

## **KINGSWAY ELECTRONIC TRADING SERVICE AGREEMENT**

### ***Parties***

This Agreement is made between:

- (1) Kingsway Financial Services Group Limited (“KFSGL”); and
- (2) the Subscriber.

This Agreement sets out the terms and conditions governing the use and access to the Service. All persons wishing to use or access the Service should read these terms and conditions carefully.

### **1. Definitions**

- 1.1 In this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

“**Content**” includes without limitation any content, software, data, information, chart, message, concept, idea, formula, process, material and all textual, audio, video, still image, graphical and other content or material that can be accessed by or through the Service;

“**Fees**” means any subscription fee which is payable by the Subscriber associated with the Subscriber’s use and/or access to the Service together with such other third party charges, access fees, royalties and other fees and charges as may be charged by KFSGL from time to time, and whether or not as agent, for the Subscriber’s use and/or access to the Service and/or the on-line delivery of Content;

“**Hong Kong**” means Hong Kong Special Administrative Region of the People’s Republic of China;

“**Kingsway Website**” means the Internet website operated by KFSGL or any of its related companies, including any information, services and facilities contained in the website and the software comprised in them;

“**Service**” means the real-time stock quotation, on-line services and electronic services provided by KFSGL or the Sources through Kingsway Website which the Subscriber wishes to access electronically via the Internet or otherwise;

“**Sources**” means all Content suppliers including but not limited to KFSGL, The Stock Exchange of Hong Kong Limited and other exchanges and third party information / data providers; and

“**Subscriber**” means any company, firm, partnership or individual who wishes to use the Service and has accepted the terms and conditions contained hereof in this Agreement and as named on the subscription form as the recipient of Service.

### **2. Terms and Conditions**

- 2.1 In consideration of the Subscriber paying Fees to KFSGL, KFSGL shall grant to the Subscriber a personal, non-exclusive, non-transferable and limited right and license to access the Service subject to any and all copyright notices or restrictions applicable to the Service and its Content. All Fees chargeable for the Service are payable in advance, on a monthly basis and are non-refundable either in whole or in part in any event whatsoever.

- 2.2 KFSGL may, at its sole and absolute discretion and at any time, add, amend, remove or alter, with or without prior notice to the Subscriber, the presentation, manner, form, substance, functionality of any Content.

- 2.3 KFSGL reserves the right at any time to (i) immediately terminate, suspend, revoke, limit, refuse or restrict the Subscriber’s access to the Service in any manner with or without notice, where KFSGL is of the opinion that the Subscriber has failed to pay any Fees or breached any of the terms contained in this Agreement or that such action is appropriate, desirable or necessary in the opinion of KFSGL without being liable for any losses, damages, suits, claims, liabilities, costs or expenses suffered or incurred by the Subscriber, and any Fees paid by the Subscriber shall not be refunded; and (ii) amend the Fees or introduce new fees or amend any of the terms and conditions of this Agreement which amendments shall be notified to the Subscriber by posting them on-line or otherwise of which shall take effect 7 days after any such posting is made.

- 2.4 The Subscriber acknowledges that some Sources may provide additional contents (“**Additional Content**”) which they may impose fees and/or royalties in addition to the Fees, for using or accessing such Additional Content. Should the Subscriber chooses to use or access such Additional Content, the Subscriber agrees and undertakes to pay such fees and/or royalties immediately upon demand by KFSGL. The Subscriber understands and acknowledges that the fees charged by such Sources may change from time to time and agrees to pay the effective amount incurred during the subscription period.

- 2.5 The Subscriber warrants that the information provided in the subscription form is true, accurate, current and complete and agrees to inform KFSGL promptly of any changes and furnish any additional documents or requested by KFSGL.

- 2.6 The Subscriber acknowledges and agrees that the Content are provided to the Subscriber for his/her personal use only. The Subscriber shall not adapt, reproduce, redirect, transmit, provide, supply, disseminate, alter, modify, sell, distribute, publish, broadcast, circulate or commercially exploit the Content or any part thereof in any manner without KFSGL’s and/or the Source’s express written consent or to use such Content or any part thereof for any unlawful purpose.

- 2.7 The Subscriber shall use and access the Service only in the manner as intended or specified in the Service. The Subscriber will not trespass, break into, access, use or attempt to trespass, break into, access or use any other parts of KFSGL’s servers, its Content and/or any data areas for which the Subscriber has not been authorized by KFSGL.

- 2.8 The Subscriber shall not assign, transfer or sub-license all or any part of his/her rights or obligations under this Agreement.

### **3. Disclaimer of Warranty and Limitations of Liability**

- 3.1 The Subscriber expressly acknowledges that the Service is provided on an “**AS IS**” and “**AS AVAILABLE**” basis. The Subscriber also acknowledges and agrees that the Service and all Content therein are provided to the Subscriber for general reference and shall be used for that purpose only. Neither the Service nor Content shall constitute any form of investment or professional advice and intend to be relied upon by users in making or refraining from making any specific investment or other decisions. Independent professional advice should be obtained before making any such decision. None of KFSGL, its subsidiaries, affiliates, servants, officers, agents, employees or the Sources gives any warranty or representation (save for those expressly stated in this Agreement), express or implied, of any kind whatsoever relating to the Service including any Content furnished through the Service, including without limitation, non-infringement of third party rights, merchantability or fitness for any particular purpose of use.

