

TERMS AND CONDITIONS GOVERNING SMART ALERT SERVICES

1 DEFINITIONS

1.1 In the terms and conditions hereunder, unless the context requires otherwise, references to **"we"**, **"us"** and **"our"** are to the Recipient.

1.2 **"Account"** means any account which the Customer has with the Bank which he has designated and the Bank has agreed, should be the account in respect of which the Notifications are to be effected and **"Accounts"** means two or more of such accounts.

"Agreement" means the application form for the Service as may be prescribed by the Bank from time to time read together with the terms and conditions hereunder.

"Alternate Mode" means any alternate Mode of Transmission other than by SMS to a Personal Mobile Phone or electronic mail to a Personal Email, by which Notifications are transmitted to the Recipient, as may be prescribed by the Bank at any time and from time to time.

"Bank" means Malayan Banking Berhad and includes its successors and assigns.

"Bank Group" means the Bank and any **"subsidiary"** and/or **"related corporation"** of the Bank as defined in the Singapore Companies Act (Chapter 50).

"Banking Services" means the financial, banking or other services, products, facilities and promotional offers which may be offered by the Bank from time to time (as may be withdrawn, added to or modified by the Bank in its discretion).

"Business Days" means a day (excluding Saturday, Sunday and any designated public holiday) whereby banks in Singapore are open for business.

"Compromised Equipment" is defined in Clause 5.3 below.

"Customer" means any holder of an Account which is held in the name of an individual or jointly with one or more other individuals who have applied for the Service.

"Equipment" is defined in Clause 2.2 below.

"Instructions" is defined in Clause 2.3 below.

"Internet" means a global network of interconnected computer networks, each using the Transmission Control Protocol/Internet Protocol and/or such other standard network interconnection protocols as may be adopted from time to time, which is used to transmit data, software, applications, content or any other materials that are directly or indirectly delivered to a computer or other digital electronic device for display to an end-user whether they are delivered through on-line browsers, off-line browsers, or through "push" technology, electronic mail, broadband distribution, satellite, wireless, or otherwise.

"Mode of Transmission" means such mode of transmission of Notifications by the Bank to the Recipient as designated by the Recipient in the application form for the Service, whether by way of (i) SMS to the Recipient's Personal Mobile Phone, (ii) electronic mail via the Internet or any wireless data network, wide area network, Intranet or other electronic link to the Recipient's Personal Email, or (iii) any other Alternative Mode, in accordance with the Bank's procedures, requirements and regulations as the Bank may prescribe from time to time.

"Notification" means the transmission of such information relating to or in connection with the Account and/or the Service and/or the Banking Services, through the Mode of Transmission, and **"Notifications"** means two or more of such notifications.

"Personal Email" means the Recipient's personal electronic mail address which has been duly notified and registered with the Bank for the purpose of the Service.

"Personal Mobile Phone" means the Recipient's personal mobile phone, the telephone number of which has been duly notified and registered with the Bank for the purpose of utilising the Service.

"Potential Customer" means any individual who is not a Customer and who has applied for the Service.

"Recipient" means a Customer or a Potential Customer (where applicable and as the case may be).

"Service" means the service of transmitting Notifications to the Recipient through the Mode of Transmission.

"Security Notification" is defined in Clause 5.3 below.

"SMS" means a Short Message Service that enables messages to be transmitted between mobile phones or such other telecommunication or electronic devices as the relevant service providers may make available.

"Terms of Banking Services" is defined in Clause 17 below.

- 1.3 The headings or titles in this Agreement are to facilitate reference only and shall not be referred to or relied upon in the construction of any provision of this Agreement.

2 USE OF THE SERVICE

2.1 Use of the Service in general

We agree and undertake to be bound by and to comply with any and all of the Bank's procedures, requirements, regulations, restrictions, instructions or any additional conditions pertaining to the access and use of the Service, as may be prescribed or issued by the Bank at any time and from time to time.

2.2 Use of Equipment

We agree and acknowledge that the Service shall only be accessed and/or used with the telecommunications equipment (i.e., Personal Mobile Phone), hardware and/or other devices used for accessing electronic mails or such other electronic, wireless and telecommunications equipment and/or devices (all such telecommunications, electronic and wireless equipment, hardware or devices to be collectively referred to as **"Equipment"**) designated or advised by the Bank. We agree to procure and maintain at our own cost and expense, the Equipment. We acknowledge and agree that the Bank reserves the right to change the type or versions or specifications of the Equipment that we may be required to use for the Service, and in the event such requirements are not met by us, the Bank may reject and terminate this Agreement forthwith.

2.3 Information/Data through the Service

- (a) We acknowledge that Notifications shall be issued by the Bank in accordance with and at the time frames, periods and at the frequencies stipulated in the instructions issued by us at the time of application for the Service as may be varied or amended by us from time to time in accordance with the Bank's prevailing policies (the "**Instructions**"). We further agree that in the event that we wish to modify, vary, or alter the Instructions or any part thereof, we shall notify the Bank through (in the case of a Customer), the Bank's Internet Banking Services and (in the case of a Potential Customer) via the Bank's website. Upon receipt by the Bank of such notification from us, the Bank shall effect such modification, variation or alteration within a reasonable time frame thereafter save that the Bank reserves the right, at its discretion, to reject any request by the Recipient to modify, vary or alter the Instructions.
- (b) We acknowledge that information and/or data pertaining to the Account, the Service and/or any Banking Services contained in any Notification shall be valid only at the time of receipt of that Notification and may subsequently be subject to variations or modifications at the option of the Bank without the Bank being obliged to notify the Recipient thereafter.
- (c) We acknowledge that any Notification shall be deemed to have been sufficiently made or sent to us if sent through the Mode of Transmission and shall be effective on the date and time of transmission by the telecommunications network or electronic server operated by the Bank and/or its services provider notwithstanding that the Bank has received:-
 - (i) in the case of a Personal Email, a non-delivery or "returned mail" reply message or any error message indicating that the electronic mail had not been successfully transmitted to our electronic mailbox or the mail server operated by us or our service provider within 12 hours from the date of transmission of the electronic mail from the mail server operated by the Bank or its service provider; and
 - (ii) in the case of a Personal Mobile Phone, a non-delivery or "message not sent" reply message or any error message indicating that the SMS was not successfully sent to the Personal Mobile Phone within 12 hours from the date of transmission of the SMS by the Bank or the Bank's SMS service provider,

and the Bank shall not be liable for the non-receipt by a Recipient of any Notification(s) whatsoever.

3 THE SERVICE AND THE BANKING SERVICES

3.1 Availability of the Service

- (a) We acknowledge that the Service is provided on an "as is", "as available" basis only and that the time periods during which the Service may be available are subject to change.
- (b) The Bank does not warrant that the Service will be available on an uninterrupted basis. We agree that the Bank shall be entitled (but shall not be obliged) at any time, at the Bank's discretion and without prior notice, to temporarily suspend the operations of the Service for updating, maintenance and upgrading purposes, or any other purpose whatsoever that the Bank deems fit, and in such event, the Bank shall not be liable for any loss, liability or damage which may be incurred as a result.

3.2 Alteration and limits to the Service/Banking Services

We acknowledge and agree that the Bank may at any time and from time to time:

- (a) add to (including adding new banking services or products), vary, alter, suspend or remove any part of the Service, including without limitation the right to set, vary or cancel any part of the Notifications that may be offered through the Service;
- (b) add an Alternate Mode, or remove any existing Mode of Transmission; and/or
- (c) add to (including adding new functionalities and/or facilities), vary, alter, suspend or remove the Service in whole or in part without giving any reason and without incurring any liability,

and that upon being given 30 days' prior notice, we shall be bound by the terms and conditions in force governing any additions, variations or alterations to the Service and/or Banking Services (including without limitation any new services or products added to the Banking Services).

3.3 Fees, charges and right of debit

The Bank reserves the right to impose, set and/or modify the fees and charges payable by us for use of the Service at the Bank's sole discretion. We agree to pay all fees and charges for the use of the Service imposed by the Bank at any time and from time to time. We acknowledge that the Bank reserves the right to vary the fees and charges from time to time by giving us 30 days' prior notice. We authorise the Bank to debit such fees and charges incurred by us for the use of the Service from any Account(s) (whether single or joint) which we have with the Bank. If there are insufficient funds in our Account(s), the Bank may (but shall not be obliged to) debit our other account(s) with the Bank Group (whether single or joint or whether such account(s) are eligible for the Service or not) as the Bank may decide but without prejudice to the Bank's right to terminate this Agreement in lieu thereof. We agree that, unless we issue any Security Notification to the Bank or a termination notice under Clause 13.2 herein, the Bank will continue to provide the Service to us and we shall be liable for all such fees and charges so incurred in connection thereto. We further agree that:

- (a) all fees, costs, charges, expenses, interest and other amounts payable to the Bank under this Agreement shall be in Singapore currency; and
- (b) we shall pay any goods and services tax or any other taxes, levies or charges whatsoever (collectively "**the Taxes**") now or hereafter imposed by law or required to be paid in respect of any monies payable on or in respect of the Service carried out pursuant to this Agreement and we shall reimburse the Bank for any such payment by the Bank which reimbursement shall be made in the same manner and together with the fees or charges to which the Taxes relate.

3.4 Joint Account

- (a) We acknowledge and agree that where an application for the Service has been accepted by the Bank and that application is in respect of a joint Account, each joint Account holder shall be jointly and severally liable to the Bank for any Instructions given. The Bank shall be entitled to act on any Instructions received from any joint Account holder singly or jointly. In the event of any conflicting, contradictory or inconsistent Instructions given by joint Account holders, the Bank may at its absolute discretion choose to act only on the Instructions of all the joint Account holders or any one of the joint Account holders.

- (b) Notwithstanding the number of joint Account holders, we agree that the Bank shall be entitled to send Notifications by the Mode of Transmission and this shall be deemed to have been received by all the joint Account holders.

4 NO WARRANTY

- 4.1 The Service is provided on the basis set out in Clauses 3.1(a) and (b) above. The Bank does not warrant the results that may be obtained from the use of the Service. Notwithstanding any other provision of this Agreement, no warranty of any kind, implied, express or statutory, including but not limited to the warranties of non-infringement of third party rights, title, satisfactory quality, merchantability and fitness for a particular purpose is given in conjunction with the Service.
- 4.2 The Recipient acknowledges that the Service may include the dissemination or provision of information and/or data (such as share price data, market breaking news alerts) which are provided for informational purposes only. Without prejudice to the generality of Clause 4.1 above, the Bank makes no representations as to the accuracy, timeliness or adequacy of all such information and/or data. Neither the Bank nor any of its data or content providers shall be liable for any errors or delays in the information/data furnished through the Service, or for any actions taken in reliance thereon.

5 SECURITY

- 5.1 We undertake to ensure that (including taking all necessary precautions):
 - (a) the passwords to access our Personal Email and Personal Mobile Phone are kept completely confidential and secure;
 - (b) there is no unauthorised use or abuse of the Equipment.
- 5.2 The Recipient shall not allow any third parties to have access to the Service or any documentation relating to Service or any part thereof without the prior written consent of the Bank.
- 5.3 We undertake to notify and/or contact the Bank immediately (a "**Security Notification**") upon the occurrence of any of the following events or if we have reason to believe that, suspect that or have knowledge that:
 - (a) our Equipment has been lost, missing or stolen;
 - (b) the security of our Equipment may have been or is compromised;
 - (c) there has been use of the Service by any person other than us;

(each such occurrence resulting in a "**Compromised Equipment**"). Any Security Notification shall be given in accordance with the provisions of Clause 12 failing which the Bank shall not be obliged to act upon the Security Notification. The Bank shall not have any obligation to verify that the event(s) described in any Security Notification is in fact true or accurate.
- 5.4 Upon the Bank's receipt of the Security Notification, the Bank shall deactivate or revoke the use of the Service within a reasonable time.
- 5.5 Notwithstanding Clause 5.4 above, we acknowledge that the Bank shall be entitled to deactivate or revoke the use of the Service or any part thereof at any time without assigning any reason and without prior notice to us.

