

Payment Arrangements for Property Transactions (the “PAPT”) - Sale & Purchase Scenario (“PAPT for S&P”)

1. INTRODUCTION

- 1.1 Following the implementation of PAPT for Refinancing involving property refinancing, the roll-out of PAPT for S&P aims to cover wholly cash-based transactions for the sale and purchase of residential properties in Hong Kong's secondary market, including car parking spaces in residential building whether independently or together with residential units. Purchasers and Vendors proposed to be covered by PAPT for S&P will be either individuals or entities incorporated for the sole purpose of property-holding.
- 1.2 Both the PAPT for Refinancing and PAPT for S&P mechanisms are made possible by the convenience, accessibility and clarity brought by electronic transfer of funds. As a further development of the conceptual framework of PAPT and an enhancement of the PAPT for Refinancing mechanism, the PAPT for S&P mechanism is designed to facilitate the completion of a sale and purchase transaction on a secure and safe platform by enabling funds to flow directly from bank to bank. A more detailed comparison between PAPT for Refinancing and PAPT for S&P is set out below.
- 1.3 Under PAPT for S&P, the bulk / part of the purchase monies will be settled via HKD CHATS from a Purchaser Mortgage Institution, or PMI (as defined below) to a Vendor Mortgage Institution, or VMI (as defined below) (or a Vendor Account Maintainer, or VAM (as defined below) if there is no existing Vendor Mortgage) by way of mortgage loan proceeds. CHATS, as operated by Hong Kong Interbank Clearing Limited (“HKICL”), has a proven record of providing prompt and secure settlement of inter-bank transfers. CHATS settlements are irrevocable and enjoy immediate finality with the statutory backing of the Payment Systems and Stored Value Facilities Ordinance (Cap. 584). Any completion money not covered by the mortgage loan proceeds will be provided by the Purchaser’s own funds and primarily settled by cashier’s order(s) from the Purchaser. The apportionment account will continue to be handled by the solicitor’s firms involved in the sale and purchase transaction and can be settled by solicitor’s cheques.
- 1.4 A definitive feature of PAPT for S&P is the usage of a CHATS Advice as evidence of settlement for an inter-bank transfer of funds. A CHATS Advice is issued automatically by HKICL on the CHATS interface immediately after the VMI (or a VAM) receives payment from the PMI via CHATS. It is envisaged that the CHATS Advice, being payment evidence automatically issued by HKICL as an established third party, will bring confidence to potential PAPT users.
- 1.5 For transactions where there is an intra-bank transfer of funds instead of an inter-bank transfer of funds through CHATS, a Bank Advice will be used to evidence successful settlement of funds instead of a CHATS Advice.

2. DEFINITIONS FOR THE CONVEYANCING SCENARIO

2.1 Definitions

“**Account Details**” means account holder's name and account number.

“**Appointee Bank/Sell-side Contract**” means an agreement in respect of a property sale and purchase transaction adopting PAPT for S&P as signed by the Vendor (and the VMI Borrower, if different from the Vendor) and addressed to the VMI /the VAM, which incorporates the terms of the T&C.¹

“**Authorized Institution**” or “**AI**” means a Bank, a restricted licence bank or a deposit-taking company as defined in the Banking Ordinance (Cap. 155).

“**Balance**” means the balance of the purchase price after deducting the Initial Deposit and Further Deposit.

“**Bank(s)**” means a company which holds a valid banking licence, as defined in the Banking Ordinance (Cap. 155).

“**Bank Advice**” means a document issued by a Bank in respect of the completion of an internal fund transfer, a template of which is appended as Appendix 3.

“**Borrower**” means the borrower under the bank facilities.

“**CHATS**” means Hong Kong Dollar Clearing House Automated Transfer System.

“**CHATS Advice**” means a document issued automatically and provided in printable-by-PMI-only format by HKICL to the PMI on the CHATS interface immediately after the VMI or the VAM receives payment from the PMI via CHATS, a template of which is appended as Appendix 1. Only the PMI can generate the CHATS Advice from its terminal system connected to the computer system of HKICL. The VMI or the VAM on the receiving end cannot print such CHATS Advice even though the transfer of funds has completed.

“**CHATS Advice Correction Notice**” has the meaning set out in paragraph 10.6, a template of which is appended as Appendix 2.

“**CO**” means cashier's order.

“**Dday**” means the completion date of the sale by the Vendor and the purchase by the Purchaser of the Property (which falls on a business day); all references to Dday plus or minus any number of days means Dday plus or minus such number of business days i.e.

¹ A document to be used for the Appointee Bank/Sell-side Contract is the letter of authorisation signed by the Vendor and delivered to the VMI in respect of the loan of title deeds pending discharge of the existing mortgage. For the arrangement in the case of VAM, please see paragraph 9.5.

Monday to Friday excluding Saturdays, Sundays, general holidays as defined in the General Holidays Ordinance (Cap. 149).

“**Dday Cut-off Time**” means 5:30 pm on the Payment Date.²

“**DTC**” means a deposit-taking company as defined in the Banking Ordinance (Cap. 155).

“**End of Dday**” means 11:59 pm on Dday, which is the latest time by which the VMI must have distributed the Remittance Amount.

“**Exclusion**” has the meaning set out in paragraph 4.

“**Fees and Expenses**” means the amount of fees and any other expenses payable by the Purchaser, such as the apportionment account.³

“**FSPA**” means Formal Sale and Purchase Agreement.

“**Further Deposit**” means the deposit and part payment of the purchase price payable by the Purchaser upon the signing of the FSPA or on a specified date.

