

An

AGREEMENT

between

the **MONETARY AUTHORITY**

and

**PRICEWATERHOUSECOOPERS LIMITED**

for

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**PROVISION OF INTELLIGENCE-LED CYBER  
ATTACK SIMULATION TESTING SERVICE**

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THIS AGREEMENT is made on 10 April 2025

BETWEEN

- (1) The **MONETARY AUTHORITY** appointed under section 5A of the Exchange Fund Ordinance (Chapter 66 of the Laws of Hong Kong) of 55<sup>th</sup> Floor, Two International Finance Centre, 8 Finance Street, Central, Hong Kong (the "Authority" or "HKMA");

AND

- (2) **PRICEWATERHOUSECOOPERS LIMITED**, a private limited company incorporated in Hong Kong under business registration number 02044155-000-08-24-9 whose registered office is at 22/F, Prince's Building, Central, Hong Kong (the "Consultant" or "PwC"),

(the Authority and the Consultant are each referred to herein as a "Party", and collectively, the "Parties").

WHEREAS

- A. The Authority issued a request for proposals on 20 September 2024 ("RFP") inviting tenders for the provision of Intelligence-led Cyber Attack Simulation Testing (iCAST) service ("Project") to the HKMA.
- B. A proposal dated 30 October 2024 was submitted by the Consultant and accepted by the Authority.
- C. The Authority, in view of the Consultant's relevant qualifications, experience and knowledge, wishes to appoint the Consultant to provide the Services (as defined below) and the Consultant is willing to provide the Services on the terms and conditions set out hereunder.

IT IS HEREBY AGREED as follows:-

1. DEFINITIONS

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:-

"Agreement" means this Agreement as well as the Schedules and Appendices annexed to it;

"C-RAF" means Cyber Resilience Assessment Framework;

"Change Request" means a request to alter the scope of the Services, the timeframe against which the Services shall be provided and/or any other matters relating to the Services. For clarity, anything not specifically described in this Agreement is out of scope;

"Confidential" means the existence and content of this Agreement and



Information”

the Deliverables and of all discussions and negotiations in connection with this Agreement and the provision of the Services, the fact that the Services are being provided and the scope of the Services and all data (including personal data), information, documents and materials that are provided to the Consultant by or on behalf of the Authority or otherwise come to the Consultant's knowledge in connection with this Agreement or the Services, whether before, on or after the date of this Agreement and in whatever form, but excludes such data, information, documents and materials that (a) were rightfully in the possession of the Consultant prior to the date of the RFP and are not subject to any confidentiality obligations; (b) are or become public information other than as a direct or indirect result of any breach of this Agreement by the Consultant; or (c) are independently developed or acquired by the Consultant without using any Confidential Information that the Consultant acquires in the course of providing the Services (as the case may be) (for the avoidance of doubt, the foregoing (a) to (c) does not extend to include any Deliverables, save and except any Consultant Materials as embedded in those Deliverables);

“Day”

means a calendar day;

“Deliverables”

means the documents and deliverables described in Schedule 3 together with any relevant data, plans, information, documents, materials and reports and/or work product created, developed, prepared and/or provided by the Consultant to the Authority in connection with the Services but excluding any draft or unfinalized versions of such documents and deliverables;

“Designated Consultants”

means any of the persons specified in Schedule 2 or any such other person as may be appointed or replaced pursuant to Clause 5;

“Fee”

means the fee payable by the Authority to the Consultant under this Agreement for full and proper performance by the Consultant of its obligations and duties under this Agreement, and which is more particularly set out in Schedule 4;

“Force Majeure Event”

means the occurrence of an event or circumstance beyond the reasonable control of the Party claiming force majeure, including fire, flood, earthquake, storm or other natural disaster, war, invasion or acts of foreign enemies, disease epidemic or pandemic, government acts, and strike, riot or boycott;



|                                |  |
|--------------------------------|--|
| “Hong Kong”                    | means the Hong Kong Special Administrative Region of the People’s Republic of China;   |
| “Hong Kong Dollars” or “HK\$”  | means the lawful currency of Hong Kong for the time being;   |
| “Indemnified Parties”          | means the Authority and the Authority’s officers, employees, representatives and agents;   |
| “Intellectual Property Rights” | means all past, present and future intellectual property rights in any jurisdiction including patents, copyrights, trademarks, trade secrets, service marks, trade names, business names, internet domain names, designs, design rights, database rights, rights in know-how and rights in inventions of whatever nature and in whatever form and in each case, whether registered or unregistered and includes applications for the grant of any such right;      |
| “Offices of the HKMA”          | means the following offices of the HKMA: (a) Two International Finance Centre, 8 Finance Street, Central, Hong Kong (Primary Site); and (b) Kowloon Commerce Centre, 51 Kwai Cheong Road, Kwai Chung, Hong Kong (Backup Site);   |
| “PDPO”                         | means the Personal Data (Privacy) Ordinance (Chapter 485 of the Laws of Hong Kong);  |
| “PwC Firms”                    | means entities or partnerships within the worldwide network of PricewaterhouseCoopers firms, each of which is separate and independent, but excluding the Consultant;  |
| “Services”                     | means the services to be provided by the Consultant to the Authority in accordance with the requirements of this Agreement which are more particularly described in Schedule 1 (including the preparation and delivery of the Deliverables) and any other supplemental or ancillary service or task as may from time to time be agreed between the Consultant and the Authority;   |
| “Working Day”                  | means any Day but excluding Saturdays, general holidays within the meaning of the General Holidays Ordinance (Chapter 149 of the Laws of Hong Kong), black rainstorm warning days within the meaning of section 71(2) of the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong) and gale warning days within the meaning of section 71(2) of the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong). |



- 1.2 Unless a contrary indication appears, a reference in this Agreement to:-
- 1.2.1 “this Agreement” is a reference to this Agreement as amended, novated, supplemented, extended or restated from time to time;
  - 1.2.2 a “person” includes any individual, firm, company, corporation, government or state (or agency or instrumentality of a government body, state or local or municipal authority) or any joint venture, association (whether or not incorporated), trust, consortium, partnership, undertaking or other entity (whether or not having separate legal personality);
  - 1.2.3 a “regulation” includes any regulation, rule, order, official directive, or guideline in effect (whether or not having the force of law) of any governmental, inter-governmental, supranational, regulatory or self-regulatory body, agency, department, authority or organisation;
  - 1.2.4 a provision of law or regulation is a reference to that provision as amended or re-enacted from time to time;
  - 1.2.5 a gender includes every gender and words importing the singular include the plural and vice versa;
  - 1.2.6 a time of day is a reference to Hong Kong time;
  - 1.2.7 “include” (and its derivatives) shall be construed as a reference to “include without limitation”; and
  - 1.2.8 termination of this Agreement shall include expiry of this Agreement.
- 1.3 References to any enactment, order, regulation or instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended by any subsequent enactment, order, regulation or instrument.
- 1.4 The Schedules to this Agreement form part of this Agreement.
- 1.5 Clause and schedule headings to this Agreement are for ease of reference only. Reference in this Agreement to numbered clauses and schedules are to clauses and schedules to this Agreement respectively.
- 1.6 Nothing in this Agreement shall be taken to restrict, derogate from or otherwise interfere with any power or duty, or the exercise or performance of any power or duty, conferred or imposed by or under any law or regulation upon the Authority or any person in the service of the Authority.
2. APPOINTMENT
- 2.1 The Authority appoints the Consultant to provide the Services on the terms and conditions contained in this Agreement and the Consultant accepts such appointment.
- 2.2 The Consultant shall provide the Services and complete delivery of the Deliverables, to the Authority’s satisfaction, in accordance with the terms and conditions of this



Agreement.

- 2.3 The Consultant acknowledges that, in entering into this Agreement, no form of exclusivity or volume guarantee has been granted by the Authority for the Services and that the Authority shall at all times be entitled to engage, retain, and enter into contracts and arrangements with, other service providers for the provision of any or all services which are the same as or similar to the Services.

3. TERM

- 3.1 This Agreement took effect on 27TH DECEMBER 2024 and subject to clause 18, shall terminate upon completion of the Services and delivery of all Deliverables by the Consultant.

4. CONDUCT OF THE SERVICES

- 4.1 The Consultant shall exercise all necessary and proper skill, due care and diligence in providing the Services in accordance with the terms and conditions of this Agreement.