- 5.6 We shall notify the Bank immediately upon receipt of an incomplete, garbled or inaccurate Notification from the Bank. We shall also notify the Bank immediately upon receipt of any Notification which is not intended for us and we shall delete such Notification from the Equipment immediately.

6 TRANSMISSION OF NOTIFICATIONS

We understand that the transmission of Notifications through the Mode of Transmission may not be received by us for reasons beyond the Bank's reasonable control including but not limited to mechanical, software, computer, telecommunications or electronic failure. We further acknowledge and agree that the Bank shall not be liable to us in any way for any loss or damage whatsoever or howsoever caused arising, directly or indirectly, in connection with the transmission or failure of transmission of Notifications through the Mode of Transmission for whatever reason. Upon receipt of a Notification, we acknowledge that we are under a duty to:

- (a) examine the information contained in the Notification carefully; and
- (b) notify the Bank of any omission or error in the Notification immediately upon receipt in accordance with the provisions of Clause 12.

If the Bank does not receive any notification in accordance with sub-clause (b) above within 14 days from the date of such Notification, then at the end of the said 14 days, such Notification shall be deemed final and conclusive and we shall be deemed to have accepted the information contained in the Notification as accurate and the Bank shall be free from all claims in respect thereof.

7 DISCLOSURE OF INFORMATION

- 7.1 The Bank and its officers, employees and agents are hereby authorised to provide or disclose to: -

- (a) any third party as the Bank may consider necessary in order to give effect to any Notification sent using the Service or comply with the order of any court or government or regulatory authority in any jurisdiction; or
- (b) to any of the branches of the Bank Group either within Singapore or outside Singapore; or
- (c) to any regulatory authority, electronic, computer, telecommunication, financial or card institution, service provider and/or network provider involved in the Service from time to time, any information whatsoever relating to the Recipient and/or in the case of a Customer, the Customer's Account(s) as it may, in its discretion, consider necessary to provide or disclose, including for the purpose of (i) issuing the Notifications; (ii) providing information and/or services under the Service; or (iii) updating, maintaining and/or upgrading the Service.

- 7.2 We acknowledge and agree that the Bank does not warrant the security of any information in a Notification and we hereby accept the risk that any information communicated or received in a Notification may be accessed by unauthorised third parties and/or disclosed by the Bank and by its officers, employees or agents to third parties purporting to be us or purporting to act under our authority. We will not hold the Bank or any of its officers, employees or agents responsible or liable, in contract, tort (including negligence or breach of statutory duty), equity or otherwise, for any such access or disclosure or for any damages, losses, expenses or costs (whether direct or indirect, or whether foreseeable or not) suffered or incurred by us as a result of any such access or disclosure.

8 LIMITATION OF LIABILITY

We agree and confirm that the Bank shall in no event be liable for any direct, indirect, incidental, punitive, special or consequential damages or economic loss whatsoever or howsoever caused arising directly or indirectly in connection with the Service and/or this Agreement, including but not limited to:

- (a) losses, damages or costs suffered or incurred by us arising from or referable to the Notifications given to us hereunder;
- (b) losses, damages or costs suffered or incurred by us as a result of use of the Compromised Equipment by any party;
- (c) losses, damages or costs incurred as a result of any prohibition, restriction, delay in use or access of the Service caused by any laws and/or regulations of Singapore or any other country;
- (d) losses, damages or costs incurred as a result of any service agreements prescribed by telecommunications carriers and/or service providers or as a result of any act or omission of telecommunications carriers and/or service providers or as a result of any machine, system or communications breakdown, interruption, malfunction or failure, act, default or fault of any telecommunications carriers and/or service providers and/or SMS service providers or operators;
- (e) any error(s) in transmission of the Notifications that might have been transmitted through the Mode of Transmission or transmission by the Bank of any other data or information through the Mode of Transmission; and/or
- (f) damages for loss of profits, goodwill, use, data or other intangible losses (even if the Bank has been advised of the possibility of such damages) arising from or in connection with:
 - (i) any use, inability to use or interruption in the use of the Service for any reason whatsoever; or
 - (ii) any system, hardware, software, telecommunications, server or connection failure, error omission, interruption, delay in transmission, or computer virus.

