

# END USER LICENSE AGREEMENT<sup>1</sup>

## STANDARD TERMS AND CONDITIONS

THE LICENSOR, **CYBERNATICS PTE LTD** PROVIDES LICENSED SOFTWARE TO LICENSEE (CUSTOMER) AS DEFINED IN CLAUSE 1 BELOW UNDER THIS END USER LICENSE AGREEMENT (THE “AGREEMENT”). THIS AGREEMENT GOVERNS LICENSEE’S INSTALLATION AND USE OF THE VERSION OF THE LICENSED SOFTWARE IDENTIFIED IN THE APPLICABLE PURCHASE ORDER, OR IF NOT ACQUIRED VIA A PURCHASE ORDER, LICENSEE’S INSTALLATION OR USE OF THE LICENSED SOFTWARE CONSTITUTES ACCEPTANCE OF THIS AGREEMENT.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE PROCEEDING, AS IT MAY CONTAIN RESTRICTIONS ON YOUR USE OF THE SOFTWARE. THIS AGREEMENT SUPERSEDES AND CONTROLS OVER ANY OTHER TERMS PROVIDED TO LICENSEE REGARDING LICENSEE’S USE OF THE LICENSED SOFTWARE, WHETHER WRITTEN OR ORAL, AS PART OF A SIGNED AGREEMENT (INCLUDING, BUT NOT LIMITED TO, MASTER AGREEMENTS AND PORTFOLIO TERMS, UNLESS A DIFFERENT AGREEMENT IS EXPRESSLY REFERENCED IN A PURCHASE ORDER OR EXECUTED BY LICENSOR AND LICENSEE SPECIFYING THAT IT APPLIES TO THE VERSION OF THE LICENSED SOFTWARE TO WHICH THIS AGREEMENT RELATES), A CLICK-WRAP AGREEMENT PROVIDED WITH THE LICENSED SOFTWARE OR OTHERWISE (SUCH TERMS REFERRED TO AS THE “OTHER AGREEMENT”), EVEN IF SUCH OTHER AGREEMENT WAS EMBEDDED WITHIN PREVIOUSLY LICENSED SOFTWARE.

LICENSOR RESERVES THE RIGHT TO UPDATE, AMEND, AND/OR MODIFY THIS AGREEMENT FROM TIME TO TIME, AND MAY INCLUDE SUCH UPDATED AGREEMENT WITH OR EMBEDDED IN FUTURE VERSIONS OF THE LICENSED SOFTWARE.

PLEASE DIRECT ANY QUESTIONS TO THE CYBERNATICS PTE LTD’S LEGAL DEPARTMENT AT [LEGAL@FOCUS.SG](mailto:LEGAL@FOCUS.SG).

ENTERING INTO THIS AGREEMENT DOES NOT CONSTITUTE A SALES TRANSACTION. THE SALE OF A LICENSE TO SOFTWARE PRODUCTS TAKES PLACE UNDER PURCHASE ORDER(S) WHICH (UNLESS OTHERWISE STATED IN THE PURCHASE ORDER) INCORPORATE THE TERMS OF THIS AGREEMENT.

### **1. Parties to this Agreement**

1.1. “Cybernatocs Pte Ltd”, “we”, “us” or “our” means Cybernatocs Pte Ltd or its Affiliate(s) who execute or assent to the Purchase Order. “You” or “your” means the Customer who is the licensee who signs and agrees to the services specified in the Purchase Order (where applicable) as defined in clause 1.2 below.

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<sup>1</sup> Version 1 dated 2023 May 31

1.2. The specific cybersecurity software, software-as-a-service, hardware and/or services for which you have contracted including but not limited to any security information and event management or SIEM-related services (the “Cybersecurity Services”) will be identified in a print or electronic document identified as Purchase Order or such other named form which serves the same purpose as a Purchase Order (the “Purchase Order(s)”). Such Purchase Order, where applicable, may identify each transaction’s contracting entities, pricing and related provisions and may reference or link to supplemental terms, agreements or policies and references to Purchase Order includes such documents. The Purchase Order, together with these Cybersecurity Services Terms and Conditions (“Cybersecurity Terms and Conditions”), form a single contract (the “Agreement”).

1.3 These Cybersecurity Terms and Conditions take precedence over any other terms in the Agreement with regards to Cybersecurity Services and any conflicts shall be resolved in favour of these Cybersecurity Terms and Conditions.

1.4 For purposes of these Cybersecurity Terms and Conditions, an “Event” means any act or attempt to disrupt, misuse, or gain unauthorized access to any system or electronic facilities or operations that results in a loss, alteration or disclosure of data, system downtime or degradation or loss of operation or services relating to the Cybersecurity Services.

## **2. Grant of License**

2.1 Subject to the terms and conditions of this Agreement, the Licensor hereby grants you, the Licensee a non-exclusive, non-transferable right to access and use the Cybersecurity Services as provided by the Licensor under the Purchase Order. This license is solely for the Licensee's internal use and is limited to the duration of the subscription or service period specified in the Purchase Order.

2.2 You as the Licensee, agree not to:

- a. Copy, reproduce, modify, distribute, or create derivative works based on the software application, except as expressly authorized by the Licensor;
- b. Reverse engineer, decompile, disassemble, or attempt to derive the source code of the software application;
- c. Use the software application in any manner that violates applicable laws, regulations, or the rights of third parties;
- d. Share, transfer, sublicense, or assign the license or access to the software application without prior written consent from the Licensor.

## **Shared Responsibility, Remedy, and Warranties.**

3.1 You acknowledge and agree that Cybernatics Pte Ltd provides professional judgment, technical expertise, and advice to you regarding your cyber risk management program. You acknowledge and agree that you recognize your own responsibility (as further detailed below in 3.3 of this Agreement) with respect to your cyber risk management program and that Cybernatics Pte Ltd provides highly integrated Cybersecurity Services to you. As ultimate system performance and security are subject to multiple factors outside of our control, we do

not warrant or guarantee the Cybersecurity Services will prevent or mitigate every Event. You agree and understand that we cannot and do not prevent Events (either actual or attempted), or that by working with us, you will not experience such actual or attempted Events. Instead, you agree and expressly acknowledge that you must participate in your own defence and work with us to create a prioritized, flexible, repeatable, performance-based, and cost-effective approach to establish an ongoing process to identify, assess, and manage cyber risk throughout your enterprise. Though this Agreement specifies certain responsibilities that you must accept, any such list should not be considered absolute. **Our sole liability and your exclusive remedy in respect of an Event is: (a) if the Event was caused by defective products or services provided by us, replacement or repair of defective products, or re-performance of defective services under the applicable warranty in the Agreement.**

### **Cybernetics Pte Ltd's Representations and Warranties**

3.2 Cybernetics Pte Ltd represents and warrants (i) that it will perform the Cybersecurity Services using personnel of required skill, experience and qualifications in a professional manner leveraging generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Schedule; and (ii) that the Cybersecurity Services will be made available and performed on a professional, best effort basis. Cybernetics Pte Ltd makes no guarantees regarding the effectiveness of the Cybersecurity Services with respect to your overall cybersecurity program due to Cybernetics Pte Ltd's lack of control over numerous aspects of your operations, personnel, and Information Systems. Cybernetics Pte Ltd is thus not responsible or liable for any issues, problems, unavailability, delay, or Events arising from or related to: (i) force majeure events as described below; (ii) the public internet and communications networks; (iii) data, software, hardware, services, telecommunications, infrastructure, or networking equipment not provided by us or acts or omissions of third parties you retain; (iv) your negligence or failure to use the latest version or follow published documentation; (v) modifications or alterations not made by us or services we do not perform; (vi) breach, loss or corruption of data; (vii) unauthorized access via your credentials; or (viii) your failure to use commercially reasonable administrative, physical and technical safeguards to protect your systems, facilities, operations or data or follow industry-standard or other mutually agreed upon security practices.

### **Your Representations and Warranties.**

3.3 You represent and warrant that you will (i) use commercially reasonable administrative, physical and technical safeguards to protect your systems, facilities, operations or data or follow industry-standard or other mutually agreed upon security practices; (ii) update to the latest version of relevant software and follow the current documentation for the same; (iii) make no modifications or alterations to any hardware or software comprising the Cybersecurity Services without our express written permission; (iv) designate two (2) or more employees, executives, or agents (the "Contact Person(s)") who you guarantee will respond to any Events and take recommended actions to mitigate harm to your network; (v) develop and adopt a written governance, risk and compliance policy or policies, approved by a senior officer or your board of directors (or an appropriate committee thereof) or equivalent Singapore body, setting forth your policies and procedures for the protection of its information systems and non-public information stored on those information systems (the "Cybersecurity Policy"); (vi) develop and adopt written incident response plan ("IRP") that is exercised and/or practiced

with key scenario driven evaluations on at least an annual basis; and (vii) provide us with copies of your Cybersecurity Policy, IRP, and business continuity or disaster recovery plans upon our request.

