



**Terms and Conditions for Use of
Electronic Submission System of Official Receiver's Office
via Creditor Portal**

Interpretation

1. Unless otherwise expressly stated to the contrary, terms used herein bear the meanings as defined below:
 - a. **Administrator** means a Preparer Account User or a Checker Account User who has been assigned an administrator role for a Registered Organization in the ESS and is responsible for overseeing and managing the compliance of all Preparer Account Users and Checker Account Users under the Registered Organization with these Terms and Conditions.
 - b. **Checker Account** means a Checker Account created under a Registered Organization and operated by a Checker Account User.
 - c. **Checker Account User** means the registered user of a Checker Account who must be an employee of or a person duly authorized by the Registered Organization and is responsible for checking and approving the work done by a Preparer Account User.
 - d. **Creditor Portal** means the portal of the ESS through which the ORO communicates with the User and exchanges information or documents with the User.
 - e. **Electronic Submission System** (or "ESS") means the electronic system designated and used by the ORO for providing public services or information online to, and receiving information or documents from members of the public, private insolvency practitioners and creditors through the Internet, including the services provided thereunder.
 - f. **ESS Account** means a Preparer Account or a Checker Account registered with the ESS.
 - g. **Government** means the Government of the Hong Kong SAR.
 - h. **Guidelines** mean the "Guidelines for User Registration of Creditor Portal of Electronic Submission System" (including any annexes attached) published by the ORO which may be updated, modified or amended from time to time.
 - i. **Hong Kong SAR** means the Hong Kong Special Administrative Region of the People's Republic of China.

- j. **OR** means the Official Receiver as defined in section 2 of the Bankruptcy Ordinance (Cap. 6).
- k. **ORO** means the Official Receiver's Office of the Government including, where applicable, the OR.
- l. **Preparer Account** means a Preparer Account created under a Registered Organization and operated by a Preparer Account User.
- m. **Preparer Account User** means the registered user of a Preparer Account who must be an employee or a person duly authorized by the Registered Organization and is responsible for preparing information and documents to be submitted to the ORO via the ESS.
- n. **Registered Organization**, means an organization which is registered in accordance with the Guidelines.
- o. **Terms and Conditions** mean these Terms and Conditions and the Guidelines as may from time to time be updated, modified or amended and in force.
- p. **User** means every person registered as a user of the ESS via the Creditor Portal with a Preparer Account or a Checker Account in accordance with these Terms and Conditions.
- q. **Webpage** means the official webpage of the Creditor Portal of the ESS which is used, *inter alia*, for updating these Terms and Conditions from time to time.
- r. **"working day"** means any calendar day, excluding Saturdays and public holidays as defined in the Interpretation and General Clauses Ordinance (Cap. 1).

Services

- 2. The User requests the ORO to provide electronic services and the ORO, upon receiving the User's acceptance of these Terms and Conditions, agrees to provide electronic services through the ESS. The use of the electronic services shall at all times be governed by these Terms and Conditions.

Agreement to Terms and Conditions

- 3. The User declares that he or she has read and fully understood these Terms and Conditions before using the ESS. Access and use of the ESS by a User constitutes unconditional acceptance of these Terms and Conditions by the User.

User's Obligations

- 4. The User consents to the use of personal data (regardless of whether such personal data is provided for registration as a User of the ESS, use of the ESS, or was previously provided to the ORO) by the Government including but not limited to the ORO and other bureaux/departments of the Government for the purposes set out in the Personal Information Collection Statement in the Creditor Portal of the ESS.

5. The User who is a holder of digital certificate issued by a recognized certification authority may use his or her digital certificate for digital signing purpose in the ESS. The User who is a holder of “iAM Smart” or “iAM Smart+” account (as defined in the “iAM Smart” User Terms of Use available at <https://www.iamsmart.gov.hk>) may use the User’s “iAM Smart” or “iAM Smart+” account to login the ESS account as the User deems appropriate. The User who is a holder of “iAM Smart+” account may use the User’s “iAM Smart+” account for digital signing purposes in the ESS.
6. The User’s ESS account is for the sole and exclusive use by the User. The User agrees that he or she shall not authorize any other person to access or operate his or her ESS account, or use his or her “iAM Smart” or “iAM Smart+” account to login an ESS account, or use his or her “iAM Smart+” account or digital certificate to sign electronic documents on his or her behalf.
7. The User must keep confidential the login name and password of his or her ESS account. Other than at the time of logging in his or her ESS account, the User would not be asked to provide the password of his or her ESS account.
8. Any access to the ESS by successfully logging in an ESS account using the User’s login name and password, “iAM Smart” account or “iAM Smart+” account shall be deemed to be made by the User. The User must log out from his or her ESS account at the end of each session.
9. The User undertakes that he or she shall use the ESS in accordance with these Terms and Conditions and for lawful purposes only. The User further undertakes that he or she shall not in any way damage, interfere or impair the availability or accessibility of the ESS to any other Users. The User also undertakes not to use the ESS to obtain or attempt to obtain any materials, information, data or documents through any means not intentionally made available or provided for through the ESS.
10. Without prejudice to the generality of these Terms and Conditions, the User may not be able to use the ESS unless he or she has acquired and made available the necessary computer hardware, software and communication links. For details, please refer to the detailed technical requirements for using the ESS at <https://ess-creditor.oro.gov.hk>. The User shall be solely responsible for these arrangements and shall enter into such contracts and bear all expenses as may be required by any provider of the computer hardware, software, network and communications link. The ORO shall not be responsible for any obligations, expenses or liabilities incurred or suffered by the User in connection therewith.
11. The information that the User supplies to the ORO via the ESS must be complete and accurate, with correct attachments if required. As far as contact details (including but not limited to email address, contact telephone number and contact address) are concerned, the User shall ensure that such information is up-to-date at all times. The ORO shall not be responsible or liable for any inaccuracy, mistake or false/outdated information so supplied by the User or kept under the ESS.
12. The User must register an ESS account with the ESS before using the ESS via the Creditor Portal. All registration is on an organizational basis only and must be made by an employee or a person duly authorized by a Registered Organization. Any activity (including all communications) and/or transaction conducted through the ESS of a Preparer Account by a Preparer Account User or a Checker Account by a Checker Account User under the Registered Organization shall be regarded as an

activity and/or transaction conducted by the registered account user and authorized by the Registered Organization. All communications from the ORO to the Preparer Account and Checker Account under the Registered Organization shall be regarded as sent to and received by the Registered Organization.

13. The Registered Organization, acting through its Administrator(s), shall take all necessary measures to ensure and procure that every Preparer Account User or Checker Account User under the Registered Organization is aware of and shall comply with these Terms and Conditions. The ORO reserves the right to request the Registered Organization, via its Administrator(s), to take any further actions, including but not limited to executing any deed of compliance and providing information, at the sole costs of the Registered Organization, to ensure that every Preparer Account User or Checker Account User under the Registered Organization is aware of and complies with these Terms and Conditions. Any breach of these Terms and Conditions by a Preparer Account User and/or Checker Account User under the Registered Organization shall be deemed and construed as a breach by the Registered Organization.
14. If the User knows or suspects that the login name or password of his or her ESS account is or becomes known by any unauthorized third party or there is unauthorized access to his or her ESS account, the User shall have a duty to change the password of his or her ESS account immediately, inform the Administrator, and such Administrator shall forthwith suspend the account and notify the ORO (Attention: Senior Insolvency Officer (Special Duties)) immediately in writing or by calling 2867 2448. Any activity and/or transaction conducted via an ESS account before suspension and notification given to the ORO by the Administrator as aforesaid shall be regarded as activity and/or transaction conducted by the registered account user and authorized by the Registered Organization.

