



# **SG:D Spark**

## **Terms and Conditions**

SG:D Spark-T&C  
Nov 2018

Info-Communications Media Development Authority  
10 Pasir Panjang Road  
#03-01 Mapletree Business City  
Singapore 117438

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## 1. General

- 1.1. The Spark Scheme (“**Spark**”) is a scheme aimed at supporting the growth of promising Singapore-based Infocomm Media (“**ICM**”) start-ups and young companies through selected Government tools and creation of a vibrant ecosystem and network.
- 1.2. Spark is administered by the Info-Communications Media Development Authority (“**IMDA**”) a statutory board constituted under the Info-communications Media Development Authority Act (No. 22 of 2016), with its principal place of business at 10 Pasir Panjang Road, #03-01 Mapletree Business City, Singapore 117438, Republic of Singapore.

## 2. Scope

- 2.1. This document is applicable to all ICM companies (“**ICM Coys**”) seeking to enrol as a member under the Spark scheme. Participation in Spark is voluntary. All participating and enrolled ICM Coys must comply strictly with these Terms and Conditions governing Spark at all times.
- 2.2. These Terms and Conditions should be read in conjunction with the Spark scheme documents including but not limited to:
  - a. The SG:D Spark Application Form;
  - b. the SG:D Spark Guidelines; and
  - c. such other documents as the IMDA may issue from time to time

(Collectively referred hereinafter as the “**Scheme Documents**”)

The guidelines, procedures, instructions and requirements contained therein the Scheme Documents shall be deemed to be part of these Terms and Conditions.

- 2.3. These Terms and Conditions and the Scheme Documents may be further amended, varied, modified, supplemented and/or replaced by IMDA at its sole and absolute discretion from time to time. IMDA will notify all ICM Coys of any amendments to these Terms and Conditions and the updated versions will be made available on Spark’s official website at [www.imda.gov.sg](http://www.imda.gov.sg).
- 2.4. In the event of any conflict or inconsistency between any terms of the Scheme Documents, the following documents shall prevail in the following priority:
  - a. These Terms and Conditions;
  - b. the SG:D Spark Application Form;
  - c. the SG:D Spark Guidelines; and
  - d. All other documents forming part of the Scheme Documents.

### 3. Application for the Enrolment or Renewal

- 3.1. ICM Coys shall apply for the enrolment for the Spark membership by submitting the necessary application forms and supporting documents in softcopy by email to accreditation@imda.gov.sg, in person or by post in any standard media storage device to IMDA at:

SG:D Spark (Attention: Accreditation)

Info-Communications Media Development Authority

10 Pasir Panjang Road

#03-01 Mapletree Business City

Singapore 117438

- 3.2. An application for the enrolment of the Spark membership shall be made to IMDA using the prescribed Spark Application Form (which may be amended by IMDA from time to time).
- 3.3. By submitting the application, the ICM Coy undertakes to comply with these Terms and Conditions, and represents and warrants that all information contained in the application form and all supporting documents and materials are true, accurate, up-to-date and complete.
- 3.4. A renewal review of the Spark membership shall be automatically triggered by IMDA to the ICM Coy no later than one (1) month before the expiry of the ICM Coy's membership, after which an assessment under Clause 4 of these Terms and Conditions shall be conducted by IMDA.
- 3.5. Any Spark membership which is not renewed by IMDA shall be deemed to be terminated from the expiry date and the ICM Coy shall comply with Clause 10.6 of these Terms and Conditions.
- 3.6. IMDA reserves the right to and may at its sole and absolute discretion choose not to process any application or renew any Spark membership, if any information provided by the ICM Coy is deemed by IMDA to be misrepresented, false, misleading, inaccurate, insufficient or on such other grounds whatsoever as IMDA in its sole and absolute discretion deems fit.
- 3.7. IMDA reserves the right to and may at its sole and absolute discretion reject any application for the enrolment or renewal of the Spark membership without providing the ICM Coy with any reasons whatsoever for the rejection.
- 3.8. The ICM Coy shall nominate an Application Representative ("**AR**") to liaise with IMDA on all matters relating to Spark and to ensure that all the obligations of the ICM Coy as set out in these Terms and Conditions and the Scheme Documents are fulfilled. The ICM Coy shall also keep IMDA informed in writing of any changes in relation to the nominated AR.

