the other Party under the terms and conditions of this Agreement.
- h) the Party has, no claims against it or to its knowledge no claims threatened against it, which will materially affect its performance of this Agreement.

**Each Party, undertakes and covenants, that during the Service Term it will:**

- a) comply with all requirements regulating its, conduct or business or carrying out of obligations under this Agreement, and bear the cost incurred thereby;
- b) ensure that its employees comply with the Law and with respect thereto the Party will carry out all legal obligations required of it; and
- c) provide its fullest cooperation to the, other Party or relevant authorities, and provide such information as reasonably required in connection with the, provision or use, of Services.

**Legal Right to use Hardware:**

- a) Each Party, represents and warrants, to the other Party that the Party, during the Service Term, has and shall continue to have, the right to use the Hardware it supplies and Customer shall provide to ALC-TECH proof of such legal rights.
- b) The above (a) is not applicable to Cloud based hosting services.

**Legal Right to use Intellectual Property Rights:**

Customer represents and warrants to ALC-TECH that, Customer or End User:

- a) owns all, Intellectual Property and Intellectual Property Rights; or
- b) has express written authorization to use any Intellectual Property Rights in third party content from its owner (including, copying, transmitting, distributing, displaying or modifying such content), in, Content or its Hardware, and that, Customer and End User, has the right to grant ALC-TECH these rights under Clause (7).

**ALC-TECH, represents and warrants, to Customer that except for those Services which require the Customer to enter into agreements directly with third party service providers, ALC-TECH:**

- a) owns all, Intellectual Property and Intellectual Property Rights; or
- b) has express written authorization to use any Intellectual Property Rights from its owner (including, copying, transmitting, distributing, displaying or modifying such content),

In relation to the Services provided by ALC-TECH.

**Insurance**

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

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Each Party shall, insure and keep insured, the Hardware that it supplied under this Agreement against all risks (including, the risk of fire, flood, theft or damage) with a reputable insurer up to the replacement value of the Hardware as well as to any consequential losses deemed necessary by the Party. The Party shall cause its insurer to waive all rights of subrogation against the other Party.

## CUSTOMER'S COVENANTS

Customer covenants with ALC-TECH that:

- ALC-TECH at its sole discretion, may locate and subsequently relocate from time to time, the Customer's Hardware within the Data Centre after giving 2 weeks' notice to the Customer.
- The Customer shall bear the, charges, costs or expenses, incurred or any liability arising from any claims, arising from it, its representatives, servants, agents, contractors, licensees or invitees, accessing the Data Centre, including by reason of unauthorized use of any Data Centre access devices provided to the Customer.
- All risks (including, theft or damage) in Customer's Hardware, Customer's or End User's, Content or the Customer's or its representatives', servants', agents', contractors', licensees' or invitees', property vests with the Customer except for theft or damage to the extent caused by ALC-TECH's gross negligence.
- Customer acknowledge ALC-TECH practices strict compliance of licensed software, and Customer undertake to ensure all its software deployed, or used, including Microsoft applications are licenced products and adhered to respective software producers' compliance requirements.
- Customer shall bear all responsibilities and in the event that Customer is being found to have breached, or infringement of copyrights, or used of unlicensed software belong to others, Customer shall indemnify continue to indemnify ALC-TECH from any claims, penalty, or apprehension for Customer's failure to comply to ALC-TECH's strict compliance.

## ALC-TECH'S COVENANTS

ALC-TECH covenants with the Customer that:

- ALC-TECH possesses the expertise to perform the obligations under the Agreement and that it shall ensure that the third-party service providers it employs also possess the expertise to perform these obligations.
- ALC-TECH shall use standard equipment for the Hardware employed under this Agreement.
- ALC-TECH will permit Customer's servants, employees, representatives, agents or contractors, access to the, Data Centre as may be allowed under Data Centre's House Rules, Data Centre's Acceptable User Policy or ALC-TECH's Acceptable User Policy, or for the, installation or removal, of Customer's Hardware.
- ALC-TECH will assist Customer to identify as to whether disruption to Services arises from a failure of the Customer's Hardware within the Mean Time to Respond.
- All software used are duly licensed and authorized to use.

## 3. Description of Service

ALC-TECH shall provide Customer the Services during the Service Term in consideration of the Customer paying ALC-TECH the Fees. Until such payments are made, ALC-TECH will not be obliged to, execute or commence, any, preparatory or installation, works or commence provision of Services, including suspension of Services in the event fees are not settled on time.

The Customer (a) accepts that some of these Services may involve using the services of third party service providers and (b) agrees that it shall abide by any such third party service provider's, terms and conditions, as amended from time to time, either (i) under the agreement between Customer and the third party service provider which is independent of this Agreement or (ii) as notified from time to time to the Customer by ALC-TECH.

The Customer shall also abide by the, Data Center's House Rules, Data Center's Acceptable Use Policy or ALC-TECH's Acceptable Use Policy (described at ), as amended and notified, from time to time to the Customer by ALC-TECH and to all ALC-TECH's instructions issued to the Customer made in relation to the said rules, policy(s) or use of Services. In the event there is any discrepancy between the requirements of such rules or policy(s) or with the remainder of the, terms and conditions, of the Agreement, then the Customer shall give a written notice to ALC-TECH of the discrepancy and ALC-TECH shall issue an instruction in regard thereto.

Customer also, acknowledges and agrees, that ALC-TECH from time to time may reasonably amend, the General Terms or the Specific Terms, and that the Customer's continued use of Services after such amendment shall constitute an acceptance of the amended terms.

## 4. Term

This Agreement is effective from the Agreement Date and until its termination or the expiry of the Service Term.

## 5. Payment Term

Customer shall pay the, Fees, Service Deposit, late payment charges and applicable, levy, tax or surcharge, to the foregoing, according to the payment term specified in Schedule A without any, set-off, counterclaim, deductions or withholding, for any reason whatsoever, notwithstanding any dispute between the Parties including in relation to quality of service.

## 6. Testing and Acceptance

ALC-TECH shall arrange and carry out all necessary tests to verify that Services accords to those subscribed by the Customer under Schedule A and the Customer shall, execute all works and render all assistance required for the testing.

In the event the subscription in Schedule A requires the Customer to witness, the testing or inspect the finished installation, then ALC-TECH shall give Customer one week's notice of the intended time for said witnessing. If the Customer does not attend the

witnessing, then any tests or inspections carried out by ALC-TECH at the invited time will be deemed to have been made in the Customer's presence.

Upon the successful completion of the testing and inspection, ALC-TECH shall certify the Service Date and billing shall commence except when Customer within five (5)

Business Days of receipt of said certification notifies ALC-TECH that the Services are not functioning satisfactorily, requiring ALC-TECH to, remedy the deficiency, retest and reissue a revised Service Date. In the event Customer does not notify its dissatisfaction within the aforementioned time frame, then it shall be deemed that the Customer accepts the provided Services and Service Date.

## 7. Use of Customer's Content

Customer grants and shall procure from End Users to grant, ALC-TECH a worldwide, royalty free, license to, copy, modify, display, use or transmit, Content in connection with ALC-TECH's strict performance or enforcement, of this Agreement. In the event, Customer or End User, makes, any suggestions or submits Content, to ALC-TECH, then Customer, agrees and shall ensure that End User agrees, that all, rights, title and interests, to the, suggestions or Content, even if marked as, proprietary or confidential, is irrevocably assigned by, Customer or End User, to ALC-TECH, at no cost to ALC-TECH. For the avoidance of doubt submission of Content arising from, Customer's or End User's, usage of Services, does not constitute submission of Content to ALC-TECH.

