

# TERMS & CONDITIONS OF TRADELINK SERVICES

By signing the relevant Tradelink Registration Form, the Subscriber confirms that he has read, understood and accepted the following Terms and Conditions under which the Subscriber will use the Tradelink Services.

## 1. DEFINITIONS

In these Terms & Conditions:-

“**Account Limit**” means an amount, pre-determined by Tradelink and notified to the Subscriber, that may be owed by the Subscriber to Tradelink and which when reached will trigger the transmission to the Subscriber of a statement of the Subscriber’s account with Tradelink and, within two (2) working days, a direct debit on the Subscriber’s bank account.

“**EDI Application Software**” means the computer software specified by Tradelink to be used by the Subscriber to create and understand the EDI Messages required for the use of specific Tradelink Services and/or to connect, directly or indirectly, with Tradelink for the purpose of sending and receiving such EDI Messages.

“**EDI Messages**” means data structured in accordance with an internationally agreed standard and any other standard as Tradelink considers appropriate and transmitted by electronic means through the Tradelink Services.

“**Event of Force Majeure**” means any of the following circumstances which occur and which are beyond the reasonable control of Tradelink and prevent Tradelink from providing Tradelink Services or Tradelink Government Services to the Subscriber, being labour dispute, labour shortages, strikes, lock-outs, war, civil commotion, riot, armed conflict, terrorist attack, fire, explosion, flood or other acts of God, legislative changes and acts of governments.

“**Government**” means the Government of the Hong Kong Special Administrative Region.

“**Implementation Instructions**” means any publication that defines any of the rules, scope and implications for implementing the EDI Messages which are required for the performance of a specific Tradelink Service or any other documents of a similar nature in respect of a specific Tradelink Service.

“**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 Tradelink Services.

“**Message Signatory**” means any individual person appointed by a Subscriber to use any Tradelink Services for and on behalf of the Subscriber.

“**Messages**” means both “EDI Messages” and Other Messages”.

“**Other Messages**” means unstructured data electronically transmitted through the Tradelink Services, including data received or transmitted through e-mail, flat file transfer and image file transfer.

“**Performance Pledge**” means the pledged standards for the delivery of Tradelink Services, published by Tradelink and notified to Subscribers from time to time.

“**Schedule of Charges**” means the schedule of charges in respect of each of the Tradelink Services, published by Tradelink and notified to Subscribers prior to registration and thereafter when revised from time to time.

“**Security Device**” means any device issued by Tradelink, Tradelink’s subsidiary or other party duly authorized by Tradelink to a person for the purpose of authenticating information to be sent using any of the Tradelink Services.

“**Service Limit**” means an amount (which is higher than the Account Limit) pre-determined by Tradelink and notified to the Subscriber that may be owed by the Subscriber to Tradelink which when reached will trigger a suspension of Tradelink services to the Subscriber pending a payment by the Subscriber.

“**Subscriber**” means the person who has registered with Tradelink by signing any Tradelink Registration Form(s) for use of one or more of the Tradelink Services.

“**Terms & Conditions**” means these Terms & Conditions of Tradelink Services.

“**Timestamp**” means the date and time attached to each EDI Message by Tradelink when the EDI Message has been successfully validated (and matched if necessary) according to the specifications agreed or reasonably imposed by Tradelink and therefore is ready for delivery to or collection by the intended recipient.

“**Tradelink Government Services**” means those Government services provided by Tradelink in accordance with agreements between Government and Tradelink.

“**Tradelink Services**” means all or any of the electronic services from time to time provided by Tradelink for which the Subscriber registers with Tradelink.

“**Tradelink Registration Form**” means any of the paper or electronic forms or documents used by the Subscriber to register with Tradelink to use one or more of the Tradelink Services, to give any instructions to Tradelink, to add or unsubscribe any Tradelink Services, to make any specific authorisations, to amend any records, and/or for any other purposes of and incidental to any Tradelink Services.