- 4.2 In accepting its appointment under this Agreement and in rendering the Services, the Consultant:-

- 4.2.1 shall at all times (a) act in accordance with the reasonable instructions, directions and orders of the Authority, and (b) comply with the Authority's in-house rules and procedures insofar as they have been communicated to the Consultant and relate to the Services. However, nothing in this Clause 4.2.1 shall be deemed to affect or relieve the Consultant of its duties, liabilities and obligations under this Agreement;

- 4.2.2 acknowledges that the Authority is relying on its skills, expertise and qualifications in providing the Services to the extent stipulated under the terms of this Agreement;

- 4.2.3 shall (in respect of any Services to which SLA does not apply and subject to the terms of this Agreement) act in the best interests of the Authority. To "act in the best interests of the Authority" means that when the Consultant provides Services and Deliverables, the Deliverable and delivery of Services reflect the care, skill, prudence, and diligence reasonably and ordinarily expected from a skilled and experienced person or body engaged in a similar type of services as the Services taking into consideration all of the facts and circumstances that come to the Consultant's attention during the provision of Services;

- 4.2.4 shall not do, or omit to do, anything, where such action or omission would constitute a breach of any applicable law or regulation having the force of law to the Consultant;

- 4.2.5 shall attend meetings as and when reasonably requested by the Authority to do so and shall as soon as practicable respond to the Authority's enquiries about, and assist the Authority in, all matters relating to the duties and obligations which the Consultant has assumed under this Agreement; and



- 4.2.6 shall act in a timely and professional manner, and shall complete the Services in accordance with the agreed timetable between the Parties and other terms and conditions of this Agreement.
- 4.3 The Consultant shall submit to the Authority for his approval, prior to formal submission, draft Deliverables for the purposes of providing the Services. No such approval shall affect the obligations and duties of the Consultant under this Agreement.
- 4.4 The Authority shall bring to the Consultant's attention of any Change Request (including a request pursuant to Clause 5.6 below) by giving a written notice (in the form of Appendix A) at any time to the Consultant.
- 4.5 Upon receipt of the notice described in Clause 4.4 above, the Consultant shall (except for a request pursuant to Clause 5.6 below which Parties shall follow the timeframe set out therein) within 15 Working Days discuss with the Authority the feasibility to effect the Change Request and the impact of the proposed alterations on the terms and conditions of this Agreement (including costs, terms of payment, service scope, timeframes and other arrangements). Any necessary amendments to the terms and conditions of this Agreement shall take effect pursuant to Clause 20.1.
- 4.6 Subject to Clause 4.5, all the terms and conditions of this Agreement shall apply to any alterations which are made to the scope of the Services and/or the timeframe against which the Services shall be provided pursuant to Clause 4.4.
- 4.7 Time stipulated in the agreed timetables shall be of the essence. Otherwise, the Consultant will use its best efforts to meet any specified timetable.
- 4.8 Without prejudice to any of the Authority's other rights and remedies, if in the reasonable opinion of the Authority the Services and/or the Deliverables do not conform to the requirements agreed between the Parties under this Agreement, the Authority shall notify the Consultant and the Consultant shall rectify, re-perform and, as relevant, re-deliver any non-conforming part of the Services and/or Deliverables as soon as practicable (and in any event before the deadline of the relevant part of the Services and/or Deliverables notified by the Authority to the Consultant) at no additional charge.
- 4.9 The Services shall not be considered by the Authority as completed unless and until all the Deliverables have been delivered to and approved by the Authority. Approval of the Deliverables is solely for the purpose of payment of the Fee on the terms set out in Schedule 4 and shall not affect the rights of the Authority under this Agreement.

## **5. DESIGNATED CONSULTANTS**

- 5.1 A person who is not specified in Schedule 2 shall only become a Designated Consultant for the purposes of this Agreement with the prior written approval of the Authority (such approval not to be unreasonably withheld).
- 5.2 The Consultant shall use all reasonable skill, care and diligence in the selection of the Designated Consultants.
- 5.3 The Consultant shall ensure that all Designated Consultants who render the Services are competent and possess the skill, knowledge and expertise necessary to render the



relevant Services as may reasonably be expected from a person providing the same or similar services in a professional capacity.

- 5.4 The Authority shall owe no obligations to any of the Designated Consultants (including any former Designated Consultant) and shall have no liability (whether arising from any act or omission of the Authority under Clause 5.5, Clause 5.6 or otherwise) for any cost, loss, charge, fee or expense payable to or incurred by any of them.
- 5.5 The Consultant shall not replace any, or increase or decrease the number of Designated Consultant without the prior written approval of the Authority (such approval not to be unreasonably withheld).
- 5.6 The Authority may (acting reasonably), by written notice to the Consultant, require the Consultant to:-
  - 5.6.1 remove any person as a Designated Consultant, in which case the Consultant shall remove such person as a Designated Consultant immediately (or within such other period as may be agreed by the Authority in writing); and/or
  - 5.6.2 replace any Designated Consultant and appoint a replacement Designated Consultant, in which case the Consultant shall propose to the Authority a replacement Designated Consultant for the Authority's prior written approval within 14 Working Days after notice to replace is given by the Authority (or such longer period as may be agreed by the Authority in writing) and appoint the replacement Designated Consultant within 5 Working Days after the Authority has given such written approval (or such longer period as may be agreed by the Authority in writing).
- 5.7 If a Designated Consultant is proposed to be appointed in accordance with Clause 5.5 or 5.6, the Consultant shall, prior to such appointment, submit the curriculum vitae of the proposed appointee to the Authority and shall represent and warrant that to the best of its knowledge and belief (after taking all reasonable steps to verify the information contained in the curriculum vitae relating to the proposed Designated Consultant's qualifications and experience) the proposed Designated Consultant is no less experienced in all material aspects than the Designated Officer to be replaced or existing.
- 5.8 Any Designated Consultant who is replaced or removed in accordance with Clause 5.5 or 5.6 shall cease to be a Designated Consultant for the purpose of this Agreement. A replacement or additional Designated Consultant shall, from the date of his appointment, be a Designated Consultant for the purpose of this Agreement.
- 5.9 The removal, appointment or replacement of any Designated Consultant shall not relieve the Consultant from any duty, liability or obligation under this Agreement and the Consultant shall be responsible for the acts, omissions, defaults and neglects of any of the Designated Consultants (including any former Designated Consultant) as fully as if they were the acts, omissions, defaults or neglects of the Consultant. Without prejudice to Clause 5.4, the Authority shall not be liable for any cost, loss, charge, fee or expense whatsoever arising from or in connection with the removal, appointment or replacement of any Designated Consultant pursuant to Clause 5.5 or 5.6.



## **6. DELIVERABLES**

- 6.1 The Consultant shall complete the Services and submit the relevant Deliverables set out in Schedule 3 on such dates as may be mutually agreed in writing by both Parties.
- 6.2 Draft Deliverables will be submitted by the Consultant to the Authority for review and comments. Upon receipt, the comments will be incorporated into the Deliverables for finalisation. Any oral or draft Deliverables will not constitute the Consultant's definitive findings and conclusions until they are finalised and expressed as such in writing, and approved by the Authority (which approval shall not be unreasonably withheld). No such approval shall affect the obligations and duties of the Consultant under this Agreement. The Authority will not rely on any oral advice or draft Deliverables as they may be subject to further work and revisions.
- 6.3 The Authority confirms that he will not use any of the Deliverables as the basis for recording any accounting entry.
- 6.4 The Authority has the sole discretion to act or not to act upon the recommendations contained in the Deliverables.

## **7. REPRESENTATIONS AND WARRANTIES**

- 7.1 The Consultant represents and warrants to the Authority, which representations and warranties shall be deemed to be repeated by the Consultant at all times during the Service Period, that:-
  - 7.1.1 all information provided, and statements and representations in the Deliverables made, by or on behalf of the Consultant to the Authority in relation to the Services and this Agreement are true, accurate, complete and not misleading in all material respects. For clarity, this paragraph does not apply in respect of any information provided by the Authority, in which case the Consultant will rely on and not verify it in any way according to Appendix B;
  - 7.1.2 the Consultant is in compliance with all applicable laws and regulations having the force of law and in particular, it and each Designated Consultant and subcontractor (including, for the avoidance of doubt, any PwC Firm) have not acted contrary to any applicable bribery or anti-corruption laws or offered, given or promised to give any financial or other advantage to any person whether in or outside Hong Kong for the purpose of or in connection with the performance of this Agreement;
  - 7.1.3 all authorisations, consents, approvals, permits, licences, exemptions, filings, notarisations and registrations required or desirable to enable the Consultant lawfully to enter into, perform and comply with its obligations in this Agreement have been obtained at the Consultant's own expense and are in full force and effect;
  - 7.1.4 there is no conflict of interest arising out of or as a consequence of the Consultant's entry into this Agreement and performance of the Services, and the Consultant's activities and businesses are not in conflict with the Consultant's duties and obligations to the Authority under this Agreement or



the interests of the Authority;

- 7.1.5 the Services and the Deliverables are fit for the purposes for which they are intended as specified in the RFP (for clarity, the Services and Deliverables shall be deemed to be so when they meet the requirements specified in this Agreement). Any information technology provided, or any work in relation to information technology performed, by the Consultant under this Agreement are free from material defects in design, configuration and installation and free from computer viruses and any other contamination where such virus or contamination is generally known to the then cybersecurity community; and
- 7.1.6 the Consultant maintains insurance policies with financially sound and reputable insurers that provide coverage in such amounts and against such risks and losses as are reasonable and customary for its business and assets and the Services to be provided under this Agreement.

- 7.2 The Consultant shall notify the Authority of any misrepresentation or misstatement in Deliverables, or breach of any provision of this Agreement promptly upon becoming aware of its occurrence or suspected occurrence.