“**Initial Deposit**” means the deposit and part payment of the purchase price payable by the Purchaser upon the signing of the PSPA or on a specified date.

“**Key Information**” means the following information in a CHATS Advice:

- (a) names of the sender’s bank and the receiver’s bank;
- (b) Remittance Amount and currency; and
- (c) settlement date and time.

“**Mortgage Institution**” refers to an AI, a money lender as defined in the Money Lenders Ordinance (Cap. 163) or other companies offering property mortgage lending, regardless of whether it is an HKD Clearing Member of the CHATS or not.

“**Original Mortgage Institution**” or “**OMI**” has the meaning set out in paragraph 11.2(a).

“**PAPT Dedicated Account**” means the account of the VMI, the VAM or the PMI (as the case may be) dedicated for PAPT for S&P participation.

² Dday Cut-off Time refers to the latest time for the VMI to receive the CHATS Advice from the VMI Solicitor. It should be distinguished from the Transaction Closing Time, which is the latest time by which the CHATS Advice must be delivered to the VMI Solicitor. See the final bullet point in paragraph 6.2(d). Please also see further definition of “Payment Date” and its footnote.

³ “**Fees and Expenses**” include those fees and expenses agreed to be settled between the Purchaser and the Vendor such as the rental deposit, utilities deposit, management fee, or stakeholders’ money involving renovation money. Legal fees and agency commission are Fees and Expenses. These fees should be settled directly by the Purchaser with the relevant parties. See paragraphs 7.19 and 9.15.

“Payment Confirmation Letter” means a letter addressed to the Vendor (copying the Vendor Solicitor) by the VAM, which confirms the CHATS information (or internal bank transfer details) applicable to a property sale and purchase transaction adopting PAPT for S&P.

“Payment Date” means the date on which payment for the purpose of completion is effected by PMI to the VMI or VAM (as the case may be) via CHATS or internal fund transfer (as the case may be).⁴

“PMI Borrower” means the Borrower under the bank facilities granted by the PMI, which are secured by the Purchaser Mortgage, **provided that** if the PMI Borrower is the Purchaser, any references to “PMI Borrower” shall be construed to refer to the Purchaser.

“PMI/Buy-side Contract” means an agreement in respect of a property sale and purchase transaction adopting PAPT for S&P as signed by the Purchaser (and the PMI Borrower, if different from the Purchaser) and addressed to the PMI, which incorporates the terms of the T&C.⁵

“Property” means the property which is the subject matter of a PSPA and FSPA.

“Property Holding Company” means a body corporate:

- (a) which is established for the sole purpose of holding and investing in real properties, including but not limited to the Property;
- (b) whose ultimate shareholder(s) is/are natural person(s); and
- (c) whose direct and indirect corporate shareholder(s) (other than the ultimate shareholder(s)) do not have any operating business.⁶

“PSPA” means Provisional Sale and Purchase Agreement.

“Purchaser(s)” means a natural person or a Property Holding Company, which is the Purchaser(s) of the property in a sale and purchase transaction.

⁴ In most situations, the Dday Cut-off Time would be 5:30 pm on the Dday. However, in the rare scenario where Dday is postponed (e.g. due to extreme weather situation or by agreement between the Vendor and the Purchaser) after payment is already effected by the PMI to the VMI/VAM, the relevant cut-off time should be the same day as the payment is effected (i.e. the Payment Date which is also the original Dday). The fund should be refunded to the PMI first on that day and a new transfer would need to be initiated afresh on the postponed Dday (in other words, the fund should not be staying overnight in the PAPT Dedicated Account).

⁵ A document to be used for the PMI/Buy-side Contract is the facility offer letter as one of the bank documents to be signed by the Purchaser and returned to the PMI.

⁶ All conditions (a) to (c) have to be satisfied for a company to qualify as a Property Holding Company. If any of these conditions is not satisfied, a property sale and purchase transaction involving a non-qualifying company will fall outside the scope of the PAPT. For the sake of clarity, residential property held by a trading company is not covered by reason that a trading company may use the banking facility to support its other businesses and may, therefore, complicate the process. For the avoidance of doubt, it should be for the VMI to decide whether a party is a “Property Holding Company” which satisfies such conditions.

“Purchaser CO” means the CO issued by a Bank as arranged by the Purchaser or any third party (other than Purchaser Solicitor) paying on Purchaser's behalf.⁷

“Purchaser Loan Amount” means the loan amount drawn down by the PMI Borrower under the Purchaser Mortgage.⁸

“Purchaser Mortgage” means the mortgage over a property for securing the bank facilities granted to a Borrower by the PMI, with such property being the subject matter of the PSPA and/or FSPA and it is either (i) a mortgage-free property or (ii) a property originally charged under the Vendor Mortgage (which will be fully discharged from the Vendor Mortgage on completion of the sale and purchase transaction).

“Purchaser Mortgage Institution” or **“PMI”** means the Mortgage Institution that has granted bank facilities to a Borrower, which is a participating institution of CHATS, with such bank facilities being (i) applied towards financing the purchase of a property by the Purchaser and (ii) secured by the Purchaser Mortgage.

“Purchaser Mortgage Institution Solicitor” or **“PMI Solicitor”** means the solicitor engaged by the PMI.

“Purchaser Solicitor” means the solicitor engaged by the Purchaser in the property transaction.

“Purchaser Top-Up Portion” has the meaning set out in paragraph 7.16.

“Redemption Amount” means the outstanding amount of loan (including principal and interest) secured by the existing Vendor Mortgage as of the intended date of redemption.

“Redemption Quotation Letter” means a letter addressed to the Vendor by the VMI, which confirms the Redemption Amount and Redemption Reference applicable to a property sale and purchase transaction adopting PAPT for S&P.