Customer grants its consent to ALC-TECH's, collection and processing, of Customer's personal information in accordance with ALC-TECH's Personal Data Protection Policy in Schedule B.

## 8. Use of ALC-TECH's Property

Save for all, rights, title or interests, of third party services which vest with the third party, all other, Intellectual Property Rights, rights, title or interests, in Services ("ALC-TECH's Property") vest with ALC-TECH. ALC-TECH only grants Customer a, limited, revocable, non-exclusive, non-sub-licensable and non-transferable, right to use, ALC-TECH's Property and its associated material, until the earlier, expiry or termination, of this Agreement. Customer will not and Customer shall ensure that End User will not, use Services other than as allowed by this Agreement

The Customer agrees that:

- it is licensing; and
- it will have no ownership; on all
- Intellectual Property Rights or know-how made available by ALC-TECH in connection with the Services; or
- derivative Intellectual Property Rights of the Services (including such derivative rights which may be generated as a result of the Customer's use of the Services).

## 9. Availability of Services

ALC-TECH shall use commercially reasonable efforts to provide the Services. When, however, unforeseen circumstances beyond the control of ALC-TECH which affects the Services occur including any:

- equipment malfunction;
- routine tests, maintenance, upgrade or repairs (excepting repairs when carried out beyond Mean Time to Repair), which ALC-TECH may undertake from time to time;
- periods Customer or End User, upgrade, downgrade or maintain, Content which prevents the use of Services;
- acts or omissions, by Customer, Customer's, employees or agents, or End Users, resulting in Downtime;
- Domain name system ("DNS") problems outside of ALC-TECH's control, issues with Customer's internet access including any, problems with Customer's internet service provider, interruption by or failure of, telecommunication or digital transmission links, hostile network attacks, network congestion, faulty web browsers, or caching that might make it appear the Services are unavailable even though others can still access ALC-TECH's servers;
- any negligence, wilful misconduct or use of the Services in breach of Clause 4 of this Agreement; or
- Force Majeure Events,

(collectively "Service Unavailability"), Customer agrees that ALC-TECH would not be required to provide Services.

## 10. Customer's or its End User's Content

Customer shall be solely responsible for:

- providing, developing, uploading, downloading, updating, operating, maintaining, backing up or archiving, Content;
- ensuring that Content is compatible for use with Services;
- all Content;
- domain names provided by Customer or domain names registered by ALC-TECH on behalf of Customer.

## 11. Support Services

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

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ALC-TECH shall at all times provide a helpdesk for, fault or general, reporting, or, maintenance and support request, by the Customer (relayed by email, facsimile or telephone, to the contact person designated by ALC-TECH under the reporting procedures as then currently in place and amended from time to time).

ALC-TECH shall ensure that its technician responds to the Customer's, report or request, prior to the expiry of the Mean Time to Respond which commences from the time the Customer contacts ALC-TECH's helpdesk. In the event that ALC-TECH does not respond to Customer within the Mean Time to Respond, the Customer should presume that its communication was not received by ALC-TECH and the Customer should transmit the communication again including by communicating to an alternate ALC-TECH contact.

ALC-TECH, shall solve the problem reported by Customer, PROVIDED the problem is not caused by the Customer's Hardware. ALC-TECH, shall solve such problem, prior to the expiry of the Mean Time to Repair which commences from the time at the expiry of the Mean Time to Respond PROVIDED it is not prevented and the problem is material.

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Grade	Severity / Problem Level	Mean Time to Respond	Mean Time to Repair
1	<b>Critical Outage</b> Entire Internet connection down, Power Failure, Network switches/ router/ single point of failure piece of hardware outputting major alarms	24 hours	24 hours
2	<b>Major Outage</b> Servers / nodes affected ; severe service degradation	24 hours	24 hours
3	<b>Minor Outage</b> Single user outage, capacity degradation ; redundant device down ; management access outage	24 hours	48 hours
4	<b>Important Event</b> Condition being monitored ; resolved awaiting parts	24 hours	5 - 7 working days
5	<b>Information Event</b> Request for documentation	5 - 7 working days	5 - 7 working days

**Table 1: Mean Times for ALC-TECH to deal with issues**

In the event the tests and inspections show that the affected Services' disruption was attributable to the Customer's Hardware, then the Customer shall remedy such Hardware, at its own costs.

### 12. Uptime and Downtime

"Uptime" and "Downtime" is the duration the Services, not including during Service Unavailability under Clause (9) of this Agreement, are available or unavailable respectively, as measured solely by ALC-TECH's internal monitoring systems.

In the event Customer is affected by Downtime, ALC-TECH will credit Customer Downtime Credit as determined in Table 2 against the following calendar [month's/year's] Uptime Fees. Customer agrees that ALC-TECH will not provide any credit against Fees for services which are unrelated to Uptime including, domain name registration, software licenses, IP address charges, set up fees, shipping and handling, SSL certificate fees or labour charges.

Duration Services is available in the calendar [month/year]	Downtime Credit for the following calendar [month's/year's] Fees
99.9% - 100% of the calendar [month/year]	0% of the current [month's/year's] Uptime Fees
99.1% to 99.8% of the calendar [month/year]	5% of the current [month's/year's] Uptime Fees
98% to 99% of the calendar [month/year]	10% of the current [month's/year's] Uptime Fees
95% to 97.9% of the calendar [month/year]	25% of the current [month's/year's] Uptime Fees
90% to 94.9% of the calendar [month/year]	30% of the current [month's/year's] Uptime Fees

below 90% of the calendar [month/year].	50% of the current [month's/year's] Uptime Fees
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**Table 2: Service Level Credit for Downtime**

To receive a Downtime Credit, Customer must send in a request for the Downtime Credit by email to within ten (10) Business Days after the Downtime incident, failing which Customer will not be entitled to the Downtime Credit. Each Downtime Credit request must include the time of the Downtime, and the name and IP address provided under Services which experienced the Downtime. If the Downtime is confirmed by ALC-TECH, Downtime Credit will be credited to Customer within thirty (30) days of receipt of Customer's Downtime Credit request.

Downtime Credits are exclusive of any applicable taxes, charged to Customer or collected by ALC-TECH. Downtime Credits are Customer's, sole and exclusive, remedy with respect to any Downtime.

### 13. Maintenance

The Customer agrees that from time to time ALC-TECH may disrupt the Service whilst conducting, routine tests, maintenance, upgrade or repair, to any part of the system used for the Service PROVIDED ALC-TECH gives the Customer not less than 3 days prior notice of such action. The Customer shall permit ALC-TECH its servants, representatives, agents or contractors, access to the Space to enable ALC-TECH to undertake the aforementioned works.

The Customer agrees that when an unforeseen event affects the system, including, critical unforeseen maintenance, it is not practicable for ALC-TECH to give advance notice of a Service disruption and that ALC-TECH in such instances shall be entitled to disrupt the Services to conduct remedial works, with or without prior notice.

### 14. Customer's Obligations

Customer shall be responsible for, the actions (act, omission or default) of End Users as if they are Customer's actions and for any support to End Users. In the event an action (act, omission or default) by the End User causes the Customer to violate its obligations under this Agreement, then Customer shall terminate the End User's access to Content immediately upon receipt of notice of the violation. Save for as provided under this Agreement, Customer will not resell, sub-license or transfer, any rights granted to Customer under this Agreement.

