

APPENDIX I – PARTICIPATION TERMS AND CONDITIONS (VERSION DATE: 6 MAY 2021)

These terms and the Documentation form the entire agreement between the Parties in relation to their subject matter ("**Agreement**").

1. Service and Platform

- 1.1. In return for the benefit of AA being able to drive the overall operating efficiency, security and convenience of the Hong Kong air cargo industry and to prepare and share with the community participants on the industry trends and reports as derived through the aggregated and collaborative efforts, AA grants to the Participant a non-exclusive, non-transferable, revocable right to use the Services, Platform and Documentation in Hong Kong, solely for the Participant's business purposes, as part of its ordinary course of business.
- 1.2. Participant shall only access and use the Services and Platform through (a) the User Accounts established by AA for the Participant's relevant Authorised Users and/or (b) if mutually agreed between the parties, direct access integration or interface in accordance with the relevant Documentation. Each User Account shall be personal to the relevant Authorised User, and shall not be transferrable or used by anyone else. Participant shall not permit anyone to access the Services, User Account or Platform unless they are an Authorised User. Participant shall keep the password for its User Accounts secure and confidential, and notify AA immediately upon becoming aware of any unauthorised use of a User Account.
- 1.3. Any online payment processing solution made available through the Platform, from time to time, shall be controlled and operated by a third party provider. Any credit card or payment information will be collected, processed and kept by the third party provider of the online payment solution, subject to their terms and conditions. AA shall have no control over such payment processing solution.

2. Changes to Services and Participant Terms

- 2.1. AA has the right at any time to suspend, delete, modify or add to (in whole or in part) the Services, Platform, Content, Documentation or User Accounts (with prior notice in advance (to the extent as reasonably practicable for AA and the community) and without any liability to the Participant).
- 2.2. AA may amend the terms of this Agreement at any time by notifying the Participant. The Participant's (or its Authorised Users') continued use of the Platform or Services after the amendments come into effect, shall constitute the Participant's agreement to be bound by them. If the Participant does not agree to AA's amendments to this Agreement, its sole remedy is to terminate this Agreement.

3. Termination

- 3.1. AA has the right to immediately terminate this Agreement, or suspend, terminate, modify or impose any limitations on Participant's access to and use of the Services, User Accounts or the Platform at any time, and without liability if (a) the Participant commits any material breach of this Agreement without remedying the same or any breach which is likely to have a material adverse impact on the operation, integrity, security or performance of the Service or Platform; (b) the Participant has acted in any manner which adversely affects the Services, Platform or AA's reputation; or (c) the Participant does

not have the necessary approvals, orders, licences, permits or consents needed under applicable law in order for the Participant to receive or use the Services or Platform.

- 3.2. AA may without any liability terminate this Agreement as well as the Participant's access to and use of the Services, User Accounts and the Platform for any reason, by giving the Participant not less than six months' prior written notice.
- 3.3. Upon termination of this Agreement for any reason: (a) all rights and licences granted under this Agreement shall immediately terminate, except for the licence granted under Clause 5.2; (b) the Participant shall immediately cease to use the Services, Platform, Documentation and User Accounts, and shall promptly delete or return to AA all of AA's Confidential Information in its possession or control (except that it may retain copies as required under applicable law). Termination of this Agreement shall not affect any rights, remedies or liabilities of the Parties that accrued up to the date of termination. Clauses 3.3, 4.1(b), 4.2, 5.1, 5.2 and 6 to 12 shall survive and continue indefinitely.

4. Warranties, representations and undertakings

- 4.1. The Participant represents, warrants and undertakes at all times that:
 - (a) it shall comply with the Documentation and all applicable laws and regulations, and it shall maintain all necessary authority and licences required under applicable law and/or by any relevant government or regulatory authority for the Participant to provide its services in relation to the import and/or export of any goods or products in Hong Kong;
 - (b) it shall not decompile, reverse engineer or otherwise attempt to extract the source code, or attempt to tamper with or evade, or discover the method of operation or defeat the Platform, and shall not install, import or transmit (and shall take all reasonable steps to prevent against the installation, importation or transmission of) any computer viruses, worms, time bombs, logic bombs, trap doors or similar malicious codes capable or designed to enable unauthorised access, damage, corruption, disruption, use or disabling of the Service, Platform or other telecommunications or computer systems or devices;
 - (c) all Participant Content shall: (i) not infringe any third party's rights (including IP Rights or privacy rights); (ii) not be illegal, misleading, inaccurate, outdated, fraudulent, defamatory, harassing or offensive; and (iii) not contain any information that it does not have the right to make available via the Platform, due to any contractual, fiduciary or legal obligation.
- 4.2. Participant shall at all times remain solely liable and responsible for any communications, information or data transmitted, uploaded or sent by or on behalf of the Participant or its Authorised Users, and for all actions or omissions of an Authorised User, its Affiliates, employees, contractors, directors or officers, and for all activities that occur under a User Account (whether authorised or not).