“Redemption Reference” means the unique identifier assigned by the VMI or the VAM to a transaction which appears as part of the “Payment Detail” code on a CHATS Advice.

“Refinancing Mortgage Institution” or **“RMI”** has the meaning set out in paragraph 11.2(a).

“Refinancing Mortgage Institution Confirmation” or **“RMIC”** has the meaning set out in paragraph 11.3.

⁷ While the PAPT for S&P Proposal focuses on the use of CO as the means of payment where applicable, and in particular the Further Deposit and the Purchaser Top-up Portion (while reserving the use of solicitor's cheque primarily for settlement of the apportionment account and the other Fees and Expenses), the use of solicitor's cheque is acceptable if preferred.

⁸ If the PMI Borrower takes out a mortgage insurance product in respect of the Purchaser Mortgage, the mortgage insurance premium amount may form part of the Purchaser Loan Amount. Such mortgage insurance premium will not however be remitted to the VMI or the Vendor Bank on Dday and hence is excluded from the “Remittance Amount”.

“Relevant Checks” means all customary screening in compliance with the internal policy of the VMI (or the VAM, as the case may be) and all applicable laws and regulations.

“Remittance Amount” means:

- (a) the Purchaser Loan Amount; minus
- (b) any fees in connection with the Purchaser Mortgage funded by the proceeds of the Purchaser Loan Amount, including any mortgage insurance premium or fire insurance premium payable by the PMI Borrower (if applicable).

“RLB” means restricted licence bank as defined in the Banking Ordinance (Cap. 155).

“Split Payment Letter” means the letter to be sent by Vendor Solicitor to Purchaser Solicitor as referred to in paragraph 7.19 or paragraph 9.15 below.

“Surplus” means the amount by which the Remittance Amount exceeds the Redemption Amount.

“T&C” means the “Terms and Conditions in relation to the operation of PAPT for S&P” as published on the website of the Hong Kong Association of Banks (www.hkab.org.hk/en/useful-information/papt) as amended and supplemented from time to time.

“Transaction Closing Time” means 5:00 pm on Dday or such other agreed time between the Vendor and the Purchaser which is earlier than 5:00 pm on Dday, whereby completion of the property sale and purchase transaction will take place by solicitors’ undertaking.

“Vendor(s)” means the Vendor(s) of the Property in a sale and purchase transaction.

“Vendor Account” means a bank account in Hong Kong in the name of the Vendor.

“Vendor Account Maintainer” or **“VAM”** has the meaning set out in paragraph 6.3.

“Vendor Bank” means a Bank (other than the VMI) in which the Vendor Account is held.

“Vendor Mortgage” means the mortgage over the Property securing the bank facilities granted to the VMI Borrower by the VMI with such property being the subject matter of the PSPA and FSPA; such mortgage is to be discharged in full⁹ by (i) the Remittance Amount and (ii) (if applicable) the Purchaser's and/or Vendor's own funds.

“Vendor Mortgage Institution” or **“VMI”** means a Mortgage Institution that has granted bank facilities to a VMI Borrower, such bank facilities being secured by the Vendor Mortgage, which is a participating institution of CHATS.

⁹ PAPT for S&P is not applicable where an existing mortgage is not discharged in full upon completion of the relevant sale and purchase transaction.

“Vendor Mortgage Institution Solicitor” or **“VMI Solicitor”** means the solicitor engaged by the VMI.

“Vendor Solicitor” means the solicitor engaged by the Vendor in the property sale and purchase transaction.

“VMI Borrower” means the Borrower under the bank facilities granted by the Vendor Mortgage Institution, which are secured by the Vendor Mortgage, **provided that** if the VMI Borrower is the Vendor, references to “VMI Borrower” shall be construed to refer to the Vendor.

2.2 **Construction**

- (a) Any reference to the singular form of “Borrower”, “PMI Borrower”, “Purchaser”, “Vendor” and “VMI Borrower” shall include its plural form and vice versa.
- (b) If, in relation to a property sale and purchase transaction, the VMI Solicitor is not the same law firm as the Vendor Solicitor, all the steps and communications which are to take place between the Vendor Solicitor and the VMI under Conveyancing Scenario 1A (as described in paragraph 7 below) and Conveyancing Scenario 1B (as described and incorporated by reference in paragraph 8 below) shall be construed as steps and communications which are to take place between the Vendor Solicitors and the VMI (via the VMI Solicitors).
- (c) If, in relation to a property sale and purchase transaction, the PMI Solicitor is not the same law firm as the Purchaser Solicitor, all the steps and communications which are to take place between the Purchaser Solicitor and the PMI under Conveyancing Scenario 1A (as described in paragraph 7 below), Conveyancing Scenario 1B (as described and incorporated by reference in paragraph 8 below) and Conveyancing Scenario 2 (as described in paragraph 9 below) shall be construed as steps and communications which are to take place between the Purchaser Solicitors and the PMI (via the PMI Solicitors).

3. **SCOPE OF THE CONVEYANCING SCENARIO**

3.1 As a starting point, it is envisaged that PAPT for S&P will cover conveyancing scenarios involving the following situations:

- (a) Completion of the conveyancing by way of solicitors’ undertaking;
- (b) The Purchaser has obtained a mortgage loan with a Bank in Hong Kong;¹⁰
- (c) The Vendor either has or does not have an existing mortgage over the Property. If yes, there is only one existing mortgage over the Property; and

¹⁰ Digital banks are classified as licensed banks and are technically included within the scope of PAPT for S&P.