## 8. TERMS OF PAYMENT

- 8.1 Subject to Clauses 8.4 and 8.5 below and the due and satisfactory performance by the Consultant of its duties and obligations under this Agreement, the Authority shall pay the Consultant the Fee in the manner as specified in Schedule 4 which shall be inclusive of all professional and staff costs, materials (including, but not limited to, all Deliverables), fees and expenses incurred by the Consultant in carrying out its duties and obligations under this Agreement. Any other additional work requested by the Authority that is outside the scope of the Services shall be charged at a sum to be mutually agreed by the parties prior to the commencement of such additional work.
- 8.2 Unless provided otherwise, all payments shall be made to the Consultant in Hong Kong in Hong Kong Dollars. Save as Clauses 10.7 and 11.8 below, the payment of the Fee shall constitute full and final discharge of the Authority's duties and liabilities under this Agreement.
- 8.3 The Consultant shall be responsible for any taxes to be paid by it in relation to the performance of the Services.
- 8.4 All invoices and correspondence concerning payment shall be addressed to Senior Manager, Information Technology Security Section, Corporate Services Department, Hong Kong Monetary Authority, 55/F, Two International Finance Centre, 8 Finance Street, Central, Hong Kong, or such other person or address as may be notified in writing by the Authority from time to time for this purpose. The Authority shall not be held responsible for any delay in payment if invoices and correspondence are not so addressed.
- 8.5 Payment to the Consultant will be made by the Authority within 45 Days upon the receipt of the Consultant's invoice for relevant portion of the Fee, subject to Clause 7.4 and the Authority's confirmation of acceptance of the Services.



- 8.6 Subject to the terms of this Agreement, the amount billed will be payable regardless of whether or not the Project being subject matter of the Services is completed, or whether the Consultant's advice is acted upon.

## 9. ASSUMPTIONS

- 9.1 The provision of the Services is based on the following key assumptions:-

- 9.1.1 The Authority will form (i) a project control group ("Authority's Project Control Group"); and (ii) a project team ("Authority's Project Working Group") to participate in this Project. Their responsibilities are set out in Appendix B.
- 9.1.2 The Authority will provide the Consultant, insofar as it is reasonably practicable, with such information that the Authority considers to be relevant and necessary to the Services.
- 9.1.3 The Authority will nominate a project coordinator (who is within the Authority's Project Working Group) who will be the Consultant's main contact and will be responsible for providing relevant information as well as coordinating with the Consultant team for arranging meetings / interviews ("Authority's Project Coordinator").
- 9.1.4 The Authority will review the Deliverables produced by the Consultant and be responsible for deciding whether any recommendations should be acted upon.
- 9.1.5 The Authority will provide reasonable working facilities for the Consultant as the Authority considers appropriate.
- 9.1.6 Commitment to the project is such that at key meetings, decisions will be reached by the Authority reasonably quickly and without the need for lengthy separate consensus building sessions.
- 9.1.7 Subject to Clauses 4.4 and 4.5, the Consultant will not be required to prepare previously unspecified documents, agreements, manual or certified professional opinions.
- 9.1.8 In performing the Services, the Consultant will not carry out an audit or other assurance engagement in accordance with applicable professional standards or tax standards. Accordingly, the Consultant provides no audit or tax opinion, attestation or other form of assurance with respect to the Consultant's work or the information upon which PwC's work was based. The Authority confirm that the Consultant's work will not be used by the Authority as the basis for recording any accounting entry.
- 9.1.9 All work will and can be undertaken in Hong Kong without any travelling requirements to other office premises outside Hong Kong. In the event that there is a requirement to travel to locations outside of Hong Kong for the purpose of completing the work, the Consultant will discuss and agree with the Authority the arrangement and fee implication.
- 9.1.10 The successful completion of this engagement is highly dependent on the



availability of the Authority's relevant staff and management participating in this exercise, and no unreasonable restriction on access to relevant key information that the Consultant considers to be necessary for the performance of the Services.

- 9.1.11 The Consultant's scope and approach are not designed for regulatory compliance purpose but rather it will be conducted with reference to the relevant HKMA requirements as outlined in Schedule 1.
- 9.1.12 Subject to Clauses 4.4 and 4.5, the Authority will not require attendance, advice or introduce matters not specifically related to the Services as detailed in Schedule 1, including submissions, negotiation and settlement of any documentation relating to these matters.
- 9.1.13 The Authority will review and formally accept the Deliverables produced by the Consultant to the satisfaction of the Authority.
- 9.1.14 The Authority will provide reasonable working facilities for the Consultant.
- 9.1.15 The Authority will retain the responsibility for evaluating and determining which recommendations (if any) raised should be implemented, and should certain recommendations be implemented during the Consultant's assessment, the Consultant would note these as completed during the period of the assessment.
- 9.1.16 The Authority will ensure that appropriate back-up, security and virus checking procedures are in place for any computer facilities or electronic information the Authority provides.
- 9.1.17 As the Authority is aware, attackers or hackers may have seemingly endless time to perform attacks on the Authority's systems. Conversely, "ethical hackers" such as the Consultant's proposed consultants under Schedule 2, have to work within reasonable commercial constraints. Under the current proposed scope of work, the Consultant will be able to simulate a broad range of attacks and believe the Consultant can deliver the value the Authority requires. However, given more time the Consultant would likely identify additional issues or be able to further exploit identified weaknesses. If on completion of the Consultant's work, the Authority requires additional time in this area, the Consultant would be pleased to discuss this with the Authority as part of a separate engagement.
- 9.1.18 The Consultant's work is permission based. Therefore, the Consultant will not attack a system or attempt to penetrate a facility or network without explicit permission from the Authority. Therefore, it is important that a representative or group be appointed by the Authority as the Consultant's key contact for knowledge sharing and transfer. Any significant vulnerabilities found during the Consultant's tests will be communicated to the Authority immediately for rectification.
- 9.1.19 Penetration test inherently carries some degree of risk. Some test cases could produce unpredictable results or consequences even if conducted under



controlled situations. Generally, the Consultant classifies the test cases into 2 risk categories: Risk 1 - Probing and controlled intrusion tests - These tests are designed to collect information about weaknesses in the applications and are not known to crash systems. Even though they have been tested extensively by the Consultant and other PwC Firms around the world, it is rare but not impossible that unexpected results or side-effects may occur causing system interruption or failures, like in all computer programs; and Risk 2 - Denial of service tests are designed to crash systems on successful attempts. The Consultant agrees to use reasonable care and diligence in preventing these types of unexpected results, side-effects or similar events. Some system crashes may corrupt data or change system settings. The Consultant accepts this assignment on the understanding that should any of these unforeseeable (but not impossible) events happen, the Consultant, its partners and staff shall not be held responsible or liable for any claims, damages and costs (including those asserted by third parties) resulting directly or indirectly from the performance of the penetration tests and related work if the Consultant, its partners and staff has exercised reasonable care and diligence in carrying out the penetration tests and related work, provided that notwithstanding the foregoing, the Consultant will be responsible for any claims, damages and costs (including those asserted by third parties) resulting directly or indirectly from the performance of the penetration tests and related work as a result of fraud, wilful misconduct or negligence on the part of the Consultant, its partners or staff. For all the above tests, the Consultant will advise the Authority to take appropriate risk management measures, including but not limited to backup and back-out procedures, and make appropriate contingency plans prior to the performance of any of the Consultant's work.

- 9.2 The Authority will inform the Consultant as soon as practicable if the Authority becomes aware that any of the above assumptions is no longer valid. The Consultant will identify and discuss with the Authority the issues arising thereof and if necessary, will seek to reach written agreement with the Authority to vary the Agreement.

## 10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 Save for data, software, designs, utilities, tools, models, systems and other methodologies, concepts, techniques, inventions, know-how and any other materials that are used in performing the Services and are either (i) already owned by the Consultant prior to the commencement of the Services or (ii) created by the Consultant or other PwC Firms outside the provision of the Services (and together with all modifications and improvements, "**Consultant Materials**") where Intellectual Property rights subsisting therein remain in the Consultant or its licensor, the Deliverables as well as the copyright and all other Intellectual Property rights of whatever nature in relation to the Deliverables (including, without limitation, all vested, contingent and future rights, all rights of action and all other rights of whatever nature in and to the Deliverables whether now known or in the future by virtue of or pursuant to any of the laws in force in any part of the world) throughout the world shall belong to the Authority and the Authority shall have a non-exclusive, sub-licensable, irrevocable, non-transferrable and royalty-free licence to use the Consultant Materials included in the Deliverables which shall be effective throughout the world for the full period of the relevant rights including all renewals, extensions and revivals) for the Authority's purposes and in the manner as set out in this Agreement. For this purpose:-