#### **4. Third-Party Products.**

To the extent that we provide, use and deploy third-party products, software, hardware, or services (“Third- Party Products”) as notified to you and agreed by you in relation to the Cybersecurity Services, then notwithstanding any other terms agreed to between us, you agree that all Third-Party Products are provided subject to the Third-Party Product supplier’s terms and conditions (including any applicable software license terms) in effect at the time such Third-Party Products are delivered to you. **We have no liability with respect to the performance or non-performance of such Third-Party Products, including but not limited to any liability arising out of any Events caused by defects or failures of such Third-Party Products.**

#### **5. Indemnification**

Cybernetics Pte Ltd shall defend, indemnify, and hold you harmless from and against any and all losses, damages and costs (including reasonable attorneys' fees) incurred in connection with any third-party claim, action, suit, or proceeding (each a “Claim”) made or brought against you arising out of or related to any claim that the Cybersecurity Services, when used in accordance with this Agreement and documentation, infringes any valid patent, copyright, or trademark of a third-party. Cybernetics Pte Ltd shall have no indemnification obligation whatsoever that arises out of or is related to any claims arising from the combination or use of the Cybersecurity Services with any other software, products, hardware, materials, and/or processes not provided by Cybernetics Pte Ltd and/or your failure to adhere to and comply with all documentation and other specifications and instructions; and/or your modification of any component of the Cybersecurity Services, or any other unauthorized or unapproved use of the Cybersecurity Services. If any aspect of the Cybersecurity Service becomes, or in Cybernetics Pte Ltd's opinion may become, subject to a Claim, Cybernetics Pte Ltd shall at its option and at its own expense: (a) procure for you the right to continue using the Service; (b) replace or modify the relevant component of the Cybersecurity Service with a functionally equivalent non-infringing substitute service; or (c) modify the Cybersecurity Services so they become non-infringing while remaining functionally equivalent. THIS CLAUSE 5 SETS FORTH CYBERNETICS PTE LTD’S SOLE LIABILITY, AND CUSTOMER'S EXCLUSIVE REMEDY, FOR INTELLECTUAL PROPERTY INFRINGEMENT RELATED TO THE CYBERSECURITY SERVICES. THIS SHALL BE THE SOLE INDEMNIFICATION OBLIGATION FOR THE CYBERSECURITY SERVICES REGARDLESS OF ANY ADDITIONAL OR SEPARATE AGREEMENTS BETWEEN YOU AND CYBERNETICS PTE LTD.

#### **6. Limitation of Liability**

WITH RESPECT TO ALL CYBERSECURITY SERVICES(S) AND EVENTS, WE ARE NOT LIABLE FOR INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS AND REVENUES. OUR CUMULATIVE AND AGGREGATE LIABILITY TO YOU WITH RESPECT TO ALL

CYBERSECURITY SERVICES AND ANY CYBERSECURITY EVENT IS LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED TO THE CONTRACTED AMOUNT OF THE CYBERSECURITY SERVICES IN QUESTION. THE LIMITATIONS AND EXCLUSIONS APPLY TO ALL CLAIMS AND CAUSES OF ACTION ARISING OUT OF OR IN RELATION TO THE AGREEMENT REGARDLESS OF FORM. THIS CAP SHALL APPLY TO A BREACH OF YOUR CONFIDENTIAL INFORMATION CAUSED BY LOSS, CORRUPTION, OR ACCESS TO YOUR DATA.

## **7. Data**

You retain all ownership or other rights over data that you or persons acting on your behalf input, upload, transfer, or make available in relation to, or which is collected from, your devices or equipment (“Input Data”). We have the right to duplicate, analyze, transfer, modify, and otherwise use Input Data to provide, improve, or develop our offerings. Input Data may also be used by us in connection with your use of the portal. You have sole responsibility for obtaining all consents and permissions (including providing notices to Users or third parties) and satisfying all requirements necessary to permit our use of Input Data. You will, at your cost and expense, defend, indemnify and hold harmless us and our Affiliates, subcontractors, and licensors from and against all losses, awards, and damages (including lawyers’ fees) arising out of claims by third parties related to our possession, processing, or use of Input Data in accordance with the Agreement or you or Users’ infringement, misappropriation, or violation of our or a third party’s IPR. Unless agreed in writing, we do not archive Input Data for your future use. You acknowledge and agree that your Input Data may be transferred outside the country or territory.