(d) The Vendor has a HKD bank account in Hong Kong, as proof of the Vendor's fulfilment of customer due diligence or KYC requirements. For the avoidance of doubt, the Vendor's HKD bank account should be a personal account in his/her own name if the Vendor is a single individual. In the case of joint-Vendors, the HKD bank account should be maintained in the name of at least one of the joint-Vendors, in his sole name or joint-name with others (please see further paragraph 7.22 below on the requirement of relevant authorisation instructions).¹¹

3.2 For the sake of clarity, the following situations are covered by PAPT as well:

- (a) The Purchaser or Vendor can be a single Purchaser or Vendor or multiple Purchasers or Vendors (such as joint tenants or tenants in common);
- (b) The Purchaser Mortgage and/or existing Vendor Mortgage can be a two-party mortgage or a three-party mortgage;
- (c) Conveyancing of property under the Housing Authority, Housing Society, Urban Renewal Authority or similar subsidised housing schemes where any restriction on alienation is lifted by the relevant authority at the time of signing the facility letter; and
- (d) Conveyancing involving mortgage insurance arrangements.

4. EXCLUSIONS OF THE CONVEYANCING SCENARIO

PAPT for S&P aims to address the most common conveyancing scenarios in order to ensure simplicity and ease of usage. As such, the following scenarios are excluded from the initial stage of PAPT for S&P (each an "**Exclusion**"):

- (a) Completion of conveyancing by way of formal completion;
- (b) Conveyancing of a property that is subject to charging order(s);
- (c) Conveyancing involving a mortgagee sale, a sale in liquidation or in receivership or a sale in bankruptcy;
- (d) Conveyancing where a recovery notice is issued by the Inland Revenue Department before Dday notifying the Purchaser (and/or the Purchaser Solicitor) that the Vendor is in default of tax payment and requiring the Purchaser to pay the amount of tax in default to the Government;
- (e) Conveyancing of a property with more than one existing charge/mortgage. For the avoidance of doubt, where additional banking facilities from the same VMI have been obtained by the same Borrower and are secured by a further charge under the

¹¹ In respect of a conveyancing where a personal representative is involved, provided that the transaction does not fall into one of the Exclusions (see further paragraphs 4(i) and (j) below), PMI/VMI (as the case may be) will further consider how this requirement applies to the particular scenario in accordance with its own policies and procedures.

existing first legal charge/mortgage over the same property, PAPT for S&P is still applicable¹²;

- (f) Conveyancing where the Purchaser (or an PMI Borrower) and/or the Vendor (or a VMI Borrower) is a body corporate incorporated outside Hong Kong;
- (g) Conveyancing involving any element of non-cash consideration, including but not limited to transfer pursuant to court order, transfer among family members or related companies¹³, transfer by gift, assent or donation, payment of purchase price by way of promissory notes, transfer by property exchange, and mortgage involving share charge or other forms of securities with the exception of personal guarantee(s);
- (h) Confirmor sale involving sub-sale and sub-purchase of a property;
- (i) Purchase of a property by the personal representative of the estate of the Purchaser, save and except where such purchase was entered into by the Purchaser prior to him passing away in the interim period pending completion, in which case PAPT for S&P may still apply if all other conditions still allow for completion;
- (j) Sale of a property by the personal representative of the estate of the Vendor where such sale was entered into by the Vendor prior to him passing away and the personal representative steps in during the interim period pending completion (for the avoidance of doubt, sale of a property by the personal representative of the estate of a deceased Vendor where the sale was initiated by the personal representative is covered by PAPT for S&P provided that all other criteria are satisfied);
- (k) Conveyancing where the PMI and/or the VMI is a RLB, a DTC, a money lender as defined in the Money Lenders Ordinance or other companies offering property mortgage lending;
- (l) Conveyancing where the VMI is a foreign bank without a local branch in Hong Kong;¹⁴
- (m) Collective sale by various Vendors of properties within the same building or development to a single developer or its nominee(s);
- (n) Conditional sale whether subject to conditions precedent or conditions subsequent and sale involving deferred payment arrangements;
- (o) All primary market sale and purchase transactions involving Housing Authority subsidised schemes and primary market sale and purchase transactions involving

¹² Conversely, where additional banking facilities from the same VMI have been obtained by the same Borrower but are secured by creating a “second” charge/mortgage or other subsequent charge (instead of a further charge), PAPT for S&P is not applicable.

¹³ Intra-group transfer which involves cash consideration only will not be excluded by way of 4(g).

¹⁴ A foreign bank which has a branch office in Hong Kong and is able to set up a PAPT Dedicated Account will not be excluded by way of 4(l).

uncompleted development or uncompleted phase of a development, regardless of whether the transaction is under the consent scheme or non-consent scheme¹⁵;

- (p) Sale under a compulsory sale order pursuant to the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545);
- (q) Conveyancing of a property that is under the Housing Authority, Housing Society or Urban Renewal Authority, or similar subsidised housing schemes, where the restriction on alienation has not been lifted by the relevant authority;
- (r) Conveyancing where (i) the FSPA has not been signed or (ii) the sample clauses for FSPA as referred to in paragraph 5(d) below have not been duly incorporated into the FSPA;
- (s) Conveyancing where a committee of the estate has been appointed under Part II of the Mental Health Ordinance (Cap. 136) to act on behalf of a mentally incapacitated person in the transaction; and
- (t) Conveyancing where an attorney appointed under the Enduring Powers of Attorney Ordinance (Cap. 501) acts on behalf of a donor in the transaction.

Without prejudice to the above, it should be noted that the PMI and the VMI will have ultimate discretion to determine whether a transaction will be excluded from PAPT for S&P.

