

## TERMS AND CONDITIONS

- 1) In these Terms & Conditions:-
  - a) **“Subscriber”** means Tradelink’s customer who subscribes to use DTTN Services with the aid of TradeConsole provided by Tradelink.
  - b) **“TradeConsole”** means the software product provided by Tradelink to its customers for use of the DTTN Services through Tradelink.
  - c) **“Intended Recipient”** means any person or party to whom any Messages are intended by the sender to be sent through or incidental to any of the DTTN Services.
  - d) **“Message Signatory”** means any individual person or organisation appointed by Tradelink to use any DTTN Services for and on behalf of Tradelink.
  - e) **“Messages”** means an electronic envelope that may contain one or more documents and is used to electronically send or receive such documents through or from DTTN. For the purpose of this definition, a **“document”** means a logical collation of data in electronic form either structured or otherwise.
  - f) **“DTTN Services”** means all or any of the electronic services from time to time provided by DTTN
  - g) **“DTTN”** means Digital Trade and Transportation Network Limited or Digital Trade and Transportation Network
  - h) **“DTTN Service Provider”** means any organization or person who interconnects with DTTN for the purpose of, inter alia, providing such electronic service that facilitates its own customers to use any of the DTTN Services. For the avoidance of doubt, Tradelink shall be considered a DTTN Service Provider hereunder.
  - i) **“Originating Sender”** means any person or party who initiates the sending of any Messages through or incidental to any of the DTTN Services.
  - j) **“Process”** means the processing activities that DTTN will execute in providing the DTTN Services in accordance with the Profiles and Settings of Tradelink. In receiving Messages from a sender, these may involve, inter alia, decryption, signature verification, document format validation, notification to the sender or recipient of processing events, and transformation into the DTTN canonical document format from the format of the sender. In dispatching Messages to a recipient, these may involve, inter alia, transformation into the recipient’s format, signing of the Message to indicate that transformation has been done successfully, encryption of the Message, notification of processing events to the sender or recipient and dispatch of the Message. **“Processing”** and **“Processed”** shall be construed accordingly.
  - k) **“Profiles and Settings”** means the profiles and settings based on which the DTTN Services will be provided by DTTN to Tradelink including but not limited

to document exchange preferences, communication methods, security methods and/or Security Tokens.

- l) “**Security Token**” means any token or device, including but not limited to digital keys, certificates, login identity and password issued by DTTN or other party duly authorised by DTTN to a person or organisation for the purpose of accessing the DTTN Services or authenticating information to be sent using any of the DTTN Services, and “**Security Tokens**” shall be construed accordingly.
- m) “**HKSAR**” means the Hong Kong Special Administrative Region of the People’s Republic of China.
- n) “**Government**” means the Government of the HKSAR.

#### **LICENCE TO USE TRADECONSOLE**

- 2) Tradelink expressly agrees to grant to the Subscriber a royalty-free, non-exclusive, non-transferable licence to use TradeConsole to enable the Subscriber to use the DTTN Services through Tradelink and such licence is revocable at any time when Tradelink deems fit subject to these Terms and Conditions.
- 3) The Subscriber shall be responsible to download and install TradeConsole in its computer system at its own risk in accordance with the instructions of Tradelink.
- 4) Tradelink will provide help desk and technical support services to the Subscriber to assist it with operational or technical problems in its use of TradeConsole, transaction status enquiries, or for it to obtain general information relating to DTTN Services.
- 5) The copyright and other intellectual property rights to and in the TradeConsole shall always belong to Tradelink or the person who actually creates them and/or their assignees and/or licensors.