## 4. Enrolment Assessment

- 4.1. Enrolment assessments are conducted by IMDA (“**Assessments**”), in respect of:
  - 4.1.1 ICM Coys which submit applications for the enrolment for the Spark membership; and
  - 4.1.2 Spark members which are subject to interim or renewal review by IMDA.
- 4.2. The Assessments are based on the requirements of Spark set out in the Scheme Documents, as may be amended, varied, modified, supplemented and/or replaced by IMDA at its sole and absolute discretion from time to time (the “**Scheme Requirements**”).
- 4.3. The Assessments of new applications or renewal may include but not limited to the following:
  - 4.3.1 Pre-qualification and enrolment assessment for purpose of assessing whether the pre-qualification and enrolment criteria have been met; and
  - 4.3.2 Any other assessments that IMDA in its sole and absolute discretion deems necessary for the purposes of Spark.
- 4.4. IMDA shall at its sole and absolute discretion decide to conduct a full or partial Assessment.
- 4.5. IMDA may appoint an external party to conduct the Assessment on the ICM Coy under Spark. IMDA will notify the ICM Coy on the appointed external party and the scope of Assessments that will be undertaken by the external party.
- 4.6. It is the sole responsibility of the ICM Coy to provide all relevant and supporting documents, material information and/or records to IMDA to demonstrate how they have implemented and fulfilled the Scheme Requirements so as to enable IMDA to conduct an informed, fair and objective Assessment.

## 5. Waiver from Spark Requirements

- 5.1. The ICM Coy may submit a written application with relevant and supporting documents to IMDA if the ICM Coy wishes to request for waiver from any of the Scheme Requirements.
- 5.2. Any waiver from specific Scheme Requirements granted by IMDA will be valid throughout the Spark membership validity period unless otherwise stated.
- 5.3. IMDA reserves the rights to review and rescind the waiver granted to the ICM Coy at any time under Clause 5.2 at its sole and absolute discretion.
- 5.4. The ICM Coy shall inform IMDA immediately if the conditions for the waiver(s) granted are no longer valid at any point of the Spark membership validity period. IMDA reserves the right to direct a ICM Coy to undergo an ad-hoc Assessment. IMDA shall at its absolute discretion decide on a full or partial ad-hoc Assessment.

## 6. Award of Spark Membership

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- 6.1. ICM Coy which, IMDA has assessed to have passed the Assessments and met the Scheme Requirements will be awarded the Spark membership by IMDA.
- 6.2. IMDA will provide written notification to the ICM Coy of its membership status.
- 6.3. The award of the Spark membership is not transferable under any circumstances. For the avoidance of doubt, all benefits or obligations conferred on the ICM Coy by its Spark membership, including partnership schemes, listing on Government Procurement Panel and any initiatives to help the ICM Coy build their capabilities, may not be transferred or assigned to any 3rd party without approval from IMDA.
- 6.4. The award of the Spark membership is valid for 12 months or for such other periods as may be stated in the written notification. IMDA shall have the absolute right to amend the ICM Coy's Spark membership validity period at any time after the award of the membership. The Spark membership may be renewed upon its expiry for such further periods and on such terms and conditions as IMDA in its absolute discretion deems fit.
- 6.5. The award of the Spark membership is conditional upon the ICM Coy's continued compliance with these Terms and Conditions including but not limited to the Scheme Requirements as set out in the Scheme Documents, for the period of the Spark membership, and in compliance with good industry practice.
- 6.6. IMDA reserves the right to conduct a yearly or ad hoc review of the ICM Coy to determine its compliance to clause 6.5 above. Any refusal or undue delay by the ICM Coy for the conduct of the review by IMDA, upon IMDA giving a notice period for renewal of not less than 1 month to the ICM Coy, may result in the termination of the Spark membership.
- 6.7. The ICM Coy shall inform IMDA as soon as reasonably practicable if, at any time, it becomes unable to perform its obligations as set out in these Terms and Conditions and Scheme Documents.
- 6.8. IMDA reserves the right to and may, in its sole and absolute discretion, terminate or refuse to grant the renewal of the Spark membership without the need to give any reasons for such termination or refusal.
- 6.9. Without prejudice to Clauses 3.7 and **Error! Reference source not found.**, IMDA may, in its absolute discretion, refuse to award the Spark membership to or renew the Spark membership of a ICM Coy if:
  - 6.9.1. the application submitted by the ICM Coy is not in accordance with the form required by IMDA;
  - 6.9.2. the ICM Coy fails to satisfy any of the Scheme Requirements, including the failure to submit or make any declaration required under the Scheme Documents;
  - 6.9.3. the ICM Coy provides any information to the IMDA which is misrepresented, false, misleading, inaccurate or insufficient;
  - 6.9.4. the ICM Coy is in breach of any of these Terms and Conditions;
  - 6.9.5. the ICM Coy contravenes any applicable laws or regulations in Singapore; or