“**Tradelink**” means Tradelink Electronic Commerce Limited.

“**Trader Data**” means all data, documents, records, text, drawings, diagrams, sound, images, and information of whatever nature (in machine readable form or any other form) disclosed, divulged, submitted, supplied or made available to Tradelink (whether electronically or otherwise) by or on behalf of the Trading Community or collected by Tradelink from the Trading Community (whether electronically or otherwise) under or in connection with any contract or agreement signed between Tradelink and Government for Tradelink Government Services.

“**Trading Community**” means persons who apply for, or deal with, or are otherwise involved in the trade-related documents as specified in any contract or agreement signed between Tradelink and Government for Tradelink Government Services, and any other trade-related documents subsequently agreed between Tradelink and Government.

## 2. INTERPRETATION

(a) In these Terms & Conditions, references to the plural shall include the singular and vice versa; words importing a gender shall include both genders; references to any person shall include corporations and other forms of business associations.

(b) Paragraphs and Section headings are inserted for convenience only and shall not affect the interpretation of these Terms & Conditions.

## 3. CONSIDERATION FOR SERVICES

In consideration of the access given to the Tradelink Services, the Subscriber undertakes to pay Tradelink the charges in accordance with Section 7 herein and where applicable the amount owed to Tradelink under the provisions of Section 8 herein.

## 4. TERM

These Terms & Conditions shall come into effect and bind the Subscriber and payment of relevant registration fees, annual fees and deposits shall become due from the Subscriber to Tradelink upon the date of the relevant Tradelink Registration Form and termination shall be subject to the provisions of Section 12 herein.

## 5. TRADELINK OBLIGATIONS & LIABILITIES

(a) Tradelink will validate all EDI Messages sent by the Subscriber by checking the completeness, correctness and consistency of the data contained in each EDI Message, and may notify the Subscriber by sending an acknowledgement Message upon successful delivery of the EDI Messages to the Intended Recipient in accordance with the relevant Implementation Instructions (if any) and other relevant specifications as Tradelink shall from time to time adopt. Tradelink will not pass to the intended recipient any EDI Message which cannot be validated and Tradelink will notify the sending Subscriber of any errors identified in his EDI Message. The sending Subscriber has a duty to check any error notice received from Tradelink and resent the valid EDI Message accordingly. Tradelink shall in no event be responsible for any loss or damage caused or occasioned by the sending subscriber’s failure to check the error notice.

(b) Where Tradelink Services are being used for the purposes of performing a business function involving a combination of EDI Messages, Tradelink will match the information contained in such EDI Messages in accordance with the relevant Implementation Instructions (if any) and other relevant specifications as from time to time adopted by Tradelink. Tradelink will not pass such EDI Messages to the intended recipients if a matching error occurs and, where appropriate, Tradelink will notify the sending Subscriber of the matching errors identified in the EDI Messages concerned.

(c) Unless otherwise specified by Tradelink for any particular Tradelink Services, Tradelink will retain all Messages, except those transmitted between Subscribers, sent through Tradelink by and to the Subscriber in an electronic archive for seven (7) years from the time of receipt of the Messages by Tradelink.

(d) Subject to any agreement between Tradelink and the Subscriber to the contrary, Tradelink will provide Help Desk facilities during the service hours of the Tradelink Services as set out in Section 10 herein to assist the Subscriber with operational problems and transaction or billing status enquiries, or for the Subscriber to obtain general information relating to Tradelink Services.

(e) Tradelink will make reasonable efforts to provide Tradelink Services in accordance with the Performance Pledge published by Tradelink from time to time (if any), but Tradelink will have no liability for any delay or failure resulting from circumstances beyond its control.

(f) Tradelink will have no liability for indirect or consequential loss or for loss of business or profits however arising incurred by the Subscriber or by the Subscriber’s business partners or by any third parties.