9 INDEMNITY

We hereby agree to indemnify the Bank and keep the Bank at all times fully indemnified from and against all actions, proceedings, claims, liabilities (including statutory liability), penalties, demands and costs (including without limitation, legal costs of the Bank on a solicitor and own client basis), awards, damages, losses and/or expenses to which the Bank may be subject to for whatever reason in relation to our use or purported use of the Service including but not limited to:

- (a) any use of the Service and/or the Equipment by any person(s) whether or not made with our knowledge or authority;
- (b) any breach or non-compliance by us of the terms and conditions of this Agreement;
- (c) any:
 - (i) failure or malfunction in our hardware and/or software used in connection with the Service; or

- (ii) any viruses and other malicious, destructive or corrupting code, program or macros, Trojan Horses, worms, logic bombs or other software routine or hardware components designed to permit unauthorised access which have been introduced by us to the Service, which affects or causes the Service and/or the Bank's hardware, software and/or other automated systems to fail or malfunction; and
- (d) any claim by any other party against the Bank arising from sub-clauses (a) or (b) or (c) above.

10 FORCE MAJEURE

10.1 The Bank shall not be responsible or liable to the Recipient for:-

- (a) delays or failure in performance, whether foreseeable or not; and/or
- (b) any losses, expenses or damages howsoever arising, whether foreseeable or not resulting from or due to any circumstances or causes whatsoever which are not within the reasonable control of the Bank.

10.2 Without prejudice to the generality of Clause 10.1 above, the following shall be regarded as circumstances and/or causes beyond the Bank's reasonable control:-

- (a) flood, lightning, acts of God, fire, earthquakes and other natural disasters;
- (b) strikes, labour disturbances, lockouts, material shortages, riots, acts of war;
- (c) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority or any governmental regulations imposed after the fact;
- (d) import or export regulations or embargoes;
- (e) power failure;
- (f) acts or defaults of any telecommunications network operator (whether in Singapore or elsewhere);
- (g) circumstances where communications lines for the Bank's computer systems (whether in Singapore or elsewhere) cannot be used for reasons attributable to third party telecommunications carriers; and
- (h) the failure of performance of any vendor, supplier or contractor of the Bank as a result of the risk that computer and/or automated systems, hardware, firmware and/or software may be unable to recognise and perform properly date-sensitive or date-dependant functions.

10.3 The obligations of the Bank, so far as affected by circumstance or causes beyond the Bank's reasonable control, shall be suspended during the continuance of any delay or failure in performance so caused and such delay or failure shall not be a breach of this Agreement.

11 RECORDS OF THE BANK

11.1 We acknowledge and agree that the Bank's records, any records or recordings of the Notifications made, performed, processed or effected through the Service, any record of notifications (including without limitation any Notifications) relating to the operation of the Service, and any record of any Notification (including without limitation any Notification) maintained by any person authorised by the Bank relating to or

connected with the Service, shall be binding and conclusive on us for all purposes whatsoever and shall be conclusive evidence of the Notification and our liability to the Bank. We hereby agree that all such records are admissible in evidence and that we shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records on the basis that such records were incorporated and/or set out in electronic form or were produced by or are the output of a computer system, and hereby waive any of our rights (if any) to so object.

- 11.2 Without limitation to the generality of Clause 11.1 above, we further acknowledge and agree that the Bank shall be entitled (but not obliged) to record any communications between the Bank and us, with or without prior notice to us. Any such recording may be used as evidence in any proceedings or disputes involving the Bank or any member of the Bank Group and shall be conclusive evidence of the Notification and of any other communications between the Bank and us.

