

# ResGuard Compliance Manager (RCM)

## TERMS AND CONDITIONS SUBSCRIPTION AGREEMENT

## 1 Introduction

This Subscription Agreement (this “Agreement”) contains terms and conditions that govern your purchase and use of the Services (as defined below), and is a contract between ResGuard Solutions Pte Ltd, a Singapore corporation (“**ResGuard**”), and you or the entity or organization that you represent. This Agreement takes effect when you enter into an Order (as defined below) with ResGuard (the “Effective Date”). Capitalized terms not otherwise defined in this Agreement will have the respective meanings assigned to them in Section 2. ResGuard may modify this Agreement from time to time, subject to the terms in Section 23.7.

If you are an individual using the Services for your own purposes: (1) all references to “**Customer**” are to you, and (2) you represent that you are legally permitted and competent to enter into this Agreement.

If you are using the Services on behalf of an entity or organization: (1) all references to “**Customer**” are to that entity or organization, and (2) you represent that you have the right, power and authority to enter into this Agreement on behalf of Customer.

## 2 Definition

In these Terms and Conditions:

“**Account Data**” means information about Customer that Customer provides to ResGuard in connection with the creation or administration of its ResGuard accounts, such as first name, last name and email address of an Authorized User or Customer’s billing contact. Customer shall ensure that all Account Data is current and accurate at all times during the applicable Order Term and

shall in no event include Sensitive Information in Account Data. Account Data is subject to ResGuard’s privacy policy, currently available at ResGuard Trust Center.

“**Affiliate**” means, with respect to a Party, a business entity that directly or indirectly controls, is controlled by or is under common control with, such Party, where “control” means the direct or indirect ownership of more than 50% of the voting securities of a business entity.

“**Applicable Laws**” means any and all governmental laws, rules, directives, regulations or orders that are applicable to a particular Party’s performance under this Agreement.

“**AUP**” means ResGuard’s standard Acceptable Use Policy currently available at ResGuard Trust Center.

“**Authorized User**” means an individual employee, agent, contractor, or service provider (subject to Section 19 (Third Party Access Terms)) of Customer or a Customer Affiliate who has been supplied user credentials for the Services by Customer (or by ResGuard at Customer’s request).

“**Available**” means with respect to each Service, that the Service being used by Customer is available for access; “Availability” has a correlative meaning. Availability is assessed from the point where the Service is made available from ResGuard’s hosting provider and measured in minutes over the course of each calendar month during the Order Term.

“**Customer Administrator**” means the individual(s) identified in the Account Data as admin users.

**“Customer Environment”** means the systems, platforms, services, software, devices, sites and/or networks that Customer uses for its operations (exclusive of the subscribed Services).

**“Customer Account Manager”** means the ResGuard representative assigned to facilitate your relationship with ResGuard.

**“Data Processing Agreement”** means the Data Processing Agreement at ResGuard Trust Center or, if the Parties have a separately executed agreement in effect that covers the same subject matter, the separately executed agreement.

**“Data Protection Law”** means the PDPA and any legislation and/or regulation implementing or made pursuant to them, or which amends, replaces, re-enacts or consolidates any of them, and all other applicable laws relating to processing of personal data and privacy that may exist in any relevant jurisdiction, including, where applicable, the guidance and codes of practice issued by the Information Commissioner or relevant regulatory bodies.

**“Operations Data”** means data pertaining to, or used in, the operations, use and testing of the Services including data arising from ResGuard’s customers’ use of the Services, aggregated data on third party components, aggregated and/or anonymized data as described in Section 3.4, and other data and information that informs the Services.

**“Documentation”** means any user manuals and other documentation (including those in electronic form), handbooks, educational material and other publications containing user directions and/or specifications provided by ResGuard.

**“Exceptions”** means any of: (a) Customer’s breach of this Agreement, an Order or the AUP; (b) Customer’s failure to configure and use the Services in accordance with the Documentation; (c) failures of, or issues with, Customer’s Environment; (d) Force Majeure Events; (e) ResGuard’s suspension of Authorized Users’ access to the Services pursuant to Section 7.3 (Payment Disputes) or 10.3 (ResGuard Remedies); or (f) maintenance during a window for which ResGuard provides notice to Customer Administrator by email or through the Services in advance.

**“Feedback”** means bug reports, suggestions or other feedback with respect to the Services or Documentation provided by or on behalf of Customer to ResGuard, exclusive of any Customer Confidential Information therein.