- 10.1.1 the Consultant hereby assigns to the Authority the entire copyright and all other Intellectual Property rights of whatever nature in relation to the Deliverables (save as the Consultant Materials) including, without limitation, all vested, contingent and future rights, all rights of action and all other rights of whatever nature in and to the Deliverables (save as the Consultant Materials) whether now known or in the future created to which the Consultant is now or may at any time after the commencement of the Services be entitled by virtue of or pursuant to any of the laws in force in any part of the world to hold to the Authority, the Authority's successors, assignees and licensees absolutely for the full period of the relevant rights throughout the world including all renewals, extensions and revivals;
- 10.1.2 the Consultant confirms the irrevocable, absolute and unconditional grant (subject to Clause 10.5 below) to the Authority, the Authority's successors, assignees and licensees all consents required pursuant to the Copyright Ordinance (Chapter 528 of the Laws of Hong Kong) and all other laws now or in future in force in any part of the world which may be required and all rights for the worldwide exploitation by the Authority, the Authority's successors, assignees and licensees of the Deliverables (save as the Consultant Materials) in any manner, form and media by any and all means now known or developed in future without limitation but subject to Clause 10.5 below for the full duration of the rights acquired by the Authority pursuant to this Agreement and pursuant to the laws in force in any part of the world;
- 10.1.3 the Consultant confirms the irrevocable and unconditional waiver by all relevant persons of all rights relating to the Deliverables (save as the Consultant Materials) to which such persons are now or may in the future be entitled pursuant to the provisions of the Copyright Ordinance (Chapter 528 of the Laws of Hong Kong) and any other moral rights to which such persons may be entitled under any legislation now existing or in future enacted in any part of the world;
- 10.1.4 the Consultant hereby confirms that the assignments, licences, consents and waivers contained in this Agreement are given by the Consultant for itself and on behalf of all Designated Consultants and other persons who are involved in the development and production, or who are the authors, of any Deliverables and that the Consultant warrants that it has been authorised by such persons to do so; and
- 10.1.5 the Authority confirms that the Consultant will not be prevented or restricted by any provisions of this Agreement from using in the future any of the Consultant Materials in providing services to other clients.
- 10.2 The Consultant shall promptly provide all such assistance and cooperation, obtain all requisite consents, licences and other authorisations, and execute such applications, assignments and other instruments as may be requested by the Authority to give full effect to the provisions of this Clause 10 and to protect, perfect or enforce any of the Authority's rights under this Clause 10. All fees, costs, charges and expenses incurred by the Consultant or the Authority in relation to or in connection with any of the preceding matters or the giving of effect of this Clause 10 shall be borne in full by the Consultant.



- 10.3 As security for the performance by the Consultant of its duties and obligations under this Agreement, the Consultant hereby irrevocably appoints the Authority, with full power of substitution and delegation, as its attorney and with full power and authority on the Consultant's behalf and in its name and place to execute any document and do any act or thing which may be necessary or desirable to give full effect to the provisions of this Clause 10 and to protect, perfect or enforce any of the Authority's rights under this Agreement. The MA will only exercise such power of attorney if the Consultant has failed to comply with any term of this Agreement. The Consultant undertakes and warrants to confirm and ratify and be bound by any and all of the actions of the Authority pursuant to this Clause 10.3.
- 10.4 The Consultant warrants and undertakes with the Authority that:-
- 10.4.1 it has caused and it shall cause the Designated Consultants and any other persons (including any PwC Firms) who are involved in the development and production, or who are the authors, of any Deliverable, before the performance of any Service in connection with this Agreement, to do anything that is necessary to give full effect to the provisions of this Clause 10; and
  - 10.4.2 the Services and any information and Deliverables provided to the Authority in connection with this Agreement and their use (and the exercise of any licence right or other rights with respect to them) by the Authority will not infringe (whether directly, indirectly or otherwise), misappropriate or violate the Intellectual Property Rights or other rights of any third party or any applicable law or regulation having the force of law.
- 10.5 The Authority may provide the Deliverables or any part of them on a need-to-know basis to (i) the Authority's professional advisers and advisory committees engaged to advise the Authority on matters related to the remediation of gaps identified from the Services; (ii) the Exchange Fund Advisory Committee and its sub-committees (that are constituted pursuant to section 3(1) of the Exchange Fund Ordinance); (iii) the Financial Secretary of Hong Kong, the Financial Services and the Treasury Bureau; or (iv) any other relevant government official or authority of Hong Kong having competent jurisdiction over the Authority, without first obtaining the Consultant's prior written consent. The Consultant shall have no duty, liability or responsibility to any of the parties listed above or any third party who benefits from or uses the Services or gains access to the Deliverables or this Agreement other than the Authority; and the Authority shall inform relevant parties that no onward disclosure may be made unless with the Consultant's prior written consent. Subject to the above, the Authority shall not (i) show or provide any Deliverable to any other third parties; or (ii) include or refer to any Deliverable or the Consultant's name/logo in a public document; or (iii) use any of the Services or Deliverables on behalf of any other third parties; or (iv) disclose the Consultant's involvement in the Deliverables to any other third parties, without the Consultant's prior written consent.
- 10.6 Nothing in this Agreement shall be construed as granting or conferring, expressly, impliedly or otherwise, any licence or other right in or under any of the Authority's Intellectual Property Rights.
- 10.7 This Clause 10 shall survive any expiry or termination of this Agreement.



## 11. CONFIDENTIALITY

- 11.1 The Consultant shall preserve the confidentiality of all Confidential Information and shall not disclose the same to anyone except to the extent permitted by Clause 11.2. The Consultant shall also ensure that all Confidential Information is protected with effective security measures and a comparable degree of care to that applied to the Consultant's own confidential information (but in any case using no less than a reasonable degree of care). The Consultant shall not use or reproduce any of the Confidential Information (or attempt to do so) except for rendering the Services or for the purposes of permitted disclosures under Clause 11.2.
- 11.2 The Consultant may disclose Confidential Information:-
- 11.2.1 to its own employees, employees of any PwC Firms and the Designated Consultants (the "**Permitted Recipients**") where such disclosure is necessary for the performance of the Services in accordance with the terms of this Agreement, provided that the Consultant shall ensure that each such Permitted Recipient is aware of and shall comply with confidentiality obligations no less stringent than those under this Agreement and the Consultant shall be responsible for any breach of any such confidentiality obligations;
- 11.2.2 to any person to whom disclosure is required under applicable law or regulation having the force of law or by a competent governmental or regulatory body (but only to the extent of such requirement); or
- 11.2.3 with the prior written consent of the Authority, subject to such conditions as may be imposed by the Authority.
- 11.3 The Consultant agrees to (to the extent permitted by law and regulation having the force of law) promptly inform the Authority of the circumstances of any disclosure of Confidential Information made pursuant to Clause 11.2.2 or upon becoming aware that Confidential Information has been or may have been disclosed in breach of this Agreement.
- 11.4 The Consultant shall inform every person to whom any Confidential Information is disclosed pursuant to this Clause 11 of the requirements on confidentiality and the restrictions on disclosure, use and reproduction attaching to such information.
- 11.5 If the Authority so requests, and in any event upon the termination of this Agreement, the Consultant shall forthwith return to the Authority, or destroy or erase (to the extent technically practicable), all Confidential Information in the possession of the Consultant and all copies of such Confidential Information and shall ensure that any recipient to whom the Consultant has supplied any Confidential Information does the same (unless the recipient is a person falling under Clause 11.2.2), in each case save to the extent that the Consultant or any such recipient is required by any applicable law or regulation having the force of law or by any competent governmental or regulatory body or in accordance with its bona fide internal document retention policies to retain any such Confidential Information. The Authority shall certify to the Authority that it has returned, destroyed or erased (to the extent technically practicable) all Confidential Information pursuant to this Clause 11.5 and that no copies of any Confidential Information have been retained except as expressly permitted under this Clause 11.5.



Any Confidential Information so retained shall at all times remain subject to the provisions of this Clause 11.

- 11.6 Subject to Clause 10.5, the Consultant agrees that the Authority may in the Authority's sole discretion disclose to any person in such form and manner as the Authority deems fit any matter (whether fully or partially) in connection with this Agreement (including the existence or terms of this Agreement and the Services provided under this Agreement) but in any event without disclosing or implicating Consultant's involvement.
- 11.7 Except with the prior written consent of the Authority, the Consultant shall not in any advertising or other publicity or promotional material: (a) refer to the Authority, the Exchange Fund established under the Exchange Fund Ordinance (Chapter 66 of the Laws of Hong Kong) or the Government of Hong Kong using language from which any endorsement from, or any connection with, any of them may be inferred or implied whether relating to this Agreement or the Services or otherwise; or (b) use or publish the Authority's Bauhinia logo. The foregoing restriction applies regardless of whether or not the relationship between the Authority and the Consultant in relation to the Services becomes public knowledge.
- 11.8 This Clause 11 shall survive any expiry or termination of this Agreement.

## **12. ASSIGNMENT AND SUBCONTRACTING**

- 12.1 No Party may assign or otherwise deal with its rights, duties or obligations under this Agreement without the other's prior written consent. The Consultant shall not give, bargain, sell, assign, subcontract, or otherwise dispose of the whole or any part of any of its rights or obligations under this Agreement or any benefit in it to any other person (except to engage any PwC Firm(s) in the provision of the Services) without the prior written consent of the Authority. If any PwC Firm is engaged or if written consent for engaging any subcontractor(s) shall be given at any time the Consultant shall nevertheless remain fully liable to the Authority for the performance of the duties and obligations contained in this Agreement on the part of the Consultant and shall be responsible for the acts, omissions, defaults and neglects of any such PwC Firm or subcontractor(s) (as the case may be) as fully as if they were the acts, omissions, defaults or neglects of the Consultant. It is the sole responsibility of the Consultant to manage the work of any PwC Firm or subcontractor(s) and to bear any cost in connection with and arising from any such engagement. The Authority shall not be responsible for the compensation of any PwC Firm or subcontractor(s) engaged by the Consultant.