#### **PROVISION OF DTTN SERVICES**

- 6) By duly completing, signing and submitting the TradeConsole Setup Form, the Subscriber has requested Tradelink to provide it with the specific DTTN Services that Tradelink may, at its sole discretion, subscribe to from time to time for Processing of Messages or other information submitted by the Subscriber to DTTN through Tradelink to its own trading partner(s) by using the specific DTTN Services. For this purpose, the Subscriber hereby authorizes Tradelink or its Message Signatories to submit to DTTN such messages or other information on its behalf.
- 7) The Subscriber hereby acknowledges and agrees that no contractual relationship shall be constituted or deemed to have constituted between DTTN and the Subscriber by the latter entering into the agreement herein and that it shall have no

demands or claims whatsoever against DTTN arising from or in connection with its use of the DTTN Services herein.

- 8) The Subscriber shall comply with the instructions, guidelines, notices and other operational procedures issued by DTTN, or relevant third parties from time to time relating to the preparation, authentication and submission of Messages to the Intended Recipient in respect of specific DTTN Services or relating to other activities connected with the use of the DTTN Services. Such instructions, guidelines, notices and other operational procedures may include (but are not limited to) the following:
  - i) instructions on the use of specific sets of Messages, information flows and procedures that together perform business functions which meet specific requirements;
  - ii) instructions on the use of Security Tokens, electronic or digital signatures on specific Messages where applicable; and/or other security services which DTTN may agree with the Intended Recipient, (if applicable) or relevant third parties from time to time for specific Messages;
  - iii) the procedures and notices given to Tradelink for making changes to the instructions and standards detailed in this clause; and
  - iv) any other relevant reference documents published by DTTN or relevant third parties or other concerned party.
- 9) Tradelink is not a party to and is not in any way involved in the underlying business transactions executed between the Subscriber and its trading partner(s) using DTTN Services directly or indirectly. Provided that there is no default, gross negligence or wilful misconduct on the part of Tradelink, Tradelink shall in no event be liable or involved in any disputes between the Subscriber and its trading partner(s) using DTTN Services directly or indirectly. In any event, provided that there is no default, gross negligence or wilful misconduct on the part of Tradelink, Tradelink shall have no liability for indirect or consequential loss or for loss of business or profits however arising incurred by the Subscriber or by any third parties.
- 10) Tradelink's liability, if any, under these Terms & Conditions is limited in respect of each event or series of connected events to a total sum of HKD500 (Hong Kong Dollars Five Hundred Only) provided that Tradelink's total liability in any twelve month period is limited to the amount of the total charges paid by Subscriber to Tradelink under clause 15 herein during such twelve month period.
- 11) The Subscriber shall indemnify Tradelink and keep Tradelink fully indemnified from and against all costs claims demands actions and liabilities arising directly or indirectly from a breach of these Terms & Conditions or any other default, negligence, acts or omissions on the part of the Subscriber.
- 12) The Subscriber shall reserve sufficient time for DTTN and DTTN Service Providers to Process the Messages and provided that there is no default, gross negligence or

wilful misconduct on the part of Tradelink, Tradelink shall in no event be liable for any late submission of Messages to the Intended Recipient.

- 13) The Subscriber shall advise Tradelink immediately of any changes the information provided on the TradeConsole Setup Form and of any changes of personal data and other information which the Subscriber has provided to Tradelink related to its use of the DTTN Services.
- 14) The Subscriber undertakes to check regularly all acknowledgements, error or other notices from time to time sent to it. Provided that there is no default, gross negligence or wilful misconduct on the part of Tradelink, Tradelink shall in no event be responsible for any loss or damage caused or occasioned by a failure of the Subscriber to check such notices.
- 15) The Subscriber shall settle fees and charges that Tradelink may from time to time specify and publish in relation to the DTTN Services provided hereunder, and Tradelink shall be entitled to debit such fees and charges payable hereunder from any account(s) that the Subscriber may be maintaining with Tradelink from time to time and for this purpose, the Subscriber hereby irrevocably authorizes Tradelink to do such debits.
- 16) In the event of a dispute between the Subscriber and any of its trading partners or other third parties on the Messages sent and received by the Subscriber using DTTN Services, the Subscriber hereby expressly agree that the archive copy of the Messages kept by DTTN may be used in support of the proof of the information sent or received among the parties. The Subscriber hereby expressly authorises Tradelink or DTTN to disclose the archive copy to any government, any competent courts or authorities, the relevant customer(s) of DTTN or relevant third parties or the consultants or legal advisers of the relevant customer(s) or third parties or DTTN or Tradelink.

