

# General Terms and Conditions of Sale

These terms and conditions ("**Terms**" or "**Terms of Sale**") shall apply to all Products (as defined below) or Services (as defined below) sales save as otherwise agreed in writing.

All Product sales to the Purchaser are subject to these Terms of Sale. The Purchaser's unequivocal acceptance of these terms shall be deemed by (i) Purchaser signing or agreeing to these Terms; or (ii) Purchaser providing a purchase order or ordering document to Blackpanda; or (iii) Purchaser's acceptance of any Product or Service from Blackpanda; whichever occurs first.

**CURRENT VERSION: 8 April 2024**

## 1. DEFINITIONS

1.1 "**Confidential Information**" means in relation to either Blackpanda or Purchaser, any and all written or oral form of non-public information, know-how (whether patentable or copyrightable or not), including, without limitation to, the business policies or practices, information received from others that the Party is obligated to treat as confidential, as well as other information related to the above that such Party designates as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential by the other Party.

1.2 "**Blackpanda**" means such Blackpanda contracting entity as stipulated in the quotation, purchase order, ordering form, or letter of engagement (as the case may be).

1.3 "**Intellectual Property**" means all copyright, patents, utility innovations, trademarks and service marks, geographical indications, domain names, layout design rights, registered designs, design rights, database rights, trade or business names, rights protecting trade secrets and confidential information, rights protecting goodwill and reputation, and all other similar or corresponding proprietary rights and all applications for the same, whether presently existing or created in the future, anywhere in the world, whether registered or not, and all benefits, privileges, rights to sue, recover damages and obtain relief or other remedies for any past, current or future infringement, misappropriation or violation of any of the foregoing rights.

1.4 "**Non-Conforming Product**" shall mean a Product that does not conform to the Supplier's Warranties.

1.5 "**Purchaser**" means the person, business or company that is the purchaser of the Products.

1.6 "**Products**" means any products (including software) or services, where applicable, supplied to Purchaser by Blackpanda and described in Blackpanda's invoice or Scope of Work. Reference to "**Products**" shall, where applicable also include Services if so purchased by the Purchaser.

1.7 "**Services**" means any services supplied to Purchaser by Blackpanda or its Supplier and described in Blackpanda's quotation and invoice, or Scope of Work, including but not limited to technical services, installation services, educational services (such as educational or training courses, and examination or certification services), or such other services provided by Blackpanda or a Supplier and includes supply of materials, software, tools and information related to such services ("**Deliverables**").

1.8 "**Supplier**" means the manufacturer or publisher of the Products or Services, or the service provider, manufacturer or publisher providing the Products or Services, which for the avoidance of doubt shall not mean Blackpanda unless Blackpanda is the party providing the service.

1.9 "**Supplier's Warranties**" means the warranties, if any, provided by the applicable Product's Supplier relating to a particular Product.

1.10 "**Territory**" means such countries or jurisdictions as set out in the applicable order forms or processes as accepted by Blackpanda.

## 2. ORDERS

2.1 All orders for Products placed by Purchaser:

2.2 must be made in accordance with Blackpanda's order process as notified to Purchaser from time to time; and

2.3 are subject to acceptance by Blackpanda, and no order will be deemed to have been accepted by Blackpanda unless Products are supplied or a back-order or delivery delay is confirmed in writing by an authorised representative of Blackpanda to Purchaser.

2.4 Blackpanda may reject any order placed by Purchaser if there is an insufficient supply of Products which prevents Blackpanda from being able to fulfill such order.

### **3. PRICE AND PAYMENT**

3.1 The price of the Products will be Blackpanda's quoted price and are subject to change without prior notice.

3.2 Payment is required prior to delivery of the Products to Purchaser unless agreed otherwise in writing by Blackpanda.

3.3 If Purchaser fails to make payment in accordance with this clause

3.3.1 all amounts owing by Purchaser to Blackpanda on any account (including any charges of partial delivery or provision of Products and Services) will immediately become due and payable together with legal costs of enforcement.

3.3.2 Blackpanda may, in its sole discretion suspend the provision of credit to Purchaser until all amounts owing are paid for in full; and

3.3.3 Blackpanda may, in its sole discretion, vary or cancel any credit facility or credit privileges it makes available to Purchaser from time to time. For the avoidance of doubt, Blackpanda retains the right from time to time, without notice, to change or revoke Purchaser's credit limit on the basis of, including but not limited to, changes in Blackpanda's credit policies or Purchaser's financial condition and/or payment record.

3.4 Purchaser will be liable to pay interest on any overdue amount at the rate of 1.5% per month or the maximum amount allowed by law will be charged on all past due balances commencing on the date payment is due, whichever is higher. Interest will accrue daily from the date payment became overdue until Blackpanda has received payment of the overdue amount, together with any interest accrued. Purchaser's obligation to make timely payment is a material element of these Terms and if breached will cause damage to Blackpanda.

3.5 Each payment made by the Purchaser shall be made without any offset, abatement, recoupment, counterclaim, withholding or reduction whatsoever.

3.6 Unless stated otherwise in these Terms (or in writing by Blackpanda's authorised representative), all prices quoted for Products are exclusive of all taxes, handling, delivery, agents' charges and any other charge, duty or impost.

3.7 Purchaser must pay Blackpanda, on demand, any tax (other than income tax) payable under these Terms, any matter or thing done under these Terms or any payment, receipt or other transaction contemplated by these Terms, including any goods and services tax, customs duty, excise duty, stamp duty, other duty, governmental charge, fee, levy or impost, together with any fine, penalty or interest payable because of a default by Purchaser. For the avoidance of doubt, Blackpanda is not responsible for Purchaser's tax liabilities nor is Blackpanda responsible for reimbursing Purchaser for the same.

3.8 Purchaser shall furnish to Blackpanda all financial information reasonably requested by Blackpanda from time to time for the purpose of establishing or continuing Purchaser's credit limit. Purchaser agrees that Blackpanda may disclose any such information to its advisors or insurers for the purposes of, including but not limited to, evaluation of credit to be extended to Purchaser.

3.9 To the extent the Purchaser is a credit customer, the Purchaser agrees to immediately notify Blackpanda of any changes to any of the details contained in its credit application or as otherwise provided by Purchaser to Blackpanda, and any other material changes to Purchaser's ownership, shareholding, structure and/or business, trading or financial activities.

3.10 In the event that Purchaser successfully applies for GST Registration, Purchaser must promptly provide written notice of its GST Registration Number and Effective Date of GST Registration to Blackpanda.

3.11 Any obligation of Blackpanda under these terms and conditions to deliver Deliverables on credit terms shall terminate without notice and without liability to Blackpanda if Purchaser files a voluntary petition under a bankruptcy statute or any other statute relating to insolvency or protection of the rights of creditors, or makes an assignment for the benefit of creditors, or if an involuntary petition under a bankruptcy statute or any other statute relating to insolvency or the protection of rights of

creditors is filed against Purchaser, or if a receiver, manager, liquidator or trustee is appointed to take possession of the assets of Purchaser.

#### **4. DELIVERY OF GOODS OR SERVICES**

4.1 To the extent that a Product supplied under these Terms is a physical product, delivery to a local address will be subject to freight and handling charges. Delivery to an international address will be subject to additional terms and charges.

4.2 Delivery times advised to Purchaser are estimates only and Blackpanda will not be liable for any loss, damage or delay suffered or incurred by Purchaser or its Purchasers arising from late or non-delivery of the Products.

4.3 Blackpanda may make part deliveries of any order, and each part delivery will constitute a separate supply of the Products upon these Terms.

4.4 Should Purchaser decide to collect the Products and fails to do so on the agreed date, Purchaser shall hold Blackpanda harmless and shall indemnify Blackpanda fully for any costs or damages Blackpanda may incur in relation to the uncollected Products, including any storage or disposal fees, where applicable.

4.5 In the case of all Services provided by Blackpanda:

4.5.1 Purchaser acknowledges that Blackpanda works for Purchaser in a technical and supporting advisory capacity, and Blackpanda shall take no decisions on behalf of Purchaser. All advice and other services Blackpanda provide pursuant to this engagement are solely for Purchaser and are not for the benefit of another party, except where Blackpanda has been advised of such intent and are given specific prior consent in writing from Purchaser to share such advice with third parties;

4.5.2 Purchaser agrees that all services shall be limited to the set of “**Endpoints**”, which may include but are not limited to devices, systems, infrastructure, and applications clearly set out, identified. The Endpoints, where applicable, will be stipulated in the quotation, purchaser order, ordering form, or letter of engagement (as the case may be). No additional services will be performed, unless otherwise agreed to by Blackpanda in writing;

4.5.3 Purchaser agrees that Blackpanda and/or a subcontractor may conduct security and vulnerability scans of your Endpoints and attack surfaces (the “**Tests**”), which include, among other things, information gathering, crawling, fingerprinting, fuzz testing, deploying oftest scripts and penetration tests. In light of the foregoing, the Purchaser also represents and warrants that

(a) Purchaser has the full right, power and authority to consent to have Blackpanda and/or the aforementioned subcontractor conduct such Tests;

(b) Purchaser owns the Endpoints, and have authorised, and/or have obtained or will obtain all necessary third party authorisation for Blackpanda to conduct of such Tests on the Endpoints; and

(c) Purchaser has and/or have procured that all necessary system backups and implemented all necessary disaster recovery plans and procedures to return the Endpoints to its pre-Test state.

4.5.4 Purchaser agrees to provide all relevant information, and accurate and complete instructions in a timely manner to facilitate Blackpanda in providing the Services. In connection with the foregoing, Purchaser expressly acknowledges that all timelines and completion dates provided by Blackpanda are reasonable estimates, based on, among other things, Purchaser granting Blackpanda reasonable access and accurate and complete information and instructions.

4.5.5 Purchaser agrees that to sign and execute such letters, forms, and other authorisation documents as may be reasonably requested by Blackpanda and/or any subcontractors prior to or in connection with the provision of the services;

4.5.6 Purchaser agrees that all services shall be performed remotely unless Purchaser specifically requests for on-site performance by such services. In such circumstances, all reasonable travel and out-of-pocket expenses incurred by Blackpanda personnel in connection with such on-site performance shall be reimbursed by Purchaser.

4.6 Blackpanda reserves the right to refuse provision of any services or to limit the scope of our services if it gives rise to a result and/or circumstances which we, in our professional opinion, give rise to illegal acts and/or commercially unreasonable acts and/or put Blackpanda in a professionally compromised position

#### **5. SOFTWARE**

5.1 To the extent that a Product supplied under these Terms is a software then, in addition to these Terms, that software Product will be supplied subject to the terms and conditions of the relevant license agreement applicable to it. Where applicable, Purchaser agrees to be bound by any such terms and conditions and/or restrictions and shall indemnify Blackpanda for any liability suffered by it arising from Purchaser's breach of such terms, conditions and/or restrictions.

5.2 Software license agreements may be packaged with the software, or may be separately provided to Purchaser or may require on-screen acceptance by Purchaser. Use of the software Product shall be in accordance with the terms and conditions of the relevant license agreement.

5.3 Where the term "**supply**" is used in these Terms to refer to a software Product, such term means the sale and purchase of a licensed copy of that software Product or a right to access a hosted copy of that software Product (regardless of whether such software is supplied in hard copy or electronically, or where access is otherwise provided to a copy of the software).

## **6. INSPECTION AND ACCEPTANCE**

6.1 In the case of all Products ordered, Purchaser must:

6.1.1 (For non-software Products) inspect such Products upon delivery to Purchaser's premises.

6.1.2 (For software Product) test or inspect such software Products upon those software Products being authorised by Blackpanda for downloading by Purchaser.

6.2 If Purchaser alleges any matter or thing by which the Products do not accord with Purchaser's order, Purchaser must give written notice to Blackpanda within 3 working days of delivery or downloading (as the case may be).

6.3 Failing such notice and to the extent permitted by law, the Products will be deemed to have been accepted by Purchaser.

## **7. TITLE AND RISK**

7.1 Products supplied by Blackpanda to Purchaser will be at Purchaser's risk immediately upon:

7.1.1 delivery of the Products to the Purchaser, Purchaser's agent or nominee, or into the Purchaser's custody or control; or

7.1.2 collection of the Products by the Purchaser's nominated carrier or agent.

7.2 Purchaser must:

7.2.1 effect and maintain with a reputable insurance company insurance for the Products, at its cost, against all risks as it thinks appropriate, including loss or damage by fire, theft, accident and other such risks;

7.2.2 note the interest of Blackpanda on the insurance policy; and

7.2.3 produce a certificate of currency of the insurance effected by Purchaser under this clause to Blackpanda, upon request.

7.3 Risk in the Products will remain with Purchaser at all times unless Blackpanda retakes possession of the Products in accordance with the Terms.

7.4 Title in the Products supplied by Blackpanda to Purchaser will not pass to Purchaser and will remain the absolute property of Blackpanda until such time as Blackpanda has been paid by Purchaser all monies due and owing to it by the Purchaser in relation to any account. Notwithstanding payment, title to those Products which are Deliverables or software remains with Blackpanda and/or the applicable third party licensor(s) at all times.

7.5 Until the Products have been paid for and title to the Products has passed to the Purchaser:

7.5.1 Purchaser must properly segregate and store the Products in such manner as to clearly indicate that they are the property of Blackpanda, and Purchaser grants Blackpanda the right to enter Purchaser's premises to repossess the Products and to sell or dispose of those Products.

7.5.2 Purchaser may sell the Products and shall keep records of the Products in the ordinary course of its business as fiduciary agent for Blackpanda and Purchaser agrees to deposit all proceeds of any such sale (including any proceeds received from any insurance claims) in a separate bank account and agrees not to mix the proceeds with any other monies and hold the monies on trust for Blackpanda and shall immediately account for such proceeds to Blackpanda.

7.6 If Purchaser has breached these Terms, Purchaser authorizes Blackpanda, at any time, to enter onto any premises upon which Blackpanda's Products are stored to enable Blackpanda to:

7.6.1 inspect the Products; and/or

7.6.2 reclaim the Products and/or discontinue access to the Products.