5. DOCUMENTS AND SAMPLE CLAUSES PREPARED IN RESPECT OF THE CONVEYANCING SCENARIO

As part of the PAPT for S&P Proposal, the following document templates and sample clauses will be provided:

- (a) CHATS Advice;
- (b) Bank Advice;
- (c) CHATS Advice Correction Notice;
- (d) sample clauses for PSPA and FSPA;
- (e) sample clauses for the facility letter to be entered into between the PMI and the PMI Borrower;
- (f) inter-bank protocol;

¹⁵ For the sake of clarity, primary market sale and purchase transactions involving Housing Authority subsidised schemes mortgage loan, drawdown and settlement should follow the prevailing procedure whereby a PMI CO is made payable to the Housing Authority and will not be covered by PAPT.

- (g) solicitors' undertakings;
- (h) mandatory clauses for incorporation of the T&C into the PMI/Buy-side Contract and the Appointee Bank/Sell-side Contract; and
- (i) T&C.

6. GENERAL PRINCIPLES

6.1 The following principles will apply to each of the following conveyancing scenarios¹⁶:

- ❖ **Conveyancing Scenario 1A** – Where the Purchaser will obtain a mortgage and the Vendor has an existing mortgage over the Property, with Purchaser Mortgage and Vendor Mortgage at different Mortgage Institutions;
- ❖ **Conveyancing Scenario 1B** – Where the Purchaser will obtain a mortgage and the Vendor has an existing mortgage over the Property, with both Purchaser Mortgage and Vendor Mortgage at the same Mortgage Institution; and
- ❖ **Conveyancing Scenario 2** – Where the Purchaser will obtain a mortgage and the Vendor does not have an existing Vendor Mortgage over the Property.

(a) ***Indicative timeline:*** The timeline set out in each of the scenarios is designed to enable the parties and their legal advisors to have reasonably sufficient time to perform the relevant steps and proceed smoothly to completion. Accordingly, the anticipation is that the timeline should be followed to the extent possible (except for the mandatory time limits in respect of Transaction Closing Time, Dday Cut-off Time and End of Dday and any time limits stipulated in the T&C). However, in practice, if exceptional circumstances arise or if parties have different transaction-specific requirements on timing (which deviate from the indicative timeline), parties will communicate with one another in advance with a view to agreeing a suitable timeline which is to be adopted for specific transactions. It is not the intention that the timelines set out are to be followed rigidly with no exception.

(b) ***Exceptional circumstances:*** Where exceptional circumstances or last-minute issues arise, these are to be resolved on a case-by-case basis between the parties (as the parties do under the current practice) taking into account parties' respective commercial and business needs. The Purchaser, the Vendor, the PMI and the VMI may agree to effect payment and process settlement by means other than CHATS, and the parties may also agree on bespoke modifications to the PAPT payment mechanics, to address such circumstances or issues.

¹⁶ PAPT does not cover the scenario where the Purchaser of the Property does not require a Purchaser Mortgage for completion of a sale and purchase transaction.

- (c) ***Becoming out of scope:*** Where an in-scope property transaction becomes an out-of-scope property transaction on or before Dday because any one of the Exclusions becomes applicable (e.g. a charging order being entered into against the Property), the parties may dis-apply the PAPT and agree an alternative payment method if they wish, taking into account the then circumstances. The parties may also agree on bespoke modifications to the PAPT payment and process settlement mechanics to suit their needs. The Purchaser, the Vendor, the PMI and the VMI may agree to effect payment by means other than CHATS.
- (d) ***Other means of payment permissible:*** PAPT through CHATS only applies subject to assessment by the PMI and the VMI, and is not intended to be the only payment mechanism permitted under the PSPA or FSPA. As an additional requirement for PAPT through CHATS to apply, the Purchaser and the Vendor will need to agree to the adoption of PAPT by signing a PMI/Buy-side Contract and an Appointee Bank/Sell-side Contract respectively, through which each of the Purchaser and Vendor agrees to the appointment and authorisation of the VMI or the VAM (as applicable) for the purpose of holding and operating the funds to be transferred by the PMI to the VMI or the VAM in relation to the completion of the transaction in accordance with the T&C. If either of the PMI/Buy-side Contract or the Appointee Bank/Sell-side Contract has not been signed, or if either of the Purchaser or the Vendor has withdrawn its agreement to the adoption of PAPT pursuant to the PMI/Buy-side Contract or the Appointee Bank/Sell-side Contract (as applicable) on or before Dday-8, PAPT for S&P will not apply to the property sale and purchase transaction and the conventional approach for completion of the transaction will be followed.
- (e) ***Role of solicitors:*** If, in relation to a property sale and purchase transaction, the same law firm acts for each of the PMI and the VMI, the law firm shall act in separate capacities as the PMI Solicitor and the VMI Solicitor.

6.2 As touched upon in the above, the usage of CHATS Advice plays an important role in PAPT for S&P under which only inter-bank payments will be made. Some features of a CHATS Advice are set out as follows:

- (a) A CHATS Advice is issued by and in the name of HKICL, and is automatically sent to the PMI after funds have been successfully credited to VMI's settlement account in accordance with the transfer instruction issued by the PMI. The funds will then be transferred from the VMI's settlement account to the VMI's PAPT Dedicated Account.
- (b) A CHATS Advice provides sufficient information for easy tracing, including a "Payment Detail" code in the format of "PAPT + Redemption Reference", which is a unique and key identifier to enable the PMI, VMI and their respective solicitors to identify the payment. (A Bank Advice in the case where there is no existing

Vendor Mortgage will similarly provide a “Payment Detail” code¹⁷ to enable the PMI, the VAM and the solicitors to identify the payment.)