## **8. Intellectual Property Rights**

All right, title, and interest, including, but not limited to, all intellectual property rights (including copyrights, trademarks, and patents), proprietary rights (including trade secrets and know-how), throughout the world (“IPR”) and all derivative works, modifications, and improvements, are retained by us and are our confidential information. We shall own all IPR that is: (i) developed by us or our Affiliates by processing or analysis of Input Data (excluding Input Data itself but including derived data that is sufficiently different from Input Data so that Input Data cannot be identified from analysis or further processing of such derived data); or (ii) generated through support, monitoring, or other observation of your and your Users’ use of the Cybersecurity services.

## **9. Licenses**

We may use open-source software (“OSS”) and to the extent required by the licenses covering OSS, the terms of such licenses will apply to OSS in lieu of this Agreement. To the extent the licenses applicable to OSS: (i) prohibit any restriction with respect to such OSS, such restriction will not apply to such OSS; and (ii) require us to make an offer to provide source code or related information in connection with the OSS, such offer is hereby made. If required by our written contract with them, certain of our licensors are third-party beneficiaries of the Agreement.

## **10. Warranty and Disclaimer**

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE AGREEMENT, SIEM, THE PORTAL, AND SUPPORT ARE PROVIDED WITH NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ALL WARRANTIES AND REPRESENTATIONS INCLUDING MERCHANTABILITY AND FITNESS FOR PURPOSE. WE DO NOT WARRANT THAT SIEM WILL MEET YOUR REQUIREMENTS, OR THAT IT WILL OPERATE WITHOUT INTERRUPTION, OR BE ERROR FREE.

## **11. Handling and Protection of Personal Data**

**11.1 Compliance with PDPA.** We shall comply with all our obligations under the Personal Data Protection Act 2012 in relation to you and under this Clause 11 only if we have access to and are in control of any Customer's personal data that are provided to us at the Customer's written request.

**11.2 Process, Use and Disclosure.** We shall only process, use or disclose the Customer's Personal Data:

- a) strictly for the purposes of fulfilling its obligations and providing the services required under this Agreement;
- b) with the Customer's prior written consent; or
- c) when required by law or an order of court, but shall notify the Customer as soon as practicable before complying with such law or order of court at its own costs.

**11.3 Transfer of personal data outside Singapore.** We shall not transfer Customer's Personal Data to a place outside Singapore without the Customer's prior written consent. If the Customer provides consent, we shall provide a written undertaking to the Customer that the Customer's Personal Data transferred outside Singapore will be protected at a standard that is comparable to that under the PDPA. If we transfer Customer's Personal Data to any third party overseas, we shall procure the same written undertaking from such third party.

### **11.4 Security Measures**

**11.4.1** We shall protect Customer's Personal Data in our control or possession by making reasonable security arrangements (including, where appropriate, physical, administrative, procedural and information & communications technology measures) to prevent:

- a. unauthorized or accidental access, collection, use, disclosure, copying, modification, disposal or destruction of Customer's Personal Data, or other similar risks; and
- b. the loss of any storage medium or device on which personal data is stored.

For the purposes of this Agreement, “reasonable security arrangements” include arrangements set out below which shall not be varied without the Customer’s prior written consent:

- Operating Systems to be hardened to CIS standards;
- Communications between agent and manager are encrypted;
- Network VAPT will be conducted on the implementation and final solution before going live.

11.4.2 We shall only permit the authorised personnel to access Customer’s Personal Data on a need to know basis.

11.5 Access to Personal Data. We shall provide the Customer with access to the Customer’s Personal Data that we have in our possession or control, as soon as practicable upon Customer’s written request.

11.6 Accuracy and Correction of Personal Data. Where the Customer provides Customer’s Personal Data to us, the Customer shall make reasonable effort to ensure that the Customer’s Personal Data is accurate and complete before providing the same to us. We shall put in place adequate measures to ensure that the Customer’s Personal Data in our possession or control remain or is otherwise accurate and complete. In any case, we shall take steps to correct any errors in the Customer’s Personal Data, as soon as practicable upon the Customer’s written request.

11.7 Retention of Personal Data.

11.7.1 We shall not retain Customer’s Personal Data (or any documents or records containing Customer’s Personal Data, electronic or otherwise) for any period of time longer than is necessary to serve the purposes of this Agreement.

11.7.2 We shall, upon the request of the Customer:

- return to the Customer, all Customer’s Personal Data; or
- delete all Customer’s Personal Data in its possession,

and, after returning or deleting all Customer’s Personal Data, provide the Customer with written confirmation that it no longer possesses any Customer’s Personal Data. Where applicable, we shall also instruct all third parties to whom it has disclosed Customer’s Personal Data for the purposes of this Agreement to return to us or delete, such Customer’s Personal Data.

