

Appendix

Inter-CCP SHCH Charge Agreement

INTER-CCP SHCH CHARGE AGREEMENT ENTERED INTO PURSUANT TO THE CLEARING LINK AGREEMENT AND CLEARING RULES

THIS AGREEMENT is dated the date of the Clearing Link Agreement and made between:

- (1) **Interbank Market Clearing House Co., Limited**, a company lawfully established in accordance with the laws of the PRC, with valid existence and whose residence is at 2 East Beijing Road, Shanghai 200002 ("**SHCH**"); and
 - (2) **OTC Clearing Hong Kong Limited**, a company lawfully incorporated in accordance with the laws of Hong Kong, with valid existence and whose registered office is at 8/F, Two Exchange Square, 8 Connaught Place, Central, Hong Kong ("**OTC Clear**");
- (each a "**Party**" and together the "**Parties**").

BACKGROUND

- (A) SHCH and OTC Clear are entering into this Agreement in connection with the Clearing Link Agreement.
- (B) From time to time, SHCH shall deposit cash into an Account designated by it and OTC Clear pursuant to the Clearing Link Agreement. Such cash deposited into and held in the Accounts and the Security Assets are "market collateral" and the Security Interests are "market charge" as defined under the Securities and Futures Ordinance (Cap. 571) of the Laws of Hong Kong.
- (C) The board of directors of SHCH is satisfied that entering into this Agreement is in the interest of, for the purposes and to the benefit of SHCH and its business.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Account (BOCHK)**" means the bank account in the name of OTC Clear held with BOCHK with SWIFT code BKCHHKHHXXX, account number 01287520762126 (as may be renumbered or re-designated from time to time) and named OTC Clearing Hong Kong Limited (Lockbox).

"**Account (ICBCA)**" means the bank account in the name of OTC Clear held with ICBCA with SWIFT code UBHKHKHXXXX, account number 861530208511 (as may be renumbered or re-designated from time to time) and named OTC Clearing Hong Kong Limited (Lockbox).

"**Accounts**" means the Account (BOCHK) and the Account (ICBCA).

"**Assets**" means all of OTC Clear's right, title and interest from time to time in and to:

- (a) the Custodian Documents; and
- (b) the Accounts.

"**BOC**" means Bank of China Limited.

“BOCHK” means Bank of China (Hong Kong) Limited as account bank of the Account (BOCHK).

“Cash Collateral” means, as at any time, (i) the cash deposited by SHCH into the Accounts and any interest amount credited into the Accounts, (ii) the balance standing to the credit of the Accounts at that time and (iii) the debt represented by them.

“Clearing Link Agreement” means the agreement dated [●] between OTC Clear and SHCH, as amended and/or supplemented from time to time.

“Clearing Link Other Termination Event” means the termination of the Clearing Link Agreement other than due to the occurrence of an SHCH Event of Default or an OTCC Event of Default.

“Clearing Rules” means the clearing rules of OTC Clear as from time to time in effect and shall include the Clearing Procedures.

“Collateral Management Agreement (BOC)” means the Swap Connect Collateral Management Agreement dated [●] between SHCH, OTC Clear, BOCHK and BOC.

“Collateral Management Agreement (ICBC)” means the Swap Connect Collateral Management Agreement dated [●] between SHCH, OTC Clear, ICBCA and ICBC.

“Collateral Management Agreements” means the Collateral Management Agreement (BOC) and the Collateral Management Agreement (ICBC).

“CPO” means the Conveyancing and Property Ordinance (Cap. 219) of the Laws of Hong Kong.

“Custodian Documents” means any of the account opening documents executed by OTC Clear in respect of the establishment of the Accounts.

“Documents” means the Clearing Link Agreement, the Clearing Documentation and the Collateral Management Agreements.

“Hong Kong Custodian Banks” means BOCHK and ICBCA.

“ICBC” means Industrial and Commercial Bank of China Limited.

“ICBCA” means Industrial and Commercial Bank of China (Asia) Limited as account bank of the Account (ICBCA).

“Liabilities” means all present and future moneys, debts, liabilities and obligations due, owing or incurred by SHCH to OTC Clear under or in connection with any Inter-CCP Rates Derivatives Contracts and the Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise).