- 3.2 **KFSGL and the Sources endeavor to ensure the accuracy and reliability of the Service and Content provided but do not guarantee its accuracy or reliability and accept no liability (whether in tort or contract or otherwise) for any loss or damage arising from any inaccuracies, errors or omissions.**

- 3.3 Any tools and/or utilities made available in Kingsway Website is for the convenience of the Subscriber and KFSGL does not make any assurances with regard to the accuracy of the result or output that derives from the use of any such tools and utilities.

- 3.4 KFSGL may provide links to other World Wide Web Sites (“**Third Party Sites**”). Use of such Third Party Sites is at the Subscriber’s own risk. KFSGL is not responsible for damages or losses caused by any delays, defects, errors or omissions that may exist in the

services, information or other content provided in such site, whether actual, alleged, consequential or punitive. KFSGL makes no guarantees or representations as to and shall have no liability for any electronic content delivered by any third party or have any responsibility including without limitation, the accuracy, subject matter, quality or timeliness of any electronic content.

- 3.5 Neither KFSGL nor the Sources shall be liable to the Subscriber or anyone else for any direct, indirect, natural, consequential or incidental loss, costs or damages, or any special or punitive damages, or any injury caused in whole or in part by KFSGL's or the Sources' negligence, tortious act, default, breach, delay or omission in procuring, compiling, interpreting, editing, reporting or delivering any Content. In no event shall KFSGL, its subsidiaries, affiliates, servants, officers, agents, employees or the Sources be liable to the Subscriber or anyone else for any direct, indirect, natural, consequential, incidental, special, exemplary or punitive damages, including any loss of profits or savings, or for any third party claim of any nature whatsoever related to the Service or its use.
- 3.6 The Subscriber will indemnify and hold KFSGL and the Sources, their subsidiaries, affiliates, servants, officers, employees and agents, harmless against all claims, liabilities, losses, damages and expenses, including, without limitation, legal fees and costs arising out of or incurred as the result of any claims made, or litigation brought, against KFSGL and the Sources, their subsidiaries, affiliates, officers, agents, employees, servants and agents, as a result of the use by the Subscriber of the Content or the Service or part thereof.
- 3.7 The Subscriber understands and acknowledges that the Internet is, due to hackers, unpredictable traffic loads, hardware or system failure, computer virus and other reasons, an inherently unreliable medium of communication and that such unreliability is beyond KFSGL's control. The Subscriber understands and acknowledges that, as a result of such unreliability, there may be failures, interruption, interventions, delays or errors in the transmission and receipt of the Service, the Content and any email messages sent as between KFSGL and the Subscriber. The Subscriber acknowledges and agrees to bear all such and related risks.

**4. Personal Information Collection and Privacy Policy Statements**

- 4.1. KFSGL shall keep confidential all Subscriber's information derived from the registration for or use of the Services ("Personal Data") but in submitting the Personal Data, the Subscriber agrees that any such information may be used for the following purposes:
- a) sharing, cross-checking and transferring that information with any associated and/or affiliated companies;
  - b) any purpose relating to or in connection with compliance with any law, regulation, court order of a regulatory authority including the provision of any such data to any such regulating authority which shall request the same;
  - c) any other purposes relating to or in connection with KFSGL's business or dealings or the business or dealings of any associated and/or affiliated companies.

**5. Termination**

- 5.1 The Subscriber may terminate this Agreement at any time on the giving of one month's prior notice to KFSGL.
- 5.2 Except as provided in clause 2.3 above, KFSGL may terminate this Agreement forthwith at any time by notice to the Subscriber without giving any reason therefor.
- 5.3 Upon the effective date of termination of this Agreement (i) all rights, licenses and other privileges granted to the Subscriber under the terms of this Agreement shall forthwith cease; and (ii) the Subscriber will not be entitled to a refund of any Fees which have been paid in advance on the termination of this Agreement.
- 5.4 The Subscriber acknowledges and agrees that KFSGL's rights and remedies against the Subscriber shall survive the termination of this Agreement.

**6. General**

- 6.1 If any term or provision in this Agreement shall in whole or in part be held to any extent to be invalid, illegal or unenforceable under any enactment or rule of law, that term or provision or part shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.
- 6.2 The Subscriber acknowledges and agrees to the Personal Data Protection Statement as shown, and amended from time to time, in Kingsway Website.
- 6.3 The Subscriber acknowledges and agrees that any failure or delay on the part of KFSGL in exercising any right, power or privilege under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise by KFSGL of its right shall preclude further exercise.
- 6.4 This Agreement shall be governed and interpreted in accordance with the laws of the Hong Kong and both parties hereby submit to the non-exclusive jurisdiction of the courts of the Hong Kong.
- 6.5 All notices and communications to the Subscriber may be effectively given by sending them by e-mail or facsimile transmission to the Subscriber's e-mail address or facsimile number as given in the subscription form or by delivering or mailing them by post addressed to the Subscriber at the address given in the subscription form.
- 6.6 The Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the laws of Hong Kong) shall not apply to this Agreement and unless specifically herein provided, no person other than the parties to this Agreement shall have any rights under it nor shall it be enforceable by any person other than the parties to it.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Email Address: \_\_\_\_\_

SIGNED by  
Name of or for and on its behalf of Subscriber

In the presence of:

SIGNED by  
For and on behalf of  
Kingsway Financial Services Group Limited

In the presence of: