



Success IT Consultancy and Services (SICS) Master Services Agreement (MSA)

This MSA is a contract between the Customer, SICS or more parties that establishes what terms and conditions will govern all current and future activities and responsibilities. The will cover all Operative Provisions in our Statement of Work issued to our customer(s) / client(s).

Version History

Version	Updated	Updated Date
1.0	Initial Draft	01 Mar 2022



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Background

(A) SICS is a software vendor and also an authorised reseller of products and/or services under various agreements. SICS provides professional services including but not limited to consulting and support services (Services) and Trainings Conducted.

(B) The parties have agreed to enter into this Agreement to evidence the terms and conditions on which the Customer wishes SICS to provide Services.

Operative Provisions

1. Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise:

Affiliate means any entity that directly or indirectly controls or is controlled by or is under common control of SICS or Customer as defined by Companies Act (Chapter 50) or similar Act under Local Laws.

Agreement means this agreement, as varied by SICS from time to time.

Background Intellectual Property Rights means any Intellectual Property Rights owned by a party prior to the commencement of this Agreement or that did not come into existence by reason of this Agreement or any related Statement of Work.

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Singapore.

Commencement Date means the date of this Agreement.

Confidential Information means all information in whatever form:

(a) relating to the terms of this Agreement;



(b) disclosed by or on behalf of the Provider to the Receiver or its Representatives in connection with the transactions contemplated by this Agreement;

(c) obtained by the Receiver in connection with the transactions contemplated by this Agreement, that, by its nature or the circumstances surrounding its disclosure, could reasonably be expected to be confidential to the Provider or its Related Body Corporates; or

(d) which the Provider identifies as confidential at the time of disclosure,

and information derived from such information whether or not provided, obtained or created before or after the date of this Agreement, but does not include Excluded Information.

Corporations Act means the Companies Act (Chapter 50) relating to companies that are incorporated in Singapore.

Customer means the party that requested the Services provided by SICS and are willing to pay for the Services rendered.

Deliverables means the material(s) required to be produced by SICS in accordance with a Statement of Work.

Excluded Information means information that:

(a) is part of the public domain, other than as a result of a breach of this Agreement or obligation of confidentiality owed to the Provider or any Related Body Corporate of the Provider;

(b) was known to the Receiver at the time of disclosure or that the Receiver acquired from a person other than the Provider or Related Body Corporate of the Provider, provided such information was not obtained in breach of any obligation of confidentiality owed to any person.

Fees means the cost payable by the Customer as outlined in a Statement of Work.

Government Agency means a government or a governmental, semi-governmental or judicial entity or authority. It also includes a self-regulatory organisation established under statute or a stock exchange.



GST has the meaning given in the GST Act or similar under Local Laws.

GST Act means the Goods and Services Tax Act 1993 or similar under Local Laws.

Intellectual Property Rights means, in relation to a party, whether registered or unregistered, that party's trademarks, business names, analysis, business methods, compilations, data, structures, trade secrets, operations and affairs, processes, management systems, systems used in the generation of business, organisational structure and reasons therefore, whether in printed, magnetic or electronic form, or on film.

Law means:

(a) principles of law or equity established by decisions of courts;

(b) statutes, regulations or by laws of the Republic of Singapore or similar under Local Laws; and

(c) requirements and approvals (including conditions) of the Republic of Singapore that have the force of law or similar under Local Laws.

Local Laws means the statutes and regulations of the local territory in which you are located. **Loss** means, in relation to any person, any loss, liability, damage, cost, charge, expense, outgoing, payment, diminution in value or deficiency of any kind or character, which that person pays, suffers or incurs or for which that person is liable, excluding any indirect or special loss or damage or consequential loss or damage.

Payment Method means the way that the Customer must make payment to SICS for Services as specified in a Statement of Work or if not specified, is via electronic funds transfer (EFT) or Cheque.

Payment Terms means any condition imposed by SICS in relation to Services rendered.

Personnel in relation to a party, means an officer, employee, agent, contractor or subcontractor of that party.



Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an identified individual, or an individual who is reasonably identifiable, and includes anything otherwise defined as personal information or personal data in the Privacy Laws;

Privacy Laws means The Personal Data Protection Act (PDPA) that provides a baseline standard of protection for personal data in Singapore or similar under Local Laws which relate to the protection of Personal Information relevant to the parties to this Agreement;

Provider means a party that provides Confidential Information to a Receiver. Related Body Corporate has the meaning given to that the in the Corporations Act.

Receiver means a party that receives Confidential Information of a Provider.

Related Body Corporate has the meaning given to that term in the Corporations Act.

Services means software related customization, training, marketing, migration, or solution services (whichever is relevant) that SICS may supply as detailed per assigned Statement of Work.

Statement of Work means a document produced and completed by SICS in relation to the Services that must be signed by both parties.

Special Conditions means the conditions specified in a Statement of Work.

Tax Invoice has the meanings given to that expression in the *A New Tax System (Goods and Services Tax) Act 1993* or similar under Local Laws.



1.2 Interpretation

In this Agreement:

- (a) headings are for ease of reference only and do not affect interpretation;
 - (b) the singular includes the plural and vice versa, and a gender includes other genders;
 - (c) another grammatical form of a defined word or expression has a corresponding meaning;
 - (d) a reference to a clause, schedule or annexure is to a clause, or schedule or annexure to this Agreement, and a reference to this Agreement includes any schedule or annexure;
 - (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
 - (f) a reference to time is to Singapore time (SGT);
 - (g) a reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
 - (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
 - (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
 - (j) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.
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2. Engagement

2.1 Relationship

(a) The parties agree that this Agreement does not constitute and shall not be construed as establishing a partnership, joint venture, employer and employee relationship or principal and agent relationship between the parties or its Personnel.

3. Statement of Work

3.1 Precedence

(a) If there is any inconsistency between these terms and Statement of Work, the documents must be interpreted in the following order:

(i) Statement of Work;

(ii) these terms and conditions (Agreement); and

(iii) Any document incorporated by reference as part of this Agreement.

3.2 Statement of Work

The parties agree that:

(a) each provision of Services must be detailed and specified in a Statement of Work signed by both parties;

(b) each Statement of Work is separate.

3.3 Special Conditions

(a) If there are any Special Conditions set out in a Statement of Work, such conditions will be read as if they were set out this in Agreement.



4. Customer obligations

The Customer:

- (a) must pay to SICS the relevant Fees;
 - (b) must comply with all Laws to the extent that it relates to its obligations under this Agreement;
 - (c) acknowledges that it is solely responsible for ensuring that it and its Personnel (if applicable) comply with all Laws and the terms of this Agreement;
 - (d) must maintain all licences, permits and other regulatory consents required or necessary to perform its obligations under this Agreement;
 - (e) must comply with any lawful directions issued by SICS in relation to Services;
 - (f) must provide to SICS all the relevant and necessary information and documentation to allow SICS to deliver Services; and
 - (g) must not damage the reputation, goodwill or brand names of the other party and its Related Companies.
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5. SICS obligations

SICS:

- (a) will maintain all licences, permits and other regulatory consents required or necessary to perform its obligations under this Agreement;
 - (b) acknowledges that it is solely responsible for ensuring that it and its Personnel (if applicable) comply with all Laws and the terms of this Agreement;
 - (c) provide the Services using adequately trained and professional personnel; and
 - (d) comply with all Laws to the extent that it relates to its obligations under this Agreement.
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6. Fees

(a) The following items will be specified in a Statement of Work;

(i) Fees (exclusive of GST);

(ii) Payment Terms; and

(iii) Payment Method.

(b) Customer must pay the Fees in accordance with any Payment Terms and such payment must be made within the term specified on the tax invoice using the agreed Payment Method.