## **13. CORRUPT GIFTS AND PAYMENTS OF COMMISSION**

- 13.1 The Consultant shall not:-
  - 13.1.1 give or offer to give to any employee or agent of the Authority any gift or consideration of any kind as an inducement or reward for doing or for having done or forborne to do any act in relation to the execution of this Agreement or any other contract to which the Authority is a party or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement or any other contract to which the Authority is a party; and



- 13.1.2 enter into this Agreement or any other contract to which the Authority is a party in connection with which commission has been paid or agreed to be paid by the Consultant or on its behalf, or to its knowledge unless before this Agreement is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Authority and such commission has been approved by the Authority.
- 13.2 Any breach of this Clause 13 by the Consultant, any of its own or any PwC Firm's employees, the Designated Consultant, subcontractors or by any person acting on behalf of the Consultant (whether with or without the knowledge of the Consultant) or the commission of any offence by the Consultant, any of its own or any PwC Firm's employees, the Designated Consultants, subcontractors or by any person acting on behalf of the Consultant in relation to this Agreement or any other contract to which the Authority is a party shall entitle the Authority to terminate this Agreement forthwith and recover from the Consultant the amount of any loss resulting from such termination without prejudice to any of the Authority's other rights and remedies.
- 13.3 The Consultant shall not receive any secret commission or other benefit or advantage in respect of the Services and shall act at all times in the best interests of the Authority.

#### **14. INDEMNITY**

- 14.1 The Consultant hereby undertakes to hold harmless and fully indemnify and keep indemnified the Indemnified Parties against:-
- 14.1.1 all claims (whether or not successful, compromised, settled, withdrawn or discontinued, in whole or in part), actions, investigations, demands or proceedings threatened, brought or established against the Indemnified Parties ("Claims"); and
- 14.1.2 all liabilities, losses, damages, costs, charges or expenses which the Indemnified Parties may suffer, pay or incur as a result of or in connection with any Claim, which in any case arise directly or indirectly in connection with, out of or in relation to:-
- (a) the breach of any provision of this Agreement by the Consultant, any Designated Consultant or any subcontractor (including, for the avoidance of doubt, any PwC Firm);
  - (b) any default, negligence, recklessness, fraud, tortious or unauthorised act, wilful misconduct or wilful omission of the Consultant, any Designated Consultant or any subcontractor (including, for the avoidance of doubt, any PwC Firm) in the provision of the Services;
  - (c) the non-compliance by the Consultant, any Designated Consultant or any subcontractor (including, for the avoidance of doubt, any PwC Firm) with any applicable law or regulation having the force of law, or requirement of any government agency or authority in the provision of the Services; or



- (d) any allegation of or claim for infringement of any Intellectual Property Right of any person arising from or in any way related to the Deliverables or the provision of the Services by the Consultant, any Designated Consultant or any subcontractor (including, for the avoidance of doubt, any PwC Firm).
- 14.2 The indemnity given to each Indemnified Party pursuant to Clause 14.1 is in addition to and without prejudice to any other indemnity or remedy allowed by law or in equity. The indemnity constitutes a separate and independent obligation of the Consultant and shall give rise to a separate and independent cause of action.
15. **LIABILITY**
- 15.1 The Consultant's aggregate liability for loss or damages, costs, expenses and liabilities to the Authority arising in relation to the Services under this Agreement, as a result of breach of contract, tort (including negligence) or otherwise, is limited to the project amount HK\$ 780,000, except to the extent to which the Consultant is finally determined to have engaged in wilful misconduct or fraudulent behaviour.
- 15.2 To the extent permitted by law, the Consultant will not be liable for any indirect, incidental or consequential loss, damages or expenses (including loss of profits or revenue, business interruption, loss or corruption of data, loss of business opportunity, or failure to realise anticipated savings or benefits) arising in any way in relation to the Services except to the extent to which the Consultant is finally determined to have engaged in wilful misconduct or fraudulent behaviour.
- 15.3 The Authority agrees that if he makes any claim against the Consultant for loss as a result of a breach of this Agreement, and that loss is determined by a competent court to have been contributed to by the Authority's own actions, then liability for any such loss will be apportioned as is ordered or determined by such competent court having regard to the respective responsibility for the loss, and the amount the Authority may recover from the Consultant will be reduced by the extent of Authority's contribution to that loss.
- 15.4 The Consultant accepts no liability for any defect caused in whole or in part by any hardware, software, infrastructure, facilities and equipment installed or implemented by the Authority (and/or its agents) under this Agreement.
- 15.5 The Consultant accepts no liability to anyone, other than the Authority, in connection with the Services, unless otherwise agreed by the Consultant in writing. For clarity, where the Consultant or Designated Consultants or any of its employees is required to agree to terms and conditions of the devices or other systems of the Authority, such agreement shall in no way be interpreted as the Consultant accepting liability to anyone other than the Authority.
- 15.6 The Authority agrees not to bring any claim (including negligence) against any of (i) the employees or partners of the Consultant or other PwC Firms, including Designated Consultants (together "PwC Individuals") personally or (ii) any other PwC Firms in connection with the Services, provided that the Consultant shall be liable for their acts and omissions in connection with the performance of the Services and this Agreement as if such act or omission had been done by the Consultant and nothing in this Clause 15 shall limit or exclude any liability that the Consultant may have for their acts and



omissions. This Clause 15.6 is for the benefit of PwC Individuals and other PwC Firms. Each PwC Firm or Individual and any other PwC Firm involved in providing the Services relies on the protection in Clause 15.6 and the Consultant accepts its benefit on their behalf.

## 16. DATA PROTECTION

- 16.1 Each Party shall provide personal data to the other in accordance with any applicable data protection laws and regulations. The Consultant acknowledges that it may be provided with or otherwise collect personal data in the performance of its duties and obligations under this Agreement. The Consultant shall:-
- 16.1.1 use and process such personal data solely for (i) rendering the Services; (ii) maintaining operation or client relationship management systems; (iii) quality and risk management reviews; and (iv) carrying out any instruction from the Authority;
  - 16.1.2 ensure that it and every person employed or engaged by it in connection with this Agreement (including each Designated Consultant) complies in all respects with all applicable laws and regulations having the force of law relating to the collection, use, processing and storage of such personal data (including the PDPO);
  - 16.1.3 not transfer or disclose such personal data to any other person or outside Hong Kong except as otherwise provided in Clause 16.2;
  - 16.1.4 promptly assist the Authority with requests from data subjects under all applicable laws and regulations having the force of law relating to the collection, use, processing and storage of such personal data (including the PDPO);
  - 16.1.5 ensure that such personal data is accurately recorded and promptly amended if known or have been advised by the Authority to be inaccurate;
  - 16.1.6 to the extent allowed by applicable laws and regulation having force of law promptly provide the Authority with a copy of all such personal data held by the Consultant if requested by the Authority; and
  - 16.1.7 ensure that all such personal data is protected with effective security measures and a comparable degree of care to that applied in respect of other personal data held by the Consultant (but in any case no less than a reasonable degree of care).
- 16.2 The Authority agrees that the Consultant may process and transfer the Authority's personal data to relevant PwC Firms, Service Providers and subcontractors (who may be located in other territories) for the purposes of (i) providing the Services, (ii) maintaining the Consultant's operations or client relationship management systems (by PwC Firms only), (iii) quality and risk management reviews (by PwC firms only), or (iv) providing the Authority with information about the Consultant and its range of services (by PwC Firms only). The Consultant shall ensure that such PwC Firms and Service Providers and subcontractors are aware of and comply with the data protection obligation of Clause 16.1 above, and if the personal data also constitutes the Authority's confidential information, the confidentiality obligation of Clause 11 above. The



Consultant shall be responsible for any breach of Clause 11 or 16.1 above by relevant PwC Firm or Service Provider or subcontractor as fully as if the breach were committed by the Consultant.

## 17. PUBLICITY

17.1 The Consultant shall submit to the Authority for approval all advertising, marketing or other publicity material relating to this Agreement, the Services or other work done in connection with this Agreement wherein any of the names "Hong Kong Monetary Authority", "HKMA", "Monetary Authority", and "MA" is mentioned or language used from which a connection with any of the aforesaid entities can reasonably be inferred or implied. The Consultant shall not publish or use any such advertising, marketing or other publicity material without the prior written consent of the Authority. The Authority shall not make any public statement about the Consultant in relation to the Services, unless with the Consultant's prior written consent.

