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### **Ms. THACH TRAN** Senior Manager

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### Decree 13: Key considerations for domestics and foreign businesses in Vietnam

Ho Chi Minh City Wednesday, 28 February 2024

Speaker



Thach Thi Cam Tran Senior Manager EY Law Vietnam Limited Liability Company



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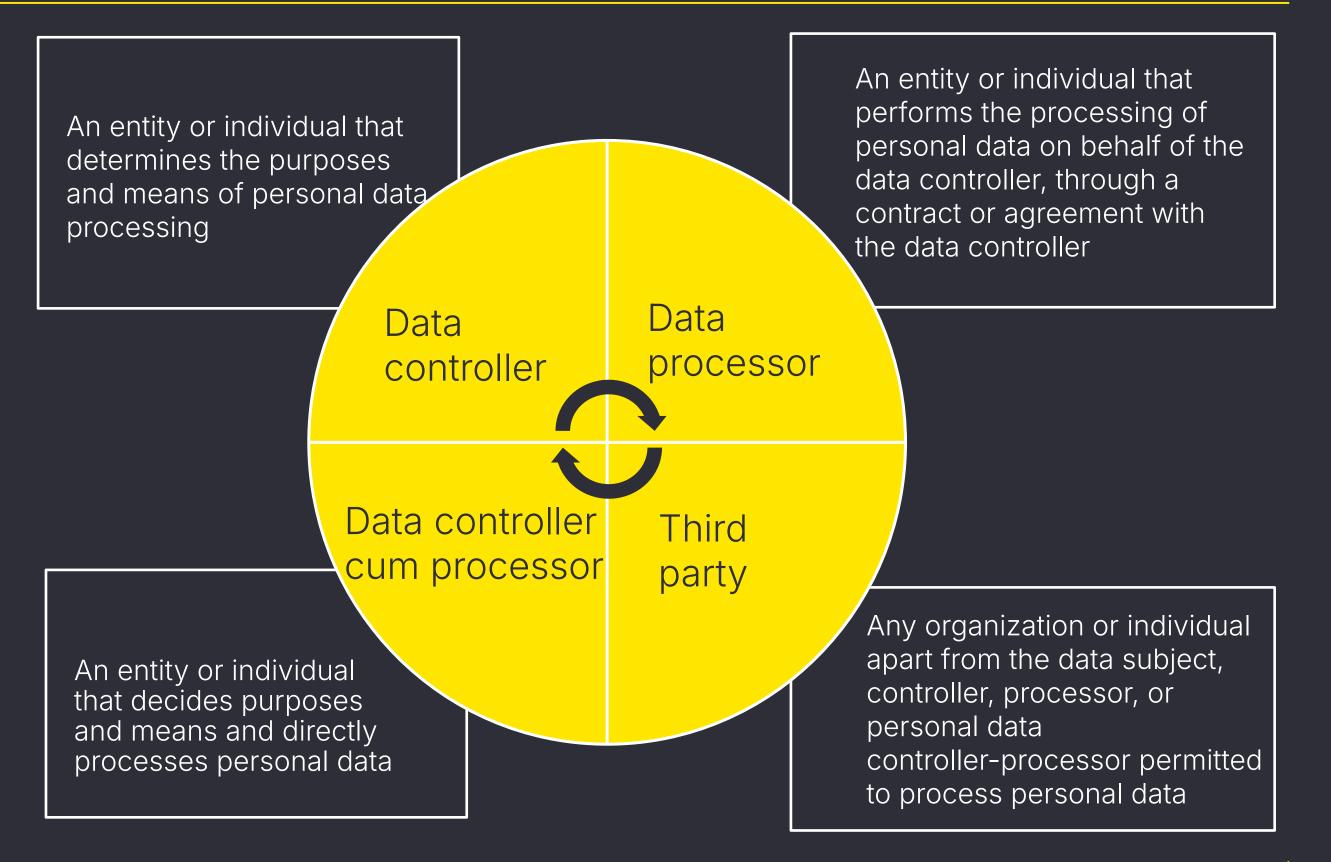
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### Key considerations (1/4)

#### Definition of personal data

Personal data is information in the form of symbols, letters, numbers, images, sounds or similar form on an electronic environment that is associated with a particular individual or helps to identify a particular individual [Article 2.1 Decree 13/2023/ND-CP on personal data protection (Decree 13)]





### Key considerations (2/4)

Aspect	Requirement	
Consent requirement	<ul> <li>Expressed clearly and specifically in writing, by voice, by ticking the consent box, in the syntax of consent by text message, by selecting consent technical settings, or by other actions demonstrating the same</li> <li>Voluntary</li> <li>For single purpose</li> <li>Informed of compulsory contents</li> <li>Affirmative action in a format that could be printed, reproduced in writing, including in electronic form or verifiable format</li> </ul>	
Personal data processing notification	<ul> <li>Controller, Controller cum Processor must notify data subject of the processing unless data subject already acknowledged and consented to contents to be notified or the processing by competent authority for their operation in line with laws</li> <li>Notification once prior to the processing with the required contents</li> <li>In a format that can be printed, reproduced in writing, including in electronic form or verifiable format</li> </ul>	



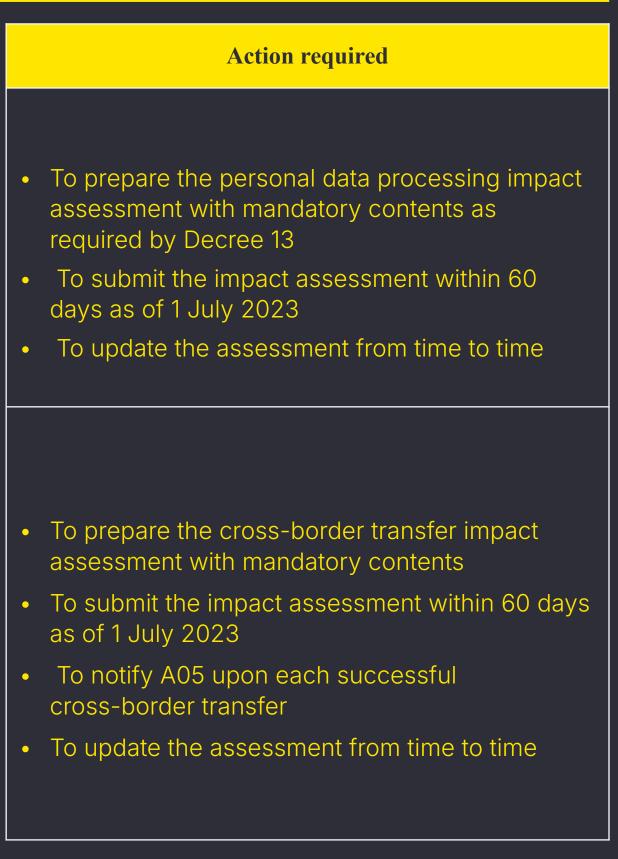
#### To prepare the consent form in line with Decree 13

To prepare the personal data processing notification with mandatory contents as required by Decree 13