(c) If Fees are based on time and materials (T&M), timesheets will be provided by SICS once per month and such timesheets will be deemed to be approved by the Customer if no dispute is raised within seven (7) days of receipt of such timesheet.

(d) If Fees are based on fixed pricing relating to milestones, SICS will advise Customers of the completed milestone as per the Statement of Work and such milestones will be deemed to be approved by the Customer if no dispute is raised within seven (7) days of receipt of such notice of completing the milestone.

(e) Customer agrees that Fees are payable to SICS within the Payment Terms specified, irrespective of whether they have received payment from their customer(s).



7. GST

7.1 Definitions

Words or expressions used in this clause 7 which have a defined meaning in the GST Act have the same meaning in this clause as in the GST Act.

7.2 Consideration is GST exclusive

Unless otherwise expressly stated, all amounts payable or consideration to be provided under or in accordance with this Agreement is expressed exclusive of GST. Any consideration that is specified to be inclusive of GST must not be considered in calculating the GST payable in relation to a supply for the purpose of this clause 7. GST shall only be considered should SICS become GST registered.

7.3 GST payable

(a) If GST is imposed on any supply made under or in accordance with this Agreement, the recipient of the supply must pay to the supplier an additional amount equal to the GST payable on the supply (GST Amount).

(b) Payment of the GST Amount must be made at the same time the first part of the consideration is to be paid or provided. However, the recipient need not pay the GST Amount until it has received a tax invoice or adjustment note for the supply (as the case may be).



8. Termination of Statement of Work

8.1 Termination or suspension for Convenience

Unless otherwise provided for in a Statement of Work, a Statement of Work may be suspended or terminated in whole or in part at any time by SICS by providing Customer with at least five (5) days written notice.

8.2 Consequences of termination

On termination of a Statement of Work:

(a) Any access provided by SICS to Customer to the Services including any licence granted under such agreement also terminates;

(b) the Customer must pay all money owed to SICS.

8.3 Accrued rights and liabilities

This Agreement does not affect any rights or liabilities which have accrued to either party before termination, nor any liabilities which may arise from damages deriving from a breach of this Agreement before termination.

8.4 Survival

Clauses 1, 3, 9, 10, 11 to 17 continue after termination or expiry of this Agreement for any reason.



9. No Poaching

(a) During the term of this Agreement for twelve (12) months after the termination or expiration of this Agreement, Service Partner agrees not to, whether directly or indirectly, solicit or recruit for employment or for services any employee of SICS unless agreed to by both parties in writing.

10. Confidential information

(a) You acknowledge that you may receive, possess or otherwise acquire Confidential Information of SICS and that the Confidential Information is the property of and confidential to or a trade secret of SICS.

(b) You will not disclose to any third-party details referred to in clause 10.1(a) above or of this Agreement, without prior written approval given by SICS.

(c) You must keep all Confidential Information confidential and not directly or indirectly disclose, divulge or communicate that Confidential Information to or otherwise place that Confidential Information at the disposal of, any other person without prior written approval given by SICS.

(d) You must take all reasonable steps to secure and keep secure all the Confidential Information in your possession or control or that may come in your possession or control.

(e) You must not deliberately memorise, use, modify, reverse engineer or make copies, notes or records of the Confidential Information without prior written approval by SICS.



11. Intellectual Property

(a) Ownership of a party's Background Intellectual Property Rights vests in and shall remain vested in that party.

(b) The Customer grants SICS a revocable, royalty-free and non-transferrable licence to use the Customer's Background Intellectual Property Rights to the extent necessary to supply the Services to the Customer.

(c) Any Intellectual Property created by SICS arising out of or in connection with this Agreement or Statement of Work(s), upon creation will vest wholly in SICS. The Customer acquires no ownership of copyright or other Intellectual Property Rights or proprietary interest in the Services or copies thereof.

(d) SICS grants the Customer an irrevocable, royalty-free and non-transferrable licence to use Intellectual Property Rights under clause 11(c) during and up to the termination of this Agreement.

