

## EXABYTES DIGITAL GENERAL TERMS AND CONDITIONS

These Exabytes Digital General Terms and Conditions provide the general terms and conditions applicable to all Service published on Exabytes Digital Website.

These Exabytes Digital General Terms and Conditions (including the schedule appended to them), Exabytes Digital Budget Allocation/ Investment Plan accepted by You, additional terms, conditions and policies published on Exabytes Digital Website and other addendum (collectively the "**Agreement**") contain the terms and conditions that govern Your purchase and use of the Service offered by Exabytes Network (Singapore) Pte Ltd. and its affiliates (the "**Exabytes Digital**", "**We**", "**Us**" or "**Our**"). This Agreement is an agreement between Exabytes Digital and You and it refers to words defined in the Exabytes Digital Budget Allocation/ Investment Plan accepted by You. You and Exabytes Digital together may be referred to herein as the "Parties" and each may be referred to herein as a "Party."

You represent to Us that You are lawfully able to enter into contracts. If You are entering into this Agreement for a legal entity, You represent to Us that You have legal authority to bind that legal entity. You acknowledge that You have read the Agreement, and You agree to any terms, conditions and policies as may be posted on Exabytes Digital Website from time to time and are incorporated herein by reference

### 1. Term

- 1.1. The term of this Agreement will commence on the date of Your written acceptance of Budget Allocation/ Investment Plan.
- 1.2. Unless sooner terminated pursuant to other terms and conditions of this Agreement, and except as otherwise provided in this Agreement and any addendum signed by the Parties, this Agreement shall remain in effect throughout the Service Period.

### 2. Provision of Service

- 2.1. At the request of You and subject to acceptance by Exabytes Digital, Exabytes Digital will provide the Service.
- 2.2. Exabytes Digital will carry out the Service between 9.00 a.m. to 6.00 p.m. on any Monday to Friday excluding a public holiday based on Singapore calendar.

### 3. Use of the Service

- 3.1. You may access and use the Service in accordance with this Agreement and that You must follow whatever lawful suggestion made by Exabytes Digital team. Service Level Agreement may apply to certain Service.
- 3.2. To access the Service, You must create an Exabytes Digital billing account associated with the primary contact as stipulated in the Budget Allocation/ Investment Plan accepted by You ("**Primary Contact**"). Unless explicitly permitted by these Exabytes Digital General Terms and Conditions, You may only create one billing account per email address. You are responsible for all activities that occur under Your billing account, regardless of whether the activities are undertaken by You, Your employees or a third party (including Your contractors or agents) and, except to extent caused by Our breach of this Agreement. Exabytes Digital may accept instructions from a person who Exabytes Digital reasonably believes is acting with Your authority or knowledge.
- 3.3. You may appoint a second person as the secondary contact for Your Exabytes Digital billing account. You are responsible for all activities that occur under Your billing account done by Your secondary contact.
- 3.4. In the event which Primary Contact details in Your Exabytes Digital billing account are no longer valid and up-to-date, You shall request Us to update Your contact information in Your Exabytes Digital billing account. You acknowledge and undertake that the information provided is true, accurate and updated and You shall keep Exabytes Digital indemnified against all claims, demands, proceedings, losses or damages costs of whatsoever that may be brought against or suffered by Exabytes Digital as a result of Exabytes Digital agreeing or conceding to Your abovestated request.

- 3.5. Exabytes Digital and its affiliates are not responsible for unauthorized access to Your Exabytes Digital billing account. You shall contact Us immediately if You believe an unauthorized third party may be using Your Exabytes Digital billing account or if that billing account information is lost or stolen.
- 3.6. Third party content, such as software application provided by third parties may be made available directly to You via other companies or individual under separate terms and conditions, including separate fee and charge. Because Exabytes Digital may not have tested or screened the third party content, Your use of any third party content is at Your sole risk and Exabytes Digital shall not be liable for any infringement on intellectual property rights anywhere in the world (e.g. copyright, trademark, patent or other proprietary rights).

#### **4. Changes**

- 4.1. Exabytes Digital and You may agree to additional change or modified service (including the Service as a whole) through an addendum to the Exabytes Digital Budget Allocation/ Investment Plan accepted by You, and that addendum shall become part of this Agreement when executed by both Parties.