5. IP Rights and Content

- 5.1. AA or its licensors own all rights, title, interests and IP Rights subsisting in the Documentation, Platform, Services and Content (except the Participant Content). The Participant shall not modify, copy, rent, lease, loan, sell, distribute, create derivative works based on, frame, republish or transmit the Content (excluding any Participant Content), the Documentation or the Platform (in whole or in part), unless expressly authorised under this Agreement, or the Participant has received AA's or the relevant licensor's express written consent.
- 5.2. The Participant retains all of its IP Rights in the Participant Content. By transmitting, uploading, inputting or submitting any Participant Content via the Platform or Services, the Participant automatically grants AA a perpetual, irrevocable, worldwide, royalty-free, transferable and non-exclusive license (and the right to sub-licence the right) to use, copy, adapt, modify, publish, create derivative works, translate, transmit, host, disseminate and display the Participant Content, for the purposes of enabling AA to: (a) provide, operate, administer and maintain the Services and Platform (including providing the Participant Content to any other user of the Platform and Services, who the Participant has indicated as being the intended recipient of the Participant Content); (b) comply with any applicable laws or regulations, or any requests issued by any government or regulatory authority; (c) use it for its own internal purposes (including preparing reports, or auditing and analysing the operation of the Services or the Participant's use of the Services and compliance with this Agreement, or any improvements that may be made to AA's operations, the Services or Platform); and/or (d) prepare industry trend reports and analysis based on compiled data from the Platform which will be shared on aggregated and anonymous basis. The Participant undertakes and warrants that it has the rights, power and authority necessary to grant the license under this Clause.
- 5.3. AA reserves the right, but shall have no obligation to, pre-screen, review, flag, filter, modify, refuse or remove any Content from the Service or Platform, at its sole discretion.

6. Disclaimers

- 6.1. The Participant's use of the Services, Platform, Documentation, Content, Third Party Materials and User Accounts are at the Participant's sole risk, and are each provided "as is" and "as available".
- 6.2. To the fullest extent permitted by applicable law, AA expressly disclaims all warranties and conditions of any kind, whether express or implied, in relation to the Services, Platform, Content, Documentation, Third Party Materials, User Accounts or this Agreement (including implied warranties and conditions of merchantability, fitness for a particular purpose, non-infringement, quality, timeliness, accuracy, freedom from interruption, currentness, adequacy and reliability).
- 6.3. Without prejudice to Clauses 6.1 and 6.2, AA, its Affiliates and licensors, make no representations or warranties in relation to the identity, authorisation or qualifications of any other user of the Platform or Service that the Participant interacts with or receives Content from, or that the Participant or Authorised

Users' use of the Service, Platform, Content, Documentation, Third Party Materials or User Accounts will meet the Participant's requirements or be uninterrupted, timely, secure, free of any error, omissions, defects, viruses or malicious codes or devices.

7. Limitation of Liability

- 7.1. To the fullest extent permitted by applicable law, AA shall not be liable to the Participant in tort (including negligence), contract, breach of statutory duty or otherwise for any Loss whatsoever arising out of or in connection with this Agreement, the Service, Platform, Content, Documentation, Third Party Materials or User Accounts, whether such Loss is general, consequential, incidental, direct, indirect, special or punitive, and whether or not AA has been advised or should have been aware of the possibility of such Losses. Without prejudice to the foregoing, AA shall not be liable to the Participant for any Loss arising as a result of any dispute, claim, proceedings or actions between the Participant and any other third party user of the Services or Platform.
- 7.2. Solely to the extent that any court or arbitration tribunal of competent jurisdiction issues a decision that Clause 7.1 is invalid or unenforceable, the Parties agree that AA's maximum liability arising out of or in connection with the Service, Platform, Documentation, Content, Third Party Materials, User Accounts and/or this Agreement (whether arising under contract, tort, or otherwise) shall be limited to HKD 100.