**“Intellectual Property Rights”** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

**“Malicious Code”** means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs, and Trojan horses.

**“Order”** means the purchase of a subscription to the Services: (a) signed and submitted by Customer to ResGuard or (b) executed by ResGuard and Customer.

**“Order Term”** means, with respect to each Order, the subscription term for the Services

specified in the applicable Order (unless the Order is otherwise terminated earlier in accordance with this Agreement or the Order).

**“Party”** means each of ResGuard and Customer.

**“Personal Data”** means any information relating to an identified or identifiable natural person.

**“Process”** means to perform an operation or set of operations on data, content or information, including to submit, transmit, post, transfer, disclose, collect, record, organize, structure, store, adapt or alter; **“Processing”** has a correlative meaning.

**“Security Measures”** means the ResGuard security measures described in

**“Sensitive Data ”** means (a) government-issued identification numbers, including Social Security numbers; (b) financial information; (c) special categories of personal data subject to Article 9 of the GDPR or sensitive data according to PDPA; (d) personal data relating to criminal convictions and offenses; (e) protected health information; and (f) any other information that is subject to specific or heightened requirements under Applicable Law or industry standards.

**“Service Plan”** means the packaged plan and associated features, as detailed in the Order for the hosted ResGuard service to which Customer subscribes.

**“Services”** means the services specified and set out in each Order and/or SoW and/or the hosted services that are made available by ResGuard online via the applicable login page

and other web pages designated by ResGuard, that ResGuard makes available on a fee-based basis. **“Services”** does not include (a) any services provided without charge or any alpha, beta or other pre-commercial releases of a ResGuard product or service (or feature of functionality of a Service); and (b) any tools or other services, which are not individually essential for the functioning of the Services, that ResGuard makes available pursuant to separate license terms.

**“Threat Actor Data”** means any data related to unauthorized third-party bad actors and associated Malicious Code or other information or data relating to the third-party bad actor or their actions that is collected or discovered through or during the use of the Services by ResGuard customers, excluding any such information or data that identifies Authorized Users or Customer.

### 3 Access and Use

#### 3.1 Use of the Service

Subject to the applicable Order and this Agreement, ResGuard hereby grants to Customer the right to access and use the Services in accordance with the Documentation during the Order Term for Customer’s Environment. Customer acknowledges that use of the Services by Customer for the benefit of third parties requires Customer’s acceptance into and participation in the ResGuard Partner Network and will be subject to the terms available therein for the applicable partner program. For clarity, this limitation does not prevent Customer from sharing reports containing Customer Data that have been

generated by the Services with individuals or entities outside of its organization.

### **3.2 Customer Components**

As between the Parties, Customer controls Customer's Environment and its individual components (each, a "Customer Component"), whether owned, leased or licensed by Customer, located on Customer's premises or cloud-based, or used by Customer on a software-as-a-service basis or otherwise. Customer is solely responsible for selecting, implementing, activating, deactivating, and configuring the connections between the Customer Components and the Services (the "Connections") and configuring the Services, including with respect to how they interoperate with the Customer Components. By connecting a Customer Component with the Services, Customer hereby grants to ResGuard the right, and is expressly instructing ResGuard, to access and interoperate with that Customer Component solely to provide and support the Services. Customer is responsible for ensuring that the access, use, and interoperation of Customer Components with the Services complies with all terms, policies and licenses applicable to the Customer Components and associated data and the Connections (collectively, "Customer Component Terms").

### **3.3 Data**

Through Customer's configurations and use of the Services, Customer has control over the types and amounts of data from Customer's Environment that are submitted to the Services or that are otherwise uploaded to the Services (collectively, but excluding Account Data, "Customer Data"). By submitting

Customer Data to the Services, Customer hereby grants to ResGuard, its Affiliates, and contractors the right, and is expressly instructing ResGuard, its Affiliates, and contractors, to Process Customer Data in order to provide and support the Services as described in the Documentation, this Agreement, and the Data Processing Agreement. ResGuard will be liable for the actions and omissions of its Affiliates and contractors undertaken in connection with ResGuard's performance under this Agreement to the same extent that ResGuard would be liable if performing the Services directly. Customer authorizes ResGuard to use information about Customer's configuration and use of the Services ("Usage Data"), Customer Data and Account Data to: (a) manage Customer's account, including to calculate Fees (as defined in Section 7.1 – Payment for Services); (b) provide and improve the Services and Support (as defined in Section 5); and (c) provide insights, service and feature announcements, and other reporting. Customer agrees that ResGuard may use aggregated or anonymized Customer Data and Usage Data for any business purpose during or after the term of this Agreement, including without limitation to develop and improve ResGuard products and services and to create and distribute insights, reports and other materials. ResGuard's Processing of Usage Data and Customer Data shall at all times be subject to ResGuard's obligations under this Agreement, including those of security under Section 6.1 (Security) and confidentiality under Section 9 (Confidentiality); the Data Processing Agreement (as defined in Section 2), if applicable; the Supplemental Terms, if applicable; and, with respect to Account Data, the Privacy Policy.