#### **5. Fee and Payment**

- 5.1. You shall pay to Exabytes Digital fee and other charge as prescribed in Exabytes Digital Budget Allocation/ Investment Plan accepted by You or any addendum to Exabytes Digital Budget Allocation/ Investment Plan executed by both Parties. Payment shall be made using any of the mode of payment as set out in Exabytes Digital Budget Allocation/ Investment Plan accepted by You.
- 5.2. You shall promptly pay before the invoice due date specified on each invoice issued by Exabytes Digital. You shall continue to be liable for any applicable charge during the period of interruption or loss of Service from any cause whatsoever.
- 5.3. Exabytes Digital may accept prepayment for Service to be provided under this Agreement, but such acceptance shall not modify or extend the terms and conditions of this Agreement.
- 5.4. All payment due to Exabytes Digital under this Agreement shall be made in full, without deduction for any reason, including but not limited to, set-off, counterclaim or other equitable or lawful claim.
- 5.5. Account with returned check and/or e-check will be assessed a returned item fee as per described in Schedule I.
- 5.6. Any payment not received on the invoice due date, will be assessed a late payment fee of one and one-half percent (1 1/2%) per month of any fee remaining unpaid or the highest rate allowed by applicable law, whichever is higher, with a minimum of late fee as per described in Schedule I ("**Late Fee**"). You shall pay to Exabytes Digital all expense incurred by Exabytes Digital in exercising any of its right under this Agreement or applicable law with respect to a payment default or other breach by You, including (but not limited to) reasonable attorneys' fee and the fee of any collection agency retained by Exabytes Digital. Late Fee will continue to accrue as long as there is an outstanding balance.
- 5.7. One Time Cost is due and payable at the time it is incurred, and/or in accordance with this Agreement.
- 5.8. Exabytes Digital may, in its sole discretion, refund any amounts as it deems necessary or advisable.
- 5.9. All the fee and charge shall be payable in Singapore Dollar (SGD).
- 5.10. In the event of an invoice dispute, You shall pay all undisputed amounts on the invoice due date. To the extent that You dispute any portion of the invoice, You shall notify Exabytes Digital in writing and provide documentation supporting Your dispute before the invoice due date or Your right to any billing adjustment shall be waived. If the dispute is resolved against You, You shall pay such amount due plus interest as set forth in this Agreement from the date the payment was originally due.

#### **6. Tax**

- 6.1. You will be responsible for the payment of all tax (including withholding tax and service tax), duty (including stamp duty), fee and other charge made by any government authority in relation to this Agreement (other than tax payable on the overall income of Exabytes Digital).

- 6.2. Unless otherwise specified, the fee and charge do not include sales tax or service tax (if applicable).
- 6.3. You will pay and indemnify and hold Exabytes Digital harmless from any and all tax associated with or arising from Your use of the Service, including any penalty and interest and any cost associated with the collection or withholding thereof.
- 6.4. “GST” referred to in Exabytes Digital Budget Allocation/ Investment Plan accepted by You means “service tax on digital service imposed by government of Singapore”.

## **7. Technical Support**

- 7.1. Exabytes Digital does not provide technical support for any third party software. The third party software is offered on “as-is” basis. The provision and offering of third party software by Exabytes Digital does not constitute an endorsement of the third party software, nor can Exabytes Digital make any representations or warranties regarding the use and functionality of such third party software.

