**Appendix 2**

**NOTICE**

[Notice to be printed on letterhead of Platform Operator/applicant][[1]](#footnote-1)

[Name and address of Electronic data storage / technology services provider (**EDSP**)]
[Date]

**Re: Authorisation to provide assistance to the Securities and Futures Commission**

1. We refer to the Agreement made between [name of Platform Operator/applicant] (**we**, **us** or **our**) and [name of EDSP] (**you** or **your**) (collectively, the **Parties**) on [date].
2. We [are / will apply to be\*] licensed by the Securities and Futures Commission[[2]](#footnote-2) (**SFC**) to carry on VA services under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Chapter 615 of the Laws of Hong Kong (**AMLO**). We [are keeping / will keep\*] our records with you. [We will apply for approval of premises to be used for keeping records or documents required under the AMLO.][[3]](#footnote-3)
3. In relation to the Agreement, we are required by the SFC to give you notice of the following:
	1. we irrevocably consent to you providing, producing, disclosing or transferring any or all of Our Data (defined below) to the SFC at any time as required by the SFC pursuant to the exercise of any statutory power, without giving us any notification about such requirement having been received;
	2. “**Our Data**” includes any information, data, record or document (i) relating to us, (ii) to which we have or may have access under or in connection with the Agreement or any service agreement we have entered into or will enter into with you, (iii) showing a detailed audit trail, such as audit logs, which is a complete record with regard to any access (including generation and modification) to Our Data stored or processed by you;
	3. we authorise you to maintain the audit trail covering the period during which Our Data is stored or processed by you;
	4. we agree that the audit trail should be maintained in a manner which prevents us from modifying or deleting any information in the audit trail.
4. We request you to provide all necessary assistance to the SFC in the performance of its functions and powers, including:
	1. providing, producing, disclosing or transferring any or all of Our Data to the SFC at any time as required by the SFC pursuant to the exercise of any statutory power; giving evidence in relation to proceedings as referred to in paragraph 5 below; and
	2. complying with notices issued by the SFC to you pursuant to the exercise of any statutory power in relation to any matter concerning us, Our Data or the services provided by you to us.
5. You should note that in the course of any proceedings initiated by the SFC or the Department of Justice (**DoJ**) requiring the production of Our Data:
	1. the SFC or the DoJ may request your staff member(s) having technical knowledge of the operation of your electronic data storage or information system to provide certificate(s) pursuant to section 22A(5) of the Evidence Ordinance, Chapter 8 of the Laws of Hong Kong, or other statutory provision certifying the following information, and/or witness statement(s) and/or affirmation(s) containing the following information:
		1. a brief explanation of the technical operation of the computer server(s), device(s) or system(s) (collectively, the **computer server**) for storing, processing or retrieving data;
		2. that safeguards are in place to ensure preservation of the integrity of the data stored, processed or retrieved on the computer server;
		3. that the computer server was used to store, process or retrieve data for the purposes of the activities carried on by you;
		4. that the data contained in the document and/or record (to be produced as evidence) reproduces or is derived from data supplied to the computer server in the course of those activities;
		5. that while the computer server was so used in the course of those activities:
			* appropriate measures were in force for preventing unauthorised interference with the computer server; and
			* the computer server was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document and/or record or the accuracy of its contents; and
		6. any other matters as may be required by the SFC or the DoJ.
	2. the SFC or the DoJ may request your staff member(s) providing the above certificate(s), witness statement(s) and/or affirmation(s) to give evidence in the proceedings.
6. With respect to the terms at paragraph 3 above, we agree that:
	1. they shall survive any termination or expiry of the Agreement;
	2. they shall remain binding upon us, our successors and assigns;
	3. in the event of any inconsistency between those terms and other provisions of the Agreement or any agreement between the Parties, the terms at paragraph 3 of this notice shall take precedence;
	4. they shall apply to any renewal or new agreement that may be made between the Parties.

For and on behalf of [name of Platform Operator/applicant]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Authorised Signatory
Print Name:
Title:

**ACKNOWLEDGED** by [**name of EDSP**]:

For and on behalf of [name of EDSP]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Authorised Signatory
Print Name:
Title:
Address:
Email address:
Date:

1. \* Delete where appropriate

 Where the Platform Operator intends to submit its application for section 53ZRR approval with an undertaking from the EDSP pursuant to the frequently asked questions issued by the SFC on 31 May 2023 concerning use of external electronic data storage, the Platform Operator’s notice to the EDSP may omit paragraphs 4 and 5 of this notice, and it is not necessary to obtain the EDSP’s countersignature. [↑](#footnote-ref-1)
2. The SFC is a statutory body in the Hong Kong Special Administrative Region (Hong Kong) established under the repealed Securities and Futures Commission Ordinance and continuing in existence under section 3 of the Securities and Futures Ordinance. [↑](#footnote-ref-2)
3. Text in square brackets is not applicable where the data centre of an EDSP used by the Platform Operator has already been approved under section 53ZRR of the AMLO. [↑](#footnote-ref-3)