

PG Acquisition Information Package

Standard Terms and Conditions for Participant Gateway

STANDARD TERMS AND CONDITIONS

FOR PARTICIPANT GATEWAY

In consideration of HKSCC (as hereinafter defined) granting or agreeing to grant or agreeing to continue to grant to the CCASS Participant (as hereinafter defined) a license to use the Participant Gateway to access CCASS, the CCASS Participant hereby agrees to be bound by the terms and conditions hereinafter provided.

1. Definitions

1.1 Unless otherwise defined in these Terms and Conditions, terms and expressions used herein shall have the same meaning as defined in the General Rules of CCASS and the CCASS Operational Procedures of HKSCC.

1.2 In these Terms and Conditions, unless the context otherwise requires,

“CCASS Participant” means the Participant described in the Schedule hereto;

“Hardware” means the hardware component of the Participant Gateway;

“HKSCC” means Hong Kong Securities Clearing Company Limited;

“Information” means the information disseminated or otherwise available to the CCASS Participant through the Participant Gateway and the PSS, other than the information relating to CCASS transactions of the CCASS Participant and its clients;

“Installation Site” means the site(s) where the Participant Gateway and/or the PSS of the CCASS Participant shall be located as specified in the relevant application form submitted to HKSCC;

“Participant Gateway” or “PG” means, in relation to a Participant (other than an Investor Participant), an optional technical device, which provides communication interface with CCASS in respect of particular functions specified by HKSCC from time to time, installed at the office premises in Hong Kong of the Participant or its Settlement Agent;

“Participant Supplied System” or “PSS” means the system developed according to HKSCC’s specifications and operated by the CCASS Participant for the purposes of conducting CCASS related activities, and includes any server, terminal and any other device connected to it;

“PG Application” means any application software component of the Participant Gateway provided by HKSCC to the CCASS Participant to enable the CCASS Participant to connect to CCASS using the Participant Gateway;

“Rules” means the General Rules of CCASS and the CCASS Operational Procedures of HKSCC as from time to time in effect;

“Service Vendors” means the service vendors as appointed by HKSCC from time to time for the purpose of installing a Participant Gateway for Participants;

“Settlement Agent” means a person appointed by the CCASS Participant pursuant to Rule 3801 as its Settlement Agent to access CCASS and conduct settlement and other activities in CCASS on its behalf; and

“Software” means the software component of the Participant Gateway (excluding the PG Application), including any packages as may be specified by HKSCC from time to time.

2. License

- 2.1 Upon the installation of a Participant Gateway by the CCASS Participant pursuant to and in accordance with the Rules, HKSCC will permit the CCASS Participant to connect to CCASS via the Participant Gateway and grant a license to the CCASS Participant to use the PG Application for such purpose subject to the Rules and these Terms and Conditions.
- 2.2. Subject to payment of the fees and charges prescribed by HKSCC from time to time, the CCASS Participant may use the Participant Gateway to access CCASS during such times as are expressly permitted by HKSCC. For the avoidance of doubt and without prejudice to the aforesaid, it is agreed that the Participant Gateway and the PSS of the CCASS Participant shall not be used by the CCASS Participant for the purposes of CCASS activities during any period of closure of CCASS unless express permission has been given by HKSCC.

- 2.3 All CCASS activities conducted through the Participant Gateway and the PSS of the CCASS Participant shall be bound by the Rules.
- 2.4 Any use by the CCASS Participant of its Participant Gateway and PSS for activities other than in accordance with Clause 2.2 and Clause 2.3 shall be subject to disciplinary action by HKSCC.
- 2.5 In addition to the Rules, the CCASS Participant shall comply with any requirements, directions and guidelines as HKSCC may impose and/or issue from time to time concerning the use of Information. The CCASS Participant shall use the Information in such manner as is permitted by HKSCC and is not allowed to disseminate the Information to its clients or any third parties. For the avoidance of doubt, third parties include but shall not be limited to any company within the group of companies of the CCASS Participant and clients of the CCASS Participant. The CCASS Participant hereby acknowledges that all the proprietary rights and intellectual property rights in respect of the Information are at all times vested in HKSCC.
- 2.6 The CCASS Participant shall at all times hold the Information in strictest confidence and shall not at any time divulge the Information or allow the same to be divulged to any third parties under any circumstances without the prior written consent from HKSCC. The obligation of confidentiality shall not extend to those Information which is already in the public domain and/or hereinafter becomes public knowledge through no fault of the CCASS Participant.

3. Title

- 3.1 HKSCC shall remain the sole and absolute owner of the PG Application. The legal and equitable ownership of and title to the PG Application and all rights therein shall at all times vest in HKSCC and shall not pass to the CCASS Participant. The CCASS Participant shall not create any charge, incumbrance or lien over or in any way deal with or dispose of the Participant Gateway (including but not limited to the PG Application), or perform any acts or omit to perform any acts which would prejudice the title and ownership of HKSCC in respect of the PG Application and the rights of HKSCC.
- 3.2 The CCASS Participant shall not relocate, move or remove the Participant Gateway and/or the PSS of the CCASS Participant from the Installation Site without the prior written consent of HKSCC. Any said relocation, move or removal of the Participant Gateway and the PSS with the consent of HKSCC

and any subsequent installation of the Participant Gateway and the PSS will be at the sole cost and expense of the CCASS Participant.