## **8. Security**

- 8.1. You acknowledge that Exabytes Digital shall not be liable for the security of Your Facebook, YouTube, Instagram or LinkedIn administrative account or webpage; or Your Google Ads Manager, Facebook Ads Manager, Google Analytics, Google Tag Manager or Your customer management system (CMS) administrative account; or Your any other account as the situation may require or Your backend management system such as WordPress; or Your website administrative account; or Your website; or Your data on any of Your equipment or passing over the Service. Exabytes Digital shall have no obligation to ensure, and makes no representation or warranty concerning the security of such data or such administrative account or webpage or website. You shall be solely responsible for the data retrieved, stored or transmitted through the Service.
- 8.2. You agree that Exabytes Digital is not liable for any unauthorised access to Your data; Your Facebook, YouTube, Instagram or LinkedIn administrative account or webpage; or Your Google Ads Manager, Facebook Ads Manager, Google Analytics, Google Tag Manager or Your customer management system (CMS) administrative account; Your any other account as the situation may require or Your backend management system such as WordPress; or Your website administrative account; or Your website even when the access occurs as a result of a fault in equipment or software owned, operated or supplied by Exabytes Digital.
- 8.3. You are responsible for properly configuring and using the Service and taking the necessary steps to maintain appropriate security and protection of Your content; Your Facebook, YouTube, Instagram or LinkedIn administrative account or webpage; or Your Google Ads Manager, Facebook Ads Manager, Google Analytics, Google Tag Manager or Your customer management system (CMS) administrative account or Your any other account as the situation may require or Your backend management system such as WordPress; or Your website administrative account; or Your website; which may include the use of encryption technology to protect that content and account from unauthorized access and make routine archiving of that content.

## **9. Personal Data**

- 9.1. You agree to Exabytes Digital’s collection and use of Your or Your employee, worker, agent or representative personal data in connection with the Service in accordance with Exabytes Digital’s Privacy Policy located in Exabytes Digital Website.
- 9.2. You agree that Exabytes Digital or its representative may send You marketing materials and information using Your personal information. You may opt-out from this clause by notifying Exabytes Digital in writing.

## **10. Backup Files and Processing**

- 10.1. Exabytes Digital does not guarantee the existence, accuracy, or regularity of its backup service, and therefore, You are responsible for making back-up file in connection with Your use of the Service. The accuracy and quality of backup processes provided by third party software, such as the individual third party control panels, is not guaranteed by Exabytes Digital.

10.2. You are responsible for properly configuring and using the Service and taking Your own steps to maintain appropriate backup of Your content.

## 11. Your Responsibilities

11.1. You are solely responsible for the development (if applicable), content, operation, maintenance, and use of Your content. For example, You are solely responsible for:

- (a) the technical operation of Your content, including ensuring that calls You make to any Service are compatible with then-current application program interface (API) for that Service;
- (b) compliance of Your content with Exabytes Digital Acceptable Use Policy, the other policies, and the law;
- (c) claims relating to Your content; and
- (d) properly handling and processing notices sent to You (or any of Your affiliates) by any person claiming that Your content violates such person's rights, including notices pursuant to the Digital Millennium Copyright Act.

11.2. You agree that You will not distribute, electronically transmit or display any materials supplied by You, or through You by a third party, to any Exabytes Digital server in connection with Your use of the Service which:

- (a) violates any state, federal or foreign law or regulation;
- (b) infringes on any intellectual property right anywhere in the world (e.g. copyright, trademark, patent or other proprietary rights) of Exabytes Digital or any third party;
- (c) are defamatory, slanderous or trade libelous;
- (d) are threatening or harassing;
- (e) are discriminatory based on gender, race, age or promotes hate which violates any Exabytes Digital policy posted on the Exabytes Digital Website including but not limited to those listed in Exabytes Digital Acceptable Use Policy; and
- (f) contains viruses or other computer programming defects which result in damage to Exabytes Digital or any third party.

11.3. You agree that You will not use the Service:

- (a) for any unlawful purpose such as, but not limited to, vice, gambling or other criminal purpose whatsoever or for sending to or receiving from any person or displaying any message or posting which is offensive on moral, religious, communal or political grounds, or is abusive or of an indecent, obscene or menacing character;
- (b) for any purpose which is against public interest, public order or national harmony;
- (c) to publish defamatory, infringing, obscene or other unlawful material;
- (d) in connection with the infringement of the copyright, patent, trademark, trade secret or other propriety right of any third party or right of publicity or privacy;
- (e) to interfere with, damage, disrupt or unlawfully use or gain access to any service, equipment or computer network without authorisation by the owner of the said service, equipment or computer network;
- (f) to resell the Service or otherwise provide the Service to anyone unless permitted by Exabytes Digital.
- (g) in violation of any laws relating to unfair competition, anti-discrimination or false advertising; or
- (h) that result in distribution of viruses, Trojan horse, worm, time bomb, bots, or other similar harmful or deleterious programming routine.

11.4. You agree to use only properly licensed third party software in connection with the use of the Service.

11.5. You shall, prior to reporting a Service failure or problem, carry out all necessary steps to determine the cause of the Service failure or problem.