## **TERMINATION**

- 17) The Subscriber expressly agrees that all or any of the DTTN Services provided by DTTN to the Subscriber through Tradelink may be terminated by DTTN or Tradelink immediately without notice in the event that:
  - i) after 1 (one) month from the issue of statement by Tradelink for the payment of the amounts the Subscriber owes to Tradelink, Tradelink still has not received payment from the Subscriber in settlement of the amount due; or
  - ii) The Subscriber is found to have made use of any of the DTTN Services for any unlawful activities that may result in a legal offence or may be violating DTTN's security system, including gaining unauthorised access to data transmitted which may constitute an offence under the Telecommunication Ordinance (Cap.106).
  - iii) The Subscriber is in breach of the Terms & Conditions herein.
- 18) Unless otherwise agreed between Tradelink and the Subscriber, the DTTN Services provided by DTTN to the Subscriber through Tradelink may be terminated

without cause by the Subscriber giving notice in writing to Tradelink no less than 14 (fourteen) days before such termination.

- 19) The Subscriber expressly agrees that DTTN and Tradelink shall have the absolute right to terminate any DTTN Services provided to the Subscriber through Tradelink at any time without cause by giving not less than 60 (sixty) days advance notice to the Subscriber.
- 20) Termination of the DTTN Services to the Subscriber for whatever reason will not affect any rights or obligations of Tradelink and the Subscriber arising prior to termination and the provisions of these Terms & Conditions shall continue to bind Tradelink and the Subscriber so long as may be necessary to give effect to such rights and obligations.
- 21) The Subscriber expressly agrees that upon termination of this Agreement for whatever reasons, DTTN and Tradelink shall have the right to permanently delete all data within the designated electronic mail box of Tradelink or the Subscriber in the DTTN system except those to be archived in accordance with these Terms & Conditions.

#### **OWNERSHIP OF DATA**

- 22) All data sent by the Originating Sender shall, unless otherwise specified by DTTN for any particular DTTN Services or agreed between the Originating Sender and its DTTN Service Provider, belong to the Originating Sender until such time as it is placed in the DTTN electronic mail box of the Intended Recipient or is otherwise sent from the DTTN system for submission to the Intended Recipient, at which time it shall also belong to such Intended Recipient.
- 23) The Subscriber expressly agrees that the archive data as referred to in clause 22 herein shall, unless otherwise specified by DTTN for any particular DTTN Services, be the property of both the Originating Sender and the Intended Recipient of the data except that if the data is not sent by DTTN to the Intended Recipient, for whatever reason, the archive copy will remain the sole property of the Originating Sender. All other information relating to the business of DTTN shall be the property of DTTN.
- 24) The Subscriber expressly agrees that notwithstanding the ownership provided above or anything herein to the contrary, DTTN shall have the absolute right to delete or otherwise dispose of any data having been stored for more than SIXTY (60) days in the system or other resources owned or provided by DTTN, including but not limited to any electronic mailbox in DTTN system provided by DTTN to Tradelink or the Subscriber incidental to the DTTN Services. The Subscriber has a duty to check its own data regularly, back up and otherwise protect its own data and DTTN and Tradelink shall not be liable for any loss or damage of data of the Subscriber.
- 25) Notwithstanding anything herein to the contrary, the Subscriber hereby expressly authorises DTTN or Tradelink to extract and use any part of the Messages owned by the Subscriber in any one of the DTTN Services for the purpose of the Process

of the Messages in such manner as DTTN or Tradelink considers fit for the provision of the DTTN Services.