### Key considerations (3/4)

Aspect	Requirement	
Personal data processing impact assessment	<ul> <li>Controller, controller cum processor and processor shall submit to a05 personal data processing impact assessment and form 04 within 60 days as of processing date</li> <li>Any changes to the submitted processing impact assessment, controller, controller cum processor and processor shall update A05 respectively</li> <li>Note: Applicable to: (i) controller, controller cum processor (in all cases); (ii) processor (in case of performance of a contract with controller)</li> </ul>	
Cross-bord er transfer of personal data	<ul> <li>The transferors (controller, controller cum processor, processor and third party) shall submit to A05 cross-border transfer impact assessment and Form 05 within 60 days as of processing date</li> <li>Any changes to the submitted cross-border transfer impact assessment, the transferor shall update A05 respectively</li> <li>Upon each successful cross-border transfer, the transferor shall notify A05 information of such transfer and contact details of person in charge</li> <li>Note: Applicable to Vietnamese citizens' personal data only</li> <li>Circumstances: (i) transfer to a location outside of Vietnam, or (ii) using a location outside of Vietnam to process personal data of Vietnamese citizens</li> </ul>	





### Key considerations (4/4)

Aspect	Requirement	
Personal data breach management	<ul> <li>The processor shall notify the controller as quickly as possible after detecting the violation</li> <li>The controller or the controller cum processor shall notify the A05</li> <li>The controllers, the controller cum processor must make a written confirmation of the occurrence of breach and cooperate with A05 to handle the breach</li> </ul>	
DPO/DPD appointment	Controller, processor and controlling-processing entity, processor who process sensitive personal data shall appoint a unit specializing in personal data protection (DPD) and a data protection officer (DPO) and to inform A05 of such DPD and DPO	

#### **Action required**

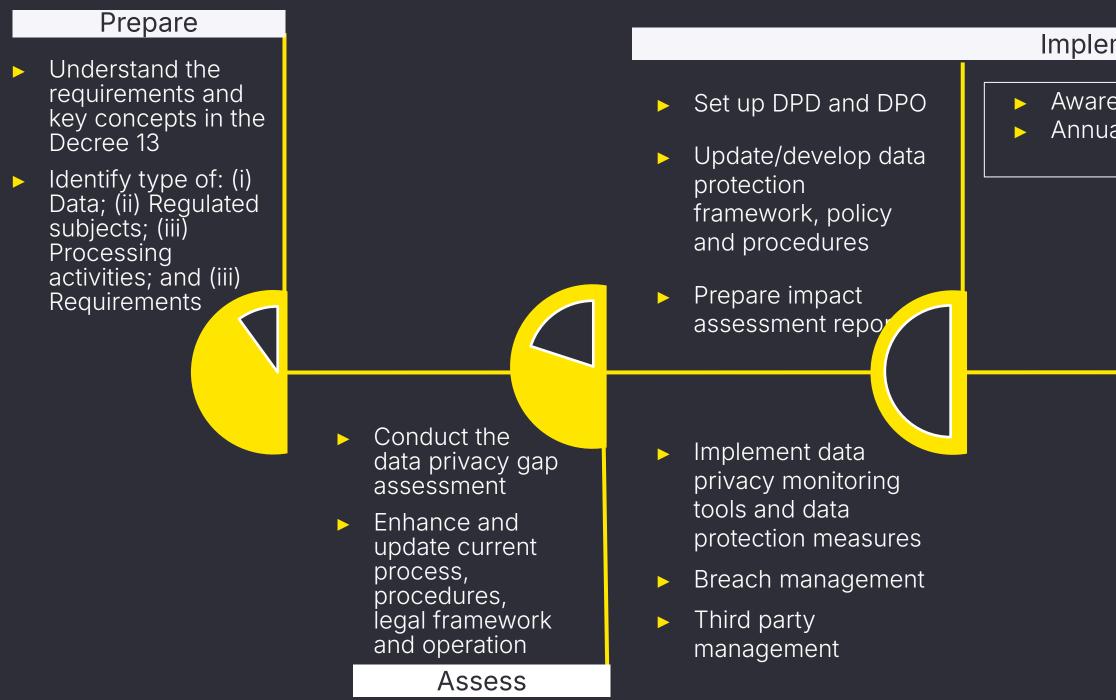
To develop:

- Data breach response procedure/policy
- Template of written confirmation of the occurrence of breach
- Template of data breach notification

To appoint DPO/DPD in case of processing sensitive personal data



### Roadmap for compliance



#### Implement and Sustain

Awareness training Annual review

> Review and update the data processing impact assessment and cross-border transfer impact assessment to A05 if there is any change



### Administrative penalty for violation

No official sanction decree in place yet. In general, as prescribed by Vietnam PDPD, sanctions applicable may include: disciplinary measures, administrative penalties and criminal prosecution

Summary of the administrative penalty types under the latest DRAFT Decree on Penalties in Cybersecurity

#### Monetary fine

- Basic: Ranging from VND40 mil to VND200 mil (applicable to organizations/legal entities)
- For some violations, subject to the severity of the violation, the company can be fined up to 2-5 times the basic monetary fine or even be fined 3%-5% of the total revenue in Vietnam

#### Additional measures

- Suspension of the right to use business licenses for industries requiring personal data collection from 1 to 3 months
- Confiscate evidence and means of processing personal data for violations
- Expel from the territory of the Socialist Republic of Vietnam

#### Remedial measures

- Public apology on the mass media
- Being forced to stop processing personal data from 1 month to 3
- Forced destruction or deletion to the point where personal data cannot be restored
- Forced return or forced return of illegal profits obtained from committing violations



### Challenges from a legal perspective

### What aspects of compliance might businesses struggle with?

- 1. Inability to accurately identify and understand the overall landscape of personal data processing activities
- Lack of understanding makes it difficult to create a data inventory or data flow mapping

2. Complication of ensuring data subjects grant consent and be notified before the processing

Each method of collection requires an appropriate consent obtainment mechanism that is quick, efficient, and also in compliance with the law.

#### 3. The development or enhancement of an internal data protection framework can be a demanding requirement

- > Vagueness for the type or content of the internal framework required to ensure compliance
- Lack the necessary resources to prepare or review all internal policies related to personal data protection.

### 4. Effectiveness of the Data Protection Officer's (DPO) role

#### 6. It is imperative for enterprises to coordinate with third parties (partners) to ensure the protection of personal data

Shortage of skillful personnel with expertise in personal data protection to take on the DPO role

Financial burden of recruiting for this position, poses a significant challenge in finding appropriate personnel.

#### 5. Notably deficient level of employee awareness

Many if not most employees currently do not have an in-depth understanding of the personal data protection landscape

Renegotiating and reaching personal data processing agreements with current and potential partners. This can take time and impact business cooperation opportunities

Difficulties in creating effective coordination mechanisms between parties when a personal data breach occurs



### A comprehensive legal and technological solution to the compliance challenges

#### Framework enhancement

- Enhancement of framework may comprise of: (i) Consent and notification forms; (ii) Mechanisms, processes, and forms to enable the exercise of data subjects' rights; (iii) Internal data management mechanism such as data retention, data processing activities for effective coordination and implementation; (iv) Breach response policy; (v) Due diligence process and contractual arrangement with third parties
- Consistency with other internal policy documents
- Adjustments of global policies
- Third party management

### Personnel

- Periodic training sessions
- Tailoring for different groups of subjects is required
- The DPO/DPD appointment be formalized in written form, clearly stating the rights and obligations of these individuals.

### Technology

- Technology plays a vital role in the integration of the framework to operation
- The coordination with the internal information technology (IT) department and sometimes third-party service providers is required.