Customer represents and warrants to ALC-TECH, that Customer and its End User will not, directly or indirectly, engage in or, promote, provide aid to or facilitate, any party in:

- access or use, of Services by unauthorized, means to avoid incurring costs or to increase Customer's quota;
- using, ALC-TECH's, system or Services, in connection with any, fraudulent or illegal, activity;
- introducing on ALC-TECH's system any Content that actually or potentially, violate any law or regulation or infringe any rights of any person including, proprietary rights or Intellectual Property Rights;
- using ALC-TECH's system including to the space occupied by Customer on ALC-TECH's servers as, a source, an intermediary, a reply to address, or a destination address, for, mail bombs, Internet packet flooding, packet corruption, denial of service, broadcast attacks or abusive activities;
- hacking or perpetrating security breaches, of any servers including servers belonging to ALC-TECH ;
- using the, Services or space occupied by Customer on ALC-TECH's servers, as an anonymous gateway or in restricting other users from using the Internet;
- using the Services to, disseminate or transmit, unreasonably large volumes of email (more than ALC-TECH's standard SMTP relay limit without ALC-TECH's consent made in its sole discretion), unsolicited messages, chain letters or spam (commercial email or advertising or informational announcements);
- using the Services to, disseminate, transmit, store or otherwise make available, any material which, is associated with gambling or is to a reasonable person may be deemed as, abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious;
- using the Services to, disseminate, transmit, store or otherwise make available, files, graphics, software, material, data or work, that actually or potentially, infringe Intellectual Property Rights of any person;
- using the Services to, create a false identity or to otherwise attempt to mislead any person, as to the, identity, source or origin, of any communication, including falsifying TCP-IP headers, e-mail headers or to the, origin or route, of any transmission;
- using the Services to, export, re-export or permit downloading of, any message or content, in violation of any law, regulation or restriction, of Malaysia or as prescribed by the Government of Malaysia, its agencies or authorities, or without all required approvals, licenses or exemptions;
- using the Services to, interfere, disrupt, attempt to gain unauthorized access to, make connections to, probe, monitor (data or traffic), crawl, test the security vulnerability to or breach any security measures to, any or part of a, computer system or communication system, server, network, software, device, hosts or users, belonging to or operated by, ALC-TECH or another party, for which Customer does not have authorization to access;
- using the Services to, disseminate, transmit, store, or otherwise make available, virus, trojan horse, worms, or malicious, harmful or disabling, time bombs, bots, data, work, code or program, which, interferes with or intercepts, any program, data, system or network;

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

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- n) using the Services or Customer's SMTP server, as an, open proxy, open recursive domain name or "Open Relay" (such that it allows anyone on the Internet, other than Customer, to send e-mails through the server) or similar purposes.
- o) using the Services to, interfere with or disrupt, the Services or its associated connected hardware (including, servers or networks), or disobey any, requirements, procedures, policies or regulations, of networks connected to the Service;
- p) reverse engineering or disassembling, any software provided under Services;
- q) modifying, server, network, software, device, hosts or users, associated with Services (save for as expressly permitted by, law or agreement with the party in whom, title or the Intellectual Property Rights, of such item vests);
- r) using the Services to in violation of any, law, regulation or restriction, of Malaysia or as prescribed by the Government of Malaysia, its agencies or authorities, ALC-TECH policies (as, amended or reasonably introduced, from time to time) or without all required approvals, licenses or exemptions;
- s) using the Services to carry out, fraudulent, rogue or deceptive, activities including, phishing or pharming;
- t) using the Services to carry out activities that is harmful to ALC-TECH's, operation or reputation;
- u) using the Services to, collect or store, personal information about other users in connection with, invasion of privacy or the prohibited, conduct and activities, set forth in the paragraphs above; or
- v) using the Services to collecting messages from others which violate the unacceptable use under this Agreement or of the service provider from which the message was transmitted.

Customer agrees that ALC-TECH is entitled to modify the aforementioned list of unacceptable use of the Services (as may be, posted on ALC-TECH's site or notified to Customer) and that Customer shall comply with the requirements under this Clause for such modified list.

In the event that Customer becomes aware of any unacceptable use of the Service, Customer shall notify ALC-TECH of such use and Customer shall extend all assistance as may be reasonably required by ALC-TECH to remedy the situation.

Customer agrees that at Customer's cost and, Customer's and End User's, risk, ALC-TECH may, remove Content from ALC-TECH's servers that contain, information about any of the aforementioned prohibited activities or links to information about any of the aforementioned prohibited activities, or remove Content from its servers if ALC-TECH is the recipient of activities that threaten the stability of its network, without notice to Customer. Customer agrees that it will not seek any compensation for the removal of the aforementioned Content and Customer shall indemnify ALC-TECH against any claims from End User arising from the removal of the aforementioned Content.

Customer agrees that ALC-TECH may, but is not obliged to, investigate any violation of, Customer's or End Users', unacceptable use or misuse, of the Services under this Agreement. In the event ALC-TECH suspects that such violation infringes any, law or regulation, or in the event a, competent regulator or authority having jurisdiction, requests for particulars in connection with, Customer, End User or Content, then, Customer agrees and in Customer's agreement with End User Customer shall ensure that End User agrees, that ALC-TECH may without informing, Customer or End User, disclose any such associated information including, any of, Customer's or End User's, confidential information to the appropriate authority(s) (for onward investigation and prosecution).

### 15. Storage and Security

Customer agrees that Customer at all times shall be, entirely and solely, responsible for and shall bear the full risk of;

- a) maintaining the confidentiality of, Customer's password and Customer's hosting account information;
- b) any access to, Content or Customer's account, regardless that such access by whomsoever was unauthorized by, Customer or End User;
- c) ensuring that, Customer's password and Customer's hosting account information, is not sold, sublicensed or transferred, to any other party;
- d) all, acts, omissions, use or charges incurred, under Customer's hosting account or in connection with the Content displayed, linked, transmitted through or stored, on the server space occupied by Customer on ALC-TECH's servers;
- e) any, claims or loss or damage or expenses, arising from, Content or under Customer's account;
- f) handling any notices sent by any party in relation to, Content or activity under Customer's account.
- g) properly configuring Content for Customer's use with Services;
- h) preventing any, loss or damage, to Content;
- i) maintaining independent archival and backup copies, of Content; and
- j) ensuring the, security, confidentiality and integrity, of Content.

ALC-TECH shall have no liability to, Customer or any other person, for loss, damage, destruction or loss of confidentiality, of Content, unless such loss, damage, destruction or loss of confidentiality was as a result of ALC-TECH's, its servant's or agent's, act, omission or negligence. In the event that damage(s) is a result of ALC-TECH's negligence, this will be limited to the extent stated in Clauses (18) and (19) of this Agreement.

Customer shall notify ALC-TECH immediately of, any suspicious activity under Customer's account or suspicion that, Customer's password and Customer's hosting account information, has been compromised (lost, stolen or breached).

### 16. Confidential Information

- a) The Parties shall not without consent of the other Party divulge Confidential Information or this Contract to a third party except where the disclosure to the extent required is for the third party needing to know the information that relates to the Party:
  - (i) raising finance to perform this Agreement;
  - (ii) obtaining advice from advisors, consultants or auditors;
  - (iii) communicating to a government authority as necessary by Law;
  - (iv) performing this Agreement; or
  - (v) complying with the head agreement between the ALC-TECH and its counterparty.
- b) The Party disclosing the information under Clause 16(a) to a third party shall obtain an undertaking from such third party that it, its employees, representative or agents will maintain the confidentiality of the information and not divulge it to any other party.
- c) The Parties including any of the aforementioned third parties shall not use any Confidential Information for any purpose unrelated to the performance or nonperformance of this Agreement.
- d) The above provisions under this Clause 16 shall not modify the confidentiality requirements to any information divulged by a Party to the other Party prior to the date of this Agreement.
- e) The Parties will not make copies of the Confidential Information and will return all such Confidential Information to the disclosing Party upon the expiry of this Agreement or the termination of this Agreement.
- f) The confidentiality obligations under this Clause shall survive the expiry of the Agreement or termination under Clause 22.