7.7 If Purchaser sells, disposes of or otherwise deals with Products or any part thereof before full payment has been received by Blackpanda, Purchaser must advise Blackpanda in writing, at such times as Blackpanda may request, specifying full details of the Products sold, disposed of, utilized or otherwise dealt with.

7.8 Purchaser acknowledges that in the case of software Products, any refusal or failure to pay may result in cancellation of the license to use the software Product.

7.9 Purchaser agrees that the provisions of this clause apply despite any arrangement under which Blackpanda grants credit to Purchaser.

## **8. PRODUCT RETURNS**

8.1 Return of Products will be subject to the returns process for the affected Product ("**Returns Process**") as notified by Blackpanda from time to time.

8.2 Each claim for the return of Products by Purchaser will be dealt with in accordance with the Returns Process and all decisions regarding the return of Products by Blackpanda are final.

8.3 Any substitute Products to be shipped to Purchaser in accordance with the Returns Process will be sent by Blackpanda to Purchaser by ordinary freight pre-paid.

8.4 Blackpanda will not be liable for any damage or defects in the Products:

8.4.1 installation, maintenance or unauthorised repair of the Products;

8.4.2 that is not covered by Supplier's warranty;

8.4.3 Products which have been added to, varied, or otherwise modified by, any person other than Blackpanda or a third party authorized by Blackpanda in writing;

## **9. FORCE MAJEURE**

9.1 If the performance of Blackpanda's obligations under these Terms is prevented, restricted or affected by acts of God, acts of war or terrorism (including but not limited to any cyber operations carried out in the course of war or terrorism) pandemic, strike, lock out, raw material shortage, breakdown of plant, electrical, network or telecommunication outage, government restrictions (including denial or cancellation of export or other licenses), delay caused by Supplier, transport or equipment or any other cause beyond the reasonable control of Blackpanda, Blackpanda will give notice of such cause to Purchaser and Blackpanda shall not be held in default of its obligations under these Terms or held liable for any noncompliance. If such event continues for more than 60 days from the date of notice, either party may terminate any affected orders without penalty. This section does not excuse the Purchaser's payment obligations for delivered Products.

## **10. PURCHASER'S CANCELLATION**

10.1 Unless otherwise agreed in writing by an authorised officer of Blackpanda, Purchaser may not cancel an order which has been accepted by Blackpanda.

10.2 If Purchaser's right of cancellation is agreed to by an authorised officer of Blackpanda in writing, the right must be exercised by notice in writing from Purchaser to Blackpanda not later than 7 days before the estimated date of shipment by the Supplier or Blackpanda (as the case may be).

10.3 Unless otherwise agreed between Purchaser and Blackpanda, upon cancellation prior to shipment, any deposit paid by Purchaser will be forfeited to Blackpanda.

## **11. DEFAULT OF PURCHASER**

11.1 Without prejudice to any of Blackpanda's other rights under these Terms, if Purchaser breaches any of these Terms, Blackpanda may, in its sole discretion, and without further liability to Purchaser:

11.1.1 refuse to make further supplies to Purchaser; and/or

11.1.2 terminate the relationship without notice.

## **12. RESALE**

12.1 All Products supplied by Blackpanda may only be sold by Purchaser within the Territory unless otherwise agreed in writing. Purchaser must not knowingly sell or supply the Products to any person who intends to resell or on-supply them outside the Territory.

12.2 The parties acknowledge and agree that the Purchaser may set the amounts it charges to its customers for re-supply of the Products in its sole discretion.

## **13. WARRANTY**

13.1 Certain statutory provisions may imply warranties or conditions or impose obligations upon Blackpanda which cannot be excluded, restricted or modified whether at all or only to a limited extent. Clauses 13 (Warranty) and 14 (Non-Conforming Products) must be read subject to those statutory provisions.

13.2 To the extent permitted by law,

13.2.1 Products are covered by the Supplier's Warranties.

13.2.2 Blackpanda's entire responsibility with respect to express warranties for the Products is to pass on to Purchaser the benefit of any such Supplier's Warranties to the extent it is able to.

13.2.3 The Supplier's Warranties are in substitution for all other terms, guarantees, conditions and warranties, whether implied by statute or otherwise (including implied warranties with respect to merchantability and fitness for purpose) and Blackpanda expressly excludes all such other terms, guarantees, conditions and warranties.

13.2.4 Blackpanda does not warrant that repair facilities or parts will be available in respect of any of the Products.

13.3 Software Products are not warranted by Blackpanda under these Terms. Such software Products are warranted in accordance with the relevant license agreements governing their use.

13.4 To the full extent permitted by law and unless otherwise expressly agreed by Blackpanda, Blackpanda does not warrant that repair facilities or parts will be available in respect of any Products.

13.5 Purchaser warrants that it is acquiring the Products for the purpose of use as inventory in Purchaser's business, and that it is not acquiring the Products wholly or predominantly for personal, domestic or household use or consumption.

## **14. NON-CONFORMING PRODUCTS**

14.1. To the extent permitted by law, Blackpanda's entire responsibility with respect to Non-Conforming Products where such non-conformity arises within the time frame stipulated by the Supplier, or if a time frame is not stipulated, within a period of six (6) months from delivery to an end-user, will be to arrange for (a) (at Blackpanda's reasonable discretion) a replacement or repair of the Product; or (b) where a replacement or repair under (a) is not practical or possible, a reduction of the price of the Products (calculated on a straight line depreciation basis) or a refund.

14.2. Clause 14.1 shall not be applicable if the Purchaser, end-user or any third party (which is not an Blackpanda agent) had damaged or misused the Product thereby causing the non-conformity or if the Non-Conformity, damage, fault or misuse is excluded under the Supplier's warranties.

## 15. LIABILITY

15.1 Purchaser will be liable for all orders placed with Blackpanda through Purchaser's account, regardless of whether those orders were placed in accordance with Purchaser's authorisations or instructions. It is Purchaser's responsibility to ensure that its account is only accessed and used by authorised personnel pursuant to, and in accordance with, any limits on their authority, and safeguarded from misuse by authorised or unauthorised individuals.

15.2 Purchaser will defend, indemnify and hold harmless Blackpanda, its related bodies corporate, affiliates and subsidiaries and each of their respective officers, directors, employees and agents from and against any and all claims, demands, proceedings, actions, liabilities, losses, damages, costs or expenses of any kind (including reasonable attorney's fees and disbursements) incurred or sustained as a result of, or arising out of, or relating to any actions taken by Blackpanda regarding the Products at the request of, and consistent with, instructions provided by Purchaser, Purchaser's infringement of Blackpanda's or any third party's intellectual property rights, any breach of these Terms or any acts or omissions of Purchaser or its employees, related bodies corporate, affiliates or agents, arising from the manner in which Purchaser markets and sells the Products, supply by Purchaser of any goods or services for use in conjunction with or in relation to the Products, or any breach or alleged breach of any applicable laws or regulations relating to the storage, marketing or sale by Purchaser of the Products.

15.3 To the extent that an indemnity under this agreement is in favour of a person other than Blackpanda, Blackpanda contracts as trustee of the rights under that indemnity.

15.4 To the extent permitted by law, Blackpanda will not be liable to Purchaser or any other person under any circumstances for any loss of use, profit, revenue, interest, goodwill or data, or for any special, consequential, punitive, economic, indirect, incidental or consequential damages sustained or incurred by Purchaser, whether such liability arises directly or indirectly as a result of:

15.4.1 any negligent act or omission or willful misconduct of Blackpanda or its employees or agents;

15.4.2 any failure to deliver Products within a specified time period;

15.4.3 availability and/or delays in delivery of Products;

15.4.4 discontinuation of Productions, product lines or any part thereof;

15.4.5 cancellation of any orders by Purchaser;

15.4.6 the supply, performance or use of any Products or services;

15.4.7 modification or misuse of any Products by Purchaser or a third party acting on Purchaser's behalf;

15.4.8 failure to use corrections or additions to the Products which are made available by Blackpanda;

15.4.9 errors in the Products as published, or delays or errors in publications;

15.4.10 the supply or performance of any services provided by a third party who is not Blackpanda's agent;

15.4.11 Purchaser's own acts or omissions, or where Blackpanda was acting under the specific instruction of Purchaser;

15.4.12 risks notified to Purchaser where Purchaser nonetheless elected to proceed;

15.4.13 any breach by Blackpanda of its obligations under these Terms; or

15.4.14 third party patent infringement actions.

15.5 For the avoidance of doubt, the only liability of Blackpanda with respect to:

15.5.1 any damaged goods, defective goods and/or goods erroneously shipped will be the return rights described; and

15.5.2 any defective Services and/or Services not meeting any service level mutually agreed in writing will be the reperformance of such services.

15.6 Purchaser's, its related bodies corporate, and their respective customers' sole and exclusive remedy relating to these Terms and/or the Products will be the remedy, if any, afforded by the Supplier of such goods to such parties as anticipated by clause 13.

15.7 Notwithstanding anything to the contrary in this agreement, or even if this agreement fails its essential purpose, in no event will Blackpanda's cumulative liability (in tort (including negligence), contract (including under any indemnity), warranty, infringement, under statute or otherwise) to Purchaser under this Agreement exceed the purchase price actually paid by Purchaser for the supply of the affected Product that give rise to the dispute, or any defective portion thereof, whichever is the lesser amount. Blackpanda's liability to Purchaser (including in tort (including negligence), contract (including under any indemnity), warranty, infringement, under statute or otherwise) will be reduced by the extent, if any, to which Purchaser contributed to the loss or damage.

15.8 For the avoidance of doubt, none of the terms and conditions set out in this Section exclude Blackpanda's liability for:

15.8.1 the death or personal injury caused by the Supplier's negligence; or

15.8.2 fraud or fraudulent misrepresentation.

15.9 All references to the Supplier in this Section shall be treated as including all Blackpanda group's employees, subcontractors and suppliers, all of whom shall have the benefit of the exclusions and limitations of liabilities set out in this Section.

15.10 The obligations of Blackpanda and any affiliate thereof, if any, are the several obligations of each such entity and nothing will be deemed to create any joint and several liability between or among Blackpanda and/or any of its affiliates.

## **16. INTELLECTUAL PROPERTY**

16.1 Purchaser acknowledges that:

16.1.1 Intellectual Property embodied in or in connection with the Products and any related documentation, parts or software are the sole property of Blackpanda or its Suppliers;

16.1.2 all Intellectual Property of Blackpanda or its Suppliers may only be used by Purchaser with the express written consent of Blackpanda or its Suppliers and such consent extends only to use essential for the purposes stated in it; and

16.1.3 If consent for use is granted by Blackpanda or Supplier in accordance with clause 16.1.2 above, Purchaser shall comply with any intellectual property use requirement or guidelines issued by Blackpanda or Supplier.

16.2 Purchaser must not register any trademarks, trade name, domain name, trading style or commercial designation or design used by Blackpanda or its Suppliers in connection with the Products.

16.3 Purchaser will immediately give written notice to the other Party of any actual, threatened or suspected infringement of any Party's intellectual property rights used in connection or developed in accordance with a Project (including but not limited to the Deliverables) of which it becomes aware.

16.4 Purchaser will indemnify Blackpanda against all liabilities, damages, costs and expenses which Blackpanda may suffer or incur as a result of Purchaser's breach or infringement of any third party's intellectual property rights, Purchaser's non-compliance with Supplier's intellectual property guidelines, any work performed by Blackpanda in accordance with Purchaser's specifications or as a result of the combination or use of the Products with other equipment, parts or software not supplied by Blackpanda, and which results in the infringement of any Intellectual Property of any person.

16.5 Blackpanda has no duty to defend, indemnify or hold harmless Purchaser, its related bodies corporate, affiliates or the irrelative customers from and against any claim, demand or cause of action, including any damages, costs or expenses incurred by Purchaser, its related bodies corporate, affiliates or their respective customers in connection with, arising from or relating to any actual or alleged product liability or violation or infringement of any patent, trademark, copyright or other intellectual property belonging to a third-party by the Products.

16.6 For the avoidance of doubt, the Terms do not transfer any interest in intellectual property rights in the Products (including but not limited to copyright, trademarks and/or patents whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world).

## **17. CONFIDENTIALITY**

17.1 Purchaser acknowledges that Blackpanda has disclosed and may from time to time disclose to Purchaser Confidential Information.

17.2 Subject to clause 17.5, Purchaser must:

17.2.1 only use the Confidential Information solely for the purposes relating to its orders; and

17.2.2 not disclose (whether directly or indirectly) to any third party the Confidential Information, other than is required to carryout such purposes.

17.3 If disclosure of Confidential Information to third parties is necessary, Purchaser will obtain from such third parties binding agreements to maintain in confidence the Confidential Information disclosed at least to the same extent as Purchaser is bound to protect Blackpanda's Confidential Information under this clause.

17.4 Upon the expiry or termination of the parties' relationship must cease to use and must return or destroy (as Blackpanda may instruct) Confidential Information in its possession or control.

17.5 In the event Purchaser is required to disclose any Confidential Information to a government authority or by relevant laws, Purchaser shall provide Blackpanda with reasonable prior notice of any such required disclosure and shall use reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order and has allowed Blackpanda to participate in the proceeding that requires the disclosure.

17.6 This clause does not extend to any information which is:

17.6.1 at the time of disclosure, rightfully known to or in the possession or control of Purchaser and which is not subject to an obligation or confidentiality;

17.6.2 public knowledge (otherwise than as a result of a breach of this clause 17 or any other obligation of confidentiality); or

17.6.3 approved in writing by an authorised officer of Blackpanda to be disclosed.

## **18. COMPLIANCE**

18.1 Purchaser acknowledges that some Products may be controlled under export laws in force at the material time. Purchaser shall not export, re-export, or distribute Products, in violation of any such export control laws or regulations.

18.2 Purchaser acknowledges that the Products or Deliverables supplied may be subject to the controls of the United States Department of Commerce or other relevant export control laws, and that the Products or Deliverables may require authorization prior to export, re-export or transfer in-country. Specifically, Purchaser agrees that it will not directly or indirectly export, re-export, transfer in-country or otherwise distribute Products or Deliverables, or direct Products or Deliverables thereof, in violation of any export control laws or regulations of the United States. Purchaser warrants that it will not export, re-export or transfer in-country any Products or Deliverables with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless Purchaser has obtained prior approval from the Department of Commerce or other relevant authorities. Purchaser further warrants that it will not export, re-export or transfer in-country directly or indirectly, any Products or Deliverables to embargoed countries or sell Deliverables to companies or individuals listed on the Denied Order issued by the United States.