Payment

15. The prescribed fees ("**Prescribed Fees**") stipulated in the Bankruptcy (Fees and Percentages) Order (Cap. 6C) and the Companies (Fees and Percentages) Order (Cap. 32C) apply to the filing of proof of debt on the ESS.
16. The Registered Organization may, on an optional basis, set up a prepaid account on the ESS for the payment of the Prescribed Fees. To set up a prepaid account, the Registered Organization is required to pay an initial deposit to the ORO, and the sum so paid is non-interest-bearing. The prepaid account will be activated and ready for use upon receipt and successful crediting of the initial deposit by the ORO. The balance of the deposit will be refunded to the Registered Organization upon the submission of a written request, the termination of the prepaid account, or the closure of all ESS Accounts created under the Registered Organization. Requests for activation or closure of the prepaid account shall be initiated by either a Preparer Account User or a Checker Account User and such request shall be approved by the Administrator before they are submitted to ORO for processing.
17. The Registered Organization may settle the Prescribed Fees either by using the balance in the prepaid account of the Registered Organization (if one has been set up), or through the electronic payment gateway services on the ESS.
18. Once the Prescribed Fees have been settled through the ESS, payments shall be

deemed received and are not refundable under any circumstances.

Availability of Services

19. While the ORO endeavours to have the ESS available at all times, the ORO makes no representations, warranties or guarantees that the User's access to the ESS will be uninterrupted, timely, secure or error free. The User should ensure that he or she has other alternative means of undertaking urgent or time-sensitive transactions and obtaining information, if for any reason the ESS is unavailable. In no event shall the ORO be liable to the User or any third party for any loss or damages arising from any failure, error, unavailability, interruption, suspension, discontinuance or breakdown of the ESS or the electronic services provided through the ESS.
20. The ORO reserves the right to modify, vary, suspend, or discontinue any aspect of the ESS to the User at its sole discretion and without prior notice. The ORO shall not be liable to the User or any third party for any loss or damages arising from any variation, suspension or discontinuance of the ESS or the electronic services provided through the ESS.
21. The User acknowledges and agrees that in the circumstances where he or she cannot gain access to the ESS for whatever reasons, the User is not relieved from any of his or her obligations or any requirements under the Bankruptcy Ordinance (Cap. 6), the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) and their subsidiary legislations to send any document or provide any information to the ORO.

Security

22. The User agrees and undertakes **not to use** the ESS to:
 - (a) upload, post, otherwise transmit or post links to any contents which are defamatory, offensive, unlawful, obscene, abusive, harmful, pornographic, threatening, tortious, or otherwise objectionable;
 - (b) upload, post, otherwise transmit or post links to any information or software which contains any computer viruses, worms, Trojan horses or any other harmful computer codes, programs or files;
 - (c) access, use, break into, or attempt to access, use or break into any other parts of the ESS and/or data areas which the User has not been authorized to use;
 - (d) access, collect or store personal data about other Users; and
 - (e) upload, post, otherwise transmit or post links to any promotional material, unauthorized advertising, chain letters, pyramid schemes or any unsolicited commercial communication.
23. The ESS scans all uploaded documents for viruses/malwares and may reject/quarantine any document where it suspects of being infected by viruses/malwares. However, each User must take precautions to ensure that the way the User accesses the ESS does not expose to the risk of viruses/malwares,

malicious computer codes or other forms of interference that may damage the User's own computer system.

24. The ORO makes no warranty, express or implied that the ESS, the server or any files available for downloading through the ESS are free of computer viruses or any other harmful components, defects, errors, infection, Trojan horses or any other script, program or code with contaminating or damaging properties. The ORO shall not be liable to the User or any third party for any loss or damages arising from the use of, access to or downloading any files from the ESS and the server.