6.9.6. for any other reason, the IMDA at its sole and absolute discretion is of the opinion that it is undesirable to issue or renew the Spark membership.

## **7 Evaluation for Listing on Government Procurement Panel**

7.1. Evaluations are conducted by IMDA (“Evaluations”), in respect of:

7.1.1. Spark members which submit applications for listing on the Government Procurement Panel; and

7.1.2. Spark members which are listed on the Government Procurement Panel may be subject to interim evaluation by IMDA at IMDA’s sole and absolute discretion from time to time.

7.2. The Evaluations are based on the stated Scheme Requirements.

7.3. The Evaluation of new applications for listing on the Government Procurement Panel may include but is not limited to the following:

7.3.1. Technical evaluation for the purpose of evaluating the Spark member’s product functionality and performance claims;

7.3.2. Financial evaluation for the purpose of evaluating the Spark member’s financial sustainability;

7.3.3. Operations evaluation for the purpose of evaluating the Spark member’s ability to deliver; and

7.3.4. Any other evaluation that IMDA in its sole and absolute discretion deems necessary for the purposes of the Government Procurement Panel.

7.4. IMDA shall at its sole and absolute discretion decide to conduct a full or partial Evaluation.

7.5. IMDA may appoint an external party to conduct any Evaluation on Spark member. IMDA will notify the Spark member on the appointed external party and the scope of Evaluation that will be undertaken by the external party.

7.6. It is the sole responsibility of the Spark member to provide all relevant and supporting documents, material information and/or records to IMDA to demonstrate how they have implemented and fulfilled the Scheme Requirements so as to enable IMDA to conduct an informed, fair and objective Evaluation.

7.7. Upon the completion of the Evaluations under this Clause 7, subject always to validity of the Spark membership, IMDA may communicate areas of concerns, in any of the areas of Evaluation, to the company in parts. The Spark member agrees to submit such corrective action plans that is acceptable to IMDA or as the IMDA may direct in order to rectify matters identified in the Evaluation and/or implement such corrective action plan, to the satisfaction of IMDA, within the agreed period from the corrective action request date, failing which, IMDA may, at its sole and absolute discretion reject the Spark member’s application for listing on the Government Procurement Panel