### **3.4 Limited Grant**

As between the Parties: (a) Customer owns all right, title and interest in and to Customer's Environment and Customer Data, including in each case all associated Intellectual Property Rights, and (b) ResGuard owns all right, title and interest in and to the Services, Documentation, ReGuard Operations Data, and Feedback, including in each case all associated Intellectual Property Rights. Both Parties have the right to make use of Threat Actor Data for the purpose of neutralizing the threat, including for third parties. Except for the rights expressly granted by one Party to the other in this Agreement, all rights are reserved by the granting Party. All rights granted by each Party to the other under this Section 3 are limited, nonexclusive and, except as otherwise provided in this Agreement, non-transferable.

### **4 Availability**

ResGuard commits to make the Services Available at least 99.7% of the time, exclusive of any time the Services are not Available as a result of one or more Exceptions (the "Availability Standard"). If the actual Availability of the applicable Service is less than the Availability Standard in any two consecutive months, Customer may terminate the applicable Order commitments for such Service in the calendar month following such two-month period upon written notice to ResGuard. In the event of such termination, ResGuard will issue a Pro-Rated Refund (as defined in Section 12.4 - Payments at Termination) for such Service.

### **5 Support**

During the Order Term, ResGuard will provide support to Authorized Users as described in the applicable Order ("Support"). Without limiting any of Customer's remedies under this Agreement in connection with the Services themselves, Customer's sole and exclusive remedy for any alleged failure by ResGuard to provide Support with reasonable skill, care and diligence shall be re-performance of the applicable Support.

### **6 Security and Privacy**

Each Party has obligations with respect to security and privacy as set forth in this Agreement, which they consider appropriate pursuant to the requirements of Data Protection Laws in light of the nature, purpose, and risks of Processing Personal Data in connection with the Services.

#### **6.1 Security**

ResGuard will implement and maintain appropriate technical and organizational measures to protect Customer Data and Account Data from accidental loss and from unauthorized access, use, alteration, or disclosure, as described in the Security Measures. Customer is responsible for properly configuring the Services in accordance with the Documentation, enabling single sign-on for Customer's accounts, and securing access passwords, keys, tokens or other credentials used by Customer in connection with the Services (collectively, "Customer Credentials"). Customer agrees to use reasonable efforts to prevent unauthorized access or use of the Services and to promptly notify ResGuard if Customer believes (a) any Customer Credentials have

been lost, stolen or made available to an unauthorized third party or (b) an unauthorized third party has accessed the Services or Customer Data.

## 6.2 Privacy

The Parties agree to comply with the Data Processing Agreement, which is incorporated into this Agreement. Customer agrees that it will only transfer Personal Data to the Services to the extent necessary for Customer to access and make use of the Services and to the extent permitted by Data Protection Laws given the nature of the Personal Data and the specifics of the Services and the terms of this Agreement. Except as may otherwise be expressly provided in applicable Supplemental Terms, described in the Documentation, or otherwise agreed by the Parties in writing, Customer shall not use the Services to Process any Sensitive Information and shall use reasonable efforts to restrict the inclusion of other Personal Data in Customer Data, including by applying filters, masking, and other tools and configurations.

## 7 Pricing and Fees

### 7.1 Payment for Services

ResGuard must invoice the Customer in accordance with the terms and conditions in this Agreement, showing the calculation of the Charges to which, it relates.

The Customer must pay each undisputed invoice received from ResGuard within 14 days from the date of the invoice.

All prices are quoted in SGD or EUR as stated in the Investment Summary of the Agreement and exclusive of GST, unless otherwise specified in this agreement.

### 7.2 Payment Terms

Annual Subscription Fees and any additional Supporting Services are invoiced annually in advance on the date of Agreement acceptance. Further license charges are invoiced annually in advance on the anniversary of Agreement acceptance date, unless otherwise stated in the Proposal.

Set up and Ad hoc charges (additional support, platform customisation, ad hoc customisation and support requests) are invoiced on approval of the service quote or order of engagement.