- 3.3 The CCASS Participant shall arrange the procurement of the Hardware and the Software and engage one of the Service Vendors for the installation and set-up of the PG (including the PG Application provided by HKSCC) at the Installation Site at its own cost and expense. The CCASS Participant shall be the owner of the Hardware and Software, and shall ensure that the Hardware and Software satisfy such requirements and specifications as may from time to time be specified by HKSCC. Notwithstanding the above, the Windows administrative right of the PG shall remain vested in HKSCC.
- 3.4 Without prejudice to the rights and powers of HKSCC to require records relating to the use of the services and facilities of CCASS be made available for its inspection and to enter the premises of Participants (other than Investor Participants) to inspect such records under Rule 1703(v) of the General Rules of CCASS, HKSCC shall have the right to enter the Installation Site at all times to inspect the Participant Gateway and all records in relation thereto.
- 3.5 Except as expressly permitted under Clause 9.1, the PG Application is furnished to the CCASS Participant under a non-exclusive and non-transferable license solely for the CCASS Participant's own use. The CCASS Participant shall not (i) provide, transmit or otherwise make available the PG Application or any parts thereof to any third parties; (ii) copy, or allow others to copy the PG Application or any parts thereof; (iii) disassemble, reverse engineer, or decompile the PG Application; or (iv) modify, adapt, rent, sublicense, lease or assign the PG Application or create derivative works based upon the PG Application or any parts thereof. For the avoidance of doubt, no title to or ownership of the PG Application or any of its parts, and none of the applicable rights in the PG Application (including but not limited to the intellectual property rights, patents, copyright and trade secrets), is transferred to the CCASS Participant.

4. Maintenance

- 4.1 The CCASS Participant shall be responsible for the maintenance of the Participant Gateway.
- 4.2 The CCASS Participant shall:-

- 4.2.1 keep the Participant Gateway at all times in good and serviceable repair and condition and follow the manufacturer's/supplier's recommendations as to use, servicing and maintenance of the Participant Gateway;
 - 4.2.2 acquire and ensure there are ongoing maintenance services and anti-virus client software subscriptions for the Hardware and Software from the relevant manufacturer/supplier;
 - 4.2.3 not allow any person other than HKSCC staff or persons authorized by HKSCC to change or in any way modify the PG Application configuration;
 - 4.2.4 follow the operation instructions issued by HKSCC from time to time; and
 - 4.2.5 keep the Participant Gateway insured against loss or damage by accident, fire, theft and such other risks as usually covered by insurance, and be solely responsible for any loss or damage to the Participant Gateway.
- 4.3 HKSCC will not be responsible for any loss, cost, liability or expense arising out of or incurred as a result of or in connection with any breach by the CCASS Participant of this Clause 4 which loss, cost, liability or expense shall be borne by the CCASS Participant.

5. Indemnity

- 5.1 The CCASS Participant shall at all times keep HKSCC fully indemnified against and in respect of all liabilities, economic or otherwise, losses, damages, costs, claims, suits, demands, fees and expenses of whatsoever nature (whether in contract, tort or otherwise) which may be incurred by HKSCC directly or indirectly as a result of or in connection with or arising out of any act, omission, mistake, delay or other fault of the CCASS Participant in respect of or in connection with the use by the CCASS Participant of the Participant Gateway and the PSS or any breach by the CCASS Participant of these Terms and Conditions.
- 5.2 HKSCC shall not be liable to the CCASS Participant or any person claiming through the CCASS Participant or any other third party for any cause of action

of whatever nature for and in respect of any liabilities, economic or otherwise, losses, damages, costs, claims, suits, demands, fees and expenses of whatsoever nature suffered by the CCASS Participant or any third party arising from any cause whatsoever or (without prejudice to the generality of the foregoing) arising from any act, omission, mistake, delay, interruption, whether negligent or otherwise, in respect of or in connection with or arising out of the installation, operation, use or maintenance of the Participant Gateway.