18.3 Consistent with Blackpanda's high standards for business ethics and its determination to be a responsible corporate citizen, Blackpanda places a high priority on compliance with laws regulating exports, imports and supply chain security. Blackpanda compliance responsibilities may include appropriate screening, contractual and security requirements that agents, distributors, suppliers and other parties doing business with Blackpanda may have to meet. In addition to meeting Blackpanda's requirements, agents, distributors, suppliers and other parties doing business with Blackpanda are also required to comply with the letter and spirit of all applicable laws regulating exports, imports, and supply chain security.

18.4 Purchaser warrants that it complies and will continue to comply in all of its business dealings with applicable laws against bribery, corruption and money-laundering. Purchaser and its owners, partners, shareholders, officials, directors or employees, or any of its representatives, has not made, and will not make, any direct or indirect payment, offer to pay, or authorization to pay, any money, gift, promise to give, or authorization of the giving, of anything of value to any government official, a political party or a party official, or any candidate for political office, or the immediate family of any such official or

candidate, for the purpose of influencing an actor decision of the government or such individual in order to assist, directly or indirectly, Purchaser or Blackpanda in obtaining or retaining business, or securing an improper advantage. Purchaser will indemnify and hold Blackpanda harmless from and against any claims of any nature arising out of or relating to a violation of any of the stipulations of the prior paragraph.

18.5 Purchaser acknowledges that certain Products or Deliverables may be subject to license requirements or other restrictions specific to certain transactions. Where applicable, Purchaser agrees to be bound by any such terms and conditions and/or restrictions and shall indemnify Blackpanda for any liability suffered by it arising from Purchaser's breach.

18.6 Purchaser shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the interests of Blackpanda. This obligation shall apply to the Purchaser; the Purchaser's employees, agents, and relatives; subcontractors; and third parties associated with accomplishing work and services hereunder. Purchaser's efforts shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of Blackpanda.

18.7 The Purchaser hereby declares that it is not aware of any actual or potential conflict of interest and undertakes to promptly disclose in writing to Blackpanda any actual or potential conflict of interest as soon as it is aware of the same.

## **19. ADDITIONAL SUPPLIER TERMS AND RESTRICTIONS**

19.1 All Products and Deliverables delivered to Purchaser hereunder may have additional terms or restrictions on their use required by the Supplier of the Products. Purchaser is solely responsible for ensuring its adherence to any and all such restrictions and requirements. If any Supplier prohibits Blackpanda from selling specific Products or Deliverables to Purchaser, then Blackpanda reserves the right not to sell such Products or Deliverables to Purchaser.

19.2 In addition to these terms and conditions, and where required by Suppliers of Products and/or Services, Blackpanda may flow through to Purchaser additional terms imposed by such Supplier for any Product/Service which shall be binding on Purchaser and/or its customer. It shall be Purchaser's obligation to pass through these terms, where applicable, to its customer to ensure compliance with Supplier's terms. In the event Purchaser fails to do so, Purchaser shall indemnify Blackpanda for any losses, damages, claims or liabilities that Blackpanda may incur as a result of Purchaser's breach. For the avoidance of doubt, any term imposed on Purchaser by Blackpanda's Suppliers may be set out online or communicated in writing by Blackpanda to Purchaser, or through Blackpanda's Statement of Work or quotation and Purchaser shall be deemed to have unequivocally accepted the said terms by (i) Purchaser signing the terms and conditions; or (ii) Purchaser providing a purchase order to Blackpanda; or (iii) Purchaser or its customer's acceptance of any Product or Service from Blackpanda or its Supplier; whichever occurs first.

19.3 In the event of any conflict between these said additional terms and these Terms, the Terms will apply to the extent of the conflict.

## **20. PRIVACY AND PERSONAL DATA**

20.1 For the purposes of this Section, "Personal Data" shall mean any data or information, whether true or not, about a person who can be identified: (a) from that data alone; or (b) from that data and other information.

20.2 Blackpanda may collect, process, use and disclose personal data about the Purchaser (including its officers and employees) and/or Purchaser's customer(s) from a variety of sources, including, directly from the Purchaser and/or Purchaser's customer, from other users of Blackpanda's website, from resellers and distributors, from vendors, from service providers, from third party information providers, from Blackpanda's affiliates, and through the operation of Blackpanda's website. Blackpanda may transfer the Purchaser's information outside of the territory in compliance with the applicable laws.

20.3 Purchaser agrees to Blackpanda collecting, using and disclosing certain personal data or personal information about Purchaser for various purposes, including to:

20.3.1 assess credit worthiness;

20.3.2 supply the Products and services to Purchaser and/or its customers and the management of Purchaser's account, including Suppliers;

20.3.3 communicate with Purchaser and/or Supplier about the Products and services which Blackpanda or its partners or affiliates may provide to Purchaser and/or its customer, including for marketing and sales purposes;

20.3.4 implement these Terms and other relevant policies; and

20.3.5 comply with relevant laws.

20.4 Blackpanda, at the written request for Purchaser, will:

20.4.1 provide Purchaser with access to any personal data or personal information relating to Purchaser or its customer held by Blackpanda; and

20.4.2 correct or amend any personal data or personal information relating to Purchaser or customer held by Blackpanda which is inaccurate or out of date.

20.5 Purchaser shall procure that its customers acknowledge (where necessary) that as part of their use of Products and Services, Blackpanda may collect data and information with respect to the function and efficiency of the Products and Services; Blackpanda shall have the right to use such data and information to provide, maintain, protect, and to improve and develop Blackpanda's Products and Services. Purchaser and its customers may provide suggestions, comments, or other feedback related to Blackpanda's product and service offerings to Blackpanda orally, in writing, or by other means ("**Feedback**"). Blackpanda will be the sole owner of all Feedback and shall not be bound by any non-use or non-disclosure obligations with respect to the Feedback, notwithstanding anything to the contrary in the Agreement.

20.6 Purchaser agrees to do anything that is required by law or which Blackpanda may reasonably determine in our discretion, as necessary or desirable to give effect to the applicable laws in respect of any Personal Data. Purchaser also agrees to cooperate with Blackpanda to ensure that the Products are provided in a manner under which all parties are compliant under the applicable law.

20.7 Blackpanda will collect, use, store, process, disclose and/or delete Purchaser's personal data or personal information in accordance with relevant laws. Blackpanda's Privacy Statement, which may be updated from time to time, can be found at <https://www.blackpanda.com/legal> or such other place as Blackpanda may update from time to time. Purchaser acknowledges that it has read and understood Blackpanda's aforementioned Privacy Statement and agrees at all times not to do anything would be a breach of the Privacy Statement.

20.8 Purchaser warrants and represents that it has complied with all applicable personal data laws and has obtained the necessary consent from its customers, all legal rights to transfer and Purchaser's personnel whose information is/will be disclosed to Blackpanda for Blackpanda to collect, process, use, transfer and disclose personal data about the Purchaser's customers or personnel to third parties within or outside of the Territory.

20.9 Without prejudice to the above, and notwithstanding any other terms, Blackpanda may establish a record of results from the services we provide and provide such records to other Blackpanda group companies. The information comprising such records, will be properly anonymized and will not be considered Personal Data. The records may be used for risk measurement and related internal research, and shall be handled in accordance with all applicable laws.

## 21. GENERAL

21.1. The parties agree that a separate contract is formed each time Purchaser acquires goods and services from Blackpanda on the then current version of Blackpanda's Terms of Sale as displayed on our website <https://www.blackpanda.com/> from time to time (if any) (the "Web Version"). In the event of any inconsistency between these Terms of Sale and the Web Version, the terms and conditions as set out in the Web Version shall prevail. By placing an order for Products and/or Services with Blackpanda from time to time or by accepting the Products or Services, Purchaser accepts and agrees that the current version of the Terms of Sale (and other documents expressly referenced in these Terms of Sale) at the time of the order will apply to that order and that to the full extent permitted by law all other terms and conditions (whether contained in the purchase order or otherwise) will be excluded.

21.2 All notices, requests, demands, and other communications that either party may desire to give the other party must be in writing and may be given by (i) personal delivery to an officer of the party, (ii) mailing the same by registered or certified mail, return receipt requested, or via nationally recognized courier services to the party at the address of such party as set forth, at the official corporate address of such party, or such other address as the parties may designate, or (iii) facsimile subsequently to be confirmed in writing pursuant to item (ii) above. Notices to Blackpanda shall be sent to: Blackpanda Pte Ltd, 11 Irving Place, #09-01, Singapore 369551 with a copy sent to [legal@blackpanda.com](mailto:legal@blackpanda.com).

21.3 No variation of these Terms by the Purchaser shall be effective unless made in writing and signed by a duly authorized officer of both parties.

21.4 If any provision of these terms and conditions shall be held to be invalid, illegal or unenforceable, such provision shall be read down or severed to the extent of the invalidity or unenforceability and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

21.5 These terms and conditions shall be binding upon and shall inure to the benefit of the parties hereto and their respective representatives, successors and permitted assigns.

21.6 Blackpanda may audit Purchaser's books and records at any time upon reasonable and prior notice in writing to the Purchaser. Purchaser agrees to keep complete, correct and detailed records relating to purchase of Products and/or Services, in connection with its performance under this Agreement, including a list of all parties who purchase the Products and/or Services from Purchaser. At Blackpanda's request, Purchaser agrees and shall permit Blackpanda and/or its authorized representatives to inspect and audit all records related to this Agreement to determine compliance with, and controls related to, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act or any other applicable laws and regulations related to anti-corruption, anti-bribery or export control. Purchaser shall cooperate fully with such audit. If Purchaser fails to maintain such information as required by this Agreement, then Blackpanda may take remedial action in its sole discretion including, without limitation, collection of audit fees, and termination of this Agreement. If an audit reveals any discrepancy, Purchaser shall bear all costs for such audit and shall indemnify Blackpanda fully for any loss or harm suffered by Blackpanda arising as a result of such audit by Blackpanda.

21.7 Purchaser agrees that failure or delay of Blackpanda to exercise a right or power under these terms and conditions shall not operate as a waiver thereof, nor shall any single or partial exercise of a right or power preclude any other future exercise thereof.

21.8 The headings used are for reference purposes only and shall have no effect upon the construction or interpretation of any provisions.

21.9 Purchaser may not assign or attempt to assign any of its rights and obligations under these Terms. Blackpanda may assign any purchase order received from Purchaser to a third party upon notice in writing to Purchaser, whose consent shall be deemed to have been obtained.

21.10 Governing Law. These terms and conditions (and any agreement into which they are incorporated) shall be construed, interpreted and enforced under and in accordance with the laws of the Republic of Singapore, excluding its conflicts or choice of law rule or principles which might refer to the law of another jurisdiction. Purchaser agrees to exercise any right or remedy in connection with these terms and conditions exclusively in, and hereby submits to the jurisdiction of the courts of Singapore for any dispute or controversy that arises out of these terms and conditions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these terms and conditions.

21.11 Third Party Rights. A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore to enforce any term of this Agreement.

#### 21.12 Dispute Resolution

21.12.1 Any dispute, controversy, difference, conflict or claim arising out of or in connection with this Agreement or its performance, including without limitation any question regarding its existence, validity or termination, or a claim for unlawful act under applicable laws, shall first be the subject of good faith negotiations between Blackpanda and the Purchaser.

21.12.2 If the dispute or controversy cannot be resolved through good faith negotiations within one month of the commencement of negotiations pursuant to Clause 21.12.1, it shall be referred to and finally settled and resolved by arbitration administered by the SIAC in accordance with the SIAC Rules for the time being in force, which Arbitration Rules of the SIAC ("**SIAC Rules**") are deemed to be incorporated by reference to this Clause 21. The seat of arbitration shall be Singapore, the tribunal shall consist of one (1) arbitrator appointed in accordance with the SIAC Rules ("Arbitration Tribunal"), and the language of the arbitration shall be the English language. The decision of the Arbitration Tribunal shall be final and binding upon the Parties.

21.13 Save as provided in Clause 19, these Terms and any document(s) referred to in them constitute the entire agreement about Blackpanda's sale of the Products to Purchaser and supersede all prior understandings, arrangements and agreements. Unless expressly agreed in writing and except as provided under these Terms, any different or additional terms and conditions in any other such document submitted by the Purchaser are hereby expressly rejected and shall have no force or effect.

# Blackpanda Incident Response One (IR-1)

## Terms of Service

**Last Modified:** 2 June 2025

**Important:** Where these terms have been translated to help with local language understanding, the English version of our Terms of Service available at <https://www.blackpanda.com/legal> shall always prevail.

**These Terms:** These terms and conditions of our incident response services as provided by us (“**Blackpanda**”, “**we**” or “**us**”) pursuant to the IR-1 protection subscription (“**IR-1**”) Solution (as defined under the Platform Terms of Use). Unless otherwise noted, these Terms of Service shall apply whether you have paid for the IR-1 directly or through our partners for your benefit. This schedule and all referenced agreements set out herein, together with our Confirmation Email to your designated contact email address, shall form the entire agreement between Blackpanda and you. In the event of any inconsistency between the Term of Service and the Confirmation Email (such as specific or unique modifications to these Terms of Service), the Confirmation Email shall govern how we service you under the IR-1 and/or your Activation Credit (as defined below).

**Other Terms:** Our (a) Platform Terms of Use and (b) Privacy and Data Policy, where relevant, will also apply to our IR-1. These are available at <https://www.blackpanda.com/legal>.

Coverage begins when you receive your Confirmation Email and continues for the term specified in your Confirmation Email (the “**IR-1 Term**”). The IR-1 Term is the period of time in which your IR-1 is in effect.

The “**Confirmation Email**” is an email notification from Blackpanda expressly confirming that your IR-1 is active. Please note that our Confirmation Email does not refer to any email notifications from any other third parties in relation to the IR-1. THE CONFIRMATION EMAIL IS ONLY SENT AFTER YOUR IR-1 IS REGISTERED.