# EY Service engaged related to data privacy





### Service offering (1/3)

No.	Services Description	Scope of Wo
		Under this assignment, our tasks will include:
		Review the provided information and documents to observe any non-complian
		<ul> <li>Assess the maturity level of current process, procedures, legal framework and</li> </ul>
1	Data privacy compliance healthcheck	<ul> <li>Prepare a written report ("Report") in English covering the following areas:</li> </ul>
	пеаппспеск	<ul> <li>i. Summary of data processing activities;</li> <li>ii. Non-compliances of the Company against regulations on personal data p</li> <li>iii. Legal implications/ legal risks the Company may subject to under Vietnan</li> <li>iv. Recommendations on appropriate legal actions to rectify the non-complia</li> <li>v. Recommendations or a list of initiatives on operations, processes, proced</li> <li>Note: EY will attend up to 02 (two) rounds of discussion on legal matters with the</li> </ul>
2	Drafting/Reviewing personal data protection documents	<ul> <li>Draft/review personal data protection term in necessary documents pertaining to accordance with the laws of Vietnam;</li> <li>Obtain relevant documents and information to be provided by the Company;</li> <li>Review and inputting the personal data protection terms in the following documents and information to be provided by the company;</li> <li>Definite-term labour contract (Bilingual – Vietnamese and English);</li> <li>Indefinite-term labour contract (Bilingual – Vietnamese and English); and</li> <li>Internal labour regulations (both Vietnamese and English versions);</li> </ul>

- Prepare the following documents:
  - Consent form and notification on data processing to employees and/or candidates (Bilingual Vietnamese and English); and
  - Personal data protection manual/guideline/policy applicable to employees and/or candidates (both Vietnamese and English versions);
- Attend up to 02 (two) rounds of follow-up questions or comments from the Company pertaining to the first draft/first reviewed version of documents;
- Finalize the documents based on the Company's comments

#### /ork

ances of the Company in relation to personal data protection;

nd operation in relation to the PDPD;

a protection;

namese law;

pliances if possible;

cedures, solutions to fulfill requirements of personal data protection. the Company pertaining to our first draft of Report.

g to the personal data protection activities of the Company in

/; cuments:

and

or candidates (Bilingual – Vietnamese and English); and yees and/or candidates (both Vietnamese and English versions); Company pertaining to the first draft/first reviewed version of



### Service offering (2/3)

No.	Services Description	Scope of Wo
3	Preparation of data processing impact assessment; and Preparation of cross-border data transfer impact assessment	<ul> <li>Under these two assignments, we will:</li> <li>Assist in drafting necessary standard impact assessment in Vietnamese based accordance with Vietnam regulations;</li> <li>Attend up to two rounds of follow-up questions or comments from the Compa</li> <li>Finalize the documents based on the Company's comments.</li> <li>Note: EY will not assist in submitting the assessment reports and applications to</li> </ul>
4	Breach management	<ul> <li>Prepare (i) a procedure for breach handling and draft (ii) a breach notification</li> <li>Attend up to 02 (two) rounds of follow-up questions or comments from the Co</li> <li>Finalize the documents based on the Company's comments.</li> </ul>
		<ul> <li>EY will assist the Company with the following tasks:</li> <li>Reviewing the personal data protection terms in the personal data processing Payroll service contract; tour service agreement; insurance service agreement</li> </ul>

legal implications/ legal risks;

- 5 Third-party management
- Inputting the personal data protection terms (if not available yet);
- Attending up to 02 (two) rounds of discussion and/or clarification with the Company pertaining to our first delivery of the documents;
- Finalizing the documents based on the Company's comments.

#### rk

d on documents and information provided by the Company in

any pertaining to the draft version of documents;

competent authority.

form in Vietnamese.

ompany pertaining to the first draft version of documents.

contracts with third party, including: Workpermit agreement; nt; etc. (both Vietnamese and English versions). Identifying material non-compliance areas against prevailing regulations on personal data protection under Vietnamese law and corresponding



### Service offering (3/3)

No.	Services Description	Scope of Wo
7	Personal data protection awareness training	<ul> <li>Prepare a comprehensive legal slide deck, discussing the key topics of PDPD subjects, consent requirement and exception, prior notice requirement, data sepersonal, data transfer impact assessment, personal data protection authority personal data controller/controller-processor/processor) and required actions</li> <li>Setup meetings with the Company for conducting personal data protection av</li> <li>Conduct training session with the Company in Vietnamese</li> </ul>
8	Ongoing support in data privacy matters	<ul> <li>Beyond the scope set forth in Section 1-7 above, any other legal supports in v connection with personal data protection and in the operational course of the matters.</li> <li>Under this scope we will: <ul> <li>Attend meetings or discussions with the Company regarding any legal iss the Company.</li> <li>Provide comments via emails, calls on matters incurred from legal perspetition.</li> </ul> </li> </ul>

appropriate courses of action.

• Provide legal advice on data privacy issues, if any.

#### /ork

PD (including principle, subjects and definition, groups of regulated a subject rights, data protection impact assessment, cross-border ity, special cases of processing, protection measures, obligation of ns and best practices from a legal perspective;

awareness training; and

n working with the Company's representatives upon request in ne Company will be considered ongoing support on data privacy

issues in relation to personal data protection during the operation of

pective upon the request of the Company, and recommend the



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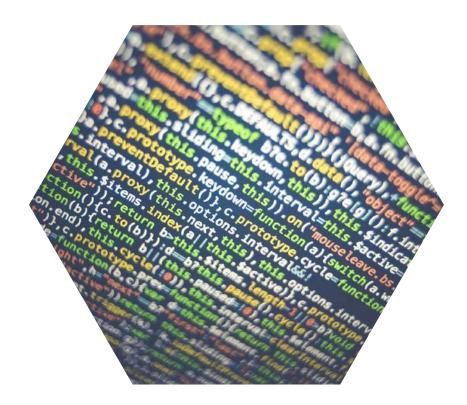
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# BEST PRACTICE IN SAFEGUARDING CUSTOMER PERSONAL DATA