17.2 This Clause 17 shall survive any expiry or termination of this Agreement.

## 18. TERMINATION

18.1 Without prejudice to any of the Authority's other rights and remedies, the Authority may terminate this Agreement:-

18.1.1 at any time by giving 14 Days' prior written notice to the Consultant;

18.1.2 immediately if (in the opinion of the Authority):-

- (a) the Consultant suspends or ceases to carry on its business as it is being conducted;
- (b) the Consultant becomes insolvent or is unable to pay its debts as they fall due;
- (c) the Consultant makes an arrangement, composition, compromise or assignment with or for the benefit of its creditors;
- (d) any action, procedure or step is taken for the winding up of the Consultant (other than solely for the purposes of a solvent amalgamation or reconstruction); or
- (e) an encumbrancer takes possession of, or a trustee, receiver, receiver and manager, liquidator (whether provisional or not) or similar officer is appointed in respect of, all or any part of the Consultant's business or assets or any distress, execution or other legal process is levied or commenced against any such asset;

18.1.3 immediately if the Consultant does not comply with any provision of this Agreement and, if capable of remedy, fails to remedy the same within 10 Working Days of being required to do so by the Authority or the Consultant becoming aware of the failure to comply;

18.1.4 immediately if a Force Majeure Event suspends or interrupts the provision of the Services for a period of 28 consecutive Days or longer;



- 18.1.5 immediately if any representation or warranty made or deemed to be made by the Consultant in this Agreement or any other document delivered by or on behalf of the Consultant under or in connection with this Agreement is or proves to have been untrue or misleading in any material respect; or
  - 18.1.6 immediately if the Consultant, any Designated Consultant or any subcontractor (including for the avoidance of doubt, any PwC Firm) commits any offence under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong), or commits any other offence or engages (or is reasonably believed to have engaged or be engaging) in any conduct which is reasonably considered by the Authority to be prejudicial to the interests or reputation of the Authority or the Government of Hong Kong, or prejudicial to national security or the public interest of Hong Kong.
- 18.2 Without prejudice to the foregoing Clause 18.1, the Consultant may terminate this Agreement by giving not less than 30 Days' written notice without penalty or liability (or such shorter period only if it is specifically mandated by law or other regulatory requirements giving rise to the termination) upon any of these events:-
- 18.2.1 if the continued performance under this Agreement could, in the Consultant's reasonable judgment, result in or likely to result in the Consultant's non-compliance with any applicable laws, rules, regulations, or any regulatory guidance, professional standards, or self-regulatory organization rules or policies, in each case as in effect from time to time;
  - 18.2.2 upon the occurrence of an event that, in the Consultant's reasonable judgment, causes or would likely to cause the Consultant or any PwC Firm not to be independent as required by any applicable laws, rules, regulations, regulatory guidance, professional standards, self-regulatory organization rules or policies relating to auditor independence; or
  - 18.2.3 if there is an actual continuing infringement by the Authority or its employees of the Intellectual Property rights in the Consultant Materials in the Deliverables.
- 18.3 The termination or suspension of this Agreement shall not prejudice any right, remedy or liability which shall have accrued to the Parties as at the date of termination.
- 18.4 Upon any termination pursuant to Clause 18.1 or 18.2, the Consultant shall use all reasonable endeavours to ensure the effective transfer of its duties and obligations under this Agreement to any successor service provider appointed or designated by the Authority.
- 18.5 Upon any termination of this Agreement by the Authority, the Consultant shall forthwith deliver to the Authority all Deliverables whether or not the same shall be completed. In the event of such termination, subject to Clause 12 above, all property rights in the Deliverables (save as the Consultant Materials) shall forthwith automatically vest in the Authority who shall be entitled to possession of such Deliverables.
- 18.6 In the event that the Contract is terminated per this Clause 18, PwC shall refund on a



pro rata basis to the Authority the portion of paid professional fees unused for the remaining period for which the fees relate. No compensation whatsoever shall be payable by the Authority to the Consultant as a result of the termination of this Agreement, although Consultant shall still be entitled to such proportion of the Fee as shall be commensurate with the Services properly rendered by it up to the date of termination which are reasonably acceptable to the Authority. The Authority shall not be responsible for any loss or expenses, including any consequential loss or damage or loss of profit or opportunity, suffered or incurred by the Consultant due to termination by the Authority of this Agreement.

18.7 This Clause 18.7 shall survive any expiry or termination of this Agreement.

19. **FORCE MAJEURE**

19.1 Subject to Clause 19.2, neither Party shall be liable or be in breach of this Agreement for any failure to perform its duties and obligations under this Agreement if such performance is prevented, hindered or delayed by a Force Majeure Event. The Party claiming the Force Majeure Event shall: (a) promptly notify the other Party about the extent and expected duration of the Force Majeure Event; and (b) use all reasonable endeavours to resume the performance of its affected duties and obligations under this Agreement.

19.2 A Force Majeure Event shall not relieve the Consultant of its duties and obligations to provide the Services to the extent that such Services involve the provision or implementation of disaster recovery, contingency or business continuity plans and it is feasible for the Consultant to do so.

19.3 Without prejudice to Clause 18.1.4, in the event that performance of the duties and obligations under this Agreement is delayed by a Force Majeure Event, the Parties shall diligently endeavour to achieve the normal pursuit of this Agreement and to make up for the time lost.

20. **SERVICE OF NOTICES**

20.1 Any notice or other communication whatsoever which one of the Parties wishes or is required by this Agreement to give or make to the other Party shall, without prejudice to any other agreed method of giving or making it, be sufficiently given or made if it is sent by ordinary post addressed to the other Party by name at the respective addresses or by email to the respective email addresses given below (or such other address as the recipient may designate from time to time):-

The Authority –

Mr. Chan Muk Hoi, Joseph  
Chief Information Officer  
Information Technology Division  
Corporate Services Department  
Hong Kong Monetary Authority  
55<sup>th</sup> Floor, Two International Finance Centre  
8 Finance Street  
Central



Hong Kong  
Email address: jmhchan@hkma.gov.hk

The Consultant –

Jenius Shieh  
Director  
PricewaterhouseCoopers Limited  
22/F, Prince's Building  
Central  
Hong Kong  
Email address: jenius.h.shieh@hk.pwc.com

- 20.2 Any notice or other communication delivered or sent pursuant to Clause 20.1 shall be deemed to have been received:-
- 20.2.1 three (3) Working Days after the date of posting where the notice is delivered by ordinary post, return of the same through the post notwithstanding;
- 20.2.2 when delivered if delivered by hand; and
- 20.2.3 when sent if sent by email, as long as no delivery failure message is returned.
- 20.3 If a Party changes its address or email address, such Party shall give to the other Party prior written notice of such change in order for such change to be effective under this Agreement. Any such notice of change of address or email address (as applicable) shall take effect one (1) Working Day after receipt by the other party.
- 20.4 In connection with the Services, the Parties to this Agreement may from time to time communicate with each other electronically. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could arrive late or incomplete, be intercepted, corrupted, lost, destroyed or otherwise be adversely affected or unsafe to use. Accordingly, each Party accepts the limitations of electronic communication, and will use reasonable procedures to check for the then most commonly known viruses before sending information electronically.

## 21. AMENDMENTS AND ALTERATIONS

- 21.1 No waiver, cancellation, alteration or amendment of or to the provisions of this Agreement shall be valid unless made in writing and signed by both the Authority and the Consultant.

## 22. GOVERNING LAW, DISPUTE RESOLUTION & JURISDICTION

- 22.1 This Agreement and all matters arising out of or in connection with this Agreement (whether in contract, tort or otherwise) shall be governed by and construed in accordance with the laws of Hong Kong.
- 22.2 The Parties shall first refer any dispute or difference arising out of in connection with this Agreement to mediation in accordance with The Government of the Hong Kong Special Administrative Region Mediation Rules prevailing at the time.



22.3 If the said dispute or difference is not settled by mediation according to Clause 22.2, a Party may institute litigation in respect of the said dispute or difference. The Parties agree that the courts of Hong Kong shall have exclusive jurisdiction in respect of the said dispute or difference.

23. **WAIVER**

23.1 Unless otherwise agreed in writing, no failure by a Party to exercise and no delay by a Party in exercising any right or remedy available to it under this Agreement or at law or in equity shall operate as a waiver of such right or remedy, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof nor shall any such failure to exercise, or delay in exercising, or single or partial exercise of, any such right or remedy preclude the exercise of any other right or remedy. A waiver of any breach of or default under this Agreement shall not be construed as a waiver of any other breach of or default under this Agreement.

24. **RELATIONSHIP OF THE PARTIES**

24.1 The Consultant enters into this Agreement with the Authority as an independent contractor only.

24.2 The Consultant, the Designated Consultants, employees of any PwC Firm or any person employed, appointed or engaged by the Consultant or subcontractor or person concerned with the Consultant shall not be deemed to be the employee, servant, or agent of the Authority.

24.3 Neither Party is the agent of the other Party nor shall anything herein be construed as in any way constituting a partnership or joint venture relationship between the Parties.

24.4 Neither Party shall without the prior written consent of the other Party commit the other Party to any obligation whatsoever.

25. **CONCURRENT REMEDIES**

25.1 Unless provided otherwise in this Agreement, no right or remedy conferred upon a Party is exclusive of any other right or remedy contained in this Agreement or by law provided or permitted, but each shall be cumulative of every right or remedy given in this Agreement now or hereafter existing and may be enforced concurrently therewith or from time to time.