12 NOTICES

Any notices, demands or other communications may be sent by:

- (a) the Bank to us by facsimile, telephone, post or otherwise to our address or telephone or facsimile number last known to the Bank or at our registered office or any of our principal places of business. Any notice or other communication made or given to us in accordance with this sub-clause shall be effective (notwithstanding that it is returned undelivered) and shall be deemed to be received by us, if sent by facsimile or telephone, on the same day or, if sent by post or despatched to an address in Singapore, on the next Business Day following the date of posting or in the case of an address outside Singapore, 3 Business Days following the date of posting and exclusive of the date of posting;
- (b) the Bank to us by publication, notification or display of notices at any of the Bank's premises or by email or via the Internet (through the Bank's website) or any other media or through such channels as the Bank may determine from time to time at its discretion;
- (c) us to the Bank by facsimile, by email, by the Bank's Internet Banking Service or via the Internet (through the Bank's website) and these modes of communication shall be effective, upon receipt by us, of the Bank's written confirmation of receipt;
- (d) us to the Bank by hand delivery which shall be effective at the time of delivery, or registered mail which shall be effective upon receipt by the Bank; or
- (d) the Bank to us using such other method as prescribed in this Agreement.

13 TERMINATION

13.1 We acknowledge that the Bank shall be entitled:

- (a) in its absolute discretion to forthwith terminate this Agreement or to forthwith deactivate or revoke the Service without any reasons at any time by giving notice in writing;
- (b) to terminate this Agreement immediately if we are in default of this or any other agreement with the Bank and to suspend our use of the Service while the Bank is investigating whether such default may have occurred; and
- (c) upon the termination of this Agreement by either party for whatever reason, to immediately cease to provide the Service to the Recipient.

- 13.2 We acknowledge that we may terminate this Agreement by notifying the Bank through the Bank's Internet Banking Services or by notifying the Bank through the Bank's website
- 13.3 Termination of this Agreement shall not affect the on-going operation of any indemnity given by us in respect of this Agreement for the Service, or affect any right or liability which may have accrued prior to termination.
- 13.4 Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination. Without prejudice to the generality of the aforesaid, the obligations under Clauses 4, 6, 7, 8, 9 and 11 shall survive the termination of this Agreement.

14 AMENDMENTS

We acknowledge and agree that the Bank may impose such further terms and conditions and to make such changes to this Agreement as well as to any of the Bank's terms and conditions applicable to each of the Banking Services available under the Service as the Bank may in its discretion deem fit at any time and from time to time. The Bank will notify us not less than 30 days prior to any change in the terms and conditions of this Agreement by such method of notification in accordance with the provisions of Clause 12. If we do not agree to be bound by the changes, we shall cease all use of the Service and shall terminate this Agreement immediately in accordance with the provisions of Clause 13 above. We further agree that if we continue to use the Service after being notified of such change to this Agreement, such use shall constitute an affirmative (i) acknowledgement by us of this Agreement and the amendments thereto; and (ii) agreement by us to abide with and be bound by this Agreement and the amendments thereto.

15 GOVERNING LAW AND JURISDICTION

The construction, validity and performance of this Agreement shall be governed in all respects by the laws of Singapore. We hereby submit to the non-exclusive jurisdiction of the Singapore courts.

16 NO ASSIGNMENT BY RECIPIENT

We agree and undertake not to assign, charge or otherwise deal with this Agreement in any way. The Bank may, without our notice or consent, delegate or sub-contract any rights or obligations under this Agreement to any other third party.

17 TERMS OF BANKING SERVICES

In addition to these terms and conditions, we agree that all other terms and conditions applicable to the Banking Services or other arrangements between the Bank and us ("**Terms of Banking Services**") will continue to apply in full force and effect. In the event of any inconsistency between the terms and conditions hereunder and the Terms of Banking Services, the Terms of Banking Services shall prevail in so far as the inconsistency relates to the Banking Service in question.

18 WAIVER

No forbearance, delay or indulgence by the Bank in enforcing the provisions of this Agreement shall prejudice or restrict the rights of the Bank nor shall any waiver of the Bank's rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for the Bank is exclusive of any other right, power or remedy available to the Bank and each such right, power or remedy shall be cumulative, unless where otherwise expressly stipulated in this Agreement.