The provisions of this Clause shall survive the, expiry or termination, of this Agreement.

### 17. Indemnification

Customer shall, indemnify and keep indemnified, hold harmless and defend, ALC-TECH and its, directors, officers, employees and agents, from and against, any and all, claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative), costs or expenses incurred (including, reasonable legal fees or costs incurred, in responding and for the time spent in responding), arising out of or relating to, any of, Customer's or End User's or, Customer's or End User's, representative's, unauthorized use of Services or, acts or omissions, or violation of the provisions in this Agreement, the Data Center's House Rules, Data Centre's Acceptable User Policy, ALC-TECH's Acceptable User Policy, terms of third party service providers, any instructions or notices issued by, ALC-TECH or appropriate authorities, infringement or alleged infringement or misappropriation, of any third party rights including, any Intellectual Property Rights, trademark dilution, tortious interference with contract or prospective business relations, unfair competition, libel or defamation or injury to reputation, injuries or death, to persons or damage to, business, property or the Data Centre or equipment therein or ALC-TECH's infrastructure or equipment, arising from the Customer's Hardware, Customer's or End user's Content, breach of, law or regulation, or disputes between Customer and any End User, and Customer agrees to, release and discharge, those indemnified from any such, claims, actions, demands or proceedings. Customer may settle any such, claims, actions, demands or proceedings, PROVIDED, Customer protects ALC-TECH's interests and Customer obtains ALC-TECH's consent before entering any settlement.

### 18. Limitation of Liability; Waiver and Release

ALC-TECH or the licensors of any of the Services, will not be liable to, Customer or End User, for any, compensation, reimbursement, damages, losses or expenses, arising from, Customer's or End User's,

- a) inability to use the Services including by:
  - (i) termination or suspension, of this Agreement,
  - (ii) discontinuation, change or depreciation, of the Services, in part or whole
  - (iii) Downtime (save for Downtime Credits) or;
  - (iv) Service Unavailability,
- b) procurement of alternative services to replace Services during the period of inability to use Services and;
- c) investments made in order to use Services.

The Parties shall not be liable to the other Party in contract, tort or otherwise for any other claims, direct or indirect damages, losses, consequential losses including, loss of profit, loss of use, loss of data, loss of production, loss of customers, third party claims, damage to reputation or goodwill or interest cost. For avoidance of doubt, ALC-TECH shall not be liable to End Users for any losses or damages sustained.

In the event that ALC-TECH causes, loss, damage or destruction of, Content on ALC-TECH's systems or servers, then Customer agrees that Customer will not seek compensation for such loss save for requiring ALC-TECH to reasonably endeavour in good faith to restore such lost Content

Without limiting the generality of the foregoing, in no event will ALC-TECH's liability for any, claims, damages, losses, causes of actions (whether legal or administrative) or expenses (including reasonable legal fees), suffered by Customer whether in, contract or tort (including, negligence or otherwise), exceed the lesser of the amount paid by Customer for the Services during the contract period pro-rated from the date the, damage or loss, arose up to the expiry of the contract period or date the, damage or loss, ceased whichever is earlier.

The Customer also agrees that the aggregate liability of ALC-TECH shall not exceed the Fees, received or due, from the Customer for the respective Services for the 12 months period prior to the date of the liability.

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

Except in cases of fraud, the remedies under this Agreement are a Party's sole and exclusive remedy.

## 19. Force Majeure

Save for obligations under this Contract which should have been fully performed prior to a Force Majeure Event, the Parties are excused from performing whatever obligations under this Contract which are affected by a Force Majeure Event and neither Party will be liable to the other Party for any failure or delay in performing its obligations as a result of a Force Majeure Event PROVIDED:

- a) the affected Party notifies the other Party within 14 days of the start and end of a Force Majeure Event with full particulars of the Force Majeure Event, its nature, consequence thereof, likely duration and the steps that the Party proposes to take to mitigate the non-performance subject to the approval of the other Party; and
- b) the affected Party furnishes all information in relation to the Force Majeure Event as reasonably required by the other Party.

The Parties shall bear their respective costs arising from a Force Majeure Event and the Parties shall perform all obligations which are unaffected by a Force Majeure Event.

If performance of the Agreement is substantially prevented by any Force Majeure Event for a continuous period of thirty (30) days, then, either Party may terminate this Agreement forthwith by written notice to the other Party and neither Party shall have any claim against the other Party or be entitled to any compensation arising thereof for, loss or damages or expenses arising from such termination save for antecedent breaches.

## 20. Disclaimer

ALC-TECH does not control content passing through the Data Centre. As such, except for the Service Level Credit for Downtime, Services are provided "as is" and its use is at the Customer's own risk. ALC-TECH provides no representations or warranties of any kind. To the extent permitted by law, IPSEVERONE disclaims all warranties including, implied warranties of merchantability, satisfactory quality, fitness for a particular purpose, title, quiet enjoyment and non-infringement, or any implied warranties arising from, course of dealing or usage of trade. Without limiting the generality of the foregoing, ALC-TECH specifically does not warrant for the security of Content (against, loss or damage or unauthorized access) or that the services will meet the requirements of, Customer or End User, or that Service will be, accurate, uninterrupted, free of error or free of harmful components.

## 21. Suspension

ALC-TECH shall be entitled to without notice suspend, Customer's or End User's, access to Services, in part or whole, at Customer's cost and, Customer's and End User's, risk, without compensating, Customer or End User, for any, loss or damages or expenses, which, Customer or End User, may incur arising from the suspension, in the event;

- a) Customer or End User's, use of Services, (1) is a security risk to any party, (2) adversely affects, Services or system (server, network, software, device, hosts or users) or Data Center, belonging to or operated by, ALC-TECH or another party, (3) subjects, ALC-TECH or any third party, to liability and (4) is fraudulent;
- b) Customer breaches any of the material provisions under this Agreement, the Data Center's House Rules, Data Centre's Acceptable User Policy, ALC-TECH's Acceptable User Policy or of an agreement with a third party service provider;
- c) the Service(s) is used in violation of laws, regulations or notices issued by the relevant authorities;
- d) the Customer does not cooperate with the investigations made by the authorities in relation to suspected illegality; or
- e) Customer fails to settle ALC-TECH's invoice within three (3) days from its due date. During the suspension, Customer will remain liable for any payments due, prior to the suspension and until the suspension ends, and Customer will not be entitled to any Downtime Credits. ALC-TECH shall re-connect Services, provided Customer remedies the event which generated the suspension and it pays a reconnection fee to ALC-TECH.

### 21.1 Consequence of Suspension

- 21.1.1 After the expiry of 3 days' notice of suspension and Customer fails or refuse the settlement payment, ALC-TECH shall have the right to terminate Customer service without further notice;
- 21.1.2 All licenses granted to Customer in relative to this Service or any other Services procured shall be terminated on the date of suspension takes effect;
- 21.1.3 In the event suspension due to arrears of payment, such suspension will be lifted and Service shall be re-activated upon receiving of payment due, however, for all licenses terminated according to para 21.1.2, a reinstatement licensing fee for re-setup or installation of such licenses will be imposed on Customer (ALC-TECH will notify Customer on the reinstatement fee rate).

ALC-TECH's right to effect a suspension under this Clause is independent of ALC-TECH's right to terminate this Agreement.

## 22. Termination

Either Party may immediately terminate this Agreement in the event the other Party: becomes bankrupt or suffers the presentation of a petition for, liquidation or winding-up; enters into any scheme of arrangement with its creditors; has execution proceedings levied against, it and its assets; or infringes any legal requirement and which is not remedied within the time fixed by the relevant authority.