26. **SEVERABILITY**

26.1 In the event that any condition or clause of this Agreement or part thereof not being of a fundamental nature is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected thereby to the fullest extent permitted by law.

27. **ENTIRE AGREEMENT**

27.1 Each Party acknowledges that it has had full opportunity to include in this Agreement



any representation or warranty made to it by the other Party in the course of negotiations leading up to this Agreement. It is hereby agreed that this Agreement embodies the entire understanding of the Parties relating to the Services and there are no representations, promises, terms, conditions, warranties or obligations, oral or written, expressed or implied, statutory or otherwise other than those contained herein.

28. THIRD PARTY RIGHTS

- 28.1 Except as set out in Clauses 14 and 15.6, nothing in this Agreement confers or purports to confer on any third party any benefit or any right to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong). Notwithstanding any term of this Agreement, the consent of a person who is not a party is not required to terminate, rescind, vary, amend or waive any provision of this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement on the date above written.

Signed by )  
for and on behalf of )  
the **Monetary Authority**  )  
in the presence of:- )

Name:  )  
**Ryan Chan** )

Signed by )  
for and on behalf of )  
**PricewaterhouseCoopers Limited**  )  
in the presence of:- )

Name:  )  
**LEE KA MENG JASON** )



## SCHEDULE 1

### Details of the Services

#### A. Services

1. Subject to the Authority discharging its obligations stipulated in the Agreement, the Consultant shall provide the Authority with the following Services:

#### Project management

- 1.1 The Consultant shall:-

- (a) Advise and assist in identifying appropriate stakeholders such as representatives from user departments to join the Authority's Project Control Group;
    - (b) Liaise and work closely (through the Authority's Project Working Group) with the Authority's Project Control Group, users in different divisions of the Authority, the Authority's support team, technical staff, and personnel from other vendors during the Service Period;
    - (c) Plan for the detailed involvement of the Authority's personnel and ensure that any disruption to the day-to-day operation of the Authority is kept to a minimum; and
    - (d) Prepare the relevant terms of reference to describe the roles and responsibilities for each of the Authority's Project Control Group and the Authority's Project Working Group.

- 1.2 The Consultant shall provide the Authority with all other assistance reasonably required for the management of the Project. The duties include but are not limited to the following:-

- (a) Provide regular status update to the Authority's Project Control Group (through the Authority's Project Working Group) and respond to the enquiry from members of the Authority's Project Control Group;
    - (b) Prepare a detailed project plan so that proper preparation, monitoring and control can be performed;
    - (c) Resolve conflicts and crisis during the entire project life cycle and in this regard, develop a common escalation procedure / protocol in the event of any significant incidents, including any iCAST simulated incidents;
    - (d) Oversee and monitor the progress of various activities during the project life cycle to ensure that these activities are completed according to the implementation schedule and meeting the project requirements;
    - (e) Plan and schedule meetings at appropriate time during the project life cycle, prepare meeting agenda, and take notes for all the meetings;



- (f) Report progress, follow up all outstanding issues with all related parties, suggest solutions and resolve difficulties throughout the Project; and
- (g) Any other activities which are necessary for the satisfactory completion of the Project.

#### Intelligence-led Cyber Attack Simulation Testing

1.3 The Consultant shall perform iCAST based on the guidance and requirements set out in Cyber Resilience Assessment Framework (C-RAF) 2.0, particulars of which are set out below:-

- (a) Preparation and Scoping
  - i. Review and validate existing system's criticality classification;
  - ii. Review and select critical systems in accordance with the selection criteria as set out in section 4.5 of C-RAF 2.0;
  - iii. Link and cross-check critical systems to business functions; and
  - iv. Provide support and guidance to the Authority for determining the test scope and goal.
- (b) Development of Tailored Threat Intelligence
  - i. Gather threat intelligence from overseas and local sources. Threat intelligence shall contain information specific to the Authority, financial regulators, central banks and the Hong Kong Government. No technical information about the existing systems will be disclosed to the Consultant. Threat intelligence source in English and Asian languages (with English translations) should be covered;
  - ii. Review the Authority's business scope and any recent attacks impacting the Authority's business vertical; collect, collate and analyse targeted intelligence about the Authority's systems in scope. No technical information about the existing systems will be disclosed to the Consultant; and
  - iii. Perform threat analysis and produce a tailored threat intelligence report.
- (c) Development of Testing Scenarios
  - i. Upon collection and analysis of the most likely threats to the systems in scope, develop threat actor-centric attack scenarios based on the MITRE ATT&CK framework. In this regard, the Consultant shall develop at least 5 testing scenarios based on the analysis from threat intelligence report. The Authority may request the Consultant to propose testing of additional scenario if 5 scenarios are considered insufficient upon threat intelligence analysis;



- ii. The scenarios should take reference from the modus operandi of threat actors and recent prominent security incidents named in the threat intelligence report; and
- iii. The actual number of scenarios to be tested shall be agreed with the Authority and no additional cost shall be charged.

(d) Test Execution

- i. Carry out simulation tests based on the developed scenarios against the agreed environment and the agreed timeslots. Prior approval shall be sought from the Authority's Project Control Group before the commencement of any test. Actions should not deviate from the agreed scenarios;
- ii. Explain to the Authority's Project Control Group the test plan, including actions to be performed and the tools to be used before performing the simulation tests; and
- iii. All simulation testing actions and tools shall be logged.

(e) Reporting and Closure

- i. Analyse the test data obtained and discuss with the Authority's Project Control Group on the control weaknesses identified from the previous work steps;
- ii. Clean-up activities after the test execution;
- iii. Prepare reports and document all the findings and results in compliance with the requirements set out in C-RAF 2.0;
- iv. Conduct presentations to the Authority to report the findings and recommendations; and
- v. Conduct workshop and walkthrough the tested scenarios. All actions performed and tools used during the workshop should be logged.

1.4 The Consultant shall also comply with the following requirements:-

- (a) Ensure all the software and customised program codes running against the Authority's system shall only operate in the intended purpose and specific to the tests;
- (b) Ensure that the security and availability of the Authority's system and network are not affected due to the use of the software or customised program codes;
- (c) Ensure that the Services will not result in any unintended or accidental data leakage. In case there is a testing scenario that simulates data exfiltration from the Authority, prior approval shall be sought from the Authority's Project Control Group and only the agreed testing data shall be used;



- (d) Remove all the software and customised program codes and restore any necessary system and network configuration upon termination or completion of the work assignment such that the security level and the operation of the system and network are not affected;
- (e) Assume full responsibility for the data integrity and confidentiality; and
- (f) Observe and comply with the IT Security Policy and other information security requirements issued by the Authority from time to time.

## **B. Professional staff requirements**

- 2.1 The Designated Consultants shall meet the qualification requirements for conducting iCAST as set out in the annex of the circular “Cybersecurity Fortification Initiative 2.0” issued by the Authority on 3 November 2020<sup>1</sup>.

## **C. Other Requirements**

- 3 In providing the Services, the Consultant shall comply with the following requirements and policy:-

- (a) Security Regulations Chapter IX by Security Bureau;
- (b) Baseline IT Security Policy by DPO (S17);
- (c) IT Security Guidelines by DPO (G3);
- (d) Cyber Resilience Assessment Framework (C-RAF) 2.0; and
- (e) HKMA IT Security Policy.

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<sup>1</sup> The circular can be downloaded at the URL:  
<https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2020/20201103e1a1.pdf>



## SCHEDULE 2

### Designated Consultants

|    | <i>Name</i>  | <i>Title</i>       |
|----|--------------|--------------------|
| 1. | Jenius Shieh | Engagement Partner |
| 2. | Jason Lee    | Engagement Manager |
| 3. | Jess Gao     | Project Manager    |
| 4. | Karen Liang  | Red Team Manager   |
| 5. | Amos Chan    | Red Team Manager   |
| 6. | Alan Tang    | Red Team Manager   |
| 7. | Angie Yiu    | iCAST Project Team |
| 8. | Effy Su      | iCAST Project Team |
| 9. | Phil Liu     | iCAST Project Team |



## SCHEDULE 3

### Deliverables

- |  |   |
|--|---|
| Project Management                               | <ul style="list-style-type: none"><li>• Detailed project plan describing the approach and a detailed implementation schedule</li><li>• Meeting agenda, minutes, progress reports and all other relevant documents created for the project management</li><li>• Terms of Reference of the Authority's Project Control Group</li><li>• Terms of Reference of the Authority's Project Working Group</li></ul>  |
| Intelligence-led Cyber Attack Simulation Testing | <ul style="list-style-type: none"><li>• Detailed plan including the approach, assessment process, timing and the main areas to be tested</li><li>• Scoping table that document the threat category and the test goals or types of compromises that the test aims to achieve</li><li>• Test plan and test scenarios (at least 5 test scenarios) that describe test goals or success criteria (refer to Section 4.6.2 of C-RAF 2.0), initiation of test, chain of tasks and de-chaining, milestones, timeline, incident handling and resolution procedure in case the testing causes impact to production services, conditions for continuing or stopping the test and choice of environment</li><li>• All simulation testing actions' logs and tools (which shall be kept by the Authority)</li><li>• Reports compliant with the C-RAF 2.0 requirements which, at a minimum, include:-<ul style="list-style-type: none"><li>▪ iCAST simulation test summary;</li><li>▪ Tailored threat intelligence report that describes the key threats and approaches that may be used by potential threat actors against the Authority and the financial industry;</li><li>▪ iCAST simulation test report and improvement plan that describes the details of the approaches taken, results and observations, areas for improvement and recommendations (with timeline and remediation plan); and</li><li>▪ Blue team report that map the actions taken by the blue team with the actions taken by the iCAST testers as elaborated in the iCAST simulation test report.</li></ul></li><li>• Presentation materials to the Authority to report the findings and recommendations of the assessment</li><li>• Workshop materials and minutes for debriefing session to walkthrough the tested scenarios (which includes, among other things, 360 Degree Replay Workshop)</li><li>• All workshop actions' logs and tools (which shall be kept by the Authority)</li></ul> |



## SCHEDULE 4

### FEE

1. Payment to the Consultant will be made by the Authority within 45 days upon the receipt of the Consultant's invoice. Invoice will only be settled upon complete delivery of the services to the Authority and accepted by the Authority.