You can find the price of your IR-1 on the original sales receipt or purchase orders as provided by Blackpanda or our partner resellers and distributors.

### 1. Subscription of Your IR-1

1.1 By subscribing for IR-1, you unconditionally accept and agree to be bound by the latest version of the Terms of Service as published and made available at <https://www.blackpanda.com/legal>.

1.2 These Terms of Service only govern the relationship between us and you. The dealings between you and any other third party are not governed by these Terms of Service.

1.3 If you are registering for a IR-1 on behalf of a corporate entity or another individual (the “**Principal**”), you represent and warrant that you have been validly authorized to (a) register for the IR-1 on behalf of the Principal, and (b) agree to and bind the Principal to these Terms of Service. You shall ensure that the Principal complies with all the terms and conditions in these Terms. Any breach of these Terms by a Principal shall be deemed to be a breach by you of these Terms. Any reference to “**you**” or “**your**” as used in these Terms shall include any and all Principals.

1.4 In order to complete your subscription for the IR-1, we will require you to provide the following information:

(a) Details of your business;

(b) Your business email address. If you do not have any, please provide your personal email address. It is important that you provide to us your business email address as we will use this to determine your apex domain name which is used or integral to your business. By understanding your apex domain name, we are able to respond more quickly and better understand your business needs, cyber infrastructure and risks in the event you notify us of a Cyber Security Incident;

(c) Any subdomain or ancillary domain names which your business may also use. Examples of such domain names would include domain names which you used to (but no longer) host your business website or email addresses at.

1.6 You should receive the Confirmation Email immediately after a successful submission of your registration. Your IR-1 account may be registered or created for you on behalf of you by our partner resellers and distributors. If you have not received your Confirmation Email within this time period or have difficulties in the registration process, please reach out to us at <https://ir1.blackpanda.com/pages/contact-us>.

## 1.7 Beta

(a) The Platform is currently launched in a Closed Beta with our key partners. This does not affect or compromise our commitment and service standards under our obligations under these Terms of Service.

(b) We understand and anticipate that the registration procedure may have unnecessary technical delays during our Closed Beta phase. We also understand that this may unfairly impact the commencement of your IR-1 Term. Our commitment is therefore to provide you with your Confirmation Email at the earliest possible and always as set out in Section 1.6. In the event the registration process was not properly or accurately completed, we will assist you to rectify the submitted data as a matter of goodwill and in good faith in the event you suffer a Qualifying Cyber Security Incident.

## 2. General Coverage of IR-1

During the IR-1 Term:

(a) Blackpanda shall provide you with “**Cyber Security Incident Response Services**” (as further described at 3A in the event you suffer a Qualifying Cyber Security Incident and decide to use your Activation Credit.

- A “**Qualifying Cyber Security Incident**” is a Cyber Security Incident<sup>[1]</sup> that must meet all of the following criteria:
  - This Cyber Security Incident has resulted in the unauthorized access of at least one of your Endpoints. An Endpoint<sup>[2]</sup> is any physical or virtual computing device or computing environment that communicates with a network to which it is connected.
  - This Cyber Security Incident commences during, is discovered by you during, and is informed to Blackpanda during your IR-1 Term.
  - The Cyber Security Incident would fall under one of the following categories or descriptions: basic web application(s) attacks, system intrusion, business email compromise, malware, or ransomware.
  - The Cyber Security Incident is not a denial-of-service attack (DDoS or DoS).
- Your “**Activation Credit(s)**” are a single-use credit linked to your subscription for you to provide to use in the event you require Blackpanda to respond to a Qualifying Cyber Security Incident. It cannot be used for a Cyber Security Incident which does not meet the qualifying criteria above. The Activation Credit is deemed used when you submit a valid notification to us.

(b) Blackpanda shall also provide you with preferential rates for any of our cyber security technical and consultancy services. These services can be used as prehabilitation or preventative measures. These services can also be used if you have utilized all Activation Credit(s) or for a Cyber Security Incident which is not a Qualifying Cyber Security Incident.

## 3A. Our Cyber Security Incident Response Services

If during the IR-1 Term you submit a valid notification to Blackpanda that you have experienced a Qualifying Cyber Security Incident, we shall provide to you with the following Cyber Security Incident Response Services to identify, contain and report on the damage and loss you may have suffered following the Cyber Security Incident.

All services provided are SUBJECT ALWAYS to our (a) reasonable availability at the time of your report; and (b) our professional opinion and expertise on a proportionate response to your Cyber Security Incident. This ensures that all our customers receive the relevant Blackpanda cyber incident responder for their Cyber Security Incident.

**(a) Cyber Security Incident Triage Services:**

A Blackpanda cyber incident responder shall triage the Qualifying Cyber Security Incident, providing a preliminary classification of the incident based on industry standards.

We will provide you with a general plan of action and recommendations for handling the Qualifying Cyber Security Incident based on our professional assessment and triage.

- Within four (4) hours of receiving the notification, we shall acknowledge the Cyber Security Incident by way of email.
- Within twenty-four (24) hours of receiving the notification, we shall arrange for an incident responder to triage the Cyber Incident. During the triage call, we will conduct a preliminary assessment of the incident scope and impact and initial containment recommendations.
- Within forty-eight (48) business hours of receiving the notification, we shall provide you with our plan of action including initial recommendations for handling the Cyber Security Incident.

**(b) Cyber Security Containment Services:**

In certain occasions, the Cyber Security Incident may still be ongoing. This means that there is continued unauthorized access of at least one of your Endpoints. Our ability to identify and assist with such Active incidents will depend on your cooperation and our ability to access your information systems and networks in a timely manner.

We will use our professional discretion to respond and contain an Active Cyber Security Incident. Due to the nature of Cyber Security Incidents, we do not warrant that we are able to respond to or contain the Active Cyber Security Incident completely or even at all. This is because not all Active Cyber Security Incidents are the same. Some containment measures also require you to act on our advice.

**(c) Basic Remediation Advisory Services:**

We will also provide you with recommendations and basic advice which you can take on board to improve the vulnerability which gave rise to the Cyber Security Incident. However, depending on the vulnerability which caused the Cyber Security Incident – not all proposed steps are remediable without additional cost and expense (whether for further professional services and analysis or as a result of additional requirements you may not have). Where possible, we will highlight these costs and expenses and use our reasonable efforts to advise you. We will not incur any costs and expenses without your express consent to do so. It is important for you to consider and understand Section 4 below.

**3B. Our Cyber Security Incident Response Deliverables**

UNLESS otherwise agreed to by our Blackpanda service team or set out in these Terms of Service, all Cyber Security Incident Response Services or deliverables shall be delivered remotely and during business hours. Please note that Cyber Incident Response Services or deliverables that are agreed to be delivered on-site may come at an pre-agreed and pre-paid additional charge.

Blackpanda can deliver Cyber Security Incident Response Services in the business language across Singapore, Hong Kong, Japan and the Philippines. This is subject to the reasonable availability of our service team. Due to the nature of Cyber Security Incidents, we do not warrant that we are able to provide our solution in the local language. This is because Active Cyber Security Incidents may require urgent attention that our local service team is not available for.

For the purposes of these Terms of Service:

(a) If you are domiciled in and/or are a corporation validly incorporated under the laws of Japan, “business days” means any calendar weekday which is not a gazetted public holiday in Japan and “business hours” means 0800 to 1800 hrs (+9 GMT).

(b) In all other circumstances, “business days” means any calendar weekday which is not a gazetted public holiday in Singapore and “business hours” means 0800 to 1800 hrs (+8 GMT).

**4. Limitation of Services and Coverage under your IR-1**

IR-1 is packaged and developed as an entry-level cyber security solution for small-to-medium businesses and enterprises. We believe all businesses should have the benefit of cyber security experts. Our IR-1 Cyber Security Incident Response Services are to provide a baseline solution for your business.

Under the IR-1 Activation Credit, Blackpanda provides Cyber Security Incident Response Services and deliverables for up to the number of affected Endpoints for the tier of your IR-1 product terms. You may confirm the product terms under your Confirmation Email and/or your registered account on our Blackpanda Cyber Platform.

It is important for you to note that in the event you utilize your Activation Credit under the IR-1, Blackpanda DOES NOT provide:

(a) *Eradication Services*: After an incident has been contained, eradication is a step that is sometimes necessary to eliminate components of the incident, such as deleting malware and disabling breached user accounts, as well as identifying and mitigating all vulnerabilities that were exploited. This may involve identifying all affected Endpoints (which involves analyzing Endpoints that were not involved in the original triage). For some incidents, eradication is either not necessary or is not performed.

(b) *Remediation Services*: Remediation occurs when we identify vulnerabilities within your system or data and provide a corrective action plan and take steps to resolve the vulnerability. This would also include a schedule for resolving the vulnerability and allows for appropriate testing. Under the IR-1, we only offer basic advice. We do not offer action plans nor take any steps or implement any changes on your behalf on your systems and Endpoints.

(c) *Recovery Services*: Cyber security recovery addresses the steps your business will take to reconstitute or recover assets which may have been damaged, compromised or lost after a Cyber Security Incident.

(d) *Restoration of Business Operation Services*: Restoration refers to our development of plans for your implementation for the restoration in a timely manner of any capabilities or services that are impaired due to a Cyber Security Incident. This is sometimes referred to as "recovery" by other industry experts, such as the US National Institute of Standards and Technology (NIST).

(e) *Ransomware Negotiation Services*: The services relating to the negotiation and payment (if any) to ransomware threat actors are not covered under the IR-1.

We may advise that further investigation and services are required for the Cyber Security Incident which are not provided under the IR-1. In such scenarios, you are entitled to our preferential rates (see Section 2(b) above) for these services. If the Endpoint Cap is exceeded, we will charge on a per hour basis at Blackpanda's prevailing rates, at Blackpanda's discretion.

We further advise all our clients in the event of a Cyber Security Incident to obtain legal advice as to its legal and/or compliance obligations under the applicable laws.

## 5. Qualifying Cyber Security Incident

In the event of a Qualifying Cyber Security Incident, you may obtain our Cyber Security Incident Response Services (details set out at Section 3 above) by submitting a notification to us through your IR-1 dashboard. If you have difficulties in the notification process, please contact us via email at [ir1-support@blackpanda.com](mailto:ir1-support@blackpanda.com).

You must, upon request, present your Confirmation Email and any of the following (where applicable): (i) sales receipt for IR-1, (ii) notification email from our partners confirming your IR-1 Registration. These requests are, among other reasons, to verify the identity of your representatives.

## 6. Your Consent to Scans and Tests

PLEASE READ THIS SECTION 6 CAREFULLY AND THOROUGHLY

### 6.1 Our Tests:

As part of our incident response services, Blackpanda may from time to time conduct security and vulnerability scans or such continuous monitoring of your Endpoints and attack surfaces. These are "Tests". A Test may include, among other

things, information gathering, crawling, fingerprinting, fuzz testing, deploying of test scripts and introducing other non-intrusive penetration tests. The results of such Tests will be kept in accordance with Section 11.4.

An attack surface is your apex domains and subdomains, including other domains and IP-addresses such domains point to, and all associated information, such as but not limited to DNS records, open ports and applications and services run on them. These attack surfaces are where an attacker can try to enter, cause an effect on, or extract data from your systems.

## 6.2 Your Consent:

You acknowledge and agree that the purpose of such Tests are to, as applicable, monitor and strengthen the security of your Internet-facing assets and/or strengthen the security of your external network Attack Surface. Accordingly, we may, when performing a Test, among other things, perform crawling, fuzz testing, authenticated testing, deploy test script, and introduce other non-intrusive penetration tests for the limited purpose of revealing security vulnerabilities in your Endpoints. You agree and acknowledge that the provision of the Tests in accordance with these Terms may lead to detrimental impact on your Endpoints. By purchasing and using our IR-1 product, you are responsible for the initiation of all Tests and the outcome of the Tests and for any inconveniences, interruptions or other negative consequences thereof.

## 6.3 Reports:

WITHOUT PREJUDICE TO ANY OTHER TERM TO THE CONTRARY, PLEASE NOTE THAT USE OF ANY TEST RESULTS OR REPORTS IS NOT RECOMMENDED IN OR IN ASSOCIATION WITH SAFETY CRITICAL SYSTEMS AND NETWORKS WHERE FAILURE TO MAINTAIN THE SECURITY OF YOUR SYSTEM AND NETWORK CAN REASONABLY BE EXPECTED TO RESULT IN DEATH, PERSONAL INJURY, LOSS OF PROPERTY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

THE TEST SOLUTIONS (AND WHERE APPLICABLE, TESTS SOLUTIONS DATA) ARE OFFERED ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, OR THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING. YOU ACKNOWLEDGE AND AGREE THAT YOU SHALL ASSUMES ALL RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOLUTIONS AND SOLUTIONS DATA.

## 7. Your Responsibilities

PLEASE READ THIS SECTION 7 CAREFULLY AND THOROUGHLY

### 7.1 Your Cooperation:

To receive service or support under the Plan, you agree to (i) evidence of original proof of purchase of the IR-1 (where necessary), (ii) provide information about the symptoms and causes of the issues with the Cyber Security Incident and the affected Endpoints (iii) respond to requests for information needed to diagnose or service the Endpoint, and (iv) to adhere to any reasonable requests and instructions we may provide to you in our professional discretion and expertise. You agree that you shall or procure any third parties to provide all reasonable access requested by Blackpanda to the relevant Endpoints in order to perform the Cyber Security Incident Response Services. You further agree that our ability to provide our Cyber Security Incident Response Services in an effective and/or timely manner shall depend on your adherence to this Section 7.1.

### 7.2 General Warranties:

(a) You agree that your registration of the IR-1, your agreement to these Terms of Service, and your performance of your obligations under these Terms of Service will not and are not likely to (i) result in a breach of, or give any third party a right to terminate or modify or result in the creation of any encumbrance under any agreement, license or other legal instrument or (ii) result in a breach of any applicable laws, order, judgment or decree of any court, government agency or regulatory body to which you are a party or your assets are bound.