(g) Tradelink will have no liability whatsoever for any loss incurred by the Subscriber or by the Subscriber’s business partners or any third parties arising out of any failure by the Subscriber to keep copies of data sent using Tradelink Services.

(h) If any Message sent using Tradelink Services is incorrectly transmitted by Tradelink, Tradelink will re-send such Message without charge.

(i) Tradelink will have no liability for loss or damage suffered by the Subscriber, by the Subscriber’s business partners or by any third parties arising from any negligence or default by the Subscriber or members of his staff or his agents or third parties or arising from his failure or the failure of members of his staff or agents to follow Tradelink’s instructions or recommendations.

(j) 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 the Subscriber to Tradelink under Section 7 herein during such twelve month period.

## 6. THE SUBSCRIBER’S OBLIGATIONS & LEGAL LIABILITIES

By duly completing, signing and submitting a Tradelink Application Form, the Subscriber has requested Tradelink to provide the specific Tradelink Service particularised therein to the Subscriber and (if applicable) to verify, authenticate and transmit the Messages or other information submitted by the Subscriber to their Intended Recipient through the specific Tradelink Service.

(a) The Subscriber hereby authorise the Message Signatories specified in the relevant Tradelink Registration Forms to severally use the specific Tradelink Service on behalf of the Subscriber.

(b) The Subscriber is hereby agreed to be bound by all actions of the Message Signatories and assume all liabilities (civil or criminal) of and incidental to the use of the specific Tradelink Services by the Message Signatories specified in the relevant Tradelink Registration Forms or as subsequently duly authorised.

(c) In order to access Tradelink Services, the Subscriber is required to have the following:

- (i) an EDI Application Software which has been specified by Tradelink for the performance of the specific Tradelink Service, and/or other application software developed by third parties (including but not limited to internet browsers) necessary or recommended for the access and use of the specific Tradelink Service as from time to time notified by Tradelink;
- (ii) such computer hardware, system configuration and communication device as may be necessary and/or recommended to meet the requirements of the EDI Application Software or third parties application software used by the Subscriber to access Tradelink Services;
- (iii) subject to the specific Tradelink Service, the facilities to access the internet and/or a telecommunications line from a public telecommunications provider;
- (iv) subject to the specifications of any particular Tradelink Service, the appropriate Security Device issued to Message Signatories appointed by the Subscriber for authenticating the Messages and/or the identity of the sender thereof.

(d) The Subscriber is required to use a sign-on code and/or associated password to access Tradelink Services and is advised to change the password associated with his sign-on code at least once every six months. The Subscriber is responsible for the confidentiality of the password and shall ensure that only duly authorised persons shall use such password.

(e) The Subscriber will comply with the instructions, guidelines, notices and operational procedures etc. issued by Tradelink, the Intended Recipient, (if applicable) the Government, 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 Tradelink Services or relating to other activities connected with the use of the Tradelink Services. Such instructions, guidelines, notices and procedures etc. may include the following:

- (i) instructions on the use of specific sets of Messages, information flows and procedures that together perform business functions which meet specific Government requirements;
- (ii) the EDI Message standards which Tradelink may agree with the Intended Recipient, (if applicable) the Government or relevant third parties from time to time for the structuring of EDI Messages;
- (iii) instructions on the use of electronic signatures on specific Messages where applicable; and/or other security services which Tradelink may agree with the Intended Recipient, (if applicable) the Government or relevant third parties from time to time for specific Messages;
- (iv) the procedures and notices given to the Subscriber for making changes to the instructions and standards detailed in Section 6 (c) (i), (ii) and (iii) herein; and
- (v) any other relevant reference documents published by Tradelink, the Intended Recipient, (if applicable) the Government or relevant third parties or other concerned party.

(f) The Subscriber shall maintain sufficient funds in his account with the bank nominated by the Subscriber in the direct debit application form for payment, in accordance with the provisions of Section 9 herein, of the amounts due to Tradelink.