“OTCC Event of Default” means an OTC Clear Failure to Pay SHCH Event or an OTC Clear Insolvency Event.

“PRC Custodian Banks” means BOC and ICBC.

“SHCH Rights” means:

- (a) all of SHCH’s rights against the Hong Kong Custodian Banks in the Cash Collateral;
- (b) all of SHCH’s rights to direct the Hong Kong Custodian Banks and the PRC Custodian Banks under the Documents for the Hong Kong Custodian Banks to release the Excess Inter-CCP SHCH Margin from the respective Account;
- (c) all of SHCH’s rights against OTC Clear, the Hong Kong Custodian Banks and the PRC Custodian Banks for the Hong Kong Custodian Banks to return the Cash Collateral under the Documents; and

- (d) all of SHCH's rights against any third parties (including its clearing participants) with respect to the Cash Collateral.

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Assets" means the assets which from time to time are, or expressed to be, the subject of the Security Interests or any part of those assets.

"Security Interests" means all or any of the Security created or expressed to be created in favour of OTC Clear by or pursuant to this Agreement.

1.2 Incorporation of defined terms

Unless a contrary indication appears, terms defined in the Clearing Link Agreement and the Clearing Rules have the same meaning in this Agreement.

1.3 Construction

- (a) Unless a contrary indication appears, any reference in this Agreement to:
 - (i) **"OTC Clear", "SHCH", "BOC", "BOCHK", "ICBC", "ICBCA", "Hong Kong Custodian Bank", "PRC Custodian Bank"** or any **"Party"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Documents; and
 - (ii) any **"Contract"**, any **"Clearing Documentation"**, **"Clearing Link Agreement"**, **"Collateral Management Agreement"** or any other agreement or instrument is a reference to that Contract, Clearing Documentation, Clearing Link Agreement, Collateral Management Agreement or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced.
- (b) The provisions in Clearing Rules 102 to 108 apply to this Agreement with all necessary changes.
- (c) In the context of the rights, powers, privileges, discretions and immunities conferred on OTC Clear, references to charge or mortgage in any provision of the CPO shall, for the purposes of this Agreement, be deemed to be references to the Security Interests and references to mortgaged land in any provision of the CPO shall, for the purposes of this Agreement, be deemed to be references to the Security Assets.

1.4 Third Party Rights

- (a) Unless expressly provided to the contrary in the Documents, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) of the Laws of Hong Kong to enforce or to enjoy the benefit of any term of this Agreement.
- (b) Notwithstanding any term of any Documents, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

2. CREATION OF SECURITY INTERESTS

SHCH, as continuing security for the due and punctual payment and discharge of all Liabilities:

- (a) mortgages, charges and pledges and agrees to mortgage, charge and pledge in favour of OTC Clear by way of first mortgage and first fixed charge, the Cash Collateral; and

- (b) assigns and charges and agrees to assign and charge to OTC Clear by way of security and first fixed charge, the SHCH Rights.

3. **RESTRICTIONS AND FURTHER ASSURANCE**

3.1 **Withdrawals**

- (a) OTC Clear shall only be permitted to withdraw the Cash Collateral upon the occurrence of (i) an SHCH Event of Default or (ii) a Clearing Link Other Termination Event and SHCH owed the net sum to OTC Clear.
- (b) At any time prior to the occurrence of (i) an SHCH Event of Default or (ii) a Clearing Link Other Termination Event and SHCH owed the net sum to OTC Clear, the Parties agree that neither OTC Clear nor SHCH shall make any withdrawal of any Cash Collateral from the Accounts, except:
 - (i) any Cash Collateral in the Accounts (which, for the avoidance of doubt, includes interest amount credited into the Accounts) in excess of the Inter-CCP SHCH Margin Amount in respect of a Northbound Clearing Day may be withdrawn by SHCH in accordance with the relevant Collateral Management Agreement; and
 - (ii) all Cash Collateral in the Accounts may be withdrawn by SHCH in accordance with the relevant Collateral Management Agreement upon the designation of an Early Termination Date due to the occurrence of an OTCC Event of Default or a Clearing Link Other Termination Event and OTC Clear owed the net sum to SHCH.
- (c) For the avoidance of doubt, any unused Cash Collateral in the Accounts (if any) shall be transferred by OTC Clear to SHCH in accordance with the relevant Collateral Management Agreement after the termination of all Inter-CCP Rates Derivatives Contracts and settlement of all relevant payments following the occurrence of (i) an SHCH Event of Default or (ii) a Clearing Link Other Termination Event.