## 12. Temporary Suspension

12.1. Exabytes Digital may suspend Your right to access or use any portion or all of the Service immediately upon notice to You if We determine:

- (a) Your use of the Service (i) poses a security risk to the Service or any third party, (ii) may adversely impact the Service or the system or content of any other Exabytes Digital customer, or (iii) may subject us, Our affiliates, or any third party to liability;
- (b) You are in breach of this Agreement;
- (c) You are delinquent on Your payment obligations for more than three (3) days; or

- (d) You have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of Your asset, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.

12.2. If Exabytes Digital suspends Your right to access or use any portion or all of the Service:

- (a) You remain responsible for all fee and charge You have incurred through the date of suspension;
- (b) You remain responsible for any applicable fee and charge for any Service to which You continue to have access, as well as applicable data storage fee and charge, and fee and charge for in-process tasks completed after the date of suspension;
- (c) any such suspension shall not be a breach by Exabytes Digital of this Agreement.

12.3. In the event of a suspension, Exabytes Digital reserves the right to charge You a fee for the re-activation of the service in accordance to Schedule I.

### 13. Termination

13.1. Exabytes Digital may terminate this Agreement immediately upon giving thirty (30) days' written notice to You:

- (a) if Exabytes Digital's relationship with a third party partner or provider which provides software or other technology Exabytes Digital uses to provide the Service expires, terminates or requires Exabytes Digital to change the way Exabytes Digital provides the software or other technology as part of the Service;
- (b) if Exabytes Digital believes that providing the Service could create a substantial economic or technical burden or material security risk for Exabytes Digital;
- (c) in order to comply with the law or request of governmental entity;
- (d) if Exabytes Digital determines that use of the Service by You or Exabytes Digital's provision of any of the Service to You or any end user has become impractical or unfeasible for any legal or regulatory reason; or
- (e) without having to give any reason.

13.2. Exabytes Digital reserves the right to refuse the Service to anyone. Exabytes Digital, in its sole discretion, may immediately terminate this Agreement if:

- (a) You engaged in any of the activities as spelled out but not limited to in Clause 11 (Your Responsibilities) above; or
- (b) Exabytes Digital or You commits a material breach of its obligations under this Agreement which is incapable of remedy; or
- (c) Exabytes Digital or You commits a material breach of its obligations under this Agreement which is capable of remedy but which is not remedied within thirty (30) days after the receipt of written notice of default from the other Party; or
- (d) Exabytes Digital or You is insolvent or takes any corporate action, or other step is taken or legal proceeding is commenced for its winding up, liquidation or dissolution (other than for the purposes of solvent reconstruction on terms approved by the Party proposing to terminate this Agreement) or for the appointment of a receiver, receiver and manager, official manager, liquidation, provisional liquidator, trustee or similar officer of it or of any or all of its revenue and asset, or
- (e) in the event any equipment or combination thereof, including hardware and software used by Exabytes Digital in offering of its Service, become affected in their performance and/or functionality so as to render it impossible for Exabytes Digital to continue to provide the Service. In such event the sole extent of Exabytes Digital liability shall be the refund of any advance fee paid by You for the duration of the interruption prior to termination.

13.3. If the Agreement or Service is terminated by Exabytes Digital due to non-compliance by You of any provision in this Agreement prior to the expiry of the Service Period, You shall pay Exabytes Digital in full charges equivalent to one (1) month service fee for each Service purchased.

13.4. You may terminate this Agreement by giving Exabytes Digital a thirty (30) days' written notice. If the Agreement or Service is terminated by You prior to the expiry of the Service Period, You shall pay Exabytes Digital in full charges equivalent to one (1) month service fee for each Service purchased.

13.5. On termination or expiration of this Agreement, You shall pay Exabytes Digital:

- (a) all amount invoiced to You in accordance with this Agreement and remains unpaid as at the termination date together with the interest charged on that amount; and
- (b) all amount incurred by You but not invoiced to You as at the termination date.