Buyer shall have the right to terminate the services or portion of such services after minimum mandatory period, but prior to the next expiry date after the mandatory period by serving an advance written termination notice, thirty (30) days prior to the effective date of termination. Failure such notice, customer shall be obligated to pay ALC-TECH an "Early Termination Fee" ("ETF") equivalent to the Standard Monthly Rate of such Service subscribed.

An ETF not a penalty, but rather a service charge imposed to compensate ALC-TECH for failure to comply to the obligation of the Service Commitment and the cost of investment outlay incurred.

This agreement shall automatically renew based on the existing 'service commitment' schedule until either party gives notice pursuant to the termination provision set forth in this agreement.

In the event, Customer or the End User, is in breach of, Clause (14) or any other material provision of this Agreement, Data Center's House Rules, Data Centre's Acceptable User Policy, ALC-TECH's Acceptable User Policy or of an agreement with a third party service provider and which breach is not cured within fourteen (14) days from the receipt of a written notice requiring the cure or Customer fails to settle ALC-TECH's invoice within seven (7) days from its due date or as may be required by, law or the government or any authorities, Customer agrees that ALC-TECH may without notice terminate this Agreement forthwith at Customer's cost and, Customer's and End User's, risk, without compensating, Customer or End User, for any, loss or damages or expenses, which, Customer or End User, may incur arising from the termination.

## 23. Consequence of Expiry or Termination of Agreement

Upon the expiry or termination of the Agreement, (1) all Customer's rights will terminate, (2) Customer shall promptly pay all outstanding, Fees, charges, costs or expenses, incurred and Liquidated Damages, due for Services rendered, (3) Customer will return to ALC-TECH all its materials without retention of copies and (4) ALC-TECH reserves the right to refer any debts owed by Customer to ALC-TECH under this Agreement to a third party collection agency to collect the payment of such debts from Customer and Customer agrees that all expenses arising shall be borne by Customer.

In the event, this Agreement or Customer's use of the Services, expires or is terminated, then Customer agrees that ALC-TECH will not transfer Content to another party and that within seven (7) days of the, expiry or termination: Customer shall, copy and securely delete, Content stored on the ALC-TECH servers; ALC-TECH may disable, Customer's or End User's, access to, Content or Services, or remove Content from all ALC-TECH's, Hardware or system, or reformat such server space holding Content; Customer shall at Customer's cost remove Customer's Hardware from Data Center and make good any damages caused to the Data Center to ALC-TECH's satisfaction; and, save for the obligations to be carried out by a Party in the foregoing, Parties shall destroy the other Party's confidential information in its possession except for such information that is to be retained by Law.

In the event Customer does not, pay outstanding sums due or remove Customer's Hardware, as required above, ALC-TECH, without being obliged to, may at Customer's, cost and risk, dismantle, remove and keep such Hardware in a store of its choice until Customer makes payments of all Fees, costs and expenses due to ALC-TECH or for a duration of one month. In the event the Customer fails or refuse to make such payment within the foregoing month, then the Customer agrees that without notice to the Customer, ALC-TECH may sell Customer's Hardware in any manner it deems suitable at its sole discretion and defray any, payments or moneys, due to ALC-TECH out of the proceeds of this sale and hold the surplus, if any, in trust for the Customer without accrual of interest. For avoidance of doubt, ALC-TECH shall not be liable to Customer for any loss or damage arising by, disconnection, dismantling, removal, storage or sale, of the Customer's Hardware.

Further, or in the alternative to the foregoing, ALC-TECH reserves its rights to (i) notify credit rating agency(s), ALC-TECH shall not be held liable or responsible to Customer for, the effect, or results of credit report(s) issued by credit rating agency on Customer and (ii) institute legal proceedings for unpaid outstanding fees or other monies, due from the Customer, including all losses, expenses, costs or damages suffered by ALC-TECH and the Customer shall, indemnify and pay ALC-TECH for all, legal

or administrative, costs or expenses, arising from such legal proceedings; Subjected to and upon the Courts final adjudication.

In the event this Agreement is terminated under Clause 22, then Customer shall pay ALC-TECH: (i) any Fees, costs or expenses due for Services rendered up to the date of termination; (ii) Fees for the remainder duration of the Agreement from the date of termination as agreed liquidated damages; (iii) any termination charges (under the provisions of this Agreement and; (iv) all fees, costs, expenses or termination charges, in respect of any third party contracted, commissioned or engaged by ALC-TECH for the purposes of the Services under this Agreement; and (v) all applicable taxes, levies or surcharges to any payments.

In the event Customer, terminates or reduces its subscription, of any, Services or its component packages, then, within thirty (30) days from its notice in respect of the same, Customer shall pay ALC-TECH the Fees in proportion to the reduced subscription for

the duration from the date the subscription is to be reduced until the expiry of the Service Term as agreed liquidated damages. In the event Customer, terminates or reduces its subscription, of any, Services or its component packages, then notwithstanding such, termination or reduced subscription, (i) Customer shall continue to pay ALC-TECH Fees in full for the Services for the

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

# ALC-TECH HOSTING SERVICES AGREEMENT

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remainder duration of the Agreement from the date the notice in respect of the same becomes effective, as agreed liquidated damages, as if there was no reduction to the subscribed Services; (ii) any termination charges; and (iii) all applicable, taxes, levies or surcharges to any payments.

In the event Customer, terminates or reduces its subscription, of any, Services or its component packages, prior to the Services' commencement, then ALC-TECH shall forfeit such proportion of the Deposit pro-rated to such reduction in subscription and Customer shall pay ALC-TECH, within 30 days from its notice in respect of the same, all costs incurred with the cancelled installation required for the provision of the Services, inclusive of all applicable, taxes, levies or surcharges to any payments.

## 24. Miscellaneous

### LEGAL COSTS

Each Party shall bear its own legal, costs and expenses, in the, preparation and execution, of this Agreement and in performing its obligations under this Agreement.

### ASSIGNMENT

- a) Customer shall not assign Customer's, rights or interests, under this Agreement, in whole or in part, without the written consent of ALC-TECH.
- b) Notwithstanding any permitted Customer assignment, the Customer is responsible for its assignee's obligations under this Agreement and to its acts or omissions.
- c) ALC-TECH may by notice assign its, rights or interests, under this Agreement to any third party without the Customer's consent.

### NON-WAIVER

- a) A Party may grant a waiver of its rights PROVIDED the waiver is in writing.
- b) No waiver under Clause (a) for a breach of this Agreement shall operate as a waiver of, a subsequent breach of Agreement or a continuing breach of Agreement, unless expressly written.
- c) Subject to Clauses (a) and (b), no:
  - (i) granting of time to a Party; or
  - (ii) relaxation, forbearance, delay or indulgence by the other Party, in enforcing a, provision or right, under this Agreement shall prejudice the other Party's rights.
- d) Unless provided under this Agreement, a Party shall not be liable for any, loss, cost or expenses arising from a waiver under Clauses (a) and (b).

### SEVERABILITY

Any provision of this Agreement held invalid or unenforceable under the law shall be read down but only so far as required to be valid and enforceable and if that is not possible, such provision shall be severed from this Agreement to the extent of the, invalidity or unenforceability, without affecting the other remaining provisions of this Agreement.

### RELATIONSHIP OF PARTIES

This Agreement does not form a, partnership, joint venture, agency, or any relationship of employment or franchise, between the Parties. Neither Party shall bind the other Party in any other agreements.

### THIRD PARTY BENEFICIARY RIGHTS

The Parties agree that this Agreement does not confer any third party beneficiary rights.

### CONTINUING OBLIGATIONS

Obligations that continue after the, expiry or termination, of this Agreement shall continue without condition.