(g) The Subscriber will 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 his part.

(h) The Subscriber’s statutory responsibilities and liabilities under the relevant legislation of the Hong Kong Special Administrative Region will continue to apply if he uses Tradelink Services to submit information to Government or any designated authorities as required under such legislation.

(i) If information is submitted to Government or any designated authorities using Tradelink Services, processing thereof will be subject to the rules and conditions of the relevant administrative system of Government or the designated authority receiving the information, and the Subscriber’s liabilities for any administrative sanctions for malpractice will continue to apply if the Subscriber fails to comply with the relevant rules and conditions.

(j) The Subscriber acknowledges that:

- (i) save and except otherwise specified by Tradelink, for the purpose of discharging any relevant legal obligations, the Timestamp attached to an EDI Message sent to Government through any Tradelink Government Services will be considered as the official date and time when such Message is received by Government. For the avoidance of doubt, the date and time of receipt of the EDI Message by the Intended Recipient in any other situations shall be the date and time when the EDI Message is actually received by (the system or mailbox of) the Intended Recipient through the Tradelink Services. The Subscriber shall reserve sufficient time for Tradelink to process the Messages and Tradelink shall in no event be liable for any late submission of Messages to the Intended Recipient.
- (ii) the Timestamp and the receipt by the Intended Recipient specified in subclause (i) above will be used as the reference point to determine the boundary of the ownership of data as referred to in Section 14 herein.

(k) The Subscriber hereby acknowledges that Tradelink may translate any Message submitted by Subscribers through any Tradelink Services to any data format in accordance with the instructions or requirements of the Government, the Intended Recipients and/or other relevant third parties.

(l) The Subscriber undertakes to discharge any legal obligations which Government (if applicable) may require him to discharge from time to time in relation to his use of Tradelink Services.

(m) The Subscriber shall advise Tradelink immediately of any changes to the information provided on the Tradelink Registration Form and of any changes of personal data and other information which the Subscriber has provided to Tradelink related to his use of the Tradelink Services. In respect of any personal data or other information that the Subscriber has provided or is required to provide to the Government or any relevant third parties incidental to the use of the Tradelink Services, the Subscriber hereby agrees to the release of such information by the Government or the relevant third parties to Tradelink, provided that such information will be used by Tradelink for the same purpose that Government or the relevant third parties use the information.

(n) The Subscriber undertakes to settle all charges and fees owed to Tradelink immediately upon termination of these Terms and Conditions for whatever reasons regardless of the normal billing cycle of such debt.

(o) The Subscriber undertakes to check regularly all acknowledgement, error or other notices from time to time sent to the Subscriber’s system or mailbox. Tradelink shall in no event be responsible for any loss or damage caused or occasioned by the Subscriber’s failure to check such notices.

(p) If a Message Signatory of the Subscriber is at any time holding only one valid Security Device, the Message Signatory is deemed to have been authorized by the Subscriber to use that Security Device or any renewal or replacement thereof for authentication of all information submitted through this type of Tradelink Services which the Message Signatory is authorized to use on behalf of the Subscriber. In those situations, a notice sent by Tradelink to the Subscriber upon issuance, renewal or replacement of the Security Device shall be conclusive evidence of such authorization. If the Message Signatory is at any time holding more than one valid Security Device, the Subscriber shall notify Tradelink which particular Security Device is authorized to be used by the Message Signatory for authenticating information submitted through each specific Tradelink Service which the Message Signatory is authorized to use on behalf of the Subscriber. Unless and until Tradelink receives notice from the Subscriber to the contrary, all previous authorization regarding use of Security Device shall continue to have full force and effect. Tradelink reserve the absolute right to refuse acceptance of any Security Device which Tradelink consider not duly authorized pursuant to this clause.