(b) You agree that except as expressly provided under these Terms of Service or the other terms and conditions referenced herein, there are no conditions, warranties or other terms binding on you and us with respect to the services contemplated under these Terms of Service. Any condition, warranty or other term in this regard that might otherwise be implied or incorporated under these Terms of Service whether by the applicable laws or otherwise is, to the maximum extent permitted by applicable laws, excluded from these Terms of Service.

### 7.3 Specific Warranties relating to AML and Economic Sanctions

(a) You confirm that you and your respective officers, employees and agents (where applicable) have conducted your business in accordance with all applicable laws and regulations including (anti-bribery laws, anti-money laundering laws and economic sanctions) and there is no law, statute, order, decree or judgment of any court, government agency or regulatory body outstanding against you and/or your respective officers, employees and/or agents. You further confirm that there are no investigations, actions, suits or proceedings against you in relation to anti-bribery laws, anti-money laundering laws and economic sanctions.

(b) You confirm that you, your respective officers, employees and/or agents are not sanctioned persons.

(c) If Blackpanda in its reasonable discretion is of the view that you are in breach of Sections 7.3 (a) and (b) above, then notwithstanding any other provision under these Terms of Service, Blackpanda shall be entitled to cancel or terminate your IR-1 with immediate effect by giving written notice to you. If Blackpanda terminates your IR-1 pursuant to this Section 7.3(c), then you will receive a pro-rata refund for the remaining IR-1 Term (or if your IR-1 was paid for by a third party partner, then Blackpanda may elect to refund or enter into a proposed compromise or arrangement with such third party who paid Blackpanda for your IR-1).

### 7.4 Your Use

You shall, and shall procure that your Affiliates<sup>[3]</sup> shall, (a) obtain all necessary authorizations, approvals and permissions for use of IR-1 in relation to the relevant Endpoints; (b) use IR-1 in full compliance with these Terms; (c) use IR-1 in accordance with all applicable laws and government regulations (including any local laws to which you are subject); (d) not make IR-1 available to any unauthorized third party, and promptly inform Blackpanda in the event of any suspected unauthorized access to or use of IR-1; (e) not create or attempt to create any substitute service or service similar to IR-1, by use of, reference to or access to, IR-1 or any of Blackpanda's Intellectual Property Rights; (f) not sell, lend out, lease, transfer, assign, sublicense, distribute or permit access or use of IR-1, or any part thereof, to any third party without our prior written approval; (g) not interfere with, or disrupt the integrity or performance of IR-1 or any third party data contained therein; (h) not attempt to gain unauthorized access to IR-1 or its related systems or networks; and (i) not decompile, disassemble, or reverse-engineer the software included in the IR-1, subject to what follows from applicable law.

### 7.5 Your Indemnity:

(a) You expressly agree and acknowledge that in the course of our Cyber Security Incident Response Services, Blackpanda is reliant on your obligations, representations and warranties set out in this Section 7 to ensure that among others, we are not perpetuating wrongful acts.

(b) You agree to promptly indemnify, defend and hold harmless Blackpanda and its officers, employees and agents ("**Blackpanda Personnel**") from any and all losses incurred by Blackpanda or Blackpanda Personnel arising directly or indirectly from or in connection with or relating to breach of (i) Sections 6 to 7.4, (ii) fraud, (iii) wilful misconduct or (iv) wilful negligence by you.

## 8. Limitation of Liability

To the maximum extent permitted by applicable laws, Blackpanda and Blackpanda Personnel, will under no circumstances be liable to you for any indirect or consequential damages, including, but not limited to, the costs of recovering, reprogramming, or reproducing any program or data or the failure to maintain the confidentiality of data, any loss of business, profits, revenue or anticipated savings, resulting our obligations under the IR-1 and/or these Terms of Service.

To the maximum extent permitted by applicable laws, the limit of Blackpanda and any Blackpanda Personnel's liability to you and any subsequent owner arising under this IR-1 and/or these Terms of Service shall not exceed the original price paid for the IR-1 (whether by you or a third party).

Blackpanda specifically DOES NOT warrant that (i) it will be able to repair or replace the Endpoints without risk to or loss of programs or data, (ii) it will maintain the confidentiality of data, or (iii) the operation of the Endpoint will be uninterrupted or error-free.

## 9. Term, Termination and Renewals

Unless the applicable laws provide otherwise, there are no cancellations or refunds following the commencement of the IR-1 Term and both you and us agree to abide by these Terms of Service for the IR-1 Term.

Unless otherwise agreed to in writing between us and you, the IR-1 Term will begin on the Effective Date and continue for the “**Initial IR-1 Term**”. Thereafter these Terms of Service and your IR-1 shall renew for additional successive periods identical in length to the Initial IR-1 Term (“**Renewal Subscription Term**”), unless either Party notifies the other in writing no less than thirty (30) days prior to the close of the then-current Initial or Renewal Subscription Term of its intention not to renew.

## 10. Intellectual Property Rights

10.1 “**Intellectual Property Rights**” means Intellectual Property Rights means all copyrights and related rights, design rights, registered designs, patents, trademarks and service marks (registered and unregistered), trade secrets, database rights, know-how, rights in confidential information and all other intellectual property rights throughout the world for the full term of the rights concerned, including any derivative works incorporating any of the foregoing that may be created or developed in connection with these Terms.

10.2 All Intellectual Property Rights subsisting in, and relating to or arising out of IR-1 and Cyber Security Incident Response Services, including all software, technology and content, are owned by and vest in Blackpanda and/or its licensors, including all developments and enhancements made to the aforementioned. You acknowledge and agree that no rights, title, or interest in or to IR-1 or the Cyber Security Incident Response Services or any related Blackpanda Intellectual Property Rights are assigned or transferred to you under these Terms.

10.3 You grant to Blackpanda a non-exclusive, sub-licensable, royalty-free, worldwide, perpetual and irrevocable license to freely use any data generated as a result of the Cyber Security Incident Response Services, in anonymized and aggregated form only, for commercial purposes including sharing with any third parties, provided that your confidentiality is maintained, and such material is disclosed in a form which is not capable of being reverse engineered.

10.4 If you submit feedback about IR-1 or Cyber Security Incident Response Services to Blackpanda, including comments and ideas on how to improve the foregoing, all such feedback will constitute confidential information of Blackpanda and will be the sole and exclusive property of Blackpanda. You hereby irrevocably assign and transfer to Blackpanda all your rights, title and interest in and to all feedback including all Intellectual Property Rights therein.

## 11. General Terms

11.1 Blackpanda may subcontract or assign performance of its obligations to third parties but shall not be relieved of its obligations to you in doing so.

11.2 Blackpanda is not responsible or liable for any failures or delays in performing our obligations under these Terms of Service or the IR-1 that are due to events outside of our reasonable control. Such events specifically include (but are not limited to) acts of war and terrorism and any cyber operations carried out in the course of war or terrorism. These would include cyber operations that have been attributable to a state or terrorist group (or those acting on their behalf) by reputable sources or where there is reasonable evidence to imply such attribution. Reputable sources include but are not limited to the defending or victim state or industry leading open source intelligence sources such as the US National Institute of Standards and Technology (NIST).

11.3 You agree that any information or data provided to Blackpanda under the registration process of the IR-1 is not confidential or proprietary to you. Further and/or separate to the foregoing, you agree that Blackpanda may collect and process data on your behalf when we provide our Cyber Security Incident Response Services. This may include transferring your data to affiliated companies or service providers. Notwithstanding the generality of the foregoing, our use of data (and any personal data) is further detailed in and shall always be in accordance with our Privacy and Data Policy.

11.4 You will be responsible for the instructions you give to us regarding the processing of data in the event of a Cyber Security Incident, and Blackpanda will seek to comply with those instructions as reasonably necessary for the performance of our services and obligations under these Terms of Service and the IR-1.

11.5 These Terms of Service and the other terms and conditions referred to herein, and the Confirmation Email, shall prevail over any conflicting, additional, or other terms of any purchase order or other document, and constitute yours and our entire understanding with respect to the IR-1.

11.6 Blackpanda is not obligated to renew the IR-1 or to re-sell the Activation Credit to you within your IR-1 Term. If Blackpanda does offer to renew the IR-1 or to re-sell the Activation Credit, Blackpanda reserves the right to determine the price and terms of such IR-1 and/or Activation Credit.

11.7 **Jurisdiction**

(a) If you are domiciled in and/or are a corporation validly incorporated under the laws of Japan:

These Terms of Service and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of Japan.

(b) In all other circumstances:

These Terms of Service and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of the Republic of Singapore. You also agree that the courts of Singapore shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms of Service or the IR-1.

[1] A "**CyberSecurity Incident**" is an incident or event whereby an action is taken through the use of an information system or network that would result in an actual or potentially adverse effect on an information system, network, and/or the information residing therein.

[2] Examples of Endpoints include but are not limited to laptops, mobile phones and tablets, desktops, cloud servers, on-premises servers, software-as-a-service services.

[3] An **Affiliate** means any entity that directly or indirectly controls, is controlled by, or is under common control of you, where control means the possession, directly or indirectly, of the power to direct or cause the direction of the management or the policies of the entity.

# Privacy Policy

LAST MODIFIED: 15 July 2024

**Important:** Where these terms have been translated to help with local language understanding, the English version of these Terms available shall always prevail.

**This Policy:** We want you to make informed decisions about your personal data. This Privacy Policy explains how **Blackpanda Group Pte Ltd**, its subsidiaries, affiliates and jointly controlled entities ("**Blackpanda**", "**us**", "**we**", or "**our**") process your Personal Data. Processing includes the collection, recording, holding, organization, structuring, storage, retention, adaptation, alteration, retrieval, consultation, use, disclosure, erasure, or destruction of Personal Data ("**process**").

**Applicability:** This Privacy Policy applies to Blackpanda users including applicants, vendors, suppliers, partners and customers ("**You**", "**Your**", "**Yours**") in your use of our website [www.blackpanda.com](http://www.blackpanda.com) (the "**Site**"), "**Solutions**" (as defined in our **Website & Platform Terms of Use** available at [www.blackpanda.com/legal](http://www.blackpanda.com/legal) ("**Platform Terms**")) and through our business dealings with you (where applicable).

Please take a moment to familiarize yourself with our Privacy Policy and [contact us](#) if you have any questions.

## 1. Personal Data We Collect

Personal Data means any information about you or from which you are identifiable. This includes a piece of information or in combination with other information about you— such as your name, address, date of birth, occupation, phone number, e-mail address, image, bank account and credit card details, gender, or government-issued identifier, and financial related information ("**Personal Data**"). We collect and process Personal Data, as the data controller or processor (as applicable), in the ways listed below:

### 1.1 Data Collected Whenever You Use the Site/Solutions

#### As a Customer (defined under our Platform Terms)

- We collect Personal Data which identifies or can be used to identify, contact, or locate you. Without collecting such Personal Data, we would not be able to provide you with our Solutions or Product sales (as defined under our General Terms and Conditions of Sale available at [www.blackpanda.com/legal](http://www.blackpanda.com/legal)). The Personal Data we directly collect from you, includes, but is not limited to, your:

(i) Full name

(ii) Email address

(iii) Phone number

- In some cases, we will request a user to provide us with a government-issued document(s) as part of our know-your-customer process if required under the applicable laws to identify you and to process your request and/or any additional services.
- We also collect other Personal Data that is needed to implement any payment obligation or to any payment and/or transactional services between you and any vendor or supplier including any related tax obligation. These data include payment card number or account identifier, payment card or account holder, sender and receiver details.

#### As a job applicant

- We will collect your resume, work history, and education qualifications as part of our talent application, onboarding, and consideration/acceptance processes.

### 1.2 Data Collected from You or Your Device

Whenever you use the Solutions, we will collect Personal Data in the form of technical data regarding your device and device usage such as information about web pages viewed, session duration, the internet device identity (ID), and may include:

- Geographic location: we may collect information about your actual location, to provide you with the offers in the relevant location as provided in the Site. We may also derive your approximate location from your IP address, GPS, and other information provided by your mobile device.

- Log Information: when you are using the Site, we will collect information that we refer to as "log information". The log information may be collected even though you do not create an account on the Site. This log information may include (but is not limited to) IP address, browser type, operating system, country, pages visited, your mobile carrier, device information, as well as other Internet usage-related information. We use the log information to provide you with a better experience using the Site.
- Cookies and similar technologies: A cookie is a small piece of data that is stored in your computer or mobile device to help us track your internet usage. We may use both session Cookies (which expire once you close your web browser) and persistent Cookies to make the Website and services easier to use, to make our advertising better, and to protect both you and Blackpanda. Please deactivate the cookies option if you wish us to stop the cookies feature and kindly note that if you deactivate cookies, you may not be able to access all or part of the Site or to use all or part of the functionality through the Site.
- Device information: We may also collect non-personal information from your mobile device or computer. This information is generally used to help us deliver the most relevant information to you. Examples of information that may be collected and used include how you use the application(s) and information about the type of device or computer you use.

### 1.3 Data We Collect from Third Parties

We generally collect personal data directly from you, except in certain cases where we collect Personal Data from third parties ("**Third Party**") such as:

- Companies and/or organizations that act as vendors and other parties who perform any process on our behalf, provide services on the Site, provide services to us, or whom we collaborate with under any contractual or other commitment;
- Your advisers (including but not limited to accountants, auditors, lawyers, financial advisers, or other professional advisers) that were authorized by you;
- Any person notified by you as your authorized representative; or
- Any person, authorities, regulators, or third parties to whom we are permitted or required to disclose under the laws.
- Any Personal Data obtained from your employer, as part of your registration for the Solutions, which has been provided with proper consent from the employees.

In such cases, the collection will be conducted upon your acknowledgment/direction to the relevant third party, or subject to obtaining explicit consent from You prior to such collection.

### 1.4 Third-Party Personal Data You Provide to Us

You may provide us with Personal Data relating to other third-party individuals. In that case, you undertake and warrant to us that you have already obtained properly documented approval from the relevant third-party individual and hereby consent on behalf of such individuals to the collection, use, disclosure, and processing of their Personal Data by us. If we are unable to collect your Personal Data, we may not be able to provide our services to you.