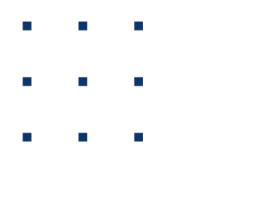




# WHY IS YOUR IT SECURITY CRITICAL?







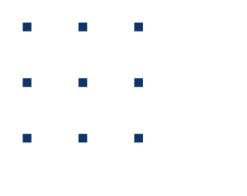
# **Data Breaches** in Europe

Company Name	Country	Industry Sector	Cause of Fine	Amount of Fine (USD)
Google	France	Technology	Lack of transparency and consent for personalized ads	\$57,000,000
Google	France	Technology	Failure to provide clear and comprehensive privacy information	\$120,000
H&M	Germany	Retail	Surveillance of employees	\$41,000,000
Marriott International	UK	Hospitality	Failure to protect personal data	\$23,900,000
British Airways	UK	Transportation	Failure to protect personal data	\$22,000,000
Vodafone	Germany	Telecommunications	Unauthorized collection of personal data	\$11,000,000
ТІМ	Italy	Telecommunications	Unsolicited telemarketing	\$29,000,000
Wind Tre	Italy	Telecommunications	Unsolicited telemarketing	\$18,000,000
Google	UK	Technology	Failure to obtain consent for personalized ads	\$57,000,000
Google	Ireland	Technology	Failure to obtain consent for personalized ads	\$57,000,000
Uber	UK	Transportation	Failure to protect personal data	\$491,000
AOK Baden-Württemberg	Germany	Healthcare	Insufficient technical and organizational measures	\$1,800,000
Eni Gas e Luce	Italy	Energy	Unsolicited telemarketing	\$11,000,000
Google	Belgium	Technology	Failure to comply with right to be forgotten requests	\$680,000
Notebooksbilliger.de	Germany	Retail	Insufficient technical and organizational measures	\$12,500,000
Iliad	France	Telecommunications	Failure to obtain valid consent for advertising cookies	\$5,000,000
Deutsche Wohnen	Germany	Real Estate	Retention of personal data beyond necessary period	\$15,000,000
Austrian Post	Austria	Postal Services	Unauthorized use of personal data for direct marketing	\$19,000,000
Google Ireland Limited	Ireland	Technology	Failure to provide sufficient information to data subjects	\$1,650,000
Deutsche Bank	Germany	Finance	Failure to prevent money laundering	\$16,000,000



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	•	•





# **Data Breaches** in S'Pore

Industry Sector	Company Name	Cause of Fine	Reason for Failing	Amount of Fine (USD)
Healthcare	SingHealth	Failure to provide notification of breach	IT Security related	\$185,000
Healthcare	IHiS	Failure to secure patient data	IT Security related	\$555,000
Telecommunications	StarHub	Unauthorized disclosure of personal data	Legal issue	\$155,000
Telecommunications	Singtel	Unauthorized disclosure of personal data	Legal issue	\$18,500
Logistics	Ninja Logistics	Failure to secure customer data	IT Security related	\$67,500
Logistics	Best Logistics	Failure to secure employee data	IT Security related	\$16,700
Ride-hailing	Grab	Failure to inform customers about policy	Process oriented	\$7,400
Technology	Ericsson	Failure to secure employee data	IT Security related	\$8,100

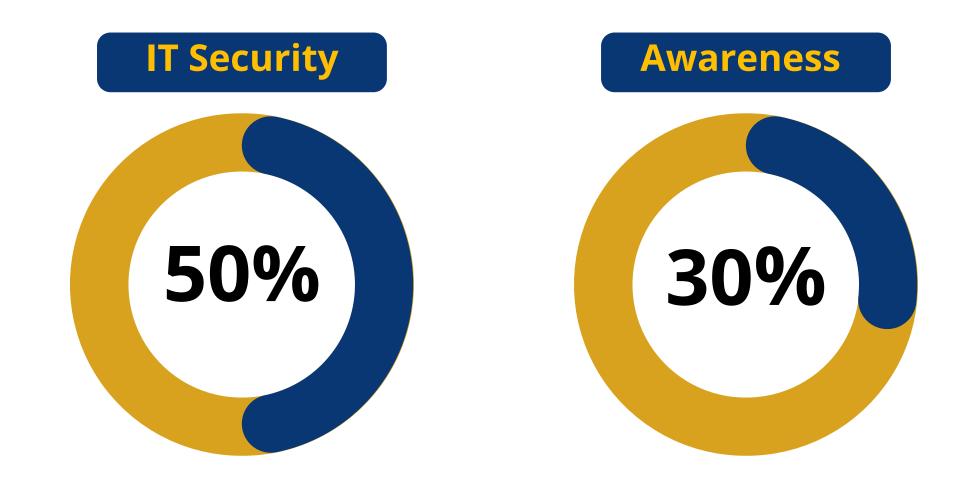


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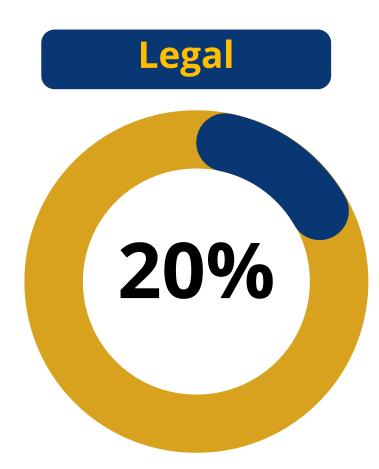


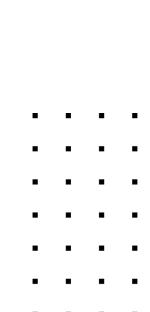
# **DID YOU KNOW?**

## **Approximate content of the PDPA law**









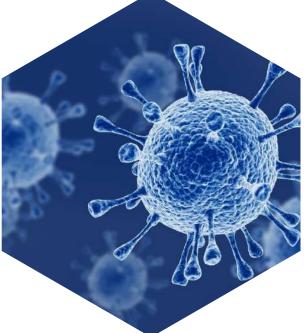




# **MALWARE EVOLUTIO**



# TRADITIONA



Virus



### Worm









### Trojan



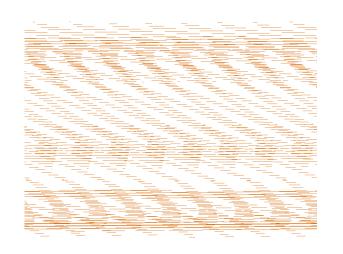
### Phishing

# RANSOMWAR

# 2 step infection



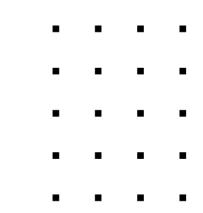
# Phishing



- Call for additional code
- Execute Disk Encryption
- Erase local visible backup
- Propose sample test decrypt
- Collect ransom







# Large companies are now more protected

- Prepared with backup Strategy
  - Damage limited to downtime
    - Server mirroring
      - Aware and trained IT Team

Need to refocus on other targets







Accounting Firms

Lawyers

**IT Security Companies** 

Health Industry

**Medical Equipment** 

Software Industry

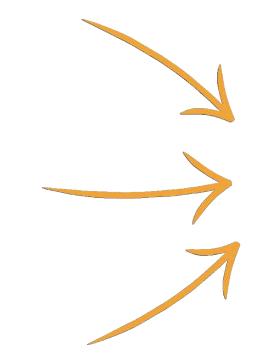
**Food Companies** 

And..... YOURS!





# BUILDING LEVERAGE Using PDPA Compliance Requirements to trap new victims



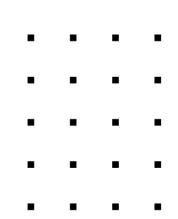


- High Fine Up to 5,000,000 THB
- Jail term
- Potential civil case
- Time pressure to react (72h)
- Unprepared victims
  - Clear processes missing
  - Untrained persons in charge
  - General requests to the wrong target