(q) The Subscriber acknowledges that the Security Device may be issued to a Message Signatory personally, at their own control and disposal and will not be automatically revoked when a Message Signatory ceased to be authorized by the Subscriber to use Tradelink Services. The Subscriber undertakes to promptly notify Tradelink in writing when a Message Signatory ceases to be authorized to use any Tradelink Services. Unless and until such written notice is actually received by Tradelink, the Subscriber shall continue to be bound by the action of the Message Signatory in using those Tradelink Services.

## 7. TRADELINK CHARGES

The Subscriber undertakes to pay Tradelink the applicable Tradelink charges (if any), in the amounts calculated on the basis set out in the Schedule of Charges for the time being in force, by direct debit on the Subscriber's nominated bank account. The Direct Debit Authorisation shall be properly executed and submitted to Tradelink at the time of registration.

## 8. GOVERNMENT AND THIRD PARTIES' FEES AND CHARGES

The Subscriber undertakes to pay the applicable Government fees and charges in the amount calculated on the basis set out in the relevant legislation of Hong Kong and any applicable third parties' fees and charges for and incidental to the particular Tradelink Services used by the Subscriber. Such amount payable to the Government shall, unless otherwise specified by Tradelink in respect of any particular Tradelink Services, be paid to Tradelink by direct debit on the Subscriber's nominated bank account and will be paid to Government by Tradelink on behalf of the Subscriber. Unless otherwise specified in the Tradelink Registration Form, the Subscriber undertakes to pay the applicable fees and charges to the third parties punctually pursuant to the agreements between the Subscriber and the third parties incidental to the particular Tradelink Services.

## 9. PAYMENT

- (a) The Subscriber shall upon signing and submitting the Tradelink Registration Form pay the application or registration fee and other appropriate charges as specified in the Tradelink Registration Form.
- (b) Unless no periodic or recurring Tradelink charges are payable, at the time of registration for use of Tradelink Services, the Subscriber shall:
  - (i) choose one of the billing cycle options which Tradelink may offer from time to time;
  - (ii) lodge a non-interest bearing, refundable deposit with Tradelink for the use of some of the Tradelink Government Services; and the deposit amount may be determined by Tradelink with reference to the Subscriber's average anticipated amounts due to Tradelink for the billing cycle chosen.
  - (iii) pay the annual fee and other appropriate charges for the first applicable period.
- (c) At the end of each billing cycle as chosen by the Subscriber, Tradelink will issue to the Subscriber an electronic statement of all amounts due to Tradelink. If the Subscriber's Account Limit (which will normally be set at 70% of the Subscriber's deposit subject to adjustment by Tradelink in special circumstances related to individual Subscribers) is reached before the end of the billing cycle of the Subscriber, Tradelink will immediately issue an electronic statement to the Subscriber notwithstanding that the end date of the current billing cycle has not been reached.
- (d) Within one (1) working day from the date of the electronic statement being issued by Tradelink, the Subscriber may raise queries with Tradelink on the statement. Unless otherwise agreed with the Subscriber Tradelink will, two working days after the electronic statement issue date, activate a direct debit on the Subscriber's nominated bank account for the total amount due to Tradelink as shown on the statement.
- (e) When the Subscriber's Account Limit is reached, Tradelink will continue to provide the Subscriber with the access to Tradelink Services until the Subscriber's Service Limit (which will normally be set at 90% of the Subscriber's deposit subject to adjustment by Tradelink in special circumstances related to individual Subscribers) is reached.
- (f) If the Subscriber's Service Limit is reached, access to Tradelink Services by the Subscriber will be suspended until Tradelink receives payment from the Subscriber.
- (g) In the event that Tradelink does not receive payment from the Subscriber's bank account as a result of a direct debit activated by Tradelink, Tradelink may debit the Subscriber's deposit and credit the Subscriber's operating account with Tradelink with the amount due to Tradelink. Tradelink reserves the right to debit the Subscriber's bank account again after any unsuccessful attempt and pass on any additional bank charges incurred plus costs incurred by Tradelink in processing such events.
- (h) Tradelink may require such additional deposit from the Subscriber as Tradelink may consider necessary from time to time having regard to the provisions of Section 9 (b) (ii) herein or as a result of an event as set out in Section 9 (g) herein.
- (i) In the case the Subscriber makes payment in settlement of debts owed to Tradelink by cheque and/or in cash deposited into the accounts of Tradelink instead of Direct Debit Authorisation for whatever reasons, a handling charge to be specified by Tradelink from time to time shall be levied by Tradelink immediately each time a payment is made by the Subscriber.
- (j) Notwithstanding anything herein to the contrary, upon termination of Tradelink Services, Tradelink will refund the deposit and any other money refundable (after deduction or debit pursuant to this clause) directly to the Subscriber by, inter alia, drawing a cheque in the name of the Subscriber. Tradelink WILL NOT pay those sums to any third parties at the direction of the Subscriber and the Subscriber shall make its own arrangement to divert those sums if it so wishes. For the avoidance of doubt, no annual fees or other periodic fees received by Tradelink shall be refundable.
- (k) In the case of monies refundable by cheque (including without limitation the deposit remaining in an operating account), such monies, whose aggregate value does not exceed the "Cheque Issuing Administration Charge" published at the Price List, shall be forfeited by Tradelink without notice and compensation.