- 7.8. Spark member which IMDA has evaluated to have passed the Evaluation and met the Scheme Requirements will be listed on the Government Procurement Panel by IMDA. IMDA will provide written notification to the Spark member of its listing status.
- 7.9. The listing on the Government Procurement Panel is valid for a period of up to twelve (12) months or for such other periods as may be stated in the written notification, and subject always to the validity of the Spark membership. IMDA shall have the absolute right to amend the Spark member's listing validity period at any time after the listing. Upon appeal by the Spark member, IMDA may, at its own discretion, decide to allow extension of the listing period for selected Spark member, for up to twelve (12) months, subject to the Spark member's continued fulfilment of the Evaluation and validity of its Spark membership.
- 7.10. For the avoidance of doubt, the listing on the Government Procurement Panel by IMDA is not a guarantee that the product evaluated is free from any defects nor does it indicate any association with Accreditation@SG Digital. IMDA is not liable for any loss or damage whatsoever and howsoever incurred by any party arising as a result of the use of the evaluated product/system or any representations made in respect of the evaluated product/system by the Spark member that is outside the evaluation scope.
- 7.11. The listing on the Government Procurement Panel does not free the Spark member from its legal responsibility (if any) in case of any loss or damage incurred by any party arising from the use of the product/system.
- 7.12. Notwithstanding any requests, IMDA reserves the right to and may, at its sole and absolute discretion, choose not to disclose to the Spark member and the Spark member's customers or users or potential customers of the detailed results of the Evaluation.

## **8 Non-Compliance with Terms and Conditions**

- 8.1 Without prejudice to any of the IMDA's powers and rights to take such action as it deems fit, an ICM Coy which fails to abide by any of these Terms and Conditions may be given a written warning by the IMDA. If the ICM Coy fails to comply with the demands of the written warning within the stipulated timeframe, IMDA may suspend or terminate the Spark membership immediately without further notice or reference to the ICM Coy.
- 8.2 For the avoidance of doubt, IMDA reserves the right to and may, in its sole and absolute discretion, terminate the Spark membership at any time if the ICM Coy is in default of any of these Terms and Conditions without issuing any prior notice or warning to the ICM Coy.

## **9 Compliance with Applicable Laws**

- 9.1 The ICM Coy shall comply with all applicable laws and regulatory requirements.

## **10 Suspension and Termination of Spark Membership**

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- 10.1 IMDA may, in its absolute discretion, terminate or suspend a Spark membership, if it is satisfied that the ICM Coy:
- 10.1.1. obtains the Spark membership by making or causing any false or fraudulent declaration, certification or representation, either in writing or otherwise;
  - 10.1.2. gives and/or declares false, misleading, misrepresented or inaccurate information to IMDA;
  - 10.1.3. fails to maintain or causes the IMDA to suspect that the ICM Coy failed to maintain a standard which complies with the Scheme Requirements;
  - 10.1.4. fails to submit or make any declaration required under the Scheme Documents
  - 10.1.5. fails to provide access to facilities, documents and/or personnel, or to comply with any other requirement imposed by IMDA, as may be reasonable and necessary to enable assessors to perform their Assessment and/or Evaluation under these Terms and Conditions;
  - 10.1.6. fails to rectify any default of these Terms and Conditions or such other requirements imposed by IMDA in connection with Spark within the agreed time frame;
  - 10.1.7. fails to fulfil, observe or comply with any contractual obligations and/or terms and conditions in any awarded procurement contract from any enterprise, including Government, and such failure, at IMDA's sole and absolute determination, results (directly or indirectly) in damage of the reputation of Spark;
  - 10.1.8. contravenes any applicable laws or regulations; or
  - 10.1.9. is for any other reason in IMDA's sole and absolute discretion, deemed unfit to continue to hold the Spark membership and/or the ICM Coy's act or omission brings the ICM industry into disrepute.
- 10.2 The ICM Coy will be informed in writing by IMDA of the award suspension or termination via email. The email will be sent to the CXO or representative of the ICM Coy as provided to IMDA.
- 10.3 An ICM Coy with a suspended Spark membership may have its membership status reinstated subject to any assessments, evaluations and/or conditions that IMDA may impose.
- 10.4 IMDA may, at any time and for such reason as it deems fit, reduce the period for which the Spark membership has been suspended.
- 10.5 An ICM Coy may voluntarily withdraw its Spark membership by giving at least thirty (30) days of prior written notice to IMDA.
- 10.6 Once an ICM Coy is notified by IMDA that its Spark membership has been suspended or terminated or an ICM Coy voluntarily withdraws, the ICM Coy shall:



10.6.1 Within fourteen (14) days cease to use marketing collateral with the Spark logo/ mention or otherwise use the Spark logo/ mention in any form or medium;

10.6.2 Within thirty (30) days of such notification or withdrawal, confirm to IMDA that it has:

10.6.2.1 destroyed all such marketing collateral bearing the Spark logo/ mention; and

10.6.2.2 ceased the use of the Spark logo/ mention in any form or medium.