ResGuard reserves the right to amend the Annual Subscription Fee on renewal by providing the Customer with written notice 30 days prior to the renewal period. The amendment to the Annual Subscription Fee will take effect on the commencement of the immediately following Contract Year.

Multi-year Agreement's lock in the price and the Annual Subscription Fee will not incur in any uplift for the duration of the Contract Year.

### 7.3 Payment Disputes

Customer must assert any good faith dispute with regard to Fees in writing within 10 days of receipt of the invoice giving rise to the dispute. Except in the event of a good faith dispute, if Customer fails to make payment when due, without limiting ResGuard's other rights and remedies: (a) ResGuard may charge interest on the past due amount at a

rate of 1.5% per month or, if lower, the highest rate permitted under Applicable Law; (b) Customer shall reimburse ResGuard for all reasonable costs incurred by ResGuard in collecting any late payments or interest, including reasonable attorneys' fees; and (c) if such failure continues for 10 days or more, ResGuard may suspend Customer's and its Authorized Users' access to the Services until such amounts are paid in full. ResGuard will not exercise its suspension or termination rights or apply interest on late Fees if Customer disputes the applicable charges reasonably and in good faith and provides reasonable cooperation to resolve the dispute.

#### **7.4 Taxes**

All Fees are exclusive of taxes, levies, duties or charges imposed by government authorities (collectively, "Taxes"). Except for Taxes on ResGuard's income, revenues, gross receipts, personnel or assets, Customer shall be solely responsible for all sales, service, value-added, use, excise, consumption and any other Taxes on amounts payable by Customer under the Orders and this Agreement. Without limiting the foregoing, if Customer is required to deduct or withhold any Taxes under Applicable Laws outside the European Union or Singapore, Customer is responsible for remitting such Taxes in a timely manner and in accordance with those Applicable Laws and Customer shall not offset any Fees payable to ResGuard for any such remittances.

#### **8 Order Renewal**

Unless either party takes a non-renewal action, orders will automatically renew as a

new order for additional periods of the same duration as the expiring order term (each a "Renewal Order Term"). ResGuard shall notify the customer administrator by email approximately 30 days before the start of the order renewal period. Such notification shall include a notice of any price adjustments. Failure by the customer to take timely action for non-renewal shall be deemed as acceptance of the corresponding fee increase.

### **9 Confidentiality**

#### **9.1 Confidential Information**

"Confidential Information" means any information disclosed by one Party, its Affiliates, business partners or their respective employees, agents or contractors (collectively, the "Discloser") that is designated as confidential or that reasonably should be understood to be confidential. Confidential Information includes without limitation: (a) Customer Data; (b) information relating to the Discloser's or its Affiliates' technology, customers, business plans, promotional and marketing activities, finances, pricing, and other business affairs; (c) third-party information that the Discloser is obligated to keep confidential; and (d) the terms of this Agreement, any pricing quotes and all Orders. Confidential Information does not include any information that: (i) was known to the Party that receives any Confidential Information (the "Recipient") without restriction as to use or disclosure; (ii) is independently developed by the Recipient without reference to or use of the Discloser's Confidential Information; (iii) is acquired by the Recipient from another source without restriction as to use or disclosure; or (iv) is or becomes publicly available through no fault or action of the Recipient.



## 9.2 Restrictions on Use and Disclosure

The Recipient shall use at least the same degree of care that it uses to protect its own similar confidential information (but not less than reasonable care) to: (a) use the Discloser's Confidential Information only as permitted under this Agreement, unless Discloser has provided prior written consent for other uses, and (b) only disclose the Discloser's Confidential Information to Recipient's, or its Affiliates', employees, partners, contractors (including legal counsel and accountants), and service providers ("Representatives") who (i) are bound by non-use and non-disclosure obligations at least as protective as those contained in this Agreement and (ii) have a need to know the Confidential Information for the Recipient to exercise its rights or perform its obligations under this Agreement. Recipient shall be responsible for any breach of these obligations by its Representatives to the same extent it is responsible for its own breaches. To the limited extent any use or disclosure is required by Applicable Law or a valid and binding order of a governmental body (such as a subpoena or court order), the Recipient may disclose only that portion of the Discloser's Confidential Information that it is required to disclose upon the advice of its counsel, provided that, to the extent permitted under Applicable Law, the Recipient uses reasonable efforts to give the Discloser reasonable advance notice thereof to afford the Discloser an opportunity to intervene and seek an order or other appropriate relief for the protection of its Confidential Information. In the event of any breach or threatened breach by the Recipient of its obligations under this Section 9.2, the Discloser will be entitled to seek injunctive and other equitable relief in any court of competent jurisdiction to enforce such obligations.