## 10. TRADELINK SERVICE LEVELS

- (a) For the purpose of validating and matching EDI Messages and notifying the Subscriber as described in Section 5 herein, Tradelink undertakes that it will make reasonable efforts to comply with the Performance Pledge published by Tradelink from time to time.
- (b) The Tradelink Services, except those otherwise specified by Tradelink, will be accessible between the hours of 7 AM and 11 PM daily every day of the year or at such revised times as shall be advised by Tradelink from time to time for all or each of the Tradelink Services. Owing to the different nature of the different Tradelink Services, Tradelink may from time to time by notice specify different available time for each of the Tradelink Services.

## 11. DISPUTES

- (a) Without prejudice to any remedies available to the parties, the Subscriber and Tradelink shall attempt in good faith to resolve through negotiation any dispute in relation to the Tradelink Services and/or these Terms & Conditions.
- (b) Should any dispute arise between Tradelink and the Subscriber involving the use of Tradelink Government Services, and in the event that a particular Government Service is not available from any service providers other than Tradelink and there is no reasonable alternative method by which the Subscriber can present specific information to and/or receive it from Government, the Subscriber will not be denied access to that particular Tradelink Government Service provided that, if Tradelink so requires, the Subscriber makes payment of Tradelink charges and the relevant Government fees and charges on a cash paid in advance basis pending the resolution of the dispute.
- (c) In the event of a dispute between the Subscriber and any Intended Recipient or other third parties on the Messages sent and received using Tradelink Services, the archive copy of the Message kept by Tradelink may be used in support of proof of the information sent or received by the Subscriber and/or the said Intended Recipient third parties. The Subscriber hereby expressly authorise Tradelink to disclose the archive copy to the Government, the Courts of the Hong Kong Special Administrative Region or other competent courts, the Intended Recipient or relevant third parties or their legal advisers or relevant consultants.

## 12. TERMINATION

- (a) Subject to the provisions of Section 11 (b) herein, all or any of the Tradelink Services provided by Tradelink to the Subscriber may be terminated by 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 Tradelink Services for any unlawful activities that may result in a legal offence or may be violating Tradelink's security system, including gaining unauthorised access to data transmitted which may constitute an offence under the Telecommunication Ordinance.
  - (iii) the Subscriber is in breach of the Terms and Conditions herein or in the relevant Tradelink Registration Forms or any other agreements between Tradelink and the Subscriber.
- (b) The services described herein to be provided by Tradelink to the Subscriber may be terminated by the Subscriber giving notice in writing to Tradelink no less than 14 (fourteen) days before such termination.
- (c) Tradelink shall have the absolute rights to terminate the services described herein at any time by giving not less than 60 (sixty) days advance notice to the Subscriber.
- (d) Termination of the services described herein to be provided by Tradelink to the Subscriber for whatever reason will not affect any rights or obligations of the Subscriber and Tradelink arising prior to termination and the provisions of these Terms & Conditions shall continue to bind the Subscriber and Tradelink so long as may be necessary to give effect to such rights and obligations.