3.2 **Negative pledge**

- (a) SHCH shall not create or permit to subsist any Security over any Security Asset, except for the Security Interests.
- (b) At any time prior to the occurrence of (i) an SHCH Event of Default or (ii) a Clearing Link Other Termination Event and SHCH owed the net sum to OTC Clear, OTC Clear shall not create or permit to subsist any Security over the Assets.

3.3 **Disposals**

- (a) SHCH shall not (nor agree to) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, withdraw, transfer or otherwise dispose of any Security Asset.
- (b) At any time prior to the occurrence of (i) an SHCH Event of Default or (ii) a Clearing Link Other Termination Event and SHCH owed the net sum to OTC Clear, OTC Clear shall not (nor agree to) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, withdraw, transfer or otherwise dispose of any Asset.

3.4 **Further assurance**

- (a) SHCH shall promptly do whatever OTC Clear requires to perfect or protect the Security Interests or the priority of the Security Interests, or to facilitate the realisation of the Security Assets or the exercise of any rights vested in OTC Clear, including making any registration and giving any notice, order or direction.
- (b) SHCH shall take all such action as is available to it (including making all filings and registrations) as may from time to time be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on OTC Clear by or pursuant to this Agreement.

3.5 **Notice of assignment**

SHCH shall, and hereby authorises OTC Clear (on behalf of SHCH and OTC Clear) to, give notice of the assignment and charge in Clause 2 (*Creation of security interests*) (in a form agreed between SHCH and OTC Clear) on the date of this Agreement and SHCH shall use its best endeavours to ensure that the recipient of that notice signs and returns the relevant form of acknowledgement.

4. **GENERAL UNDERTAKINGS**

4.1 **Information**

SHCH shall supply to OTC Clear promptly such information regarding the Security Assets and its compliance with this Agreement as OTC Clear may reasonably request.

4.2 **No prejudicial conduct**

SHCH shall not do, or permit to be done, anything which could prejudice the Security Interests.

5. **ENFORCEMENT**

When enforceable

The Security Interests shall be immediately enforceable on and at any time after the occurrence of (i) an SHCH Event of Default or (ii) a Clearing Link Other Termination Event, and OTC Clear:

- (i) may enforce all or any part of the Security Interests (at the times, in the manner and on the terms it thinks fit), apply and set off any obligation due from SHCH to OTC Clear under any Inter-CCP Rates Derivatives Contracts or Documents against any obligation owed by OTC Clear to SHCH under any Inter-CCP Rates Derivatives Contracts or Documents and take possession (including to instruct the Hong Kong Custodian Banks to transfer the Security Assets into an account in the name of, or nominated by, OTC Clear) and hold or dispose of all or any part of the Security Assets; and
- (ii) may exercise all or any of the powers, authorities and discretions given to mortgagees and receivers by the CPO as varied or extended by this Agreement or otherwise conferred by law. Such statutory powers shall arise on the date of this Agreement and no restriction imposed by any ordinance or other statutory provision in relation to the exercise of any such powers shall apply to this Agreement.

6. **POWER OF ATTORNEY**

6.1 **Appointment**

SHCH by way of security irrevocably appoints OTC Clear as its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the

attorney thinks fit, to do anything and execute any documents which SHCH is obliged to do or execute (but has not done or executed) under any Documents and to exercise any of the rights conferred on OTC Clear in relation to the Security Assets, under or in connection with any Documents or generally under Hong Kong law.

6.2 Ratification

SHCH ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 6.1 (*Appointment*).

7. SAVING PROVISIONS

7.1 Continuing Security

Subject to Clause 8 (*Discharge of Security*), the Security Interests are continuing Security and will extend to the ultimate balance of the Liabilities, regardless of any intermediate payment or discharge in whole or in part.

7.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of SHCH or any security for those obligations or otherwise) is made by OTC Clear in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of SHCH and the Security Interests will continue or be reinstated as if the discharge, release or arrangement had not occurred.