(e) Each party must, at its own cost, do all things and execute documents necessary to vest the relevant material to SICS.

12. Privacy

(a) To the extent that either party makes copies or keeps records of Personal Information disclosed to it by the other party under this Agreement, such copies and records will only be made to the extent necessary for performance of this Agreement and where requested to do so by the other party, will return all copies of the relevant Personal Information

received from the other party or follow the other party's reasonable instructions to destroy, erase or de-identify all tangible and intangible records of that Personal Information.

(b) The Customer will not do or omit to do anything to breach any Privacy Law or cause SICS to breach any Privacy Law.

(c) SICS must immediately notify the Customer of any actual privacy breach as soon as reasonably practicable arising out of or in connection with a Statement of Work.



13. Force Majeure

(a) We may cancel or suspend the Products and/or Services in the event of any delay or non-performance due directly or indirectly to act of God, wars, strikes, lockouts, industrial action, floods, fires, accident, earthquake, riot, explosion, terrorism, acts of government, military, civil or regulatory authority, delays or defaults of manufacturers or suppliers, change in any law or regulation, disruption or interruption to the supply of communications, internet, power or other utility or any other cause beyond our reasonable control (Force Majeure Event).

(b) We will not be liable for any delay or failure to perform any obligations under these General Terms as a result of any Force Majeure Event. We will notify you as soon as practicable of any anticipated delay or impact on the Products and/or Services. The performance of our obligations under these General Terms will be suspended for the period of the delay, and any deadlines will be extended by agreement between the parties.

14. Warranties and Guarantees

(a) Other than as set out in this clause 14, and to the full extent permitted by law, all guarantees and implied and express warranties in respect of the Products and/or Services are excluded. We do not give any express or implied warranties or make any representations that any Product and/or Service will be available at any given day, or in respect of the quality, accuracy, currency, completeness, reliability, suitability, acceptability, title, merchantability or fitness for purpose of the Products and/or Services.

(b) You may have statutory rights including certain guarantees, rights and remedies which cannot be excluded, restricted or modified under the Competition Act 2004 and Consumer Protection Act 2003 (CCCS), and nothing in these Terms of Trade is intended to affect those rights.

(c) Subject to clauses 14(a) and 14(b) and to the maximum extent permitted by law, the Services are provided on an "as is" and "as available" basis and, unless expressly stated to the contrary in this Agreement, we exclude all representations, warranties or guarantees, whether express or implied, by statute, trade or otherwise, including without limitation that the Products and/or Services are or will be complete or free from errors or that information will continue to be available to us to enable us to keep the Services up-to-date.



15. Limitation of Liability

(a) Subject to clause 14(a) and to the fullest extent permitted by law, SICS and our officers, directors, employees, contractors, agents, successors or assigns will not be liable to you for loss, injury, claim, liability, damage of any kind resulting in any way from any errors in or omissions from the Products and/or Services, the unavailability or interruption to the supply of the Products and/or Services, your use or misuse of the Products and/or Services (regardless of whether you received any assistance from us or any other third party in using or misusing the Products and/or Services), your use of any equipment in connection with the Products and/or Services, any delay or failure in performance beyond the reasonable control of SICS, or any negligence of SICS in connection with the performance of our obligations under these General Terms (other than liability for death or personal injury).

(b) The liability of SICS to you for loss or damage of any kind (including loss or damage caused by negligence) is reduced by the extent that you caused or contributed to that loss or damage.

(c) Subject to clause 14(a), SICS will not be liable to you for any special, indirect, incidental, or consequential damages of any kind whatsoever (including, without limitation to, legal fees and loss of profits, contracts, business, revenue, goodwill, anticipated savings, business information or data) in any way due to, resulting from, or arising in connection with the Products and/or Services, or our failure to perform its obligations, regardless of negligence from SICS.