### ENTIRE AGREEMENT

- a) This Agreement constitute the entire agreement between the Parties.
- b) All previous, written or oral, agreements, communications, representations, warranties, negotiations, purchase orders or understandings, between the Parties with respect to this Agreement:
  - (i) are superseded by this Agreement;
  - (ii) are merged in this Agreement to the extent of its incorporation in this Agreement;
  - (iii) are of no effect; and
  - (iv) shall not constitute any collateral agreement or warranty.
- c) This Agreement is deemed accepted by Customer and shall be enforceable from the date of the following act by Customer therein stated below: -
  - (i) signing of this Agreement; or
  - (ii) receiving of written confirmation of acceptance in any form of electronic, digital or media application convenient to Customer and acceptable by ALC-TECH.

### SUCCESSOR'S BOUND

This Agreement shall benefit, ALC-TECH'S assigns and Customer's permitted assigns, and shall be binding upon the Parties', heirs, personal representatives or successors-in-title.

### NO DISCLOSURE IN PUBLIC STATEMENTS

Each Party undertakes that it will not use the other Party's Intellectual Property or otherwise identify the other Party in any, public statement, press release or marketing materials, in any medium without the other Party's written consent.

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

**NOTICES**

All notices, invoices or any other communications, made pursuant to this Agreement, shall be issued in writing. Such notices, invoices, communications or any other documents to be served (including documents to be used in legal proceedings), shall be served by, hand or post or courier, to the, registered address or last known address, of the Parties or to the Parties', e-mail or facsimile, and shall be deemed effective:

- a) on the day of delivery if served by facsimile (provided the transmission report confirms error free transmission), by electronic mail or by hand;
- b) on the Business Day following dispatch if served by Courier;
- c) five (5) Business Days after dispatch if served by post.

**TIME IS OF THE ESSENCE**

Time shall be of the essence in this Contract.

**STAMP DUTY**

The Customer shall pay the associated stamp duty for this Agreement.

**CONCLUSIVE EVIDENCE**

Any evidence furnished by ALC-TECH from its system records in relation to the use of Services shall be conclusive.

**25. Governing Law and Settlement of Dispute**

The validity, construction and performance of this Agreement shall be governed by the Laws of Malaysia and in an event of a dispute arising between the Parties, the Parties shall agree to attempt to settle the dispute amicably and if no settlement is reached within Two (2) weeks of a Party notifying the other of the dispute, the Parties agree to appoint a professional mediator to mediate the dispute. In the event that the dispute could not be settled, within 4 weeks of a Party notifying the other of the dispute, the Parties irrevocably and unconditionally submit to the exclusive jurisdiction of the High Court of Malaya.

**ALC-TECH (M) SDN BHD**

**Authorized Signatory**

**Name** : \_\_\_\_\_

**Designation** : \_\_\_\_\_

**Company Chop / Seal** : \_\_\_\_\_

**Date** : \_\_\_\_\_

are lawfully able and have the authority to bind the entity entering this agreement.

**CUSTOMER**

**Authorized Signatory**

**Name** : \_\_\_\_\_

**Designation** : \_\_\_\_\_

**Company Chop / Seal** : \_\_\_\_\_

**Date** : \_\_\_\_\_

The signatories represent that they

**ALC-TECH** : \_\_\_\_\_

**Customer**: \_\_\_\_\_

## ALC-TECH HOSTING SERVICES AGREEMENT

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### SCHEDULE A

#### General Payment Terms

1. Security Deposit (applicable only for Co-Location Contracts) Customer shall also, bear and pay, all, taxes (including Goods and Services Tax), levies, surcharges, other similar charges or penalties, imposed by any government authority in On entering into this Agreement, Customer shall pay ALC-TECH a sum equivalent relation to the provision of, Services or any required ancillary service or in relation to to one (1) month of the Fees as, deposit and security, for its due performance under the operation of this Agreement, as described in the invoices.

this Agreement's provisions (the "Security Deposit") in addition to any Fees due. For the avoidance of doubt, the Security Deposit is not payment of Fees and this Security In the event Customer has to deduct any, levies, surcharges, other similar charges, Deposit shall be maintained throughout the Service Term. penalties, or taxes (including withholding tax), from the amount invoiced as Fees by ALC-TECH , then Customer shall pay ALC-TECH additional amounts such that

In the event the Fees are revised, Customer shall pay ALC-TECH such sums as after deduction ALC-TECH receives its invoiced Fees in full. required so as to maintain its Security Deposit (at a sum equivalent to one (1) month of the prevailing Fees). For the avoidance of doubt, Customer agrees to promptly pay the invoiced sum notwithstanding its failure to, ascertain or understand, the Services it used or the

In the event Customer, its representatives, servants, agents, contractors, licensees or invitees, fails to comply with any of the provisions under this Agreement, ALC-TECH may, but shall not be obliged to, appropriate and utilize, the Security Customer shall make the aforementioned payments to the account designated [in ], or Deposit in, part or whole, as compensation for any, costs, loss, expenses or damages, such other account as ALC-TECH may instruct the Customer in writing, from time suffered arising from such failure. Thereafter, within two weeks, Customer shall pay to time. ALC-TECH such utilized sums so as to maintain its Security Deposit. Any such, appropriation and utilization, is not a waiver of the Customer's non-compliance and Customer agrees that Fees may be reasonably adjusted from time to time in the event such, appropriation and utilization, shall not prejudice any of ALC-TECH's other price of, utilities or third party service providers of any aspect of Services, are right's. increased. For the avoidance of doubt, increase to Fees arising from any other reasons shall be mutually agreed by the Parties in writing.

Within 30 days of the, expiry or termination, of this Agreement, ALC-TECH shall refund Customer the Security Deposit (without interest) less any, Fees or monies, due Late Payment and owing by Customer under this Agreement unless parties have agreed to utilize the security deposits as the final payment in writing prior to the expiry of the agreement. The Customer shall pay ALC-TECH the Fees by the due date failing which in addition to the Fees due, Customer shall pay ALC-TECH (1) interest at the rate of 2. Payments 1.5% per month from such date for payment until payment has been made and (2) all costs incurred in collecting the overdue payments (3) ALC-TECH shall reserve the Initial Payment right to suspend or terminate the services as it see fit and proper.

On entering into this Agreement, Customer shall bear and pay ALC-TECH , the Refund Security Deposit (if applicable) and the Fees for the first month (and, if applicable, with the Fees being pro-rated for the number of days Services is to be provided), as ALC-TECH does not practice refund policy at all time, in the event that a customer described in ALC-TECH's first invoice. terminates its services prematurely, ALC-TECH shall not refund any balance outstanding period between the termination date and the actual expiry date of services Interim Payments procured until and unless approved by ALC-TECH management in writing.

For the provision of Services in the following month, ALC-TECH shall issue the 3. Disputes Relating to Invoices An invoice is deemed correct except: monthly/quarterly/semi-annually/yearly invoice (s) to its customers, due and payable, (i) for manifest errors in the invoice; or following month's Fees (and, if applicable, with the Fees being pro-rated for the number of days Services is to be provided for the last month of the Service Term), and (ii) when the invoice is disputed by the Customer and provided Customer issues as may be adjusted and aggregated, by the previous month's, Downtime credit (if any), ALC-TECH a notice in writing before the fifteenth (15) day of the month which cooling or electricity or bandwidth utilization, charges for use over the allocated states the amount disputed, the reason for the dispute and includes evidence in Customer's usage limits in the previous month and charges for Customer's other support of the Customer's contention. subscribed services.