## 10 Customer Responsibilities and Restrictions

### 10.1 Customer Responsibilities

Customer will be solely responsible for: (a) Customer's Environment, including as necessary to enable Authorized Users' access and use of the Services; (b) Account Data, Customer Data and Customer Credentials (including activities conducted with Customer Credentials), subject to ResGuard's obligations under this Agreement; (c) providing any required notices to, and receiving any required consents and authorizations from, Customer Component providers, Authorized Users and persons whose Personal Data may be included in Account Data, Customer Data or Customer Credentials; and (d) ensuring use of the Services is only for Customer's Environment and in accordance with the AUP, Documentation and applicable Customer Component Terms.

### 10.2 Customer Restrictions

No provision of this Agreement includes the right to, and Customer shall not, directly or indirectly: (a) enable any person or entity other than Authorized Users to access and use the Services; (b) attempt to gain unauthorized access to any Service or its related systems or networks; (c) use any Service to access ResGuard Intellectual Property Rights except as permitted under this Agreement; (d) modify, copy or create any derivative work based upon a Service or any portion, feature or function of a Service; (e) resell, distribute or otherwise make available any Service to any third party, including as part of a managed services offering; (f) except to the extent limited by Applicable Law, reverse engineer, disassemble or decompile

all or any portion of, or attempt to access, discover or recreate the source code for, the Services; (g) access or use the Services or Documentation for the purpose of competing (or enabling others to compete) with ResGuard, including: copying ideas, features, functions or graphics, developing competing products or services, or performing competitive analyses; (h) remove, obscure or alter any proprietary notice related to the Services; (i) use the Services to send or store Malicious Code; (j) use or permit others to use the Services in violation of any laws; or (k) use or permit others to use the Services other than for Customer's operations and as described in the applicable Order, Documentation and this Agreement.

### **10.3 ResGuard Remedies**

In the event ResGuard reasonably believes a violation of Section 10.2 has occurred, in addition to any other remedies available at law or in equity (including termination pursuant to Section 12.2 - Termination for Cause), ResGuard will have the right to investigate the suspected violation and suspend any individually identified Authorized User(s) who are suspected of the violation from accessing the Services for so long as is reasonably necessary to address the potential violation. ResGuard will notify Customer in writing of any such suspension (each, a "Suspension Notice") and work with Customer in good faith to resolve the potential violation. Such Suspension Notice will be provided in advance, unless ResGuard reasonably believes the suspected violation creates an urgent or emergency situation where a failure to take immediate action may put ResGuard, Customer, or other ResGuard customers at risk of imminent harm. For clarity, ResGuard reserves the right, but does not assume any

obligation to Customer (except with respect to the Suspension Notice), to take any of the actions described in this Section 10.3.

## **11 Warranty and Disclaimer**

### **11.1 ResGuard Warranties**

ResGuard warrants that during the applicable Order Term: (a) ResGuard will not materially decrease the overall security of the Services; (b) the Services will perform in accordance with the Documentation in all material respects; and (c) ResGuard will not materially decrease the overall functionality of the Services.

### **11.2 No Implied Warranties**

Except as expressly provided in this Agreement, neither Party makes any warranty or guarantee of any kind, whether implied, statutory, or otherwise, and each party shall specifically disclaims all warranties, whether implied, or statutory, including any implied warranty of title, merchantability, fitness for a particular purpose, or non-infringement, and all warranties arising from course of dealing usage or trade practice, to the maximum extent permitted by applicable law.

### **11.3 As-Is**

Except as expressly provided in this Agreement, all services, support and any other material are provided by ResGuard on an "as-is" and "as-available" basis. ResGuard makes no representation or warranty, and has no support obligations or liability, except with respect to the services and solely to the extent set forth under this Agreement. Without limiting the other provisions of this section 11,

ResGuard makes no warranty of any kind that the services, documentation, or any other materials, or results of the use therefore, will (a) meet customer's or any other person's requirements, (b) operate without interruption, (c) achieve any intended result, (d) be error free or (e) be compatible, work with or continue to work with customer components. Any changes to customer environment, customer components, or connections (including their unavailability) or customer component terms during an Order Term do not affect Customer's obligations under the applicable order or this Agreement.

## **12 Term and Termination**

### **12.1 Term**

The term of this Agreement will continue for 90 days past the expiration or earlier termination of the last Order to be in effect.