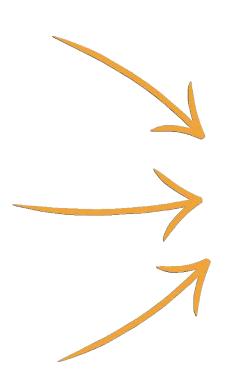






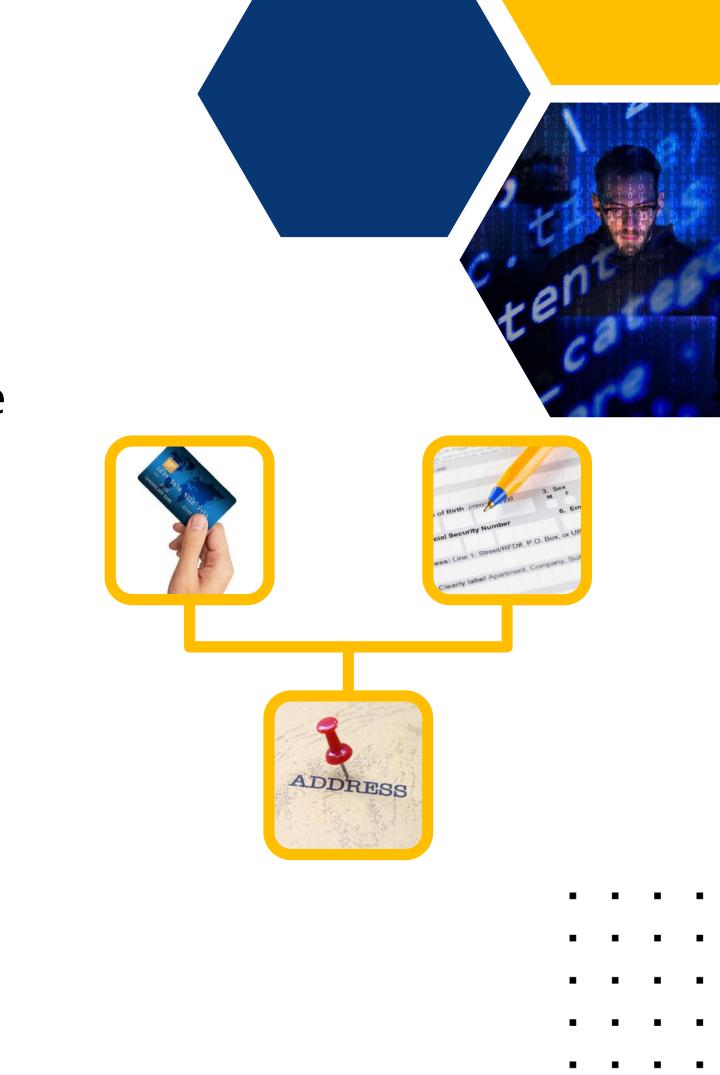
# CASE 1

### A white hacker used a fake gmail address to request information about his GF



- Created a Gmail account in her name
- Sent to 150 companies
- Received 80 confirmations of data
- 37 complied with sending
  - CC details, Bank info
  - Social security numbers
  - Full address, etc...





# How easy?

Spot the Difference?

maybank2u.com is not the same as maybank2u.com

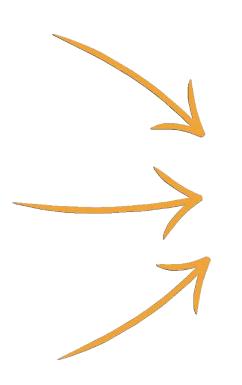
<u>citibank.com</u> is not the same as <u>citibank.com</u> (the first one is correct, the second one is from hackers)





# CASE 2

# Brute force on a music sharing basic account with a weak password





- Weak protection (data not critical)
- Hacker brute forces the password
- Escalate to change the email
- Request to verify all details
- Received immediately
  - CC details, Bank info
  - Family composition
  - Full address, etc...



# CASE 3 Reversed Ransomware

### After encryption a copy of the data was ex-filtered to the hacker site

- Attack with a phishing exploit link
- Installed a worm on the network
- Propagation through the Network
- Encryption of Data, removal of Backup
- Ex-filtering of data to a hacker site
- Removal of data, only encrypted stays
- Submit a request for ransomware
- Double threat with personal data exposed on the web
- Very high fine + civil court + reputation





# How to protect yourself?



Train your people - ALL of them



**Reinforce your IT Security** 

**Document your efforts** 



**Prepare: data segregation, Silos** 



**Monitor** 



# **STEP BY STEP** PROTECTION

A down to earth practical approach

Gap Assessment - Audit

Document processes & inventory

Set up Policies

Check 3rd Party compliance

Deploy Technology (\$)

Train people: IT & PDPA Awareness

**DOCUMENT YOUR EFFORTS** 





# **Essential Pre-requisite**

# **IT Security Audit**



### What is an IT Security Audit?

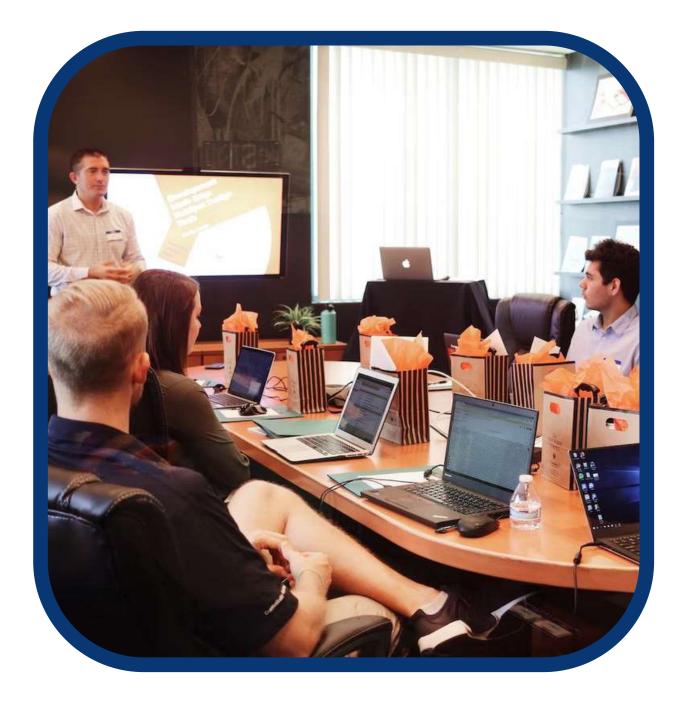
It is a **comprehensive assessment** of your organization's security posture and **IT Infrastructure**. Conducting an IT security audit helps organizations **find** and assess the vulnerabilities existing within their IT networks, connected devices, and applications.







# **IT Awareness Training**



## **Internet Driving License**

Nowadays, any admin staff, any sales person

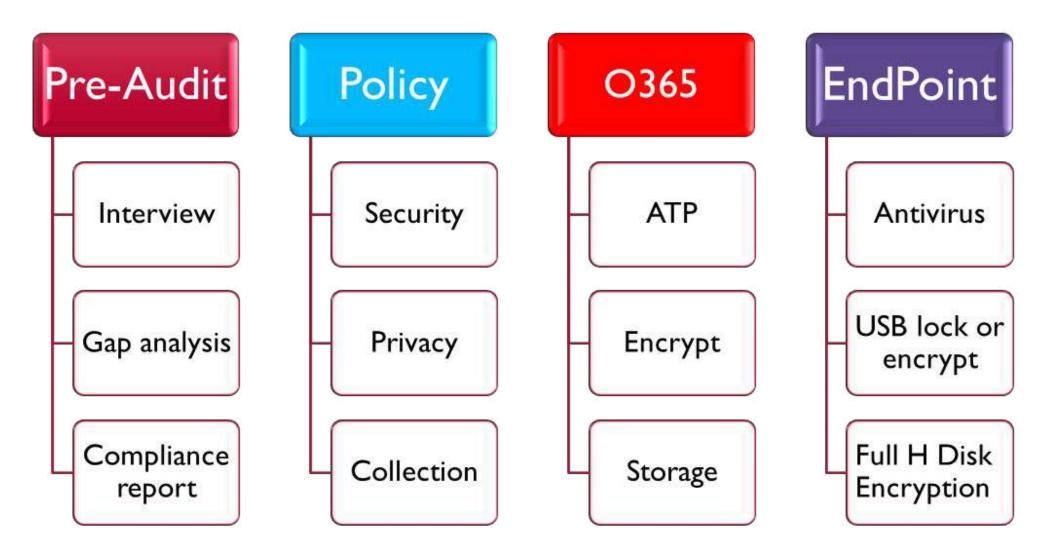
Still, there is **little or no training** given in handling such a powerful tool.