10.7 Where pursuant to these Terms and Conditions, the Spark membership has been awarded, suspended or terminated by the IMDA or withdrawn by the ICM Coy, IMDA may publish as IMDA considers fit a notification of the award, suspension, termination or withdrawal of the Spark membership.

## **11 Undertakings of the ICM Coy**

11.1 The ICM Coy shall furnish to IMDA in a timely manner all relevant information and documentation relating to the ICM Coy's services, products and systems for the purpose of IMDA's assessment of the ICM Coy's application for enrolment into Spark and/or evaluation for listing on the Government Procurement Panel.

11.2 The ICM Coy shall, in a timely manner, make available for an interview all necessary personnel required for the purpose of IMDA's assessment of the ICM Coy's application for enrolment into Spark and/or evaluation for listing on the Government Procurement Panel or interim review, assessment and/or evaluation of the enrolled ICM Coys.

11.3 The ICM Coy shall inform IMDA forthwith if, at any time, it becomes unable to perform its obligations as set out in these Terms and Conditions or Scheme Documents.

11.4 The ICM Coy warrants to the IMDA that:

11.4.1 the ICM Coy shall not contravene any applicable laws or regulations or cause the IMDA to be in breach of any applicable laws or regulations in the course of its participation in Spark;

11.4.2 the ICM Coy's services, products and/or systems do not violate or infringe any intellectual property rights, or any right of privacy or publicity of any third party or any other right of any person or entity;

11.4.3 the ICM Coy will immediately notify IMDA of any material changes to any information provided in connection with the ICM Coy's participation in Spark including but not limited to any changes in the ICM Coy's legal entity, financials, location, business type, or product/system offered by the ICM Coy;

11.4.4 it will keep a record of any material defects reported to and remedial actions taken by the ICM Coy, if any, relating to the services, products and/or systems and make such record available to IMDA when requested;

- 11.4.5 it will keep a record of all material feedback, complaints and remedial actions, if any, relating to the services, services, products and/or systems and make such record available to IMDA when requested;
- 11.4.6 submit to the IMDA all such information as requested by the IMDA for investigative reasons within three days of such request for the purposes of any investigations the IMDA may conduct;
- 11.4.7 comply with such other requirement or conditions as may be stipulated by the IMDA and/or the relevant authorities from time to time.

## 12 Confidentiality

- 12.1 Save as provided herein, all information, materials and documents supplied by the ICM Coy to IMDA under Spark shall be treated as Confidential Information. For the avoidance of doubt, Confidential Information shall NOT include any of the following:
  - 12.1.1 Information that was already known to or in the possession of IMDA prior to disclosure by the ICM Coy;
  - 12.1.2 Information which is independently learned or developed by IMDA without use of any of the information disclosed by the ICM Coy to IMDA under Spark;
  - 12.1.3 Information which is received by IMDA from a third party who has the right to disclose such information and/or who is not bound by duties or obligations of confidentiality to the ICM Coy;
  - 12.1.4 Information that is or becomes publicly available without the IMDA's breach of these Terms and Conditions; and
  - 12.1.5 Information that the ICM Coy has given or gives its written authorisation for release or use.
- 12.2 Subject always to Clause 12.3 below, IMDA agrees and undertakes:-
  - 12.2.1 not to directly or indirectly disclose or make available any Confidential Information, in whole or in part, to any person or party who is not expressly authorised to receive such information pursuant to or in accordance with these Terms and Conditions, except for such person(s) or part(ies) whom the ICM Coy notifies IMDA in writing. For the avoidance of doubt, IMDA shall in all events not be liable for any breaches of the confidentiality obligations under these Terms and Conditions by such person(s) or part(ies) so notified to IMDA;
  - 12.2.2 to take reasonable precautions to prevent unauthorised access to Confidential Information by any person or party by using at least the same protective measures as are used by the ICM Coy to protect its own confidential and/or proprietary information and in any event, not less than at a reasonable standard of care; and