### **12.2 Termination for Cause**

ResGuard may terminate any Order upon written notice to Customer if Customer fails to pay any amount due under the Order that is not disputed in good faith in accordance with Section 7.3 - Payment Disputes, and such failure continues more than 15 days after ResGuard's delivery of written notice. Either Party may terminate all Orders and this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach remains uncured 30 days after the non-breaching Party provides the breaching Party with written notice of such breach. In addition, either Party may terminate all Orders and this Agreement, effective on written notice to the other Party, in the event that the other Party

(i) becomes insolvent, enters into bankruptcy or any similar financial reorganization or legally binds itself to any such reorganization or (ii) makes any assignment of its rights or assets for the benefit of its creditors.

### **12.3 Effect of Termination**

Upon expiration or earlier termination of an Order: (a) subject to Section 12.5, all rights granted to Customer with respect to Services under such Order will terminate effective as of the effective date of termination; (b) subject to Section 12.5, ResGuard will have no obligation to provide the applicable Services to Customer or Authorized Users after the effective date of the termination; and (c) subject to Section 7.3 (Payment Disputes), the Parties will make any payments required under Section 12.4.

### **12.4 Payments at Termination**

If an Order is terminated early by Customer pursuant to Section 4 (Availability), or by ResGuard pursuant to Section 14.2 (Exceptions): (a) Customer shall not be obligated to pay any amounts specified in the Order for Services not yet provided and (b) ResGuard will refund to Customer a pro rata share of any unused amounts prepaid by Customer under the applicable Order for the Services (a "Pro-Rated Refund"). In all other cases, and regardless of whether Customer uses the Services at the levels reflected in the Orders or otherwise, Customer will not be entitled to a refund of Fees paid and any committed Fees for the full term of the Order(s) and any Fees accrued beyond any committed Fees based on Customer's use of the Services prior to termination will become immediately due and payable.

## 12.5 Post-Termination Access

Provided Customer has paid all amounts due under this Agreement, and subject to any applicable shorter Service Plan retention periods, for up to 30 days from the effective date of termination of this Agreement or an applicable Order, an Authorized User designated by Customer will be permitted to continue to access and download Customer Data that was accessible to Authorized Users through the Services immediately prior to termination. The designated Authorized User's access and use will continue to be subject to the terms of this Agreement, provided the Authorized User shall not access or use the Services other than to download Customer Data. Any post-termination use of the Services except as authorized in this Section 12.5 shall be subject to service fees. Customer Data post termination will be deleted in the ordinary course, but in no event will be retained beyond the applicable Service Plan retention period. Customer may request earlier deletion of Customer Data by submitting an organization deletion request to support@resguard-solutions.com.

## 12.6 Survival

The provisions set forth in the following Sections, and any other right or obligation of the Parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: 3.3 (Data), 7 (Pricing and Fees), 9 (Confidentiality), 10.2 (Customer Restrictions), 12 (Term and Termination), 13 (Indemnification), 14 (Limitations of Liability), 16 (Notices), 22 (Governing Law; Venue), and 23 (Miscellaneous).

## 13 Indemnification

The Customer must indemnify, defend and hold harmless ResGuard, its board members, officers, employees and agents from and against any and all claims (including third party claims), demands, actions, suits, expenses (including attorney's fees) and damages (including indirect or consequential loss) by any third party resulting from any acts or omissions of Customer relating to its activities in connection with this Agreement. (A) Customer and Customer's employee's use or reliance on the services, (B) any breach of the terms of the Agreement by the Customer or any Customer employee, and (C) any other act of Customer.

Customer shall be solely responsible for any claims, warranties or representations made by Customer or its agents or representatives.

## 14 Limitation of Liabilities

### 14.1 EXCLUSIONS AND LIMITATIONS

To the fullest extent permitted by applicable law, except as otherwise provided in this section 14, (A) in no event shall either party, its affiliates or their employees, agents, contractors, officer or directors be liable for any indirect, punitive, incidental, special, or consequential damages, or for damages for business interruption, loss of profits, goodwill, use, data or other intangible losses arising out of or relating to this agreement; (B) in no event shall ResGuard, its affiliates or their employees, agents, contractors, officers or directors be responsible for any compensation, reimbursement, or damages arising in connection with your inability to use the services, including as a result of any permitted termination or suspension of this agreement or your use of or access to the services, or the cost of procurement of

substitute services, and (C) in no event shall either party's cumulative and aggregate liability under this agreement exceed the fees paid to ResGuard by or on behalf of customer for the services giving rise to the liability under the applicable order(s). The exclusion and limitations in this section apply whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if the non-breaching party has been advised of the possibility of such damage.