## 2. How We Collect, Process, Use, or Disclose Your Personal Data

### 2.1 Use of Personal Data

We may process and use your Personal Data based on your request or Terms of Use that you have accepted and agreed to be bound for, including but not limited to, the following purpose ("**Purposes**"):

- Performing obligations in the course of or in connection with our provision of the goods and/or services requested by you or as part of our Solutions, including but not limited to the provision of cybersecurity or IT related insurance offerings to you and/or your organisation;
- Verifying your identity in any communications with us;
- Responding to, handling, and processing queries, requests, applications, complaints, and feedback from you;
- Managing your commercial relationship with us;
- Complying with any applicable laws, regulations, codes of practice, guidelines, or rules, or to assist in law enforcement and investigations conducted by any governmental and/or regulatory authority;
- Fraud detection and prevention;
- Detection and prevention of misuse of services;
- Network analysis to prevent fraud and financial crime, and to perform credit analysis;
- To prevent data loss on company-issued devices;
- Notifying you when updates to Blackpanda services are available;
- Any other purposes for which you have provided the information;
- Transmitting to any unaffiliated third parties including our third party service providers and agents, and relevant governmental and/or regulatory authorities, whether in Singapore or abroad, for the aforementioned purposes; and
- Any other incidental business purposes related to or in connection with the above.

## 2.2 How we use your Personal Data for marketing activities:

- Digital marketing, which includes, but is not limited to, social media, display advertising, Search Engine Optimization (SEO), Search Engine Marketing (SEM), and push notifications ;
- Conventional marketing purposes, which include, however, are not limited to, sending you emails or communications about products or services available from us;
- We may communicate such marketing to you by various means, where applicable (including by SMS and other messaging applications, push notification, or email).

Please note that you may opt out of receiving marketing materials from us by following the unsubscribe instructions set out in our marketing materials or by contacting us on the contact details set out below and we will respect your wishes. However, please note that the opt-out will take effect within 7 (seven) Business Days after you successfully unsubscribe from the service.

## 2.3 Basis of Processing

Additionally, we may collect, process, use, or disclose your Personal Data, to the extent necessary, for an applicable legal basis in accordance with this Privacy Policy as follows:

- **Consent:**  
We typically collect, use, disclose, or otherwise process your Personal Data in accordance with this Privacy Policy with your consent when You access our Site and/or make a purchase order.
- **Contract:**  
Your Personal Data may be processed to fulfill contractual obligations when You engage us, as governed by our Terms and Conditions and this Privacy Policy when using our Site and Solutions.
- **Legal Obligations:**  
In some circumstances, we may process your Personal Data to comply with legal obligations and requirements imposed by applicable laws, governmental authorities, or regulatory agencies.
- **Legitimate Interest:**  
Personal Data may be processed based on our legitimate interests, such as improving our services, managing security, and preventing fraud, while considering your rights and interests, as described in this Privacy Policy.

## 3. Sharing of Your Personal Data

We may share your Personal Data where (a) such disclosure is required for performing obligations in the course of or in connection with our provision of the goods and services requested by you; or (b) to third party service providers, agents and other organisations we have engaged to perform any of the functions with reference to the above mentioned purposes; or (c) for the purposes outlined above at 2.1. The following non-exhaustive list illustrates examples when we may share your personal data:

We will notify you if we need to and seek your consent if we need to additionally collect, use, or process your Personal Data for other purposes other than expressly stated in this

We will notify you if we need to and seek your consent if we need to additionally collect, use, or process your Personal Data for other purposes other than expressly stated in this Privacy Policy.

## 4. Cross Border Data Transfer

From time to time, Blackpanda may perform its services in offices located around the world. To make that possible, you acknowledge and consent that your Personal Data may be transferred to or accessed by Blackpanda employees or third parties service providers, agents and other organisations we have engaged around the world. Your Personal Data may be transferred from the country ("**Original Country**") in which your Personal Data was collected to another country ("**Recipient Country**"). Blackpanda will provide its Customers with prior notice if it is unable to provide its services in the Original Country.

When we transfer your Personal Data from your Original Country to the Recipient Country, we will diligently adhere to all legal and regulatory obligations concerning your data to help ensure your data is protected. We will also take appropriate steps to ensure that your Personal Data remains subject to a standard of protection comparable to that of the requirements set out under Singapore law.

## 5. Rights with Respect to Your Personal Data

When you are given the option to share your Personal Data with us, it is always your choice. If you have previously granted consent for processing and decide to revoke it, we will respect your decision in compliance with our legal obligations.

Nevertheless, abstaining from sharing your Personal Data with us or withdrawing your consent, or disagreement with our Privacy Policy, may impact our ability to perform the necessary actions for the purposes outlined in Section 2 or restrict your use of the Solutions or Site.

The consent that you provide for the collection, use and disclosure of your personal data remains valid until such time it is being withdrawn by you in writing. You may withdraw consent and request us to stop collecting, using and/or disclosing your personal data for any or all of the purposes listed above by submitting your request in writing or via email to our Data Protection Officer at the contact details provided below. Please note that all requests will undergo thorough screening and verification. To confirm your identity and authority to make a request, we may ask you to provide supporting information or documentation.

Upon receipt of your written request to withdraw your consent, we may require reasonable time (depending on the complexity of the request and its impact on our relationship with you) for your request to be processed and for us to notify you of the consequences of us acceding to the same, including any legal consequences which may affect your rights and liabilities to us. In general, we shall seek to process your request within ten (10) business days of receiving it.

In complying with your request, we shall use reasonable effort to erase your Personal Data or will use reasonable efforts to remove the means or personal identifiers by which the Personal Data can be associated with you as an individual, if:

- The purpose for which Personal Data was collected is no longer being served by the retention of that Personal Data;
- We are not otherwise permitted or required by applicable law to retain the Personal Data; and/or
- In case it is mandated by applicable law, based on your request to delete your Personal Data.
- Please note that by requesting us to remove your Personal Data, we may not be able to continue providing you with some of our services and you agree that we will not be liable to you for any losses or damages arising out of or in relation to such termination of services.

While we respect your decision to withdraw your consent, please note that depending on the nature and scope of your request, we may not be in a position to continue providing our goods or services to you and we shall, in such circumstances, notify you before completing the processing of your request. Should you decide to cancel your withdrawal of consent, please inform us in writing in the manner described above.

Please also note that withdrawing consent does not affect our right to continue to collect, use and disclose personal data where such collection, use and disclose without consent is permitted or required under applicable laws.

Furthermore, we reserve the right to continue sending to you certain communications relating to Blackpanda services and products, such as service announcements, administrative messages, etc. that are in conjunction with services being provided to you by Blackpanda, without offering you the opportunity to opt-out of receiving them.

#### **6. Amendment & Update to this Notice**

From time to time, Blackpanda may revise this Privacy Policy to reflect changes in the laws and regulations, our use practices, the features of our Site and/or advances in technology. If we make revisions that change the way we collect or use your Personal Data:

- We will notify you of any such amendments by means of a general notice published on the Site, or otherwise to your e-mail address set out in your account,
- Those changes will be posted in this Privacy Policy, and the effective date will be noted at the beginning of this Privacy Policy, and
- Your continued use of the Site, communications with us, or access to and use of the services following any amendments to this Privacy Policy will constitute your acceptance of this Privacy Policy and all its amendments.

Your continued use of Blackpanda services, Solutions and/or Site following the effective date of the modifications, updates, or amendments to this Privacy Policy, whether or not reviewed by you, shall constitute your agreement to be bound by such amendments.

#### **7. Retention of Your Personal Data**

Unless we remove your Personal Data from our systems following the receipt of a request from you, your Personal Data will be retained by us for as long as your account is in existence, and as needed to provide you with our services, and/or for our legitimate business interests, or for as long as such retention is obligated or authorized by applicable law.

We will delete your Personal Data after 5 (five) years or in such other period as required by applicable laws and regulations from the date you terminated/de-registered your account with us.

## 8. Protection of Your Personal Data

We will protect your Personal Data by maintaining reasonable security arrangements, including physical, technical, and organizational measures, to prevent unauthorized access, collection, use, disclosure, copying, modification, disposal or similar risks. It is important to remember that even though we have several safeguards in place to protect your information, nothing within the internet is 100% secured and we cannot guarantee the safety of your Personal Data.

If we are subject to a data breach that relates to your Personal Data, to the extent required by applicable law, we will notify you through our channels, whether directly or indirectly, to give you sufficient information regarding such data breach and will work to protect against the misuse of your Personal Data.

## 9. Links to Other Websites

The Site may contain links to other websites. You should note that we do not have any control over such other websites. Please note that we are not responsible for the Privacy Policy or practices of such other websites and advise you to read the Privacy Policy of each website you visit that collects any of your Personal Data.

## 10. Complaints

If you have a complaint regarding the treatment of your Personal Data by us, please contact us at our **Contact Details** listed below. We will treat your complaint in a confidential manner. We will contact you within a reasonable time after receipt of your complaint to discuss it and to outline options regarding how your complaint may be resolved.

If you have a complaint regarding the treatment of your Personal Data that is not resolved by us, you may be able to make a complaint to the relevant regulatory authority. Any Personal Data that we collect while processing or resolving your complaint will be used solely for that purpose.

## 11. Contact Details

If you have any questions or complaints regarding this Privacy Policy or if you would like to access and/or correct your Personal Data, please contact the relevant Data Protection Officer (DPO) for your country:

- **Blackpanda Singapore**

Email: [legal@blackpanda.com](mailto:legal@blackpanda.com)

Address: 1 Paya Lebar Link, #04-01 Paya Lebar Quarter, Singapore 408533

- **Blackpanda Hong Kong**

Email: [legal@blackpanda.com](mailto:legal@blackpanda.com)

Address: 2/F-3/F Dorset House Taikoo Place, 979 King's Rd, Quarry Bay, Hong Kong

- **Blackpanda Japan**  
Email: [legal@blackpanda.com](mailto:legal@blackpanda.com)

Address: SPACES Otemachi, 2F, Otemachi Bldg, 1 Chome-6-1 Otemachi, Chiyoda City, 100-0004 Tokyo, Japan

## 12. Language & Interpretation

This Privacy Policy is subject to translation into multiple languages. In case of any discrepancies between the English version of this Privacy Policy and its translations in other languages, the English version will take precedence.

Any capitalized terms not defined within this document will carry the same definitions as outlined in Blackpanda's Terms and Conditions, as well as in this Privacy Policy.

## 13. Country Specific Requirements

### 13.1 Singapore

Registration Identity Card ("**NRIC**") or other national identification numbers for Site or Solutions related purposes, to the extent permissible by law. However, please note that we may collect, use, and disclose your NRIC number or Foreign Identification Number (FIN) in accordance with applicable law to fulfill our obligations and to prevent, detect, and investigate fraudulent activity within the Site or Solutions.

### 13.2 Philippines

We inform you that among the Personal Data we may collect, there might be some sensitive personal information as defined in the Data Privacy Act of 2012 (Republic Act No. 10173). In such cases, we strongly urge you to carefully check the data that you intend to share with us. By deciding to send us your Personal Data, you give your consent to us to collect your sensitive personal information.

#### **13.3 Japan**

Personal Identifier Code or any data in the form of a certain code uniquely assigned to you for Site or Solutions related purposes, to the extent permissible by law. Further, we inform you that among the Personal Data we may collect, there might be some sensitive personal information as defined in the Act on Protection of Personal Information. In such cases, we strongly urge you to carefully check the data that you intend to share with us. By deciding to send us your Personal Data, you give your consent to us to collect your sensitive personal information.

#### **14. Privacy Policies in Other Countries**

Please check this Privacy Policy tailored or translated to your country/language:

**Japan (In Development)**

**Philippines (In Development)**

# Website & Platform Terms of Use

**Last Modified:** 18 October 2023

**Important:** Where these terms have been translated to help with local language understanding, the English version of these Terms available at <https://www.blackpanda.com/legal> shall always prevail.

**These Terms:** These terms and conditions are between Blackpanda Group Pte Ltd (“**Blackpanda**”, “**we**” or “**us**”) and any customer who purchases, accesses and/or uses Solutions (as defined below) (“**Customer**” or “**you**”). By registering and/or using our Solutions, you unconditionally accept and agree to be bound by these Terms of Use. If you are dissatisfied with the Solutions and/or these Terms of Use, your sole and exclusive remedy is to discontinue using the Solutions. These constitute a binding contract in connection with any paid or evaluative use of the Solutions.

## Definitions

**“Affiliate(s)”** means any entity that directly or indirectly controls, is controlled by, or is under common control with you. To the extent that any license(s) granted to you under these Terms includes the right to provide the Solutions to your Affiliates, provided that you as the Customer agree to remain fully responsible and liable under these Terms for the respective Affiliates’ use of the Solutions.

**“Blackpanda Services”** means support services, account management services, incident response services, or other services.

**“Confidential Information”** means all information disclosed (whether in oral, written, or other tangible or intangible form) by one Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”) concerning or related to these Terms or the Disclosing Party that is marked as confidential or proprietary, or that the Receiving Party knows or reasonably should know is confidential information of the Disclosing Party given the facts and circumstances surrounding the disclosure of the information by the Disclosing Party. Confidential Information includes, but is not limited to, these Terms, proprietary and/or non-public technical, business, commercial, financial and/or legal information, such as, without limitation, any and all Solutions information generally shared with Customer and as specifically related to Customer, Solutions information gained by Customer through use of the Solutions, business plans, product information, pricing, financial plans, know how, Customer information, strategies, and other similar information.

**“Current Release”** means the most recent release of the Solutions.

**“Enhancements”** means any updates, patches, bug fixes and versions to the Solutions.

**“Evaluation”** means for the limited purpose of accessing and installing the Solutions for internal evaluation by a Partner or Customer to facilitate a Customer’s purchase of Solutions but without any obligation to enter into any further agreement.

**“Intellectual Property Rights”** means Intellectual Property Rights means all copyrights and related rights, design rights, registered designs, patents, trademarks and service marks (registered and unregistered), trade secrets, database rights, know-how, rights in confidential information and all other intellectual property rights throughout the world for the full term of the rights concerned, including any derivative works incorporating any of the foregoing that may be created or developed in connection with these Terms.