(d) Subject to clause 14(a) and to the maximum extent permitted by law, the aggregate liability borne by SICS whether for breach of this Agreement or in tort (including negligence) or for any other common law or statutory cause of action shall not exceed the lesser of your actual direct damages, or the amount you paid for the Services in the 6-month period immediately preceding the date the claim arose.



16. Dispute Resolution

(a) 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/any 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.

(b) Every party to the mediation must be represented by a senior executive personnel, of at least the seniority of a Head of Department or its equivalent, with authority to negotiate and settle the dispute.

(c) Unless otherwise agreed by the parties, the Mediator(s) will be appointed by SMC. The mediation will take place in Singapore in the English language and the parties agree to be bound by any settlement agreement reached.

17. Notice

All notices to be served under this Agreement:

(a) may be served personally, or via email, or sent by prepaid post to the address of the recipient as set out in the Parties section of this Agreement (or to such alternative address which has been notified by the recipient to the sender); and

(b) will be deemed to have been given:

(i) if served personally, on the date upon which it is served;

(ii) if sent by email it must be treated as given to and received by the Party to which it is addressed if sent before 5:00pm on a Business Day at the place of receipt; and

(iii) if sent by prepaid post, two Business Days after the date of posting, but if the delivery or receipt is on a day which is not a Business Day or is after 4:00pm it is deemed to have been received at 9:00am on the next Business Day.



18. General

18.1 Subcontracting

SICS may subcontract any part or the whole of the Services to another party at any time during the Agreement.

18.2 Counterparts

If this Agreement consists of several signed counterparts, each is an original and all the counterparts together constitute the same

document.

18.3 Entire agreement

(a) This Agreement contains the entire understanding between the parties concerning the subject matter of the Agreement and supersedes all prior agreements and communications between the parties.

(b) Customer acknowledges that, except as expressly stated in this Agreement, that Customer has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to the subject matter of this Agreement.

18.4 Assignment and subcontracting

(a) Customer agrees that SICS may engage subcontractors to perform any or all of its obligations under this Agreement and any Statement of Work to which these terms and conditions apply.

(b) SICS may assign the benefit of this Agreement or Statement of Work or any rights thereunder at any time and in its sole discretion; and



(c) The Customer shall not assign, whether in whole or part, the benefit of this Agreement or Statement of Work or any rights or obligations thereunder, without the prior written consent of SICS which may be withheld in SICS's absolute discretion. If

consent is granted to the assignment, then it shall be on the same terms and conditions as applied prior to the assignment

unless otherwise agreed by the parties in writing.

18.5 Variations

(a) SICS may, at its sole discretion, update or vary the terms in this document by providing you with thirty (30) days' notice, if you do not accept the varied terms, you may terminate this agreement in accordance with this clause by providing fourteen (14) days' notice.

(b) Any termination as contemplated by clause 18.5(a) will not affect any Statement of Work that is current as at the time of notice unless otherwise agreed by SICS.

18.6 Construction

No rule of construction operates against a party merely because it put forward the drafting of a clause or seeks to rely on a clause within this Agreement.

18.7 Severability

Any provision of this Agreement, which is invalid in any jurisdiction must, in relation to that jurisdiction be read down to the minimum extent necessary to achieve its validity, if applicable and be severed from this Agreement in any other case, without invalidating or affecting the remaining provisions of this Agreement or the validity of that provision in any other jurisdiction.



18.8 Waiver

A right may only be waived in writing, signed by the parties giving the waiver, and:

(a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;

(b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and

(c) the exercise of a right does not prevent any further exercise of that right or of any other right.

18.9 Governing law

(a) This Agreement is governed by and must be construed in accordance with the Local Laws in the Territory in which Customer is incorporated.

(b) The parties submit to the exclusive jurisdiction of the courts of that Territory in respect of all matters arising out of or relating to this Agreement, its performance or subject matter.

Executed copy as an Agreement.

Authorized Signatory of Customer	Authorized Signatory of SICS
Date	Date