- 13.6. Termination of this Agreement by either You or Exabytes Digital for any reason whatsoever shall be without prejudice to any other right, remedy or claim Exabytes Digital may have against You under this Agreement or at law in respect of any antecedent breach by You of any provision of this Agreement.
- 13.7. If Exabytes Digital terminates Your right to access or use any portion or all of the Service:
- (a) Exabytes Digital obligations under this Agreement shall cease;
  - (b) You remain responsible for all fee and charge You have incurred prior the date of termination;
  - (c) You remain responsible for any applicable fee and charge for any Service to which You continue to have access, as well as applicable data storage fee and charge, and fee and charge for in-process tasks completed after the date of termination;
  - (d) Any such termination shall not be a breach by Exabytes Digital of this Agreement.

#### 14. Proprietary Rights

- 14.1. As between You and Exabytes Digital, You or Your licensor owns all right, title, and interest in and to Your content. We obtain no rights under this Agreement from You or Your licensor to Your content, including any related intellectual property right anywhere in the world. You consent to Exabytes Digital use of Your content to provide the Service to You. Exabytes Digital may disclose Your content to provide the Service to You or to comply with any request of a governmental or regulatory body (including subpoena or court order).
- 14.2. You represent and warrant to Exabytes Digital that:
- (a) You or Your licensor own all right, title, and interest in and to Your content and Your submission;
  - (b) You have all right in Your content and Your submission necessary to grant the right contemplated by this Agreement; and
  - (c) None of Your content, Your submission will violate Exabytes Digital Acceptable Use Policy.
- 14.3. Exabytes Digital or its licensor retains Our rights in Our pre-existing intellectual property right.
- 14.4. Pursuant to and for the consideration set out in this Agreement, Exabytes Digital hereby assign(s) to You absolutely (i) all or any of intellectual property right, title and interest in literary work, artistic work, film, sound recording and derivative works (where applicable) created or developed in connection with the Service ("**Service Intellectual Property**"), and (ii) the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief (and to retain any damages recovered) in respect of any infringement, or any other cause of action arising from ownership, of any of the Service Intellectual Property whether occurring before, on, or after the date of this Agreement. The Service Intellectual Property excludes commercial font, content management system and media website tools used by Exabytes Digital in order to provide the Service. Exabytes Digital shall, at Your cost and expense, use all reasonable endeavour to procure any third party to execute such document or perform such acts as may be required for the purpose of giving full effect to this provision.
- 14.5. Exabytes Digital excludes all its liability, to the fullest extent permissible by law, that may arise from any Service Intellectual Property, material or content published during the performance of the Service, whether arising from negligence or otherwise.
- 14.6. Exabytes Digital irrevocably and unconditionally waives in favour of You all and any moral or equivalent right (whether conferred by the Copyright Act 1987 or otherwise) which Exabytes Digital may now or at any time possess in respect of the Service Intellectual Property in so far as legally possible in any part of the world.
- 14.7. As between You and Exabytes Digital, You grant Exabytes Digital a limited, revocable, non-exclusive, non-sublicensable, non-transferrable license to do the following during the term of this Agreement:
- (a) access, use and reproduce the Service Intellectual Property solely in accordance with this Agreement; and
  - (b) publish the Service Intellectual Property on specified website or social media platform, as the case may be.
- 14.8. All license granted to Exabytes Digital in this Agreement will immediately and automatically terminate upon the termination of this Agreement, save and except for license granted in Clause 14.10, You will not assert, nor will You authorize, assist, or encourage any third party to assert, against Us or any of Our affiliates, customer, vendor, business partner, or licensor, any patent infringement or other intellectual property infringement claim regarding any Service You have purchased.

- 14.9. You may only use the Exabytes Digital trademark in accordance with the Trademark Use Guidelines as published on Exabytes Digital Website. This clause will terminate immediately upon termination or early expiration of this Agreement.
- 14.10. In consideration of mutual agreement contained in this Agreement, Exabytes Digital is granted perpetual, worldwide, non-exclusive and limited rights to use Your name, logo and trademark on Exabytes Digital's Website, social media or any material to advertise or promote its digital marketing service to other prospective customer. This clause will survive the termination of this Agreement. You may opt-out from this clause by notifying Exabytes Digital in writing.