8. Indemnity

Participant hereby agrees to indemnify, defend and hold harmless AA, its Affiliates and licensors from and against all Losses arising out of or in connection with: (a) any Participant Content; (b) any breach by the Participant or its Authorised Users of any applicable laws or regulations; (c) any third party claims arising out of a breach by the Participant or its Authorised Users of this Agreement or the Documentation, or any activities carried out via the User Accounts; or (d) any claim, action or proceeding between the Participant and any third party user of the Services or Platform.

9. Data Privacy

- 9.1. For any personal data provided by the Participant in relation to the Services or Platform, the Participant shall be the data user or data controller and AA shall be the data processor for the purposes of any applicable Data Protection Laws. The terms "personal data", "data user", "data controller", "data processor", "processing" and "data subject" as used in this Agreement, shall have the same meanings as given to them (or their equivalent terms) under the applicable Data Protection Laws.
- 9.2. AA will process all personal data in accordance with the Privacy Policy and the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong). The Participant shall comply with all applicable Data Protection Laws in relation to the exercise of its rights and obligations under this Agreement.
- 9.3. The Participant warrants and undertakes that:
- (a) it is entitled to transfer the personal data provided by or on behalf of the Participant to AA or any third party users

of the Services and Platform ("**Other Users**"), so that AA may lawfully use, process, store and transfer the personal data in accordance with this Agreement and the Privacy Policy (including to provide the Services), and the Other Users may lawfully use, process, store and transfer the personal data for the purposes of benefiting from and using the Services;

- (b) it shall only collect, use, store, transfer and process the personal data of any Other Users it receives via the Services or Platform, solely for the purposes of the Participant benefiting from and using the Services; and
- (c) take all appropriate steps to protect Other Users' personal data in its possession or control from (and promptly notify and provide assistance to AA in the event of) any unauthorised access, loss, modification or disclosure.

10. Confidentiality

10.1. Each Party ("**Recipient Party**") shall not use the Confidential Information provided by the other Party ("**Disclosing Party**") for any purpose other than as necessary to exercise its rights or perform its obligations under this Agreement, and shall not disclose any of the Disclosing Party's Confidential Information to any third party or use it for the benefit of any third party, without the prior written consent of the Disclosing Party. The Disclosing Party shall adopt and implement sufficient safeguarding and security procedures to prevent unauthorised use, access or disclosure of the Disclosing Party's Confidential Information.

10.2. The obligations of the Recipient Party under Clause 10.1, shall not apply to any information that: (a) is or becomes publicly known other than through any act or omission by or on behalf of the Recipient Party; (b) was in the Recipient Party's lawful possession before the disclosure, or was lawfully disclosed to the Recipient Party by a third party without restriction on disclosure; or (c) was independently developed by the Recipient Party, as shown by written evidence.

10.3. Despite Clause 10.1:

- (a) AA shall be entitled to disclose the Participant's Confidential Information to any third party as may be necessary for AA to provide the Services or exercise its rights under this Agreement, so long as the third party is subject to confidentiality obligations;
- (b) the Recipient Party may disclose the Disclosing Party's Confidential Information to the extent required under applicable law or by any government or regulatory authority, provided that the Recipient Party shall notify the Disclosing Party of such required disclosure as soon as it becomes aware of the same (if lawfully permitted to do so) and shall provide the Disclosing Party with reasonable assistance in contesting such disclosure; and
- (c) AA may disclose the Participant's identity as a participant of the Platform to third parties (including in any promotional materials or press releases). For this purpose, Participant grants to AA a non-exclusive, worldwide licence during the Term to use the Participant's name and/or trademark, trade name, service mark or logo in any advertising, marketing or publicity materials and press releases.

10.4. The Parties shall at all times keep confidential the terms of this Agreement, and any related negotiations, discussions or disputes, and shall only disclose them to its legal advisors or as required by applicable law.

11. Governing law and arbitration

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter, performance, validity, enforceability or formation shall be governed by and construed in accordance with the laws of Hong Kong, and shall be finally resolved by arbitration administered by the Hong Kong International Arbitration Centre ("**HKIAC**") in accordance with the HKIAC Administered Arbitration Rules in force when the Notice of Arbitration is submitted. The seat of arbitration shall be Hong Kong, and the arbitration proceedings shall be conducted in the English language. The arbitral tribunal shall consist of one arbitrator.

12. General terms

12.1. If any terms of this Agreement are held invalid, illegal or unenforceable by any court or tribunal of competent jurisdiction, it will be severed and the remaining terms will continue in full force and effect as if this Agreement had been made without the invalid, illegal or unenforceable terms.