## **PERSONAL DATA PRIVACY**

- 26) The Subscriber expressly agrees that all personal data from time to time collected from the Subscriber by Tradelink may be used for the purposes of and incidental to the following:-
- i) provision of the DTTN Services through Tradelink, including but not limited to preparing correspondence with the Subscriber, operating the account of the Subscriber, verifying the Subscriber's continued creditworthiness or development of new services and improvement of existing services;
  - ii) marketing of services from time to time provided or recommended by Tradelink or its subsidiaries, associated companies or marketing partners;
  - iii) research and analysis of the data in the aggregate; or
  - iv) other purposes otherwise expressly agreed between Tradelink and the Subscriber in writing.
- 27) For any of the above purposes, the Subscriber hereby authorises Tradelink to disclose its personal data held by Tradelink to any of the following parties within the same jurisdiction or from one jurisdiction to another:-
- i) any agent, contractor or third party service provider who provides administrative, advisory, telecommunications, computer, payment or securities clearing or other services to DTTN in connection with any DTTN Services;
  - ii) the Government agency, authority, or other persons where such disclosure is required by law;
  - iii) any person owing a duty of confidence to DTTN, including any subsidiaries or associated companies which have undertaken to keep such information confidential;
  - iv) any DTTN Service Provider, co-operator, business partner of DTTN or other party that provides or assists or purports to provide DTTN Services on behalf of or jointly with DTTN; or
  - v) any actual or proposed assignee or transferee of DTTN's rights or obligations.
- 28) The Subscriber shall have the right to request access to and correction of personal data held by Tradelink. Request for access and correction should be in writing and addressed to Privacy Compliance Officer, 11th & 12th Floor, Regent Centre, 63 Wo Yi Hop Road, Kwai Chung, Hong Kong or such other address that Tradelink may notify from time to time. Tradelink may charge a reasonable amount of fee for handling such request for access or collection.

## **LAW OF HKSAR AND THE ELECTRONIC TRANSACTIONS ORDINANCE (CAP. 553)**

- 29) By communicating or purporting to communicate with any of its trading partners through any DTTN Services, the Subscriber agrees, and is deemed to have agreed, with such trading partner(s) the terms and conditions specified in clauses 29 – 33 hereof.
- 30) Unless expressly agreed otherwise, the Subscriber agrees to procure that all future offers, acceptances of offer, contracts and other transactions to be effected through DTTN Services shall be governed by and construed in accordance with the law of the HKSAR and shall be subject to the non-exclusive jurisdiction of the Courts of the HKSAR.
- 31) The Subscriber agrees to comply with and be bound by all the provisions of the Electronic Transactions Ordinance (Cap.553) (“ETO”). In particular, by using DTTN Services, the Subscriber agrees that electronic records, electronic signatures and/or digital signatures (as defined in the ETO) may be used in any offer, acceptance of offer and other legal documents through DTTN Services, and be admitted as evidence in any legal proceedings.
- 32) The Subscriber agrees not to challenge in any jurisdictions the validity and/or legal enforceability of any offers, acceptances of offer, contracts and other transactions effected through DTTN Services on the sole ground that electronic records, electronic signatures or digital signatures were used to effect those offers, acceptances of offer, contracts and transactions.
- 33) If a separate agreement is executed between the Subscriber and any of its trading partners to govern the exchange and acceptance of Messages, such agreement shall prevail over the provisions of clauses 29 – 33 hereof in the event of inconsistencies in so far as the liabilities and obligations between the Subscriber and such trading partner are concerned. For the avoidance of doubt, no obligations or liabilities owed by the Subscriber to Tradelink under this Agreement shall be affected by such separate agreements between the Subscriber and its trading partners.

## **JURISDICTION**

- 34) The agreement created herein shall be construed according to and governed by the law of the HKSAR, and the parties hereto irrevocably submit to the exclusive jurisdiction of the courts of the HKSAR.