**“Other Solutions”** means third party products, applications, services, software, networks or other systems or information sources that link to the Solutions through open APIs.

**“Partner”** means an authorized Blackpanda partner such as a reseller. For the avoidance of doubt, in respect of certain Solutions, a Partner may be a Customer and references to the Customer or you in these Terms shall also include the Partner where applicable.

**“Purchase Order”** means a document agreed to in writing and executed between a Customer and Blackpanda or a Blackpanda Partner covering the Customer’s subscription to a Blackpanda Services, Solutions or Evaluation offering. For the purposes of these Terms, a Purchase Order may include confirmation emails, including but not limited to confirmation emails setting out access to Partner registered accounts.

**“Solutions”** means Blackpanda’s Website and cloud platform including its external attack surface assessment solutions and other solutions offered by Blackpanda over time, directly or through a Partner, together with the software underlying such products and services and any Enhancements.

**“Solutions Data”** means all data and information associated with Customer, which is uploaded to, processed by, generated by, and/or stored within the Solutions by Customer or through Customer’s use of the Solutions or provided in support tickets, but excluding System Data.

**“Solutions Guidelines”** means the Blackpanda user guides, product descriptions, guidelines or equivalent documentation specifying the functionalities and scope of Solutions in force (if any) that Blackpanda may publish from time to time on the Website or cloud platform Solution.

**“Solutions Terms”** means the specific additional terms for each of Blackpanda Services and Solutions (if any). All Solutions Terms will be made available at <https://www.blackpanda.com/legal/>.

**“System Data”** means anonymized data, aggregate statistics, bug reports, any threat or potential threat detections collected by the Solutions and/or system behavioral information (including without limitation correlative and/or contextual data) generated by the Solutions.

**“Third Party Services”** means services rendered by a third party to the Customer (whether pursuant to a written agreement or otherwise) that includes but is not limited to the registration, use, management and/or operation of the Solutions on the Customer’s behalf.

**“Website”** means our website at <https://www.blackpanda.com>.

## 1. Registrations

1.1 Subject always to these Terms, you may use elements of the Solutions by simply visiting our website, but access to most of the Solutions is available only to registered users, including paying or unpaid Customers.

1.2 If you are using the Solutions on behalf of a corporate entity or another individual (the "**Principal**"), you represent and warrant that you have been validly authorized to (a) register or use the Solutions on behalf of the Principal, and (b) agree to and bind the Principal to these Terms. You shall ensure that the Principal complies with all the terms and conditions in these Terms. Any breach of these Terms by a Principal shall be deemed to be a breach by you of these Terms. Any reference to "**you**" or "**your**" as used in these Terms shall include any and all Principals.

1.3 You agree that you will provide truthful and accurate information when registering or using the Solutions. The decision to accept a registration and/or provide a registered account is in our discretion and we may revoke a registration at any time.

1.4 You are (a) responsible for maintaining the confidentiality of your password, account information and any Scan Reports generated by you or for you, (b) solely responsible for all activities that occur under your password, account or any Scan Reports generated by you or for you, and (c) responsible for any access to or use of the Solutions by you or any person or entity using your password or any Scan Reports generated by you or for you, whether or not such access or use has been authorised by you.

1.5 You must immediately notify us of any unauthorised use of your password or account, any Scan Reports, or any other breach of security. We will not be liable for any loss or damage whatsoever resulting from the disclosure of your username and/or password contrary to these Terms.

1.6 You are responsible for ensuring that the information we hold about you is up to date. Please amend your details via the Solutions as appropriate from time to time or contact us if you require assistance

## 2. License(s)

2.1 You agree to accept all Enhancements necessary for the proper function of the Solutions as released by Blackpanda from time to time, and further agree that Blackpanda shall not be responsible for the proper performance of the Solutions or security issues encountered with the Solutions related to your failure to accept Enhancements in a timely manner.

2.2 You as the Customer may receive and/or subscribe to Blackpanda Services and Solutions as detailed in a relevant Purchase Order. Your subscription to such Blackpanda Services and Solutions is subject in each case to applicable terms and conditions of these Terms, the Solutions Terms and the Solutions Guidelines. In the event of any inconsistencies between these Terms and the specific terms for each other Blackpanda Service and Solutions, the latter (i.e. the specific terms) shall govern.

2.3 If you enter into an agreement with a third party for a Third Party Service, you may allow such Third Party Service to use the Solutions provided that (a) as between Blackpanda and you, you as the Customer remains responsible for compliance with these Terms; (b) such Third Party Service only uses the Solutions for your internal purposes and such third party is subject to these Terms in their use of the Solutions; and (iii) you shall be deemed liable to Blackpanda for the Third Party Service's use of the Solutions on your behalf.

2.4 Subject to your compliance with these Terms, Blackpanda hereby grants to you (directly or through a Partner, as applicable) a worldwide, non-transferable, non-exclusive license to access and use the respective Solutions (including Enhancements) and Solutions Data solely in support of you and your Affiliate's (as applicable) internal business and security and operations ("**License**"). The Licenses granted hereunder may be limited to the Solutions as set forth in your Purchase Order.

## 2.5 Beta

1. This platform and Solutions is currently launched in a Closed Beta.
2. To the maximum extent permissible by law, the platform and Solutions is provided on an "as is" basis without any warranties of any kind. We make no representations, warranties or guarantees of any kind regarding the availability or operation of the Solutions or that the Solutions will be secure, uninterrupted or free of defects.
3. TO THE EXTENT ALLOWED BY APPLICABLE LAW, BLACKPANDA EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY, CONDITION, OR OTHER IMPLIED TERM AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF BETA SOLUTIONS.
4. Notwithstanding the above, Blackpanda shall in its sole discretion use commercially reasonable efforts (i) to provide Customer with an error-correction or workaround for errors in the Solutions (ii) to replace the non-conforming portions of the Solutions with conforming items.
5. The above warranty will not apply: (a) if the Solutions are not used in compliance with the Documentation; (b) if any unauthorized modifications are made to the Solutions by Customer or any third party; (c) to use of releases of the Solutions that are not the Current Release or the Solutions released immediately preceding the Current Release; (d) to defects due to accident, abuse or improper use by Customer; or (e) to Evaluation or Early Adoption use of the Solutions.

## 3. Evaluation and Partner Solution Licenses

3.1 You may as a Customer or Partner be granted a License to use the Solutions for Evaluation purposes. Blackpanda may amend the terms of such Evaluations Licenses, including but not limited to the revocation of the Licenses without further notice to Customers and Partners. Blackpanda may reasonably request the Customer to confirm that there are no portions of the Solutions retained on its systems and that it has deleted all said portions. Such Evaluation Purposes may include complimentary external attack surface management scans on Customer networks.

3.2. DURING EVALUATION OF THE SOLUTIONS, THE SOLUTIONS (AND WHERE APPLICABLE, SOLUTIONS DATA) ARE OFFERED ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, OR THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING. CUSTOMER ASSUMES ALL RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOLUTIONS AND SOLUTIONS

DATA. WITHOUT DEROGATING FROM THE FOREGOING, IT IS UNDERSTOOD AND AGREED THAT BLACKPANDA WILL NOT BE LIABLE FOR ANY NETWORK DOWNTIME, SOLUTIONS DOWNTIME, AND/OR IDENTIFYING AREAS OF WEAKNESS IN THE SOLUTIONS DATA. FOR ALL EVALUATIONS, BLACKPANDA SHALL HAVE NO LIABILITY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFIT, LOST OR DAMAGED DATA, LOSS OF PROGRAMS OR INFORMATION OR OTHER INTANGIBLE LOSS ARISING OUT OF THE USE OF OR THE INABILITY TO USE THE SOLUTIONS, OR INFORMATION, OR ANY PERMANENT OR TEMPORARY CESSATION OF THE SOLUTIONS OR ACCESS TO INFORMATION, OR THE DELETION OR CORRUPTION OF ANY CONTENT OR INFORMATION, OR THE FAILURE TO STORE ANY CONTENT OR INFORMATION OR OTHER COMMERCIAL OR ECONOMIC LOSS, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE), EVEN IF BLACKPANDA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR THAT THEY ARE FORESEEABLE.

#### 4. Your Consent to Scans and Tests

PLEASE READ THIS SECTION CAREFULLY AND THOROUGHLY

##### 4.1 Our Tests:

As part of our subscription-based Solutions and Services, Blackpanda may from time to time conduct security and vulnerability scans or such continuous monitoring of your Endpoints and attack surfaces on our Customers. These are "**Tests**". A Test may include, among other things, information gathering, crawling, fingerprinting, fuzz testing, deploying of test scripts and introducing other non-intrusive penetration tests. Any Test results or reports uploaded to, processed by, generated by, and/or stored within the Solutions for your use shall constitute Solutions Data. For the avoidance of doubt, such Tests will not be conducted on any users of the Website but for registered subscription Customers including Customers under Evaluation Licenses.

##### 4.2 Your Consent:

You acknowledge and agree that the purpose of such Tests are to, as applicable, monitor and strengthen the security of your Internet-facing assets and/or strengthen the security of your external network Attack Surface. Accordingly, we may, when performing a Test, among other things, perform crawling, fuzz testing, authenticated testing, deploy test script, and introduce other non-intrusive penetration tests for the limited purpose of revealing security vulnerabilities in your network endpoints. You agree and acknowledge that the provision of the Tests in accordance with these Terms may lead to detrimental impact on your network endpoints.

##### 4.3 Reports:

WITHOUT PREJUDICE TO ANY OTHER TERM TO THE CONTRARY, PLEASE NOTE THAT USE OF ANY TEST RESULTS OR REPORTS IS NOT RECOMMENDED IN OR IN ASSOCIATION WITH SAFETY CRITICAL SYSTEMS AND NETWORKS WHERE FAILURE TO MAINTAIN THE SECURITY OF YOUR SYSTEM AND NETWORK CAN REASONABLY BE EXPECTED TO RESULT IN DEATH, PERSONAL INJURY, LOSS OF PROPERTY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

THE TEST SOLUTIONS (AND WHERE APPLICABLE, TESTS SOLUTIONS DATA) ARE OFFERED ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, OR THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING. YOU ACKNOWLEDGE AND AGREE THAT YOU SHALL ASSUMES ALL RISK AS TO THE RESULTS AND PERFORMANCE OF THE SOLUTIONS AND SOLUTIONS DATA.

## 5. Restrictions

You acknowledge and agree that you may not do any of the following:

5.1 modify, disclose, alter, translate or create derivative works of the Solutions (or any components thereof) or any accompanying Documentation;

5.2 license, sublicense, resell, distribute, lease, rent, lend, transfer, assign or otherwise dispose of the Solutions (or any components thereof) or any Documentation;

5.3 use the Solutions other than as permitted under this these Terms and the Documentation and/or use the Solutions for any other commercial or business use other than your internal purposes, including without limitation, offering any portion of the Solutions as benefits or services to third parties;

5.4 use the Solutions in violation of any laws or regulations, including, without limitation, to store or transmit infringing, libelous or otherwise unlawful or tortious material, or material in violation of third-party privacy rights;

5.5 use the Solutions to store, transmit or test for any viruses, software routines or other code designed to permit unauthorized access, disable, erase or otherwise harm software, hardware or data, or to perform any other harmful actions;

5.6 probe, scan or test the efficacy or vulnerability of the Solutions, or take any action in an effort to circumvent or undermine the Solutions, except for the legitimate testing of the Solutions in coordination with Blackpanda, in connection with considering a subscription to the Solutions as licensed herein;

5.7 attempt or actually disassemble, decompile or reverse engineer, copy, frame or mirror any part or content of the Solutions, or otherwise derive any of the Solutions' source code;

5.8 access, test, and/or use the Solutions in any way to build a competitive product or service, or copy any features or functions of the Solutions;

5.9 interfere with or disrupt the integrity or performance of the Solutions;

5.10 attempt to gain unauthorized access to the Solutions or their related systems or networks;

5.11 disclose to any third party or publish in any media any performance information or analysis relating to the Solutions or the Solutions Data; and/or

5.12 cause or permit any Solutions user or third party to do any of the foregoing.

## 6. Ownership of Rights

6.1 You as the Customer shall have all rights, titles and interest in and to the Solutions Data and all Intellectual Property Rights existing or arising from the foregoing. Unless you otherwise notify us through our cloud platform on our Website, you hereby grant to a non-exclusive, sub-licensable, royalty-free, worldwide, perpetual and irrevocable license to Blackpanda to freely use any Solutions Data for commercial purposes including sharing with any third parties such as your Partner.

6.2 Blackpanda reserves all rights, title and interest in and to the Solutions (and any and all modifications to or derivative works of the Solutions), Solutions Data, System Data, and any and all Intellectual Property Rights existing or arising from the foregoing.

## 7. Privacy

7.1 For the purposes of this Section, "**Personal Data**" shall mean any data or information, whether true or not, about a person who can be identified: (a) from that data alone; or (b) from that data and other information.

7.2 Blackpanda may collect, process, use and disclose personal data about the Customer (including its officers and employees) and/or Customer's customer(s) from a variety of sources, including, directly from the Customer and/or Customer's customer, from other users of Blackpanda's website, from resellers and distributors, from vendors, from service providers, from third party information providers, from Blackpanda's affiliates, and through the operation of Blackpanda's website. Blackpanda may transfer the Customer's information outside of the territory in compliance with the applicable laws.

7.3 Customer agrees to Blackpanda collecting, using and disclosing certain personal data or personal information about Customer for various purposes, including to:

(a) assess credit worthiness;

(b) supply the Solutions and Blackpanda Services;

(c) communicate with the Partner and/or Customer about the Solutions and Blackpanda Services which Blackpanda or its partners or affiliates may provide to the Partner and/or Customer including for marketing and sales purposes;

(d) implement these Terms and other relevant policies; and

(e) comply with relevant laws.

7.4 Blackpanda, at the written request for Customer, will:

(a) provide Customer with access to any personal data or personal information relating to Customer or its customer held by Blackpanda; and

(b) correct or amend any personal data or personal information relating to Customer or customer held by Blackpanda which is inaccurate or out of date.