7.3 Waiver of defences

Neither the obligations of SHCH under this Agreement nor the Security Interests will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any Inter-CCP Rates Derivatives Contracts or Documents or any of the Security Interests (without limitation and whether or not known to it or OTC Clear), including without limitation:

- (a) any time, waiver or consent granted to, or composition with, SHCH or other person;
- (b) the release of SHCH or any other person under the terms of any composition or arrangement with any creditor of SHCH;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, SHCH or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security; or
- (d) any insolvency or similar proceedings.

7.4 Immediate recourse

SHCH waives any right it may have of first requiring OTC Clear (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from SHCH under this Agreement. This waiver applies irrespective of any law or any provision of any Inter-CCP Rates Derivatives Contracts or Documents to the contrary.

7.5 Appropriations

Until all the Liabilities have been irrevocably paid in full, OTC Clear (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by it (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and SHCH shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from SHCH or on account of SHCH's liability under this Agreement.

7.6 **Additional security**

The Security Interests are in addition to and are not in any way prejudiced by any other guarantee or security now or subsequently held by OTC Clear.

8. **DISCHARGE OF SECURITY**

8.1 **Final redemption**

Subject to Clause 8.2 (*Retention of security*), if OTC Clear is satisfied that all Liabilities have been irrevocably paid in full and that the Clearing Link Agreement and the Clearing Link Services have been terminated, OTC Clear shall release, reassign or discharge (as appropriate) the Security Assets from the Security Interests.

8.2 **Retention of security**

If OTC Clear considers that any amount paid or credited to it under any Inter-CCP Rates Derivatives Contracts or Documents is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Liabilities have been irrevocably paid.

8.3 **Withdrawals**

If any Cash Collateral is withdrawn or otherwise transferred, applied and/or set off from the Accounts as permitted by Clause 3.1 (*Withdrawals*) or Clause 5 (*When enforceable*), that amount shall be automatically released from the Security Interests at the time that withdrawal, transfer, application and/or set off was being made.

9. **PAYMENTS**

9.1 **Demands**

Any demand for payment made by OTC Clear shall be valid and effective.

9.2 **Payments**

All payments by SHCH under this Agreement (including damages for its breach) shall be made to such account, with such financial institution and in such other manner as OTC Clear may direct.

10. **RIGHTS, WAIVERS AND DETERMINATIONS**

10.1 **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of OTC Clear any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement. No waiver or election to affirm this Agreement on the part of OTC Clear shall be effective unless in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

10.2 **Determinations**

Any determination by or certificate of OTC Clear under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

11. **SEPARATE AND INDEPENDENT OBLIGATIONS**

The Security created by SHCH by or in connection with any Inter-CCP Rates Derivatives Contracts or Documents is separate from and independent of the Security created or intended to be created by any other person by or in connection with any Inter-CCP Rates Derivatives Contracts or Documents.

12. **AMENDMENT AND ASSIGNMENT**

12.1 No amendment to this Agreement shall be effective unless in writing and signed by or on behalf of each of the Parties or their representatives.

12.2 No Party may, without the prior written consent of the other Party, assign, grant any security interest over, hold on trust or otherwise transfer the benefit of the whole or any part of this Agreement.

13. **GOVERNING LAW**

This Agreement is governed by Hong Kong law.

14. **ENFORCEMENT**

14.1 The courts of Hong Kong have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement) (a "**Dispute**").

14.2 The Parties agree that the courts of Hong Kong are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

14.3 SHCH irrevocably appoints Oldham, Li & Nie of Suite 503, 5/F, St. George's Building, 2 Ice House Street, Central, Hong Kong (Fax No. +852 2810 6796) as its agent to receive on its behalf in Hong Kong service of any proceedings under this Agreement. Such service shall be deemed completed upon delivery to such agent (whether or not it is forwarded to and received by SHCH) and shall be valid until such time as OTC Clear has received prior written notice that such agent has ceased to act as agent for SHCH. If for any reason such agent ceases to be able to act as agent or no longer has an address in Hong Kong, SHCH shall forthwith appoint a substitute agent acceptable to OTC Clear and deliver to OTC Clear the new agent's name, address and fax number in Hong Kong.

This Agreement has been entered into by the Parties on the date stated at the beginning pursuant to clause 9.1(ii) of the Clearing Link Agreement.