The Fee for the Services is agreed as HK\$780,000.

### Payment milestones

| <b>Item#</b> | <b>Description</b>                  | <b>Payment schedule</b>   |
|--------------|-------------------------------------|---|
| 1            | 30% of services fee of this Project | Upon signing of Agreement within 60 days against invoice date                                       |
| 2            | 20% of services fee of this Project | Upon issuance of the threat intelligence report within 60 days against invoice date                 |
| 3            | 50% of services fee of this Project | Upon issuance of the final iCAST report and project completion* within 30 days against invoice date |

\* Project completion refers to the Authority's acceptance of the following Acceptance Criteria.

2. Acceptance Criteria.
  - 2.1 The Authority will only accept the works delivered by the appointed Consultant if:-
    - (a) All the requirements of the Project and scope of work as specified in Schedules 1, 2 and 3 are met satisfactorily; and
    - (b) All the deliverables are completed in accordance with the required Schedules and adhere to the Authority standards and are of acceptable quality.
  - 2.2 For project acceptance, the appointed Consultant should assure the Authority that the service and all the project deliverables have been delivered satisfactorily and are acceptable to the Authority.



Appendix A – Change Request Form

| <b>Change Request Form</b>  |   |                      |   |
|---|---|----------------------|---|
| <b>PART A – Request Details (To be completed by change request initiator)</b> |   |                      |   |
| <b>Project Name</b>   |   | <b>Reference No:</b> |   |
| <b>Description of Change Requested:</b>                                       |   |                      |   |
| <b>Justification for Requesting the Change:</b>                               |   |                      |   |
| <b>Expected Completion Date:</b>  |   | <b>Priority:</b>     | <input type="checkbox"/> High <input type="checkbox"/> Low<br><input type="checkbox"/> Medium |
| <b>Impact if change is not accepted:</b>                                      |   |                      |   |
| <b>Additional Information:</b>  |   |                      |   |
| <b>Requested By:</b>  | <b>Name:</b>  | <b>Date:</b>         |   |
|   | <b>Signature:</b>   | <b>Post:</b>         |   |
|   |   | <b>Tel No.:</b>      |   |
| <b>PART B - Impact Analysis (To be completed by Contractor / Internal PM)</b> |   |                      |   |
| <b>Change Request No.</b>   |   |                      |   |
| <b>Nature of Change:</b>  | <input type="checkbox"/> Change in Business Case <input type="checkbox"/> Change in Scope<br><input type="checkbox"/> Change in Contractor Team Members <input type="checkbox"/> Change in Project Milestones<br><input type="checkbox"/> Change in Internal Team Members <input type="checkbox"/> Change in User Requirement<br><input type="checkbox"/> Others (Please specify) |                      |   |
| <b>Impact Analysis:</b>   |   |                      |   |



**Overall analysis:** **Scope:** **Schedule:** (\*Delete as appropriate)

Change in schedule caused by this change request:

- Ahead \_\_\_\_\_ \*Weeks/Months  
 Delay \_\_\_\_\_ \*Weeks/Months

Accumulated change in schedule as a result of ALL change requests:

- Ahead \_\_\_\_\_ \*Weeks/Months  
 Delay \_\_\_\_\_ \*Weeks/Months

Detailed breakdown for this change request:

 **Cost:** (\*Delete as appropriate)

Change in cost caused by this change request:

- Increase \*HK\$\* \_\_\_\_\_  
 Decrease \*HK\$\* \_\_\_\_\_

Accumulated change in cost as a result of ALL change requests:

- Increase \*HK\$\* \_\_\_\_\_  
 Decrease \*HK\$\* \_\_\_\_\_

Detailed breakdown for this change request:

 **Quality:****Recommendation:**  Accept  Recommend to PAT  Reject  Defer**Reason for Rejection or Deferral:**

|  |                                  |                    |   |                    |                                 |
|--|----------------------------------|--------------------|---|--------------------|---------------------------------|
| <b>Planned Implementation Date:</b>                                |                                  | <b>Start Date:</b> |   | <b>End Date:</b>   |                                 |
| <b>Prepared By:</b>  | Name:                            |                    |   | Date:              |                                 |
|  | Signature:                       |                    |   | Designation /Post: |                                 |
| <b>Recommended By:</b>   | Name:                            |                    |   | Date:              |                                 |
|  | Signature:                       |                    |   | Designation /Post  |                                 |
| <b>PART C – Recommendation by Project Assurance Team (PAT)</b>     |                                  |                    |   |                    |                                 |
| <b>Recommendations:</b>  | <input type="checkbox"/> Approve |                    | <input type="checkbox"/> Recommend to PSC |                    | <input type="checkbox"/> Reject |
| <b>Comments and Recommendations:</b>                               |                                  |                    |   |                    |                                 |
| <b>PAT Meeting References, if applicable:</b>                      |                                  |                    |   |                    |                                 |
| Meeting date: _____  |                                  |                    |   |                    |                                 |
| File Ref: _____  |                                  |                    |   |                    |                                 |
| <b>PAT Chairman:</b>   |                                  | <b>Date:</b>       |   |                    |                                 |
| <b>Signature:</b>  |                                  | <b>Post:</b>       |   |                    |                                 |
| <b>PART D – Recommendation by Project Steering Committee (PSC)</b> |                                  |                    |   |                    |                                 |
| <b>Recommendation:</b>   | <input type="checkbox"/> Approve |                    | <input type="checkbox"/> Reject           |                    |                                 |
| <b>Comments and Recommendations:</b>                               |                                  |                    |   |                    |                                 |
| <b>PSC Meeting References, if applicable:</b>                      |                                  |                    |   |                    |                                 |
| Meeting date: _____  |                                  |                    |   |                    |                                 |
| File Ref: _____  |                                  |                    |   |                    |                                 |
| <b>PSC Chairman:</b>   |                                  | <b>Date:</b>       |   |                    |                                 |
| <b>Signature:</b>  |                                  | <b>Post:</b>       |   |                    |                                 |



## Appendix B – The Authority’s Responsibilities

The Authority will designate a staff member to oversee the Services (“the Authority’s Project Manager”) who will be responsible for: a) managing the progress of the Project; and b) providing, insofar as it is reasonably practicable, such information as the Authority considers to be relevant and necessary to the Services and all other reasonable assistance (through the Authority’s Project Working Group) to enable the Consultant to perform the Services. The Consultant shall be under no obligation to audit or verify information provided by the Authority in the provision of the Services and, accordingly, shall be entitled to rely upon the accuracy, completeness and truthfulness of such information.

Members of the Authority’s Project Control Group will be responsible for all management functions and decisions and oversee the planning and execution of the testing process, and will work with the Consultant closely (through the Authority’s Project Manager or the Authority’s Project Working Group). They are included in the security incident escalation chain and will be made aware of the iCAST and its process, the need for keeping the test in a silent mode, the risks associated with the test and should an iCAST simulated incident be detected. The Consultant cannot act or negotiate on behalf of the Authority or otherwise act as management. Also, it is the Authority’s responsibility to establish and maintain the internal controls and information systems. The Consultant does not act or appear to act in a capacity equivalent to a member of the Authority’s management.

Members of the Authority’s Project Working Group will assist the Authority’s Project Control Group to monitor the progress of the Project. They will liaise with the Consultant through the Authority’s Project Manager regarding approvals or comments from the Authority’s Project Control Group on evaluating and confirming the adequacy of the scope (e.g., the testing scenarios) of the Services in addressing the Authority’s needs as well as the findings and recommendations, including a) determining which PwC recommendations, if any, should be adopted and b) the implementation of those recommendations or actions, set out in the Deliverables.

Members of the Authority’s Project Working Group will also act as the focal point between the Authority’s Project Control Group and users in different divisions of the Authority on the one hand, and the Consultant on the other. Under all circumstances, the Consultant shall direct all related issues and messages to the Authority’s Project Control Group through the Authority’s Project Working Group.