## 14.2 Exceptions

The exclusions and limitations in 14.1 shall not apply to: (i) a Party's gross negligence, wilful misconduct, or fraud in relation to this Agreement; (ii) a Party's indemnification obligations under Section 13; (iii) Customer's breach of Section 10.2 (Customer Restrictions); or (iv) Customer's payment obligations to ResGuard under this Agreement.

## 15 Publicity

Neither Party shall, except as otherwise required by Applicable Law or stock exchange requirements, issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement or otherwise use the other Party's marks or logos without the prior written consent of the other Party. Provided, however, ResGuard may include Customer's name and logo in its lists of ResGuard customers, its public website and other promotional material, in each case in accordance with any Customer brand guidelines to the extent available to ResGuard. ResGuard agrees to cease such uses of Customer's name and logo within 30

days following Customer's request submitted at support@resguard-solutions.com.

## 16 Notices

### 16.1 Indemnity Notices

Notices for indemnification and notices under Section 9 ("Legal Notices"), shall be sent to (a) ResGuard at the address for its Singapore headquarters (4 Battery Road) with a copy to office@resguard-solutions.com or (b) Customer at the physical and email addresses identified in its Order(s). All Legal Notices required or permitted to be given under this Section 16.1, shall be in writing and shall be deemed to be sufficiently given (i) one business day after being sent by overnight courier to the Party's physical address; or (ii) three business days after being sent by registered mail, return receipt requested, to the Party's physical address.

### 16.2 Other communications

All notices required or permitted to be given under this Section 16.2 shall be in writing and shall be deemed to be sufficiently given two business days after being sent, unless sender has knowledge that such notice was not received.

#### (a) To ResGuard

For all other notices or communications to ResGuard, Customer may contact, as appropriate, (i) support@resguard-solutions.com (in connection with Sections 5 - Support and 12.5 - Post-Termination Access), (ii) office@resguard-solutions.com (in connection with Section 7 - Pricing and Fees), (iii) any other e-mail address specifically identified in an applicable Section of the Agreement, or (iv) Customer's

ResGuard Customer Account Manager via email (in connection with all other communications, including Sections 8 (Non-Renewal Action) and 20 (Assignment)).

(b) To Customer

For all other notices or communications to Customer, ResGuard will contact (i) a Customer Administrator (including in connection with Section 10.3 – ResGuard Remedies) via email; (ii) Customer’s billing contact provided in an applicable Order or in the Account Data (in connection with Section 7 – Pricing and Fees) via email; or (iii) for notices not specific to Customer, through the Services.

### **17 Free and Beta Services**

The following applies to any use of (i) Services that ResGuard makes available to Customer without charging a fee (“Free Services”) and (ii) services or functionality that ResGuard makes available to Customer and that is not generally made available to ResGuard customers and/or is designated as beta, pilot, preview, or similar designation (“Beta Services”). Unless otherwise set forth in an Order : (a) Free Services and Beta Services offered at no charge will be subject to Annual Subscription Fees upon expiration of any free period term set forth in an applicable Order or if there is no term in an Order, upon 15 days’ notice by ResGuard; (b) free trials for new Customers have a 14-day term and ResGuard’s right to use customer name and logo under Section 15 will not be in effect during the free trial period; (c) ResGuard reserves the right to discontinue or modify the provision of any Beta Services at any time with or without notice; (d) Section 4 (Availability), Section 5 (Support), and Section 11.1 (ResGuard Warranties) do not apply to

Free Services and Beta Services, (e) the Security Measures do not encompass the Beta Services, except to the extent they apply to the underlying Services.

### **18 Indirect Purchase**

If Customer is purchasing the Services through a third party marketplace or a ResGuard approved reseller (each an “Intermediary”), the following terms shall apply solely for the purposes of such indirect purchase: (a) all references to an ‘Order’ in the Agreement shall refer to the order between the Customer and the Intermediary; (b) in addition to the rights provided in Section 3.3 (Data), ResGuard is permitted to share Usage Data and other information regarding Customer with the Intermediary; (c) Sections 7 (Pricing and Fees) and 8 (Order Renewal) will be without effect and the terms between the Intermediary and Customer covering such subject matter will apply instead; (d) per the terms of the agreement between ResGuard and the Intermediary, ResGuard has a right to terminate its order(s) with the Intermediary, in the event of failure by Intermediary to make payments to ResGuard; (e) Sections 12.2, 12.3, and 12.4 (Termination) will be without effect as any termination of an Order and all terms in this Agreement with respect to refund or payment obligations, if any, will be between the Intermediary and Customer; notwithstanding the foregoing, both Parties agree to take the required steps through the Intermediary processes in order to achieve the intended results of the terms in Section 12.2, 12.3, and 12.4 and any other refund or payment obligations.