7.5 Blackpanda may collect data and information with respect to the function and efficiency of the Products and Services; Blackpanda shall have the right to use such data and information to provide, maintain, protect, and to improve and develop Blackpanda's Products and Services. Partners and Customers may provide suggestions, comments, or other feedback related to Blackpanda's product and service offerings to Blackpanda orally, in writing, or by other means ("**Feedback**"). Blackpanda will be the sole owner of all Feedback and shall not be bound by any non-use or non-disclosure obligations with respect to the Feedback, notwithstanding anything to the contrary in the Agreement.

7.6 Customer agrees to do anything that is required by law or which Blackpanda may reasonably determine in our discretion, as necessary or desirable to give effect to the applicable laws in respect of any Personal Data. Customer also agrees to cooperate with Blackpanda to ensure that the Products are provided in a manner under which all parties are compliant under the applicable law.

7.7 Blackpanda will collect, use, store, process, disclose and/or delete Customer's personal data or personal information in accordance with relevant laws. Blackpanda's Privacy Policy, which may be updated from time to time, can be found at <https://www.blackpanda.com/legal> or such other place as Blackpanda may update from time to time. Customer acknowledges that it has read and understood Blackpanda's aforementioned Privacy Policy and agrees at all times not to do anything would be a breach of the Privacy Policy.

7.8 Customer warrants and represents that it has complied with all applicable personal data laws and has obtained the necessary consent and all legal rights to transfer and Customer's personnel whose information is/will be disclosed to Blackpanda for Blackpanda to collect, process, use, transfer and disclose personal data about the Customer within or outside of the Territory.

7.9 Without prejudice to the above, and notwithstanding any other terms, Blackpanda may establish a record of results from the services we provide and provide such records to other Blackpanda group companies. The information comprising such records, will be properly anonymized and will not be considered Personal Data. The records may be used for risk measurement and related internal research including but not limited to the creation of Systems Data, and shall be handled in accordance with all applicable laws.

## 8. Confidentiality

8.1 The Receiving Party will maintain in confidence, during the term of these Terms and for three (3) years following the expiration or earlier termination of these Terms, all Confidential Information, and will not use such Confidential Information except as expressly permitted in these Terms.

8.2 The Receiving Party will use the same degree of care in protecting the Confidential Information as the Receiving Party uses to protect its own confidential and proprietary information from unauthorized use or disclosure.

8.3 Confidential Information will be used by the Receiving Party solely for the purpose of carrying out the Receiving Party's obligations under these Terms, and the Receiving Party will only disclose Confidential Information to its directors, officers, employees, Affiliates, and/or contractors who have a need to know such Confidential Information in order to assist the Receiving Party in performing its duties under these Terms, and if such directors, officers, employees, Affiliates, and/or contractors have executed a non-disclosure agreement with the Receiving Party with terms no less restrictive than those contained in these Terms. However, each Party may disclose the terms and conditions of these Terms: (i) to legal counsel of such Party; (ii) to such Party's accountants, banks, financing sources and their advisors; (iii) in connection with the enforcement of its rights under these Terms; or (iv) in connection with an actual or proposed merger, acquisition, or similar transaction.

8.4 Confidential Information will not include information that: (i) is in or enters the public domain through no fault of the Receiving Party; (ii) the Receiving Party can reasonably demonstrate was in its possession prior to first receiving it from the Disclosing Party; (iii) the Receiving Party can demonstrate was developed by the Receiving Party independently and without use of or reference to the Confidential Information; or (iv) the Receiving Party receives from a third party without restriction on disclosure and without breach of such third party's nondisclosure obligation. In addition, the Receiving Party may disclose Confidential Information that is required to disclose by law, or by a subpoena or order issued by a court of competent jurisdiction.

8.5 The Receiving Party acknowledges that any unauthorized disclosure of Confidential Information will result in irreparable injury to the Disclosing Party that would not be adequately compensated by the payment of money damages. In addition to any other legal and equitable remedies that may be available, the Disclosing Party will be entitled to injunctive relief against any breach or threatened breach by the Receiving Party of the confidentiality obligations hereunder, from any court of competent jurisdiction, without being required to show any actual damage or irreparable harm, to prove the inadequacy of its legal remedies, or to post any bond or other security.

## 9. Disclaimers

9.1 Our Website and/or application-based Solutions (together with any Services, or other content, material or information available on the Website and Solutions) are provided on an "as is" and "as available" basis, with all faults and without warranty of any kind. Your use of such Solutions is at your own risk.

9.2 In no event will Blackpanda be liable to any party for any damages of any kind, including but not limited to direct, indirect, special or consequential damages for any use of this Site or any linked site including, without limitation, lost profits, loss of use, business interruption, loss of programs or other data, whether in an action based on contract, negligence or other tortious action, even if Blackpanda is expressly advised of the possibility of such damages.

9.3 Blackpanda does not warrant or guarantee the correctness, comprehensiveness, completeness, accuracy, timelines, merchantability or fitness for any particular use or purpose of any information or any Solutions or Blackpanda Services.

9.4 Blackpanda reserves the right to amend our Website and any materials provided on the Website in our sole discretion with or without notice to you. We will not be liable if for any reason all or any part of the Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Website, or the entire Website.

9.5 PLEASE NOTE THAT THE SOLUTIONS (INCLUDING BUT NOT LIMITED TO THE WEBSITE) AND BLACKPANDA SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS INCLUDING THE DEVICE USED BY YOU OR THE PARTNER BEING FAULTY, NOT CONNECTED, OUT OF RANGE, SWITCHED OFF OR NOT FUNCTIONING. BLACKPANDA IS NOT

RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, DAMAGES OR LOSSES RESULTING FROM SUCH PROBLEMS.

## 10. Indemnification

By agreeing to the Terms, you agree that you shall indemnify and hold Blackpanda, its licensors and each such party's affiliates, officers, directors, members, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs and/or regulatory action) arising out of or in connection with: (a) your use of the Solutions and Blackpanda Services and/or any part thereof in your dealings with the Partners, third party merchants, providers, partners, advertisers and/or sponsors, or (b) your violation or breach of any of these Term, any third party terms and conditions or any applicable law or regulation, whether or not referenced herein, or (c) your violation of any rights of any third party, including Partners, or (d) your use or misuse of the Solutions and Blackpanda Services and/or any part thereof, or (e) where applicable, your ownership, use or operation of any property.

## 11. Limitation of Liability

To the maximum extent permitted by applicable laws, Blackpanda and Blackpanda Personnel, will under no circumstances be liable to you for any indirect or consequential damages, including, but not limited to, the costs of recovering, reprogramming, or reproducing any program or data or the failure to maintain the confidentiality of data, any loss of business, profits, revenue or anticipated savings, resulting our obligations under these Terms.

To the maximum extent permitted by applicable laws, your exclusive remedy and Blackpanda's sole liability arising from a breach of any warranties under these Terms, Blackpanda shall use commercially reasonable efforts to correct the non-conforming Solution at no additional charge to Customer within a reasonable time period.

Except as otherwise specifically provided in this Section 10, and whatever the legal basis for your claim, our liability to you in connection with our Solution(s) and Blackpanda Services will be limited, to the maximum extent permitted by applicable law, to direct damages up to the the fees paid or payable by Customer to Blackpanda (or the applicable Partner) in the 12-month period immediately prior to the time of the event or events leading to the alleged damages giving rise to the claim. If you are a Evaluation Customer, we disclaim all liability to you to the maximum extent permitted by applicable law.

To the maximum extent permitted by applicable laws, the limit of Blackpanda and any Blackpanda Personnel's liability to you and any subsequent owner arising under this IR-1 and/or these Terms of Service shall not exceed the original price paid for the IR-1 (whether by you or a third party).

## 12. Term, Termination and Renewals

12.1 The term of these Terms will begin on the Effective Date and continue until all active Subscription Terms have expired or until earlier terminated pursuant to the terms of these Terms.

12.2 Either Party may terminate these Terms and all Solutions Terms and its corresponding Subscription Term, for cause, if the other Party: (i) materially breaches these Terms (including an applicable Solutions Terms) and does not cure such breach within thirty (30) days after its receipt of written notice of such breach; or (ii) becomes insolvent, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority. Without

prejudice to any other term under these Terms, Blackpanda may terminate these Terms and all Solutions Terms or a specific Solutions Term and its corresponding Subscription Term immediately for cause by providing concurrent notice to Customer if we believe that Customer is using the Solutions in any unauthorized manner likely to cause harm to Blackpanda, the Solutions or a third party.

12.3 Upon any termination or expiration of these Terms and/or Solutions Terms: (i) all rights and licenses granted to Customer under these Terms and any applicable Solutions Term(s) will immediately terminate; (ii) all of Blackpanda's obligations under these Terms and any applicable Solutions Term(s) will immediately cease; (iii) there will be no refund for any pre-paid and unused fees as of the termination date (except where Customer terminates these Terms under Section 12.2 (Termination) due to Blackpanda's material breach, in which case any refunds shall be on a pro-rata basis for any remaining unused portion of a subscription left after such termination) and Customer will immediately pay Blackpanda any fees due and payable under these Terms as of the termination date; (iv) upon receiving a written request from the Disclosing Party, the Receiving Party will promptly return to the Disclosing Party all Confidential Information of the Disclosing Party then in its possession or destroy all copies of such Confidential Information, at the Disclosing Party's sole discretion and direction; and (v) Customer will immediately cease all use of the Solutions and destroy and/or permanently delete all copies of any components of the Solutions in Customer's possession.

12.4. Blackpanda reserves the right to investigate suspected violations of Customer's obligations under Sections 11.3(v). In such circumstances, Customer will immediately confirm, in writing, that it has complied with these Sections 11.3(v) at Blackpanda's request.

12.5 Notwithstanding any terms to the contrary in these Terms, the Restrictions and Sections 6, 7, 8, 9, 10, 11, 12.3, 12.4, 12.5 and 13 will survive any termination of these Terms.

### 13. General Terms

13.1 Entire Agreement. These Terms, together with all terms attached or referenced herein (all of which are incorporated herein by reference), set forth the entire agreement and understanding of the Parties relating to Customer's subscription to the Solutions, and the Parties herein expressly agree that these Terms supersedes all prior or contemporaneous potentially or actually conflicting terms in agreements, proposals, negotiations, conversations, discussions and/or understandings, whether written or oral, with respect to such subject matter and all past dealing or industry customs (including without limitation any nondisclosure agreement among the Parties relating to any prior use of the Solutions, any quotation or Purchase Order and/or another agreement among the Parties in connection with Customer's consideration and/or evaluation of the Solutions), excluding only any written agreement executed by Blackpanda expressly referencing these Terms and only to the extent expressly superseding specific terms in these Terms. In the event of conflict, the terms in the applicable Solutions Term(s) shall supersede and take precedence over the terms in these Terms.

13.2 Agency. Neither Party will, for any purpose, be deemed to be an agent, franchisor, franchise, employee, representative, owner or partner of the other Party, and the relationship between the Parties will only be that of independent contractors. Neither Party will have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other Party, whether express or implied, or to bind the other Party in any respect whatsoever.

13.3 Applicable Laws. These terms and conditions (and any agreement into which they are incorporated) shall be construed, interpreted and enforced under and in accordance with the laws of the Republic of Singapore, excluding its conflicts or choice of law rule or principles which might refer to the law of another jurisdiction. You agree to exercise any right or remedy in connection with these terms and conditions exclusively in, and hereby submits to the jurisdiction of the courts of Singapore for any dispute or controversy that arises out of these terms and conditions.

#### 13.4 Dispute Resolution.

Any dispute, controversy, difference, conflict or claim arising out of or in connection with these Terms or its performance, including without limitation any question regarding its existence, validity or termination, or a claim for unlawful act under applicable laws, shall first be the subject of good faith negotiations between Blackpanda and you.

If the dispute or controversy cannot be resolved through good faith negotiations within one month of the commencement of negotiations, it shall be referred to and finally settled and resolved by arbitration administered by the SIAC in accordance with the SIAC Rules for the time being in force, which Arbitration Rules of the SIAC ("SIAC Rules") are deemed to be incorporated by reference to this Clause 21. The seat of arbitration shall be Singapore, the tribunal shall consist of one (1) arbitrator appointed in accordance with the SIAC Rules ("Arbitration Tribunal"), and the language of the arbitration shall be the English language. The decision of the Arbitration Tribunal shall be final and binding upon the Parties

13.6 Marketing. You agree that Blackpanda may reference and use Customer's name and trademarks in Blackpanda's marketing and promotional materials, including, but not limited to, the Site, solely for the purpose of identifying Customer as Blackpanda's customer or as a user of Blackpanda's Solutions. Otherwise, neither Party may use the trade names, trademarks, service marks, or logos of the other Party without the express written consent of the other Party.

13.7 Assignment. Neither these Terms nor any right or duty under these Terms may be transferred, assigned, or delegated by a Party, by operation of law or otherwise, without the prior written consent of the other Party and such consent shall not be unreasonably delayed or withheld. Any attempted transfer, assignment, or delegation without such consent will be void and without effect. Notwithstanding the foregoing, each Party may assign these Terms to a successor of substantially all of its business or assets, whether by merger, sale of assets, sale of stock, sale of control, reorganization, or otherwise, with written notice to the other Party, provided that such successor-in-interest agrees in writing to assume all of the assigning Party's obligations under these Terms. Subject to the foregoing, these Terms will be binding upon and will inure to the benefit of the Parties and their respective representatives, heirs, administrators, successors, and permitted assigns.

13.8 Severability. If any provision of these Terms is deemed invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other provisions of these Terms will nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by these Terms is not affected in any manner adverse to any Party. Upon such determination that any provision is invalid, illegal, or incapable of being enforced, the Parties will negotiate in good faith to modify these Terms so as to affect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled.

13.9 Force Majeure. Except for payments of fees due under these Terms, neither Party will be responsible for any failure to perform or delay attributable in whole or in part to any cause or event beyond its reasonable control, including but not limited to acts of God (e.g., fire, storm, floods, earthquakes, etc.), civil disturbances, disruption of telecommunications, disruption of power or other essential services, interruption or termination of service provided by any service providers used by Blackpanda, labor disturbances, vandalism, cable cuts, or any malicious or unlawful acts of any third party.