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- 12.2.3 to notify the ICM Coy in writing as soon as reasonably practicable upon discovery of any unauthorised use or disclosure of Confidential Information, or any other breach of these Terms and Conditions, and to co-operate with ICM Coy in a reasonable way to help the ICM Coy regain possession of the Confidential Information and prevent further unauthorised use and/or disclosure of the same.
  - 12.2.4 not to copy or reverse engineer any materials disclosed by the ICM Coy or remove any proprietary markings from any Confidential Information.
- 12.3 IMDA may use the Confidential Information or disclose the same:
- 12.3.1 For the purpose of Spark, including but not limited to the assessment/evaluation of the ICM Coy's compliance with the Scheme Requirements and the performance of the ICM Coy's obligations under these Terms and Conditions.
  - 12.3.2 To facilitate the performance of a third party appointed by IMDA for the purposes of Spark, with the prior written consent by the ICM Coy;
  - 12.3.3 If required to do so pursuant to any law or regulation, subpoena, order of court or pursuant to other judicial or administrative process, except that IMDA shall give prompt notice of any such impending disclosure to the ICM Coy so that the ICM Coy may seek an appropriate protective order. If, failing the entry of a protective order, IMDA is compelled to disclose Confidential Information, IMDA may disclose that portion of the Confidential Information that IMDA is compelled to disclose and will exercise reasonable efforts to limit disclosure and obtain assurance that confidential treatment will be accorded to that portion of the Confidential Information that is being disclosed. In any event, IMDA will not oppose action by the ICM Coy to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information; or
  - 12.3.4 To such of its officers, employees and/or professional advisors who need to know the same for the purpose(s) of Spark or for seeking advice on any matter arising out of these Terms and Condition or Spark provided that IMDA shall ensure that any of its officers, employees and professional advisors to whom Confidential Information is to be disclosed are made aware of and procure their agreement to abide by, and their compliance of, the confidentiality obligations in these Terms and Conditions before any disclosure to them is made. In any event, IMDA shall be responsible for each officer, employee and/or professional advisor's compliance with the confidential obligations in these Terms and Conditions and any breach thereof by any if its officer, employee and/or professional advisor; and agrees, at its sole expense, to take any measures (including but not limited to court proceedings) to restrain its officers, employees and/or professional advisors from prohibited or unauthorised disclosure or use of the Confidential Information.
- 12.4 In the event (i) the ICM Coy is not awarded with the Spark membership; (ii) the Spark membership is terminated by IMDA or voluntarily withdrawn by the ICM Coy pursuant to

clause 10 above; or (iii) the Spark membership expires; the ICM Coy may request IMDA to:

12.4.1 cease using the Confidential Information henceforth;

12.4.2 return or destroy all Confidential Information, including all written material, memoranda, notes, copies, excerpts and other writings or recordings whatsoever prepared by IMDA or its officers, employees and/or professional advisors based upon, containing or otherwise reflecting any Confidential Information. This includes, as far as technically and practically feasible, all Confidential Information from any computer, word processor, mobile telecommunication device or similar device.

12.4.3 Upon request by the ICM Coy, provide written confirmation of such destruction of materials at clause 12.4.2 above.

Provided always that (i) IMDA may retain one copy of the Confidential Information for the purposes of and for so long as required by any law, court or regulatory agency or authority or its internal compliance procedures; and (ii) Confidential Information contain in electronic files created pursuant to system archiving and back-up procedures need not be returned or destroyed.