- (c) A template CHATS Advice is appended as Appendix 1 of this Proposal for reference. All figures and identification details are for illustration purposes only.
- (d) The contemplated procedure concerning a CHATS Advice is as follows, as would also be discussed in the workflows for the different scenarios below:
 - ❖ On or before Dday-7, if there is an existing Vendor Mortgage, the VMI will issue a Redemption Quotation Letter to the VMI Solicitor; if there is no existing Vendor Mortgage, the VAM will issue a Payment Confirmation Letter to the Vendor (copying the Vendor Solicitor).
 - ❖ On or before Dday-6, the PMI Solicitor will receive the Redemption Reference and Redemption Amount (if there is an existing Vendor Mortgage) from the VMI Solicitor, for the purpose of preparing the “Payment Detail” code which will appear on the CHATS Advice.
 - ❖ The PMI will use its reasonable endeavours to circulate the CHATS Advice to the PMI Solicitor before 12 noon on Dday, provided that the CHATS Advice has been sent to the PMI after funds have been successfully credited to the VMI’s settlement account in accordance with the transfer instruction issued by the PMI.¹⁸
 - ❖ After the PMI Solicitor (or, if the PMI engages a separate law firm, the Purchaser Solicitor) receives the CHATS Advice, he will pass the same and also other legal documents to the VMI Solicitor by Transaction Closing Time. If the VMI engages a different law firm, the PMI Solicitor (or, if the PMI engages a separate law firm, the Purchaser Solicitor) shall pass these deliverables by such time as agreed with the Vendor Solicitor to enable the Vendor Solicitor to deliver relevant deliverables to the VMI Solicitor by Transaction Closing Time. Upon the passing of the CHATS Advice and other deliverables from the PMI Solicitor/the Purchaser Solicitor (as the case may be) to the VMI Solicitor/the Vendor Solicitor (as the case may be), the Purchaser’s payment obligation of the purchase price is fulfilled, unless the contrary is proved.

The VMI Solicitor then proceeds to send the CHATS Advice received to the VMI by Dday Cut-off Time together with other item(s) as may be requested by the VMI (e.g. CO(s) to make up the Redemption Amount where the Remittance Amount is smaller than the Redemption Amount) to

¹⁷ The format of “Payment Detail” in the case of a Bank Advice is the same as in a CHATS Advice.

¹⁸ One important feature proposed for PAPT for S&P is that the VMI would not be able to print out the CHATS Advice, as it is evidence that the PMI has fulfilled its end of the transaction. It has been agreed with HKICL that generation of the CHATS Advice will be restricted and will only be available to the PMI.

confirm that completion has taken place and to facilitate mortgage redemption and distribution of Surplus (where applicable).

- ❖ Upon receiving the CHATS Advice and other items (where applicable) from the VMI Solicitor by Dday Cut-off Time, the VMI will proceed with loan redemption using the funds transferred to its PAPT Dedicated Account and hold the Surplus. Any surplus funds remaining after loan redemption will be credited to the Vendor account by End of Dday (but the actual date of the Vendor receiving cleared funds will be subject always to the completion of the Relevant Checks).

6.3 In respect of Conveyancing Scenario 2, the workflow will be as set out in further details below. As there is no existing Vendor Mortgage, the main feature is that the Vendor may designate a HKD Vendor Account with a Bank which provides mortgage services for the purpose of receiving the funds and is a participating institution of CHATS (the “**Vendor Account Maintainer**” or “**VAM**”).

- (a) The rationale behind this requirement is that a Bank which provides mortgage services has a PAPT Dedicated Account and therefore has a sub-BIC code for mortgage services.
- (b) Where the VAM is not the same institution as the PMI, the Remittance Amount will be transferred from the PMI to the VAM via CHATS. The Vendor should provide information of the conveyancing transaction to its designated VAM in order to facilitate CHATS payment to and receipt by the VAM.
- (c) Where the VAM is the same institution as the PMI, the Remittance Amount will be effected via internal fund transfer from the PMI to the separate account, to be held by the PMI as the VAM.
- (d) The VAM should nonetheless hold the Remittance Amount received from the PMI in its PAPT Dedicated Account. Upon notification by the Vendor Solicitor of the successful completion of the sale and purchase transaction by Dday Cut-off Time, the VAM will credit the Remittance Amount to the Vendor Account by End of Dday (but the actual date of the Vendor receiving cleared funds will be subject always to the Relevant Checks).

7. CONVEYANCING SCENARIO 1A

7.1 This is the scenario where the Purchaser takes out a mortgage with a Mortgage Institution and the Vendor has an existing mortgage with a different Mortgage Institution.

Preliminary process

7.2 The decision as to whether the PAPT applies to a particular property sale and purchase transaction needs to be firstly mutually agreed by the Purchaser and the Vendor, then to be further assessed by the PMI and VMI respectively.

7.3 When the Purchaser (and if applicable, the PMI Borrower) applies for the mortgage loan, the PMI will further assess and confirm whether the PAPT is applicable to the property sale and purchase transaction. The PMI will provide its assessment result to the Purchaser Solicitor, who will communicate such assessment result to the Vendor Solicitor. (On the flip side, if the Vendor Solicitor has received assessment result from the VMI first before the Vendor Solicitor is contacted by the Purchaser Solicitor as to the PMI's assessment result, the Vendor Solicitor should communicate the VMI's assessment result to the Purchaser Solicitor.)