The Parties shall promptly take steps to resolve the dispute and ALC-TECH shall The Customer shall ensure that it has received such invoices. In the event Customer investigate the dispute. The findings of ALC-TECH in such investigation shall be, does not receive such invoice, Customer shall immediately request ALC-TECH by final and binding, provided it is supported by records. e-mail and facsimile for such invoice.

Customer is encouraged to visit Customer's portal from time to time to monitor its In the event an error is discovered in the invoice, such error shall be accounted in the subsequent invoice.

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_



payment schedules and tenure of Agreement to avoid any inconveniences, notwithstanding ALC-TECH to continue to issue such notices to Customer. For avoidance of doubt, Customer shall pay ALC-TECH the invoiced sum notwithstanding Customer's dispute. Customer shall pay ALC-TECH the following monthly/quarterly/semi-annually/yearly invoiced sum within seven (7) days prior to the expiry of the credit period or as stated in the quotation / purchase order.

#### Final Payment

For the provision of Services final month, ALC-TECH shall within one (1) month of the expiry of the Service Term invoice Customer for the, due and payable, any outstanding payment and as may be adjusted and aggregated, by the final month's, Downtime credit (if any), cooling or electricity or bandwidth utilization, charges for use over the allocated Customer's usage limits in the final month and charges for Customer's other subscribed services.

The Customer shall ensure that it has received such invoice. In the event Customer does not receive such invoice within one (1) month from the expiry of the Service Term, Customer shall immediately request ALC-TECH by e-mail and facsimile for such invoice.

Customer shall pay ALC-TECH the following monthly/quarterly/semi-annually/yearly invoiced sum within seven (7) days prior to the expiry of the credit period or as stated in the quotation / purchase order.

#### ALC-TECH HOSTING SERVICES AGREEMENT

#### SCHEDULE B

#### ALC-TECH'S PERSONAL DATA PROTECTION POLICY ("Policy")

In accordance with the Personal Data Protection Act ("PDPA") 2010, in a 'commercial transaction', a 'data user' (in this case ALC-TECH, its successors or assigns, collectively referred as "We", "Us" or "Our"), is to brief a 'data subject' (here being the Customer, referred below as "You" or "Your") on the, whys or how, Personal Information (defined below) is, collected, used, and to whom such information is shared with. Please read this Policy to establish how We handle such information.

Please note, by You providing Personal Information to Us or continuing to use Our Services or visiting our website, You are consenting to the practices outlined under this Policy. In the event You, act for another person or handle another person's personal information, You warrant that You, have informed this person of the objectives of this Policy and thereafter got this person's authority, to provide its Personal Information to Us or for Your handling of their personal information and You will indemnify us against any loss or damage that may arise from Your failure to get such authority.

If You are below the age of 18 years old, please note that: (1) You must submit Your, parent's or legal guardian's, consent prior to, registering for use of Services or submitting Your Personal Information, (2) Your, parent or legal guardian, may, request to view or amend, Your Personal Information, and (3) Your, parent or legal guardian, may withdraw its consent for Your use of Services at any time.

Please also note, that any information that You provide in conjunction with third party services shall be handled, as per the third party's, personal data protection policy or privacy policy ("3<sup>rd</sup> Party Policy"), and not as per this Policy. Arising thereof, please read such 3<sup>rd</sup> Party Policy to ascertain the practices that the third party employs in relation to the information that You provide to the third party.

#### What is Personal Information?

In this Policy, "Personal Information" means the information, which You, give or gave, to Us in response to Our request or which You, generate or generated, as mentioned in this Clause by the use of Services and which information relates, directly or indirectly, to a natural person, who is identified or identifiable, from that information or from that and other information, in Our possession. Such information [which We keep for as long as we believe it is necessary] includes a person's:

- a) name, home address, business address, date of birth, age, gender, nationality, citizenship, race, religion, identity records (including National Registration Identity Card or passport details), spoken language, telephone number, fax number, phone numbers, e-mail address, employer's, name, address and contact details, and job title;
- b) credit card or debit card or banking details;
- c) details or usage or analytics of the usage (for example including but not limited to the sent or received, amount of data, IP addresses, transmission details, details of the hardware used, the time of use, duration of use, clickstream data of pages browsed, personal settings, interest and preferences), of the subscribed, Services or third party services;

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- d) details or usage or analytics of the usage of mobile devices (for example including but not limited to the mobile device's unique identifier and the location) if used to access the subscribed, Services or third party services;
- e) CCTV recordings of Your visits at any of our branches;
- f) Recordings of Your phone calls to Us (at Our help desk or at any of Our other contacts).

#### Why We Collect Your Personal Information?

We do not collect Personal Information that we do not require. Depending on the Services You subscribe to, We require the aforementioned obligatory Personal Information for, communicating with You, tailoring Services for Your needs, improving our services and the proper functioning of Our business, when providing Your requested Service including but not limited to "Purposes":

- a) of verifying Your identity and as to whether or not You are sanctioned for the Services and as to whether or not You are, related to or associated with, a prohibited person;
- b) if We believe it is relevant, to process Your application for or in providing You, the Services or in discontinuing Your Services;
- c) if We believe it is relevant to operate Our business including but not limited to:
  - (i) managing "Our System" which includes Our, network, servers or employed software;
  - (ii) maintaining the security of Our system (including against security breach);
  - (iii) detecting or investigating, rogue activities or fraudulent activities or criminal activities or activities that might reduce Our reputation, and for stopping such activities;
  - (iv) verifying Your credit worthiness;
  - (v) processing Your, credit card payments or payments;
  - (vi) administering the Services provided to You by collecting analytic information for, billing purposes, determining the payments due to Us and collecting the same, monitoring Our performance (service levels, service issues and its resolution, or Quality Assurance/Quality Control {QA/QC})
  - (vii) addressing Your queries (billing, complaint or general enquiries);
  - (viii) for optimizing Services - Our system (in planning its, expansion or upgrades or routine testing or maintenance scheduling) or Our staff (by training);
  - (ix) complying to any, laws, regulatory requirements, guidelines, requests by authorities, judgement, court order, sanctions imposed, by any government or relevant self-regulatory or industry body, prevailing or formed in the future, within Malaysia or outside Malaysia (where applicable) ("Authority Requirements");

- (x) being ready for legal challenges (including investigating, defending or initiating, claims, charges or proceedings) or obtaining legal advice;
- (xi) producing data as may be required (by Our suppliers, data analysts, market researchers, research bodies or government authorities);
- (xii) to enable a prospective, purchaser or assignee, of a substantial part of Our business to conduct due diligence of the, purchase or assignment, of Our business;
- (xiii) meeting Our obligations in any, present or future, contractual commitments or assurances, to Our Affiliates (defined below) or to meet Authority Requirements; or
- (xiv) meeting Our obligation for sharing information within Our group of companies;
- d) to contact You through any of Your contacts including but not limited to providing customer care, furnishing Your requested information, [providing location based services save for when You have turned it off,] improving relationship, information of, products or Services, (developed, changed, modified or deprecated), marketing material (including but not limited to rewards or loyalty programmes), as part of branding exercise, by Us or with Our Affiliates, obtaining Your feedback on the Service or providing SMS alerts of the foregoing; or
- e) as permitted by any law, regulations, guidelines or the authorities.
- c) Government agencies, judicial bodies, regulators or law enforcement agencies;

#### What is Your Obligation in Providing Personal Information?

Please note that as a condition, You shall ensure that the Personal Information at all times is, complete and accurate, failing which We reserve the right to prohibit Your use of Services without notice.

#### What are Your Options in Providing Personal Information?

You, however, have the right to decline providing certain information. But then, We might not be able to open Your account or comply with Authority Requirements, or provide You, the Service or the full range of the Service, thus preventing You from taking advantage of all features of Our Service, depending on the information that You choose not to provide. In the case of ancillary optional services, We provide You the option to opt out from receiving such services.