12.2. Save for the rights granted to AA's Affiliates and licensors under Clause 8, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Ordinance (Cap. 623). The rights of the Parties to rescind or vary this Agreement are not subject to the consent of any other person.

12.3. Any waiver by a Party of any of its rights or of a breach of this Agreement must be in writing, and such waiver is limited to the particular right or breach stated therein. Participant may not transfer any of its rights or obligations under this Agreement. AA may transfer its rights or obligations under this Agreement to any third party without the Participant's consent.

13. Definitions and interpretation

13.1. Capitalised terms used in this Agreement shall have the following meanings:

"**AA**" means the Airport Authority, a body corporate validly existing by virtue of the Airport Authority Ordinance (Cap. 483);

"**Affiliate**" means any entity directly or indirectly controlling or controlled by or in common control with a Party, where "control" means the power (whether directly or indirectly) to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting shares, securities, by contract, or otherwise;

"**Authorised Users**" means those employees of the Participant who are authorised by the Participant to use the Services and Platform on behalf of the Participant;

"**Confidential Information**" means all information that by its very nature should be treated as secret and confidential or which is designated as such (whether provided orally, in writing, or in machine readable or any other form whatsoever), including, in the case of AA's Confidential Information, the

Documentation, source codes and software programmes relating to the Platform, and all data, materials and information concerning the other participants that use the Services or Platform;

"**Content**" means all information, data, files, text, computer software, music, audio files, photographs, videos, graphics, images, messages, or other documents or materials (of whatsoever nature or format), which may be accessed, used, viewed, uploaded or downloaded as part of, or through the use of, the Service or Platform, including any Third Party Materials and Participant Content;

"**Data Protection Laws**" means all applicable laws and regulations, and any measures, interpretations, codes or guidelines issued by a government or regulatory authority, pertaining to the protection of privacy, personal data or personal information;

"**Documentation**" means the documents, policies, procedures, specifications or standards provided or made available by AA to the Participant, as may be amended by AA from time to time, relating to the use of the Services and Platform;

"**IP Rights**" means any patents, trade marks, service marks, registered designs, domain names, trade and business names, copyright, database rights, know-how, rights in designs and inventions, and any other similar rights, in each case in any part of the world, whether presently existing or created in the future, whether registered or not, and all benefits, privileges or rights to sue, recover damages or obtain relief for any past, current or future infringement, misappropriation or violation of any of the foregoing rights;

"**Loss or Losses**" means losses, liabilities, judgments, awards, damages, fines, penalties, sanctions, settlements, claims, demands, actions, costs, charges and expenses of whatsoever nature (including attorney/legal fees for both internal and external counsel, and costs related to investigation, arbitration, litigation or settlement);

"**Participant**" has the meaning given to it in the letter to which this Agreement is attached;

"**Participant Content**" means all information, data, files, text, computer software, music, audio files, photographs, videos, graphics, images, messages, or other documents or materials (of whatsoever nature or format), which is: (a) created, submitted, transmitted, shared, displayed, posted, uploaded or published on or through the Service or Platform by the Authorised Users or the Participant; or (b) transmitted, uploaded, submitted or shared (whether manually or automatically) by any servers, computers, devices, networks, hardware or communications systems owned or operated by or on behalf of the Participant or its Affiliates, that interface or connect with the Platform or any servers, computers, devices, networks, hardware or communications systems owned or operated by AA, its Affiliates or their service providers;

"**Parties**" collectively means AA and the Participant, each a "**Party**";

"**Platform**" means the air cargo data platform owned and provided by AA for the purposes of facilitating the air cargo import and export process, as further described in the relevant Documentation;

"**Platform Terms of Use**" means the terms governing the use of the Platform by end users, including the Authorised Users, which is available via the website www.HKIAcargo.com (or such other website address as notified to the Participant from time to time);

"**Privacy Policy**" means AA's privacy policy which is available via the website www.HKIAcargo.com (or such other website address as notified to the Participant from time to time);

"**Services**" means the services provided by AA via or in relation to the Platform, as more particularly described in the Documentation;

"**Third Party Materials**" means any services, software, platform, Content or hyperlinks to other websites, content or resources, which are provided, uploaded, transmitted, submitted, hosted, operated or posted by or sourced from any third party, including any online payment processing platform.

"**User Account**" means an account established by AA to enable an Authorised User to log onto the Platform to use the Services on behalf of the Participant;

- 13.2. Whenever the words "include" or "including" (or any other similar derivatives) are used, they shall be deemed to be immediately followed by the words "without limitation".