- (a) If either assessment result is that the PAPT will not apply, such assessment result will be conclusive and the PAPT will not apply to the property sale and purchase transaction.¹⁹
- (b) If both assessment results are that the PAPT may apply, the VMI will give its consent by the provision of the items in paragraph 7.4 to hold the Surplus in a separate account.

7.4 The VMI will provide the Appointee Bank/Sell-side Contract for the Vendor to sign, either at a branch of the VMI or via the Vendor Solicitor. If the Appointee Bank/Sell-side Contract is signed at the VMI branch, the Vendor Solicitor may request a copy of the signed Appointee Bank/Sell-side Contract from the VMI. The Vendor Solicitor will seek to obtain from the VMI (i) a quotation of the Redemption Amount and (ii) the CHATS information of the VMI including the Redemption Reference as available then. The Vendor Solicitor will in turn provide to the PMI Solicitor (through the Purchaser Solicitor, if applicable) a written confirmation of the aforementioned information.

7.5 The PMI will arrange with the Purchaser (and/or the PMI Borrower as the case may be) for the signing of the facility letter and other relevant bank documents, either at the PMI branch or through the PMI Solicitor and/or the Purchaser Solicitor (as the case may be). If the facility letter is signed at the PMI branch, the Purchaser Solicitor may request from the PMI for a copy of the signed facility letter. The PMI will also make known to the Purchaser Solicitor the Remittance Amount.

By 10 days before Drawdown (Dday-10)

7.6 The Vendor Solicitor will ask the VMI for an update of the Redemption Amount and Redemption Reference.

By 8 days before Drawdown (Dday-8)

7.7 This is the last day for the Vendor (or the VMI Borrower) or the Purchaser (or the PMI Borrower) to voluntarily withdraw its agreement to the adoption of PAPT.

¹⁹ There may be cases where the parties elected to use the PAPT and signed a PAPT-applicable PSPA, but the PMI/VMI later is of the view that the PAPT is not applicable.

By 7 days before Drawdown (Dday-7)

- 7.8 The VMI will issue a Redemption Quotation Letter to the Vendor Solicitor, as well as confirm to the Vendor Solicitor the name of the Vendor (or the VMI Borrower, if applicable) shown on the Vendor Mortgage document(s) as registered at the Land Registry.
- 7.9 If the Redemption Amount so notified under paragraph 7.8 above is subsequently varied, see the workflow on Dday-2 in paragraph 7.18 below.

By 6 days before Drawdown (Dday-6)

- 7.10 The VMI will (through the Vendor Solicitor) notify the PMI (through the Purchaser Solicitor) in a written letter of the updated Redemption Amount and the Redemption Reference, together with a copy of the Redemption Quotation Letter.
- 7.11 If the name of the Vendor (or the VMI Borrower, if applicable) is different from the name(s) shown on the Vendor Mortgage document(s) as registered at the Land Registry, the Vendor Solicitor will also provide satisfactory documentary evidence to evidence the change of name (e.g. deed poll or certificate of change of name) to the VMI and Purchaser Solicitor.

By 5 days before Drawdown (Dday-5)

- 7.12 The PMI Solicitor should, and the Purchaser Solicitor should enable the PMI Solicitor to, send a book loan letter to the PMI which includes:
 - (a) the facility letter signed by the Purchaser (if not already provided at an earlier stage);
 - (b) drawdown details (drawdown date, loan amount, etc.);
 - (c) the Remittance Amount;
 - (d) the Purchaser's name and the PMI Borrower's name;
 - (e) the Vendor's name and the VMI Borrower's name, together with relevant documentary evidence provided by Vendor Solicitor to evidence the change of name (if any);
 - (f) the VMI's name;
 - (g) the Redemption Reference;
 - (h) title confirmation by the PMI Solicitor together with the updated land searches;
 - (i) the PMI/Buy-side Contract signed by the Purchaser and the PMI Borrower (if different from the Purchaser) (if not already provided at an earlier stage);
 - (j) confirmation that FSPA has been signed with FSPA sample clauses incorporated; and

(k) other documents or information as may be required by the PMI under the relevant facility letter and instructions letter to Purchaser Solicitor, such as confirmation that the Purchaser Mortgage has been executed in escrow.

It is noted that the book loan letter and title confirmation should clearly state that they are issued by the Purchaser Solicitor in his capacity as the PMI Solicitor.

7.13 The Purchaser Solicitor and the PMI Solicitor (if PMI engages a separate law firm) should ensure the names of the Vendor, the VMI Borrower and VMI as shown on the book loan letter match the names shown on the Vendor Mortgage document(s) as registered at the Land Registry or the documentary evidence provided by Vendor Solicitor to evidence the change of name of the Vendor or the VMI Borrower.

7.14 The PMI will validate the details of the instruction in the book loan letter and relevant documents, including checking the names of the Vendor, the VMI Borrower and the VMI as shown on the physical book loan letter against the land search (optional) and all related documents for the purposes of drawdown preparation.

7.15 The PMI starts drawdown preparation.

7.16 If the Remittance Amount is insufficient to cover the Balance, the Purchaser Solicitor will advise the Purchaser of such shortfall (the “**Purchaser Top-Up Portion**”) and advise the Purchaser of the need to prepare CO(s) in respect of such shortfall²⁰. The Purchaser (and the Purchaser Solicitor) should note that there may be subsequent variation to the amount of Redemption Amount (see paragraphs 7.18 to 7.21 below) and should aim to prepare the CO(s) as close to Dday as possible.

7.17 The Purchaser Solicitor will inform Vendor Solicitor of the Remittance Amount²¹ and the Purchaser Top-Up Portion.

2 days before Drawdown (Dday-2)

7.18 If the VMI discovers that the Redemption Amount has increased since it last notified Vendor Solicitor of the same, the VMI will inform Vendor Solicitor of such change before 10:00 am on Dday-2.