6. Termination

- 6.1 The license to use the Participant Gateway to access CCASS may be terminated forthwith by HKSCC at any time without notice to the CCASS Participant in the event that:-
- 6.1.1 the CCASS Participant ceases to be a Participant or is a Participant only by virtue of the fact that it is an Investor Participant;
 - 6.1.2 the CCASS Participant is expelled or suspended from participantship of HKSCC; or
 - 6.1.3 the CCASS Participant is in material breach of any obligations hereunder or under the Rules or HKSCC has reason to believe that the Participant Gateway is not used by the CCASS Participant in a proper manner.
- 6.2 Notwithstanding the above, HKSCC shall have the right to terminate the license to use the PG Application or the access to CCASS using the Participant Gateway without cause at any time by giving not less than ten (10) business days' notice to the CCASS Participant. The notice of termination from HKSCC to the CCASS Participant shall be given in accordance with Rule 3001 of the General Rules of CCASS.
- 6.3 On termination of the license pursuant to Clause 6, the CCASS Participant shall immediately destroy the PG Application in such manner as directed by HKSCC and, if requested by the HKSCC, shall certify in writing as to the destruction of the PG Application provided that all rights accrued to the HKSCC prior to the termination shall not be affected. All the costs and expenses of and relating to the destruction of the PG Application upon termination shall be borne by the CCASS Participant who shall fully indemnify HKSCC in respect of any loss, cost, liability or expense thereby incurred.

7. Notices

- 7.1 All demands, notices, requests and other communications from the CCASS Participant to HKSCC under these Terms and Conditions shall be in writing and given in accordance with Rule 3002 of the General Rules of CCASS.
- 7.2 All demands, notices, requests and other communications from HKSCC to the CCASS Participant under these Terms and Conditions shall be given in accordance with Rule 3001 of the General Rules of CCASS.

8. Charges

- 8.1 The CCASS Participant shall pay to HKSCC a usage fee (and a testing fee, where applicable) for the Participant Gateway in such amount, at such times and in such manner as HKSCC shall from time to time specify under Rule 1601 of the General Rules of CCASS.
- 8.2 If the CCASS Participant is late in paying the usage fee and/or the testing fee for the Participant Gateway due to HKSCC, the CCASS Participant shall pay to HKSCC interest, surcharge, penalty or fine for late payment at such rate and in such manner as HKSCC shall from time to time determine.
- 8.3 HKSCC shall have the right to (i) introduce additional fees and charges to cover any new/existing types of services in respect of the Participant Gateway; and (ii) revise the fees and charges payable under these Terms and Conditions from time to time.

9. Miscellaneous

- 9.1 The license to use the PG Application and the entitlement to use the Participant Gateway to access CCASS shall not be assigned or transferred by the CCASS Participant and except for the use of the PG Application and Participant Gateway by a Settlement Agent solely for the purpose of discharging its duties as the Settlement Agent of the CCASS Participant, the CCASS Participant shall not permit or suffer any arrangement whereby any person other than the CCASS Participant obtains the use or possession of the PG Application or the Participant Gateway. In the event that a Settlement Agent is appointed:

- 9.1.1 the CCASS Participant undertakes to procure that the Settlement Agent complies with the terms and conditions of use of the PG Application, Participant Gateway, CCASS or Information imposed by these Terms and Conditions or the Rules;
- 9.1.2 the CCASS Participant shall ensure that, unless with the prior written approval of HKSCC and subject to such further conditions as it may impose, the Settlement Agent will not use, or extend the use of, the PG Application, Participant Gateway, CCASS or Information other than as approved by HKSCC under the CCASS Participant's application for appointment of the Settlement Agent;
- 9.1.3 the CCASS Participant shall bear full responsibility for all acts, omissions, breaches and defaults of the Settlement Agent as if they were the CCASS Participant's own acts, omissions, breaches and defaults, and shall be liable for all dealings, activities, instructions and communications which are conducted or input or purported to be conducted or input on the CCASS Participant's behalf via the Settlement Agent's access to CCASS; and
- 9.1.4 to the extent necessary to give effect to this Clause 9.1, any reference in these Terms and Conditions to the CCASS Participant shall include a reference to the Settlement Agent.
- 9.2 These Terms and Conditions shall be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region of the People's Republic of China.
- 9.3 The indemnities contained in the Terms and Conditions and Clause 8.2 shall survive termination of these Terms and Conditions.
- 9.4 Where the context so requires or permits, words importing the singular number shall include the plural number and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa.
- 9.5 These Terms and Conditions shall be in addition to and shall not prejudice the provisions of the Rules. Should there be any inconsistencies between these Terms and Conditions and the Rules, the latter shall prevail.

- 9.6 Any failure by the CCASS Participant to comply with these Terms and Conditions shall be subject to disciplinary action by HKSCC.
- 9.7 Each of the provisions of these Terms and Conditions is severable and distinct from the others and, if one or more of such provisions is or becomes illegal, invalid or unenforceable, the remaining provisions shall not be affected in any way.
- 9.8 No person other than a party to these Terms and Conditions may enforce any of its terms under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong).

10. Amendment

- 10.1 HKSCC has the right at any time to vary, modify, delete, amend or otherwise change these Terms and Conditions subject to giving to the CCASS Participant not less than thirty days' notice thereof.

Schedule

Name of CCASS Participant :

Participant ID :

Acknowledgement

I/We, the CCASS Participant, have read and agree to be bound by HKSCC's Standard Terms and Conditions for Participant Gateway, and acknowledge that the same constitute a binding contract between HKSCC and me/us.

CCASS Participant/

Authorized Signature(s) : _____ Date: _____
(with Company Chop)