- (e) Upon termination of these Terms and Conditions for whatever reasons, Tradelink shall have the rights to permanently delete all data within the electronic mail box of the Subscriber except those to be archived in accordance with these Terms and Conditions.

## 13. INTELLECTUAL PROPERTY

The Subscriber acknowledges that the copyright and other intellectual property rights in the documentation including all operating manuals and all other specifications, manuals or other material provided by Tradelink relating directly or indirectly to Tradelink Services belongs to Tradelink and/or to Tradelink's licensors.

## 14. OWNERSHIP OF DATA

- (a) All data sent by the Subscriber using Tradelink Services shall belong to the Subscriber until such time as it is placed in the electronic mail box of the intended recipient or is otherwise delivered to the intended recipient at which time it shall belong to such recipient.
- (b) The archive data as referred to in Section 5(c) herein shall be the property of both the originator and the recipient of the data except that if the data is not forwarded by Tradelink to the intended recipient, for whatever reason (e.g. under the condition as described in Section 5(a) herein), the archive copy will remain the sole property of the originator.
- (c) All information held by Tradelink concerning any Subscriber or otherwise relating to the business of Tradelink shall be the property of Tradelink. Any necessary provisions of data privacy or other similar legislation that may be introduced from time to time will be adhered to by Tradelink.
- (d) Notwithstanding the ownership provided above or anything herein to the contrary, Tradelink shall have the absolute right to delete or otherwise dispose any data (save and except the electronic archives specified in clause 5(c) hereto) stored for more than SIXTY (60) days in the system or other resources owned or provided by Tradelink, including but not limited to any electronic mailbox provided by Tradelink to the Subscriber incidental to the Tradelink Services. The Subscriber has a duty to check his own data regularly, back up and otherwise protect his own data and Tradelink shall not be liable for any loss of data by the Subscriber.
- (e) Notwithstanding anything herein to the contrary, the subscribers hereby expressly authorise Tradelink to extract and use any part of the Messages submitted by a subscriber in any one of the Tradelink Services for the purpose of matching and verification against Messages submitted by the same Subscriber in another Tradelink Services in such manner as Tradelink considers fit for the provision of the Tradelink Services.

## 15. CONFIDENTIALITY

- (a) Tradelink will take all reasonable steps to ensure the confidentiality of Messages sent by a Subscriber using Tradelink Services and save and except otherwise authorised herein or in the applicable Tradelink Registration Form, Tradelink will not disclose the content of such Messages to any party other than the Subscriber, the intended recipient or the owner of the data as defined in Section 14 herein or as required by the laws of or orders of the courts of the Hong Kong Special Administrative Region.
- (b) Tradelink will not use, interpret or manipulate the content of any Message sent by Subscribers, save for validating and matching as set out in Section 5 herein without the prior consent of the Subscriber.

## 16. SECURITY

Tradelink will take all appropriate steps to establish and maintain such procedural safeguards to protect the Messages received by Tradelink from accidental or intentional disclosure to unauthorised persons and from unauthorised modification.