#### What About Other Information You Provide?

For the avoidance of doubt, "Other Information" is any information which You provide NOT in response to Our request and which information relates, directly or indirectly, to a natural person, who is identified or identifiable, from that information or from that and other information. We do not require Other Information for Our operation and We will not be responsible for the Other Information's security. You are reminded that under the PDPA, You are responsible as a data user for any personal information that You, process or control, under any of Your commercial transaction with others. Accordingly, You shall use Your best endeavours to secure Other Information including but not limited to any other information, by use of adequate encryption technologies.

#### How do We Collect Your Personal Information?

Such Personal Information may be collected:

- a) when You, visit our offices, communicate with Us, subscribe to Services, use such Services (which includes but is not limited to any analytics from the, background, infrastructure or network), participate in Our programmes, take part in Our marketing promotions, register Your interest in requesting for information, enter a business relationship with Us, visit Our website or give Us by any other means or when you update Personal Information;
- b) from Our, employees, directors or officers, or, companies or organizations or businesses, affiliated with Us (such as Our, representatives, group of companies (including parent or subsidiary or associated, companies), agents, contractors, data processors (who assist in, collecting or handling, transactions), suppliers or third party service providers (including but not limited to providers of products used in subscribed Services, marketing agents, sales agents, call centers), or professional advisors (such as lawyers or auditors), or carriers that We employ to communicate with You (including but not limited to by, post, courier, telecommunication or shipping agencies), and their, employees, directors or officers ("Our Affiliates");
- c) from other sources, which You consent Us to collect from (for example including but not limited to credit reporting agencies, debt collection agencies, Companies Commission, Registrar of Businesses, Registrar of Societies, Insolvency Department or agencies which businesses in Our industry are required to communicate with) or where legally permitted; or
- d) through cookies when you use Our website or access Our content through another website.

#### Who Gets to Access Your Personal Information?

If We believe it is necessary, to fulfil any of the Purposes mentioned above for collecting Personal Information, we may at any time, without notice to You, pass such Personal Information to:

- a) Our Affiliates;
- b) the appropriate, credit card company or finance institution, processing payment transactions;

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

- d) a, purchaser or assignee, of a substantial part Our business;
  - e) credit reporting agencies, such as CTOS or CCRIS, debt collection agencies, Insolvency Department or agencies which businesses in Our industry are required to communicate with; or
  - f) such parties as per Your, express or implied, consent;
- if permitted under proper authority by, law, regulations or guidelines or:
- g) any, company or body, that is attempting to stop, rogue activities or fraudulent activities, provided it shows proof of such activities.

Also in the event, that Our business is substantially acquired by another party, it is likely that the customer information (including but not limited to Personal Information), which is an asset of the business, would also be transferred to the party acquiring the business.

We will only pass Personal Information to the aforementioned parties if all such parties observe, this Policy or a policy which is equally protective of Personal Information as this Policy or a policy which complies to PDPA. Where possible, we will transmit nonidentifying data.

ALC-TECH : \_\_\_\_\_

Customer: \_\_\_\_\_

Moreover, we may release such Personal Information as We might believe is necessary in:

- a) legal challenges (including in investigating, defending or initiating, claims, charges or proceedings);
- b) enforcing any of our Agreements or protecting Our rights; or
- c) protecting, any property or safety of anyone.

In such instances, depending on the circumstances, the Personal Information might be exposed in public documents. We, however, will seek redaction of such Personal Information to the extent permitted by, law, regulations or guidelines.

Other than the aforementioned, We will not otherwise disclose, Your identifiable Personal Information to others without Your consent and We wish to assure You that We will not sell Your identifiable Personal Data for commercial gain. In the event, there is a need for Us to disclose in circumstances not taken into account in this Policy, We shall seek Your consent before the release of such Personal Information.

#### What About Up-Dating of Personal Information?

We make every effort to up-date Personal Information and You are responsible for, such up-dating. Subject to verification, You may assess Personal Information which you had provided in response to Our request and update the same. We shall endeavour to provide access to the remaining Personal Information, if requested, save for information which, is commercially confidential or we are unable to divulge by law or impacts security (of Our System or any other party's system). In making such requests, please contact Us at the contact indicated below and kindly quote Your, name and account number. Please note that We charge a nominal fee for processing such requests. We shall endeavour to fulfil Your request within 21 days after receiving, it and the nominal fee.

#### How Do We Handle Cookies at Our Website?

For the purpose of analysing the use of Our website, when You, use Our website or access Our content through another website, We collect information of such usage from cookies. These cookies, which are automatically stored on the device accessing Our website, only identifies the device and not the user. Such cookies, which are retrieved by our website whenever accessed, have information which assist Your navigation by customizing site information according to Your preferences. Though You may reject the use of cookies through Your browser, the rejection may affect Your usage of Our website.

#### What is Our Security Assurance?

We take appropriate practical, technical and organizational, security measures against loss or unauthorized, access or processing, of Personal Information [(including by Our staff without clearance)]. For example:

- a) when You transmit Personal Information to Us, We encrypt the input by use of [128 bit] Secure Sockets Layer (SSL) software;
- b) [[only the last four digits of your [credit card/debit card] number is shown for the purpose of confirming a payment transaction whilst the whole number is encrypted when transmitted to the [credit card agency] [bank]/[we do not store your credit card details and instead direct You to Paypal's website to effect Your payment to us]]
- c) We employ firewalls to prevent unauthorized access [and monitor our System].]

#### What are the Security Measures You Should Consider?

The internet is not a secure environment. Whilst We make the aforementioned efforts to prevent breach, You should transmit confidential information only if You have taken appropriate security steps to protect the transmission. In particular, You should be extra vigilant when You transmit particulars which may, financially impact You or result in identity theft or on-line fraud. You are advised to independently verify the input sought before giving out any particulars so as to prevent inadvertent passing of information to fraudsters.

When You commence using Services, You will be prompted to select Your, unique user-id and password. Please do not make a selection (for example using, Your or a close family member's, name or birthday, etc.) that is easily identifiable with You. You should also ensure that Your, password and account details, are kept secret (without, writing or recording, them) and that You sign off at the end of every session of using Our Service, so as to prevent an unauthorized person using Your account. As a matter of prudence, do not share Your, password or account details, with others or allow others to access Your account. We cannot be responsible for unauthorized access which does not arise out of Our, default or negligence.

#### IMPORTANT NOTICE

We will not know Your password nor will we ask You for Your password. We also do not ask by, e-mail or through links within it, for any, Personal Information or confirmation of security particulars; links if any in our e-mails would direct you to informational pages only. Thus You should not respond to e-mails, which may seem to come from Us, making requests for such Personal Information. Instead please contact Us at the contact indicated below to report, any such e-mail requests or Your suspicion that Your, password or user-id, is compromised or other suspicious activities.

#### Is Personal Information Transferred Outside Malaysia?

We do not transfer Personal Information outside Malaysia save for instances the parties mentioned above to whom we pass Personal Information are "Overseas Entities" located outside Malaysia. You consent to passing such Personal Information to Overseas Entities where necessary.

#### Our Contact

PANG BOON KUANG  
ALC-TECH (M) SDN BHD  
NO. 30, JALAN 6/62A, BANDAR MANJALARA, 52200 Kuala Lumpur, Malaysia.  
Tel: 03-62801650 Fax: 03- 62804595

E-mail: [pang@alcglobal.com](mailto:pang@alcglobal.com)

#### General

For any clarification of this Policy or complaints related to this Policy, please do not hesitate to contact us by e-mail with your query.

Please note, this Policy may be amended by Us at any time at Our sole discretion.