It's like giving an F1 Car to a new driver!

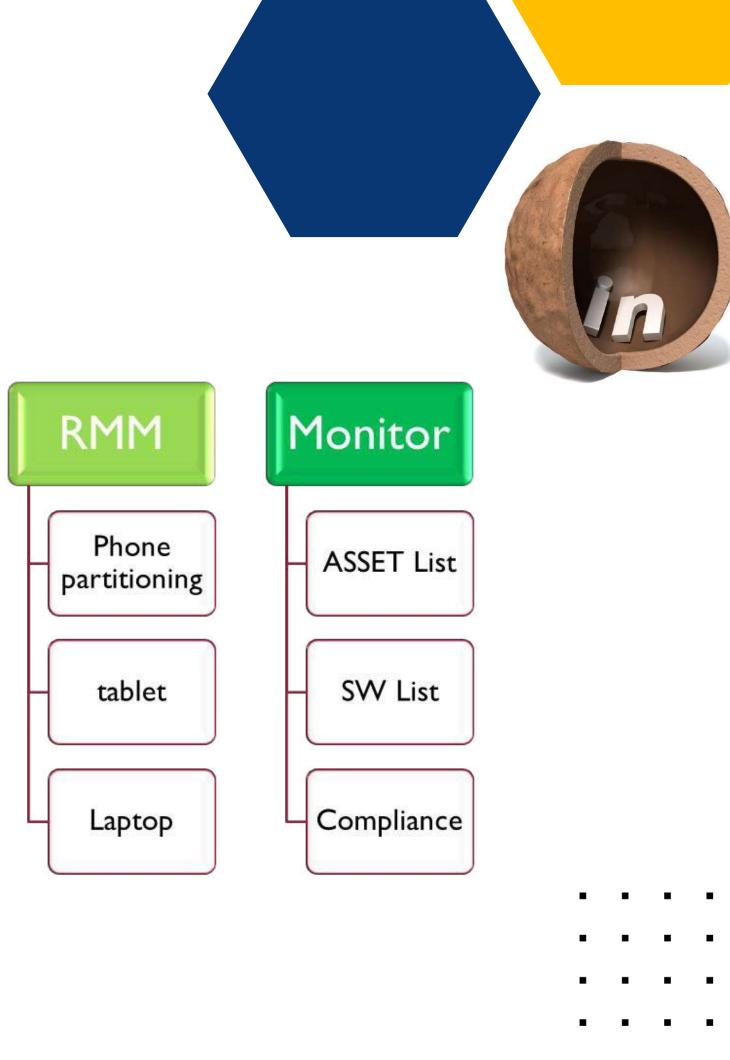
- any manager is provided with a **sophisticated** computer and high-speed internet access.



# In a Nutshell



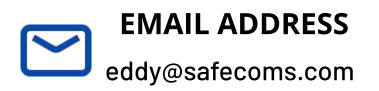




# **GET IN TOUCH**

### SafeComs Network Security Consulting Co.,Ltd

Eddy Bellavoine Chief Commercial Officer (CCO)





**PHONE NUMBER** +66 89 486 8611









# Rely on us, Free yourself

# Adopting GuardTech To Protect Your Data And IT Security

It is a **creative and innovative** remote monitoring and maintenance system.

It's a cutting-edge service to ensure your Peace of Mind, and strengthen your data

protection!

# *i***HT** Tech

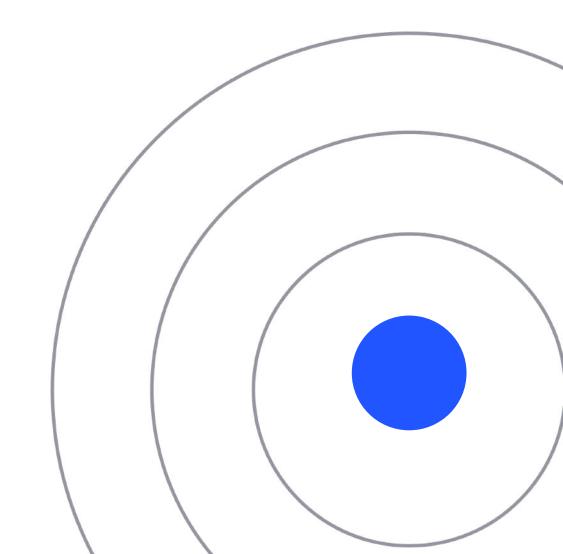






# GuardTech & IT Security Management













- Customized solution for over 10+ years, boosting IT security and efficiency.
- Technology transforming our operations.
- COVID-19 led to a challenge: engineers couldn't visit clients.
- Adopted GuardTech, in response to new challenges.









No on-site visits needed.

Manages multiple endpoints and clients simultaneously.

Optimize resources and service delivery.

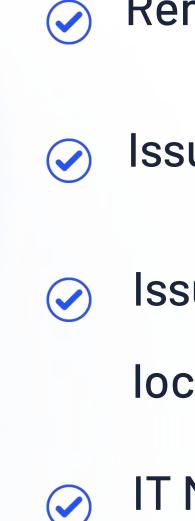
We DO NOT access your data

## *i***HT** Tech











- Remote, proactive monitoring
- Issue detection and reporting
- Issue resolution from a remote
- location
- IT Management tools accessible



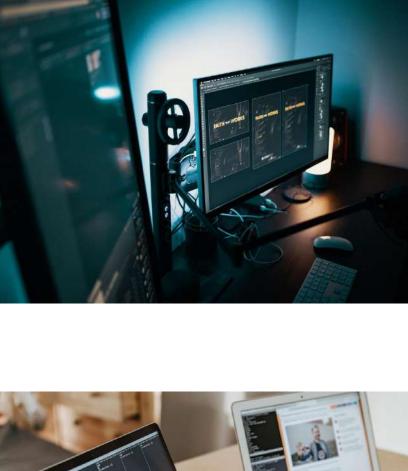




## Server

otopo











# device?

# Desktop

# Windows, Linux & Mac



# Attribute •

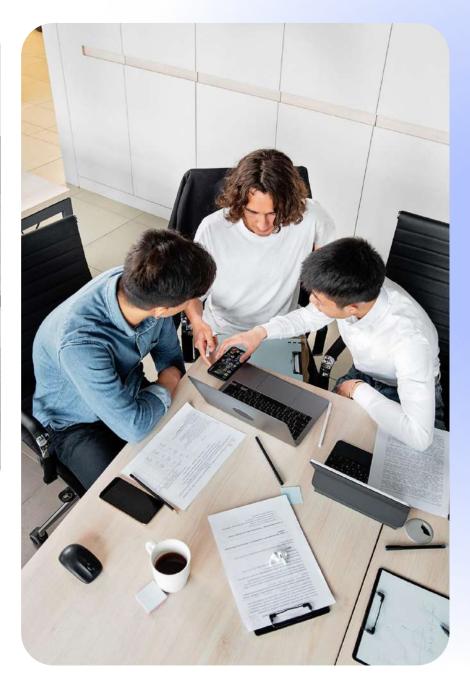
S Remote agents without VPN.