## 15. Confidentiality

- 15.1. All information provided by Exabytes Digital to You under this Agreement shall be treated as confidential by You ("**Confidential Information**"). Such Confidential Information includes but not limited to the Service, any fee, document, recommendation and report in relation to the Service.
- 15.2. You shall not disclose any Confidential Information, in whole or in part, to any third party except (i) as explicitly authorised by Exabytes Digital, or (ii) to appropriate regulatory body as instructed or to the extent required by law or regulation or order of a court, tribunal, government authority or competent jurisdiction.
- 15.3. The obligation on confidentiality shall remain in force for a period stated of three (3) years from the disclosure of such Confidential Information notwithstanding termination or expiry of this Agreement.

## 16. Suggestion

- 16.1. If You provide any suggestion to Exabytes Digital or its affiliates, Exabytes Digital will own all right, title, and interest in and to the suggestion, even if You have designated the suggestion as confidential. Exabytes Digital and its affiliates will be entitled to use the suggestion without restriction. You hereby irrevocably assign to Exabytes Digital all right, title, and interests in and to the suggestion and agree to provide us any assistance We may require to document, perfect, and maintain Our rights in the suggestion.

## 17. Indemnity

- 17.1. You shall Indemnify, defend and hold harmless Exabytes Digital from any and all liability, penalty, loss, damages, cost on a solicitor-and-client basis, expense, attorneys' fee of whatever nature arising out of or in connection with (i) any claim or action made against Exabytes Digital caused by or resulting directly or indirectly from Your use of the Service without any limitation or exception or from Your conduct; or (ii) breach of third party intellectual property rights anywhere in the world (e.g. copyright, trademark, or other proprietary rights). This indemnification and hold harmless agreement extends to all issue associated with You, including Your website content and content on Your Facebook, YouTube, Instagram or LinkedIn webpage or account.

## 18. Limitation of Liability

- 18.1. Under no circumstances, unless specifically made within the terms and conditions of this Agreement, shall Exabytes Digital, its officer, agent or anyone else involved in creating, recreating, producing or distributing Exabytes Digital's Service be liable whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any indirect, incidental, special or consequential loss or damages (including loss of revenue or profit) that result from the use of or inability to use of the Service; nor shall liability be accepted for that which results from any mistake, omission, interruption, deletion or loss of file, error, defect, deficiency, deterioration in quality, incompatibility, unsuitability, delay in operation, or transmission or any failure of performance, whether or not limited to act of God, communication failure, power failure, theft, destruction, deletion, corruption or unauthorized access to Exabytes Digital's record, equipment, programs or the Service.
- 18.2. Exabytes Digital's aggregate liability arising out of this Agreement and the use of the Service will not exceed the total fee and charges You have paid to Exabytes Digital for the Service under this Agreement. Applicable law may not allow the limitation or exclusion of liability or incidental or consequential damages, so the above limitation or exclusion may not apply to You. In such cases, Exabytes Digital's liability will be limited to the fullest extent permitted by applicable law.

## 19. Notice

- 19.1. Exabytes Digital may provide any notice to You under this Agreement by delivering in person or sent by one of the following methods: (i) registered mail, or (ii) electronic mail, to the address or email address stated in the Exabytes Digital Budget Allocation/ Investment Plan accepted by You.
- 19.2. To give Us notice under this Agreement, You must contact Exabytes Digital (i) by emailing Exabytes Digital consultant stated in Exabytes Digital Budget Allocation/ Investment Plan, or (ii) by personal delivery, overnight courier or registered or certified mail to Exabytes Digital address stated in Exabytes Digital Budget Allocation/ Investment Plan.
- 19.3. Notice by email will be effective on the acknowledgement of the email by recipient. Notice provided by personal delivery will be effective immediately. Notice provided overnight courier will be effective one business day after they are sent. Notice provided registered or certified mail will be effective three (3) business days after it is sent.