## 17. PERSONAL DATA PRIVACY

- (a) Tradelink shall observe the Personal Data (Privacy) Ordinance and procure all staff of Tradelink to comply with the reasonable standards of confidentiality.
- (b) All Trader Data or personal data from time to time collected from the Subscriber by Tradelink may not be used for any purposes other than those of and incidental to the following:
  - (i) provision of the Tradelink Services, including but not limited to preparing invoices and correspondence with Subscriber, operating the Subscriber account, 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 Tradelink's subsidiaries, associated companies or marketing partners;
  - (iii) research and analysis of the data in the aggregate;
  - (iv) transferring the same, in machine readable form or in any other form, to Government or a third party appointed by Government to be used for or in relation to the delivery, implementation, provision and/or operation of the Tradelink Government Services or for other trade control or trade facilitation purposes as specified by Government;
  - (v) using the same for any matching procedure to be carried out by Government or its appointed third party, or such other uses of the same as referred to or contemplated under any contract or agreement that has been signed or may be signed between Tradelink and Government in relation to Tradelink Government Services; or
  - (vi) other purposes otherwise expressly agreed between Tradelink and the Subscriber.
- (c) For any of the above purposes, the Subscriber hereby authorizes Tradelink to disclose such Trader Data or personal data 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, telecommunications, computer, payment or securities clearing or other services to Tradelink in connection with any Tradelink Services;
  - (ii) the Government agency, authority, a third party appointed by Government;
  - (iii) any person where such disclosure is required by law;
  - (iv) any person owing a duty of confidentiality to Tradelink, including any subsidiaries or associated companies which have undertaken to keep such information confidential;
  - (v) credit reference agencies and, in the event of default, debt collection agencies; or
  - (vi) any actual or proposed assignee of Tradelink or transferee of Tradelink's rights or obligations.
- (d) Save and except for the above purposes and subject to sub-clause (c) above, Tradelink shall not disclose the personal data to any third party (other than the Intended Recipient) without consent of the Subscriber.
- (e) Tradelink shall restrict access to personal data to officers, employees, consultants and agents of Tradelink who have a need to know or use the data and who have been trained to handle such data and observe confidentiality properly.
- (f) The Subscriber shall have the right to request for access and correction of personal data held by Tradelink. Request for access and correction should be in writing and addressed to Privacy Compliance Officer, 11/F & 12/F, Tower B, Regent Centre, 63 Wo Yi Hop Road, Kwai Chung, Hong Kong. Tradelink may charge a reasonable amount of fee for handling such request for access or correction.

## 18. ALTERATIONS AND CHANGES

Tradelink reserves the right in its absolute discretion to make changes to these Terms & Conditions provided Tradelink notifies the Subscriber at least 30 (thirty) days in advance of any such change taking effect. Thereafter the Subscriber shall be bound by the revised Terms & Conditions unless the Subscriber has elected to terminate the Tradelink Services under the provisions of Section 12 (b) herein.

## 19. FORCE MAJEURE

Tradelink shall not be liable for any delays or failures attributable to its being affected by an Event of Force Majeure. If any such delay or failure continues for a period of fourteen (14) consecutive days or longer, Tradelink shall be entitled to terminate any or all of the Tradelink Services and Tradelink Government Services immediately on giving written notice to the Subscriber.

## 20. ENTIRE AGREEMENT

These Terms & Conditions together with the other supplemental documents duly signed or accepted by the Subscriber in writing constitute the entire agreement between the Subscriber and Tradelink and supersede all other prior agreements and other prior communications between them. Each section herein shall be construed separately and notwithstanding that the whole or any part of any such section shall prove to be illegal or unenforceable the other sections of these Terms & Conditions shall continue in full force and effect.

## 21. WAIVER

The failure or delay of either Tradelink or the Subscriber to assert their rights under these Terms & Conditions shall not be construed as a waiver of any such rights.

## 22. NOTICES

All notices hereunder shall be sent electronically as Messages using Tradelink Services or in writing delivered by post at the last known address or by fax or by email or by posting on the website of Tradelink (<http://www.tradelink.com.hk/eng/index.html>).

## 23. JURISDICTION

These Terms & Conditions shall be subject to the law of the Hong Kong Special Administration Region and to the jurisdiction of its courts.

(In case there is any inconsistency between the Chinese version and the English version, the English version shall prevail.)