- Perform tasks with clients offline.
- Fix issues without work disruption.
- Subscription Engineers use agents or consoles.







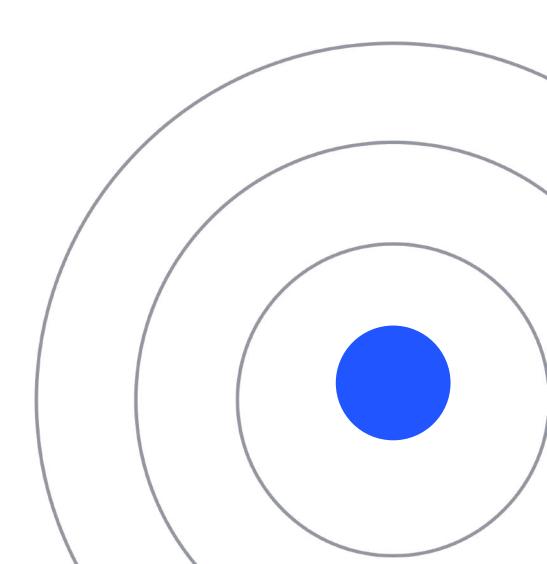




# Features & Benefits









# **Comprehensive Remote**

# IT Management



Manages and monitors IT infrastructure entirely remotely, leveraging advanced technology for oversight.



Eliminates the need for a physical IT presence, leading to significant cost savings and less intrusiveness in daily operations.



### Feature

# Benefit



# **Proactive Issue**

# **Detection & Resolution**







### Feature

- Utilizes sophisticated algorithms to
- predict and address IT issues before they
- impact business operations.

# Benefit

Dramatically reduces system downtime, enhancing productivity and safeguarding against potential revenue losses.



# **Robust Cybersecurity**

# Measures •



Implements top-tier security protocols to defend against cyber threats, including real-time monitoring and regular updates.



Strengthens data protection, ensuring compliance with privacy regulations and maintaining customer trust.



### Feature

# Benefit



# **Optimized Resource** Utilization







### Feature

- Efficiently allocates and manages IT
- resources, ensuring optimal hardware
- and software performance.

# **Benefit**

Increases overall business efficiency and performance, allowing for more focused resource allocation in other areas.



# Flexible Scalability





Facilitates seamless growth without IT constraints, ensuring that IT infrastructure evolves with the company.



## Feature

Designed to effortlessly scale with your business, accommodating changes in size and scope.

# Benefit



# **Decreased Maintenance**









### Feature

- Reduces unforeseen IT expenses
- through preventative maintenance and
- efficient management.

# **Benefit**

Facilitates seamless growth without IT constraints, ensuring that IT infrastructure evolves with the company.



# **Stable and Reliable IT**

# Environment







## Feature

- Maintains a consistent and
- high-performing IT infrastructure.

# **Benefit**

Increases overall business efficiency and performance, allowing for more focused resource allocation in other areas.





Alerts: Uptime, storage, connectivity, backup, security (virus and patches)

Antivirus definition updates



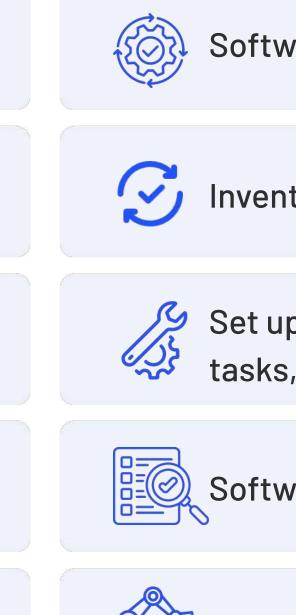
Patch Management



Remote support



Defragmentation of hard drives (when applies)





Software Installation, repair, removal

Inventory always up to date

Set up routine, scheduled maintenance tasks, and prevention of problems.

Software and Hardware audits

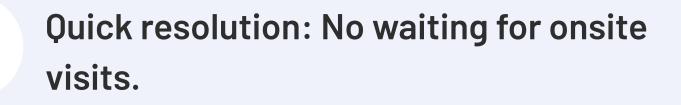
Automated process with remediation.



# Benefits •

3

4





Increased stability: Standardized environment, less downtime, more productivity.

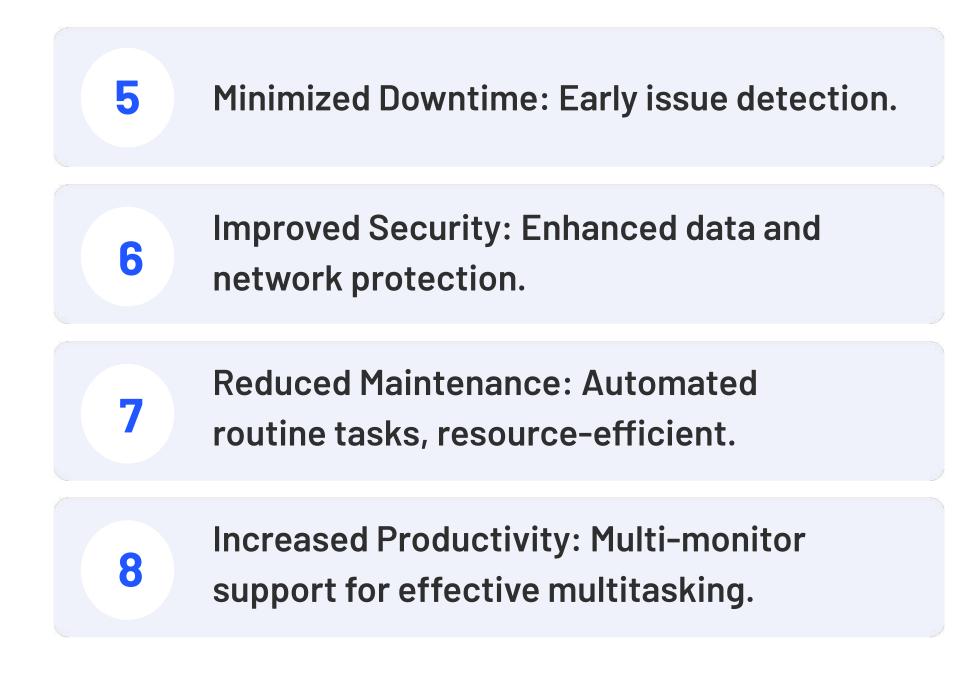
Proactive Monitoring: Real-time alerts with GuardTech.