Termination of User's account

25. The ORO shall have the right to suspend or terminate any User's ESS account, at any time, with or without prior notice at the ORO's sole discretion.
26. (a) If the Registered Organization does not wish to remain registered under ESS or the Registered Organization is going to discontinue/has discontinued its business, the Administrator or the authorized representative of the Registered Organization shall notify the ORO (Attention: Senior Insolvency Officer (Special Duties)) of the same in writing with supporting documents as soon as practicable, within ten (10) working days upon the occurrence of any or all of the aforesaid events. Upon receipt of such notification, the ORO will terminate all ESS accounts registered by the Registered Organization. Any balance of deposit remaining in the prepaid account will be refunded to the Registered Organization upon termination of all ESS accounts.

(b) If a Preparer Account User or a Checker Account User ceases to be an employee of the Registered Organization or ceases to be duly authorized by the Registered Organization to operate the Preparer Account or the Checker Account, the Administrator shall remove the account under the ESS forthwith.

(c) If a Preparer Account User or a Checker Account User holding the Administrator role ceases to serve as an Administrator for the Registered Organization, other Administrators within the Registered Organization must remove the Administrator role from that account under the ESS forthwith. A Registered Organization must have at least one Administrator.

Limitation of Liability

27. The ORO makes no guarantee as to the accuracy and completeness of any information at all times.
28. The User acknowledges and agrees that any use or reliance upon any part of the ESS shall be at his or her sole risk. The User further acknowledges that the use of the ESS is provided on an "AS IS, AS AVAILABLE" basis and without warranty or condition of any kind, whether express or implied.

Indemnity

29. The User agrees to indemnify the ORO against any losses, damages, costs, liabilities

and expenses incurred by the ORO in relation to any claims or disputes whatsoever or howsoever arising or derived from his or her use of, access to or any matters related to the ESS or the information or material contained on the ESS.

30. The ORO's failure or delay to exercise or enforce any right in these Terms and Conditions does not constitute a waiver on the part of the ORO to enforce such right.

Variation

31. The ORO may, in its sole discretion, unilaterally modify, suspend or discontinue any information or features on the ESS at any time, with or without notice, and without liability. These Terms and Conditions will continue to apply.
32. The ORO may, in its sole discretion, unilaterally update, modify or amend these Terms and Conditions and the Guidelines at any time and from time to time with or without any prior notice. The Terms and Conditions and the Guidelines so updated, modified or amended shall take effect immediately from the time when they are published. The User's continued use of the ESS will be deemed to constitute his or her acceptance and the Registered Organization's acceptance of these Terms and Conditions and Guidelines so updated, modified, or amended. The User should visit the Webpage from time to time for the updated Terms and Conditions and the Guidelines.

Non-assignment

33. The User's rights and obligations under these Terms and Conditions herein shall be personal to the User who shall not assign or dispose of, or permit to assign or dispose of, any of the rights and obligations in whole or in part, under these Terms and Conditions, to any third party.

Language

34. These Terms and Conditions have been translated into Chinese. If there is any inconsistency or ambiguity between the English version and the Chinese version, the English version shall prevail.

Severability

35. In the event that any provision of these Terms and Conditions or any part of any such provisions shall at any time be adjudged to be invalid, unlawful, illegal, voidable or otherwise howsoever unenforceable under any applicable laws of the Hong Kong SAR, such provision or such part of such provision shall be severed from these Terms and Conditions and rendered ineffective so far as possible without modifying the remaining provisions thereof.

Contracts (Rights of Third Parties) Ordinance

36. The User and the OR hereby declare that nothing in these Terms and Conditions

confer or purport to confer on any third party any benefit or any right to enforce any term of these Terms and Conditions pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap. 623).

Choice of Law and Jurisdiction

37. These Terms and Conditions shall be governed by and construed in accordance with the laws of the Hong Kong SAR. Any disputes arising or derived from these Terms and Conditions shall be subject to the exclusive jurisdiction of the courts of the Hong Kong SAR.