

# Terms of the ODR Agreement for the COVID-19 Online Dispute Resolution Scheme

## IMPORTANT NOTICE: THIS IS A LEGAL DOCUMENT, PLEASE SEEK LEGAL ADVICE BEFORE SIGNING FOR PROTECTION OF YOUR INTERESTS

1. AGREEMENT TO RESOLVE DISPUTE UNDER THE COVID-19 ONLINE DISPUTE RESOLUTION SCHEME (the “**Scheme**”).
  - (a) The parties hereto (identified in Section 2 below, each a “**Party**” and together as the “**Parties**”) acknowledge that their dispute (as further particularized below) (“**Dispute**”) is within the scope of the Scheme providing for an online dispute resolution process through negotiation, mediation and/or binding arbitration, and hereby agree to settle their Dispute in accordance with the then effective version of the eBRAM Rules for the COVID-19 ODR Scheme and Personal Data Collection Statement for the Scheme (respectively, “**eBRAM ODR Rules**” and “**eBRAM PICS**”) that are in force as at the time of the Parties’ submission of the notice for dispute resolution to eBRAM.
  - (b) The Parties agree to appoint eBRAM International Online Dispute Resolution Centre Limited (“**eBRAM**”) to be the service provider to process and facilitate resolution and settlement of their Dispute in accordance with the eBRAM ODR Rules and eBRAM PICS.
  - (c) The governing law of (i) this Agreement, (ii) the parties’ negotiation, mediation and/or arbitration process (as the case may be), and (iii) the seat of dispute resolution under the Scheme (whether by way of negotiation, mediation and/or arbitration, as the case may be) shall be Hong Kong. In the event of any disputes, claims or differences for or in connection with this Agreement (whether contractual or non-contractual) arising between the Parties, the Parties shall submit any such disputes, claims or differences to be resolved by the exclusive jurisdiction of the Hong Kong courts.
  - (d) The applicable language(s) to be used in resolving the Dispute shall be Cantonese, Mandarin or English.
  - (e) The Parties hereby irrevocably agree and confirm that they elect to use the Scheme to resolve this particular Dispute, instead of other forums (whether online or offline) for dispute resolution. This Agreement supersedes and replaces any and all previous dispute resolution agreements the Parties may have made for or in relation to the particular subject matter of this Dispute subject however to clause (f)(a) below.
  - (f) Specifically, in the event the Parties elect for binding arbitration under the Scheme for resolution of their Dispute:
    - a. Any decision and award of the arbitrator under the Scheme shall be final and binding upon the Parties. For avoidance of doubt, notwithstanding clause (e) above, nothing in this Agreement prevents either Party from seeking remedies of injunction (including interim/ interlocutory and permanent injunctions), specific performance, orders for preservation of evidence, assets or conduct, or any other applicable equitable relief from any court of competent jurisdiction, and any such requests shall not be deemed or construed as incompatible with the agreement to arbitrate under the Scheme or as a waiver of the right to arbitrate under the Scheme.
    - b. As between the Parties, the arbitrator under the Scheme has authority and power to grant interim measures and relief, including but not limited to injunctions, specific performance or any other applicable equitable relief (“**Interim Relief**”), whether in the form of an award or in another form. Where an Interim Relief is enforceable by a court of competent jurisdiction according to applicable laws, a Party’s request/application for Interim Relief shall be made to the arbitrator under the Scheme first. However, if, according to any applicable laws of the relevant enforcement jurisdiction(s) concerned, the arbitrator is not authorized to grant any such Interim Relief and/or any such Interim Relief would be unenforceable by the court of

competent jurisdiction of the relevant enforcement jurisdiction(s) concerned, a Party may then (a) request the arbitrator to transfer the Party's request/application for Interim Relief to the relevant court or (b) request/apply for Interim Relief from the applicable court and/or law enforcement organs of the relevant jurisdiction(s) directly.

- (g) Unless otherwise agreed between the Parties and/or awarded by the mediator/arbitrator under the Scheme (as the case may be), each Party shall bear its own costs and expenses relating to this Agreement and the use of the Scheme.
- (h) Each Party hereby acknowledges and agrees that eBRAM will only handle disputes involving monetary claims below the total amount of HK\$500,000. For disputes exceeding the amount of HK\$500,000, both Parties hereby agree and confirm to waive and abandon the part of monetary claim for their Dispute that is in excess of HK\$500,000 when submitting their Dispute for resolution under the Scheme. The Parties understands that eBRAM has the right to decline accepting their case under the Scheme if their claim exceed this maximum monetary limit.

## 2. MEDIATOR/ ARBITRATOR:

The Parties agree to use **negotiation / mediation / binding arbitration** for the resolution of their Dispute under the Scheme.

The Parties agree that one (1) mediator / arbitrator shall be appointed, and the Parties shall endeavour to agree on the appointment of a mediator / arbitrator for the dispute resolution proceedings under the Scheme.

If the Parties fail to agree on the appointment of the mediator/arbitrator, the Parties acknowledge and agree that eBRAM has the sole and absolute discretion to appoint any such other mediator(s) / arbitrator(s) as appropriate in accordance with the eBRAM ODR Rules, and eBRAM's decision and appointment shall be final.

## 3. ELECTRONIC TRANSACTIONS

Each Party shall ensure that personal data supplied by that Party to eBRAM and the mediators/arbitrators for processing under the Scheme are true and accurate, and if there are any inaccuracies in any such personal data, that the Party shall promptly notify and request eBRAM to update and correct those inaccuracies.

Unless there is any applicable legal requirement under any applicable laws to the contrary, both Parties agree that any and all documents and instruments in relation to or arising from their use of the Scheme may be presented in the electronic format and executed using electronic signatures by the relevant signatories, which shall have the same legal force and effect as if the documents and instruments were presented and executed in paper, including but not limited to (i) this ODR Agreement and its execution thereof, (ii) the mediated settlement agreement and the execution thereof, (iii) any and all other documents, submissions and communications for or relating to the processing and resolution of this Dispute under the Scheme; and (iv) the arbitral direction, decision and award issued by the arbitrator, and the execution thereof.

This Agreement shall be executed by the Parties in counterparts, each of which is an original and together forms one and the same legal instrument.

## 4. PRIVACY AND DATA PROTECTION

The Parties agree that eBRAM shall process any personal data in accordance with the applicable personal data protection laws and regulations and the latest version of eBRAM PICS.

I acknowledge that I have read and fully understand the above document namely, **Terms of the ODR Agreement for the COVID-19 Online Dispute Resolution Scheme** and I confirm my agreement to all the terms contained therein