## 20. General

- 20.1. This Agreement shall be governed and construed in all respects in accordance with the laws of Singapore and the Parties hereto hereby submit to the jurisdiction of the courts of Singapore.
- 20.2. This Agreement constitutes the entire agreement between the Parties; it supersedes any and all prior or contemporaneous oral or written agreement, negotiation, communication, understanding and term, whether express or implied.
- 20.3. Exabytes Digital may from time to time, vary or modify the terms and conditions of this Agreement (including any policies) by posting a revised version on the Exabytes Digital Website. The modified terms and conditions will become effective upon posting or, if Exabytes Digital notifies You by email, as stated in the email message. By continuing to use the Service after the effective date of any modifications to this Agreement, You agree to be bound by the modified terms and conditions. It is Your responsibility to check the Exabytes Digital Website regularly for modifications to this Agreement.
- 20.4. Additional terms and conditions and policies set out in Exabytes Digital Website are in addition to this Agreement and Exabytes Digital reserves the right to revise those terms and conditions from time to time. In the event of any conflict or inconsistencies between the provisions of this Agreement and any terms and conditions set out in Exabytes Digital Website, the terms and conditions set out in Exabytes Digital Website shall prevail.
- 20.5. This Agreement is not intended to create a partnership, joint venture, or relationship of trust or agency, or employer and employee between the Parties. Exabytes shall be Your independent contractor.
- 20.6. We will not be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond Our reasonable control, including acts of God, fire, flood, theft, labour dispute or other industrial disturbance, systemic electrical, telecommunication, or other utility failure, earthquake, storm or other element of nature, blockage, embargo, riot, act or order of government, act of terrorism, or war.
- 20.7. You shall not assign or transfer any of Your rights or obligation under this Agreement without Exabytes Digital's prior written consent.
- 20.8. The failure of any Party to enforce any right resulting from breach of any provision of this Agreement by the other Party shall not be deemed a waiver of any right relating to a subsequent breach of such provision or of any other right hereunder.
- 20.9. This Agreement is binding on the Parties and enure to the benefit of their respective assign and successor, including liquidator and/or receiver.
- 20.10. In the event any of this term, condition and provision or those of any schedule, additional term, condition or policy published on Exabytes Digital Website, or other addendum will be determined by any competent authority to be invalid, unlawful or unenforceable to any extent such term, condition or provision, additional term, condition or policy published on Exabytes Digital Website, or other addendum will to that extent be severed from the remaining terms, conditions and provisions, additional terms, conditions or policies



published on Exabytes Digital Website, or other addendum which will continue to be valid to the fullest extent permitted by law.

20.11. The Parties' rights and obligations, which, by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive termination, cancellation or expiration of this Agreement.

20.12. Each Party shall bear its own costs in the preparation of this Agreement (including but not limited to legal expenses).

20.13. All communication and notice to be made or given pursuant to this Agreement must be in the English language.

20.14. The headings in this Exabytes Digital General Terms and Conditions (including the schedule appended to them), additional terms, conditions and policies published on Exabytes Digital Website are for convenience only and have no legal effect.

20.15. A person who is not a party to this Agreement has no right to enforce any terms of this Agreement. The application of the Contracts (Rights of Third Parties) Act 2001 (No. 39 of 2001) and any subsequent amendment or replacement thereof are expressly excluded.

## 21. Definitions

**"Exabytes Digital Website"** means the website in [www.exabytes.digital](http://www.exabytes.digital) or any successor website.

**"One Time Cost"** or **"OTC"** means a non-recurring fee (i) chargeable for, or (ii) incurred, as a result the provision of each of the Service (e.g. Setup Fee, administrative charge and Late Fee).

**"Service"** means service package (i) made available by Exabytes Digital or its affiliates; (ii) as detailed in Exabytes Digital Website; and (iii) as set out in Exabytes Digital Budget Allocation/ Investment Plan accepted by You, in consideration of payment of relevant fees by You to Exabytes Digital.

**"Service Period"** means the Service duration stipulated in Budget Allocation/ Investment Plan accepted by You that Exabytes Digital will provide the Service in consideration of payment of relevant fees by You to Exabytes Digital.

**"Setup Fee"** means the fee payable to Exabytes Digital for setting up of the following Service purchased by You (i) Google.com advertising campaign, (ii) Facebook.com and Instagram.com advertising campaign, (iii) conversion tracking, (iv) Google Analytics i.e. a web analysis service offered by Google.com, or (v) one (1) conversion page or landing, or one (1) set of Google banner advertising campaign design of 10 different sizes, exclusive of any tax.

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**SCHEDULE I  
OTHER CHARGES**

	Exabytes Digital Website
Minimum late fee	SGD15.00
Returned item fee	SGD45.00
Re-activation fee	SGD80.00

*[End of Schedule I]*