12.5 IMDA shall not be liable for any damages or losses suffered by the ICM Coy as a result of any disclosure of information by IMDA in accordance with these Terms and Conditions other than due to the wilful default or gross negligence of IMDA or its representatives.

12.6 The ICM Coy agrees that IMDA may share relevant company or product information (which has been approved or agreed to by the ICM Coy) with any other relevant Singapore Government agencies or statutory bodies or potential enterprise buyers for the purposes of the objectives of Spark; including assisting the ICM Coy in securing projects, accelerating its growth, marketing of the ICM Coy or Spark, or raising its profile with key stakeholders.

12.7 Neither the return nor destruction of any Confidential Information will release it from the confidentiality obligations contained in this Terms & Conditions.

12.8 The ICM Coy, its staff and agents shall keep confidential and shall not disclose to any third party:

12.8.1 information relating to its application for the award or renewal of Spark membership until such Spark membership has been awarded by IMDA; and

12.8.2 all correspondences between the ICM Coy and IMDA.

12.9 Both parties agree that a breach of the confidentiality obligations under these Terms and Conditions is likely to result in immediate and irreparable injury to the disclosing party for which there is no adequate remedy at law and that, upon a breach of the said confidentiality obligations, the disclosing party is entitled to seek equitable relief in the form of an injunction in addition to any other rights and remedies available in equity or at law.

12.10 Neither the ICM Coy or IMDA acquires any intellectual property rights or any other rights under these Terms and Conditions except the limited right for IMDA to use the Confidential information as set forth in Clauses 12.3 and 12.5 above.

### **13 Disclaimer of Liability**

13.1 IMDA shall in all events not be liable to the ICM Coy and its proprietors, directors, shareholders, officers, employees, personnel, agents or contractors for any claims, expenses, losses or damages (including solicitors' fees) whether directly or indirectly suffered by the ICM Coy or and its proprietors, directors, shareholders, employees, personnel, agents or contractors (whether such claims, expenses, losses or damages have been informed by ICM Coy to the IMDA) as a consequence of:

13.1.1 the ICM Coy's participation in Spark, the Assessments, the Evaluations and/or as a result of the assessment by IMDA of the ICM Coy's compliance with the Scheme Requirements; or

13.1.2 IMDA's refusal to award, refusal to renew, suspension or termination of the Spark membership, for any reason whatsoever.

### **14 Indemnity**

14.1 The ICM Coy agrees and undertakes to indemnify IMDA and its directors, shareholders, officers, employees, personnel, agents or contractors fully against all claims, expenses, losses or damages (including solicitors' fees) suffered by IMDA including but not limited to all claim(s) by any third parties against IMDA, arising from the ICM Coy's participation in Spark and/or the ICM Coy's breach(es) of these Terms and Conditions.

### **15 Governing Law and Dispute Resolution**

15.1 These Terms and Conditions shall be governed by and construed in accordance with the laws of the Republic of Singapore.

15.2 Any dispute arising out of or in connection with these Terms and Conditions, including any questions regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in the English language by a sole arbitrator in accordance with the arbitration rules of the Singapore International Arbitration Centre for the time being in force which rules are deemed to be incorporated by reference to this Clause 15.2.

### **16 Miscellaneous**

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- 16.1 The invalidity, illegality or unenforceability of any part of these Terms and Conditions shall not affect the validity, legality and enforceability of the other parts of these Terms and Conditions.
- 16.2 No third party shall have any right to enforce any of the provisions under the Contracts (Rights of Third Parties) Act (Cap.53B).
- 16.3 The disclaimer of liability clause in Clause 13 herein and the indemnity clause in Clause 14 herein shall survive termination or expiry of these Terms and Conditions.
- 16.4 These Terms and Conditions together with the Scheme Documents forms the entire agreement between the ICM Coy and IMDA with respect to the matters stated herein.
- 16.5 No failure or delay by IMDA or the ICM Coy in exercising any right hereunder or any partial exercise thereof shall operate as a waiver thereof or preclude any other or further exercise of any right hereunder.