# Benefits •









# **ABOUT AHT TECH**

# ABOUT AHT TECH

**16+** Years of experience

# 500+ Employees

**1000+** Clients

# 5000+ Projects

### Headquarter Hanoi, Vietnam



### **Awards & Certificates**















ISTOE

Certified Tester Foundation Level

Insider

technology

partner

Partner







BRONZE Solution Partner

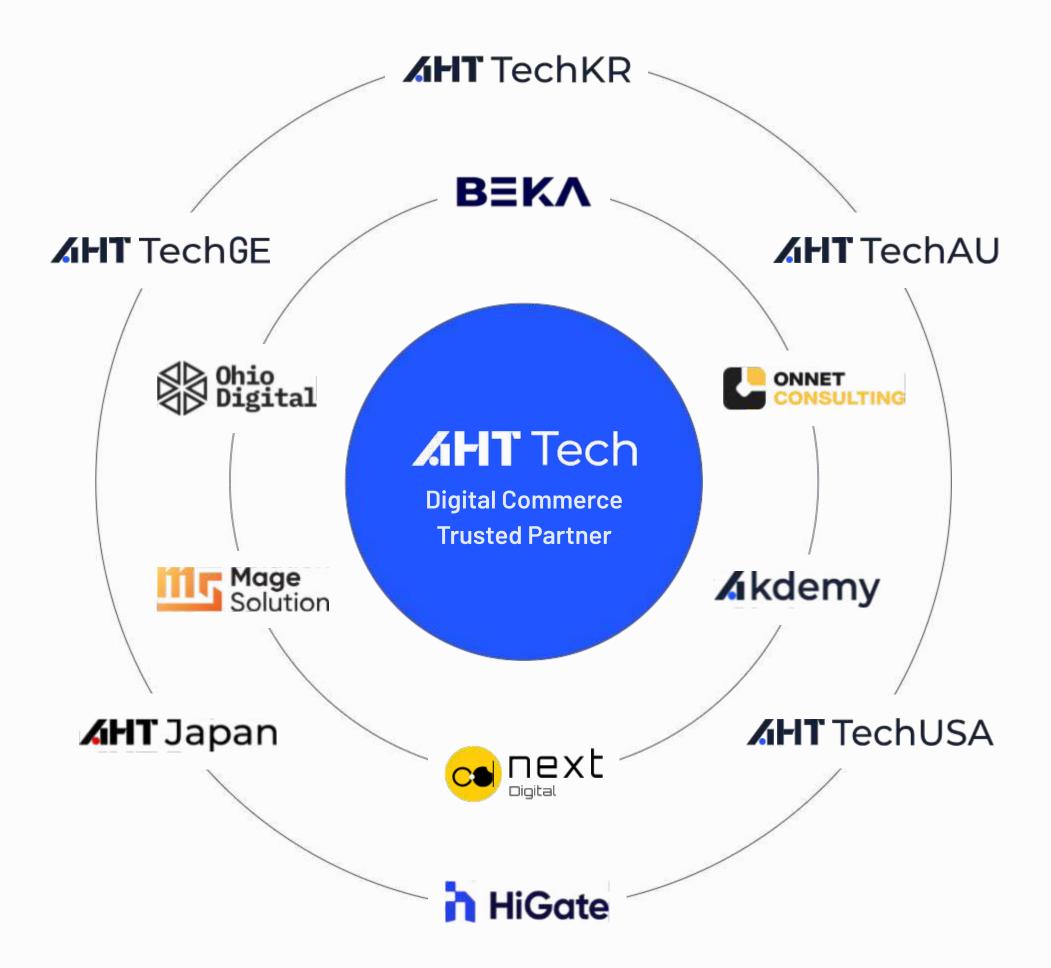












### Business Network in **9 countries**

Australia	Germany	United States
<b>(</b> ***		
Singapore	Japan	Korea
$\star$		
Vietnam	Malaysia	Thailand



# **OUR SOLUTIONS & SERVICES**



We are the premier ERP consulting company will a full range of ERP consulting services & solutions to power your business to achieve higher performance:

- Odoo ERP
- Acumatica
- Oracle Netsuite
- Open Educate

# CLOUD DATA PLATFORM & CYBER SECURITY





# **OUR SOLUTIONS & SERVICES**

# **CLOUD DATA PLATFORM & CYBER SECURITY**

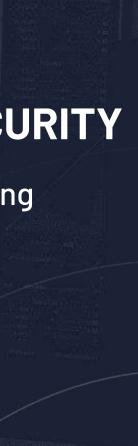
We help you mitigate effort and control risk when moving to cloud with our services of cloud data platform and cyber security

Snowflake

ERP

- Data bricks
- •Tableau
- •Cyber Security







# **OUR SOLUTIONS & SERVICES**



# CLOUD DATA PLATFORM & CYBER SECURITY

# ECOMMERCE

We provide full range of eCommerce solutions: consulting, development, optimization, implementation and maintenance:

- Magento
- Shopify Plus
- Commerce tools
- Bigcommerce

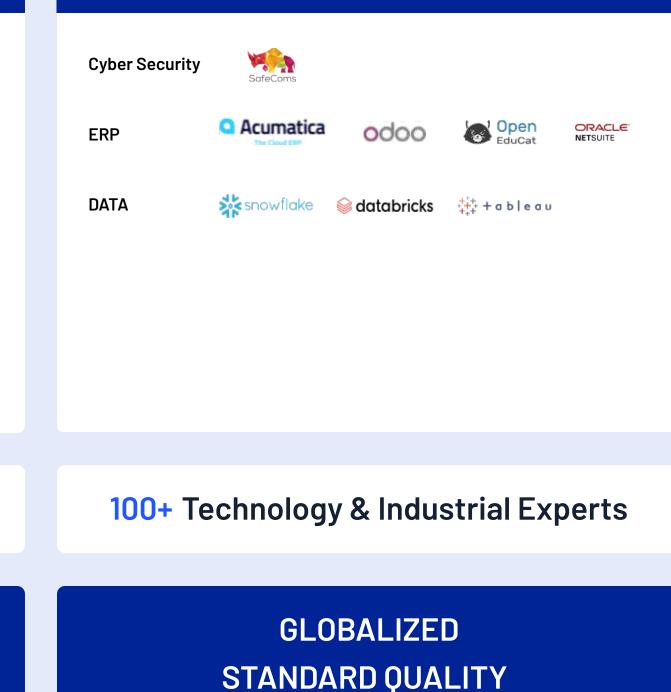


# **OUR SKILLS & TECHNOLOGY**

# Consulting and implementation capabilities

- Web/ Mobile app development
- Custom software development
- AI & Machine Learning, The IoT
- AR, VR
- The Blockchain
- Data Warehouse & Data Lake
- Cloud Computing
- DevOps

# Platforms Driven & Solution architect capabilities



### CUTTING-EDGE SOLUTIONS & TECHNOLOGIES

**500+** Software engineers

### Business domain knowledge

- Retails& Ecommerce
- Manufacturing
- BFSI
- Education
- Professional services
- Wholesales & Distribution

- IT & Telecom
- Logistics
- Healthcare
- Construction
- Agriculture

### **60+** Platforms certificates

### IN-DEPTH, CUSTOMIZED AND OPTIMIZED SOLUTIONS



# **OUR APPROACH METHODOLOGY**

How we approach to deliver digital commerce solutions & services



Integrity Ascendancy

**OUR MANAGEMENT PHILOSOPHY** 



# **BRANDS WE WORK WITH**





### **WHOLESALE &** DISTRIBUTION

### plantronics.















### **MEIZU**







### **TELCO & OTHERS**





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# **GET IN TOUCH**

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# **QUESTIONS?**