## **19 Third Party Access Terms**

To the extent that any service provider or ResGuard-authorized partner (each a "Service Provider") accesses or uses the Services in connection with its provision of services to Customer, each Service Provider user shall be deemed an Authorized User and ResGuard shall have the right to enforce the following sections of this Agreement with respect to the Service Provider's activities: 3 (Access and Use), 6 (Security and Privacy), 9 (Confidentiality), 10 (Customer Responsibilities and Restrictions), and 13 (Indemnity). As between ResGuard and Service Provider, references to Customer in those Sections shall be deemed references to Service Provider, except with respect to the defined terms of Customer Environment and Customer Data. For the avoidance of doubt, Service Provider is not a beneficiary of this Agreement.

## **20 Assignment**

Either Party may assign this Agreement and all Orders to an Affiliate or in connection with any merger, consolidation or reorganization, or a sale of all or substantially all of such Party's business or assets relating to this Agreement to an unaffiliated third party, so long as notice is provided within 60 days of such assignment and the assignee agrees in writing to accept all obligations and responsibilities under this Agreement, including, in the case of Customer, all outstanding Fees. Subject to the foregoing, neither Party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the other Party's prior written consent. Any purported assignment in violation of this Section is void. This Agreement is binding

upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

## **21 Force Majeure**

Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments for Services received), when and to the extent such failure or delay is caused by events outside of the reasonable control of the affected Party, including acts of God; pandemics; flood, fire or explosion; war, invasion, riot or other civil unrest; terrorist or criminal acts; cyberattacks; internet disruptions; embargoes or blockades in effect on or after the date of this Agreement; or national or regional emergency (each of the foregoing, a "Force Majeure Event"), provided that, in each case, the affected Party will provide prompt notice to the other Party, stating the period of time the occurrence is expected to continue, and use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

## **22 Governing Law**

All disputes arising in connection with this contract shall be settled by the court having jurisdiction in rem for Singapore. This contract shall be governed by the law of the Republic of Singapore, excluding its conflict-of-law provisions.

## **23 Miscellaneous**

### **23.1 Entire Agreement**

This Agreement, together with all Orders, the AUP and, as and if applicable, the Supplemental Terms, is the complete and exclusive statement of the agreement between the Parties and supersedes all proposals, questionnaires and other communications and agreements between the Parties (oral or written) relating to the subject matter of this Agreement. Any terms and conditions of any other instrument issued by Customer in connection with this Agreement which are in addition to, inconsistent with or different from the terms and conditions of this Agreement shall be of no force or effect. Additionally, this Agreement supersedes: any confidentiality, non-disclosure, evaluation or trial agreement previously entered into by the Parties with respect to Customer's or an Affiliate's evaluation of the Services or otherwise with respect to the Services.

### **23.2 Independent Parties; No Third-Party Beneficiaries**

The Parties expressly understand and agree that their relationship is that of independent contractors. Nothing in this Agreement shall constitute one Party as an employee, agent, joint venture partner or servant of another. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

### **23.3 Amendment**

Except as otherwise provided in Section 23.7, this Agreement may be modified only by a

written instrument duly executed by authorized representatives of the Parties.

### **23.4 No Waiver**

The failure of a Party to exercise or enforce any condition, term or provision of this Agreement will not operate as a waiver of such condition, term or provision. Any waiver by either Party of any condition, term or provision of this Agreement shall not be construed as a waiver of any other condition, term or provision.

### **23.5 Severability**

If any provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

### **23.6 Headings**

The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement. For purposes of this Agreement, the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; the word "or" is not exclusive; and the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole.

### **23.7 Changes to this Agreement**

ResGuard may modify this Agreement at any time by posting a revised version at ResGuard Trust Center which modifications will become effective as of the first day of the calendar month following the month in which they were first posted; provided, however, that if an



Order specifies a fixed term of 12 months or longer, the modifications will instead be effective immediately upon the start of the next Renewal Order Term. In either case, if Customer objects to the updated Agreement, as its sole and exclusive remedy, Customer may choose not to renew in accordance with Section 8.3 (Non-Renewal Action). For the avoidance of doubt, any Order is subject to the version of the Agreement in effect at the time of the Order.