11.8 Notification of Breach. We shall immediately notify the Customer when we become aware of a breach of any of its obligations in Clauses 11.2 to 11.7.

## **12 General Terms and Conditions**

### **12.1 Notices and Correspondence**

All notices and communications by us to you may be sent or despatched to you by delivery, post, e-mail or facsimile transmission or any other means deemed appropriate by us to your e-mail or other address or facsimile number appearing in any of your record maintained by us or from which any communication by you to us was despatched or issued or otherwise last known to us. Any such notice, demand or communication addressed and so despatched to you shall be deemed to have been received by you:

12.1.1 in the case of despatch by e-mail or facsimile transmission or other instantaneous electronic communications, immediately upon transmission by us;

12.1.2 in the case of despatch by delivery to the address, on the date and at the time it was so delivered or left at that address; and

12.1.3 in the case of despatch by post:

(a) to any address in Singapore, on the next day after it was posted by us; or

(b) to any address outside Singapore, on the seventh (7th) day after it was posted by us.

12.2 All notices and requests from you to us shall be in writing unless we specify to you otherwise. We shall be entitled to regard as ineffective and invalid any notice or request from you the receipt of which by us has not been confirmed by us to you.

### **12.3 Severability**

Any part of this Agreement that is invalid, unenforceable or illegal shall be enforced as nearly as possible in accordance with its terms but shall otherwise be deemed severed and shall not affect the validity, enforceability or legality of any other part of this Agreement, which shall continue to be valid, enforceable and legal to the fullest extent permitted by applicable Law.

### **12.4 Third Party Rights**

Save for legal entities related to us (which shall be entitled to rely on and enforce this Agreement), no person who is not a party to this Agreement has any right under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore to enforce any term of this Agreement.

### **12.5 Entire Agreement**

This Agreement constitutes the entire understanding and agreement between us and you concerning its subject matter and supersedes and replaces any prior oral or written statements, representations, agreements or understandings between the parties relating to that subject matter.



## 12.6. **Force Majeure**

We shall not be liable or responsible to you, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond our reasonable control including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of 60 days, Customer shall be entitled to give notice in writing to us to terminate this Agreement.

## 12.7. **Changes to Agreement**

Any additions or changes to these Cybersecurity Terms and Conditions must be in the form of a mutually agreed document signed by both parties. We have the right to analyze, transfer (including outside of your territory or country), and otherwise use your data to provide, improve and develop our cyber security Services. For Cybersecurity Services sold on a subscription or periodic basis, the Agreement commences on the effective date of, and continues for the duration in the Purchase Order. Upon termination or expiry, you must pay all amounts due under the Order Form. Your purchase orders are identified only to authorize payment and any terms or conditions in any purchase order are not a part of the Agreement or controlling.

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

12.8.1 This Agreement is governed by Singapore law.

12.8.2 Any dispute arising out of or in connection with this agreement must be submitted for mediation at the Singapore Mediation Centre (SMC) in accordance with SMC's Mediation Procedure in force for the time being. Either party may submit a request to mediate to SMC upon which the other party will be bound to participate in the mediation within 45 days thereof. Every party to the mediation must be represented by senior executive personnel, of at least the seniority of a Head of Department] or its equivalent, with authority to negotiate and settle the dispute. Unless otherwise agreed by the parties, the Mediator(s) will be appointed by SMC. The Parties agree to be bound by any settlement agreement reached.

## 12.9. **Termination**

12.9.1 If the main contract or purchase order is terminated, this Agreement shall terminate with immediate effect at the same time the applicable main contract or purchase order is terminated.

12.9.2 If the service or this Agreement is terminated for any reason whatsoever, the following shall become immediately due and payable by the Customer to us, without prejudice to the Customer's obligation to pay any other sums under this Agreement:

- (a) where the termination date is the same as the expiry date of the Term, the Fees and Charges up to and including the date of termination;
- (b) where the termination date is before expiry of the Term, the Fees and Charges for the Services up to and including the date of termination, 100% of the Fees and Charges for the balance of the unexpired Term, and the early termination charges stated in the Statement of Work (if any).

12.9.3 Upon termination of the service or this Agreement, the following will apply:

- (a) the Customer's Data and/or user accounts will be removed and deleted; and
- (b) the registered portal account for access to the Portal will be terminated.

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