7.19 The Vendor Solicitor will send to Purchaser Solicitor a Split Payment Letter by 2:00 pm on Dday-2 setting out:

(a) the latest Redemption Amount; and

²⁰ It may be the case that the Remittance Amount may not be sufficient to discharge the existing mortgage. If this is the case, the Purchaser may have to split payment of the Purchaser Top-Up Portion and pay the VMI and Vendor respectively.

²¹ This is for the purposes of enabling the Vendor Solicitor to give instructions to VMI for distributing the Surplus into the Vendor Account, as well as giving split payment instructions to the Purchaser Solicitor in respect of that part of the Balance to be paid with the Purchaser's own funds.

- (b) the split payments instruction in respect of the Purchaser Top-Up Portion, such as (i) the amount to be paid to the Vendor, (ii) if the Remittance Amount is less than the Redemption Amount, the amount to be paid to the VMI and (iii) the amount of Fees and Expenses (if applicable) to be paid via the Vendor Solicitor²².

7.20 If the Redemption Amount is increased or any other payment arrangement is changed, the Purchaser Solicitor will send such updated information to the PMI by 5:00 pm on Dday-2. The PMI will acknowledge the receipt of such information.

7.21 Where the Remittance Amount is less than the Redemption Amount, the Purchaser Solicitor will also advise the Purchaser to prepare CO(s) in respect of the Purchaser Top-Up Portion in accordance with the Split Payment Letter. The Purchaser will prepare the following Purchaser CO(s) payable to the Vendor and the VMI and make the same available to Purchaser Solicitor by Dday-1:

- (a) one Purchaser CO payable to the VMI in the amount equal to the amount by which the Redemption Amount exceeds the Remittance Amount,²³ and
- (b) Purchaser CO(s) payable to the Vendor(s) according to the split payment instructions in the Split Payment Letter sent by Vendor Solicitor.

7.22 The Vendor Solicitor will send to the VMI by encrypted email (or other channels as agreed by the VMI) the following information:

- (a) the payment instructions for distributing the Surplus to the Vendor Account including (i) the amount to be distributed to (or for the benefit of) the Vendor and (ii) the Account Details of the Vendor Account²⁴, **provided that** there should be no more than one Vendor Account for the Vendor; and
- (b) (in the case of joint Vendors, if the bank account designated by the Vendors is under the name of one/some of the joint Vendors and not all joint Vendors) the authorisation instructions (which may be original or copy depending on individual bank's protocol) to the VMI from each joint Vendor and witnessed/attested by the solicitors of the relevant Vendor(s).

1 day before Drawdown (Dday-1)

7.23 The Purchaser Solicitor will collect from the Purchaser the Purchaser CO(s) as described in paragraph 7.21 above.

²² Fees and Expenses will be paid by the Purchaser directly to the relevant parties and hence will not form part of the Purchaser Top-Up Portion.

²³ If the Redemption Amount is varied last minute but the Purchaser has already procured the Purchaser CO payable to the VMI prior to such variation, and such CO is no longer sufficient to cover the balance of the Redemption Amount / exceeds the balance of the Redemption Amount, the shortfall / surplus in the Redemption Amount will be settled between the VMI and the VMI Borrower without the Purchaser having to procure new CO(s) prior to completion.

²⁴ The Vendor may choose to designate his repayment account with the VMI or his personal bank account for receiving the Surplus.

- 7.24 Where the Balance from the PMI and/or the Purchaser is insufficient to discharge the Vendor Mortgage, the Vendor Solicitor will collect from the Vendor a CO for the outstanding loan balance for redemption of the Vendor Mortgage.
- 7.25 The PMI will start preparing inputs for effecting CHATS payment on Dday.

Drawdown (Dday)

- 7.26 The Purchaser Solicitor and the PMI Solicitor will perform business as usual process and promptly inform the PMI of any adverse entries / encumbrances or restrictions which may affect the PMI's interest as first mortgagee under the Purchaser Mortgage as soon as practicable.
- 7.27 The PMI will effect payment via CHATS before 12 noon. After effecting payment, the PMI will send drawdown confirmation to the Purchaser and the Purchaser Solicitor via the usual mode of communication (e.g. SMS/e-mail/letter).
- 7.28 Subject to the PMI's effecting of payment pursuant to paragraph 7.27, the PMI will use its reasonable endeavours to circulate the CHATS Advice to the PMI Solicitor before 12 noon on Dday.
- 7.29 Provided that the Purchaser is willing and ready to complete the transaction, the Purchaser Solicitor will then deliver to the Vendor Solicitor by Transaction Closing Time (i) the CHATS Advice, (ii) the Purchaser CO(s) and solicitor's cheque(s) (if any), (iii) a written confirmation of the Purchaser Solicitor for reference by the VMI that the PMI/Buy-side Contract containing the mandatory clauses for incorporation of the T&C has been duly signed by the Purchaser and sent to the PMI and that a copy of the PMI/Buy-side Contract (which may be redacted as appropriate) showing such mandatory terms for incorporation of the T&C will be available to the VMI upon request and (iv) relevant legal documents whereby completion of the property sale and purchase transaction will take place by solicitors' undertakings, which include (among others) the Vendor Solicitor's undertaking that it will provide a copy of the Appointee Bank/Sell-side Contract (or an extract thereof) to the Purchaser Solicitor upon its demand. Provided that the Vendor is ready and willing to complete the transaction, the Vendor Solicitor will in turn confirm to the VMI that completion of the property sale and purchase transaction has taken place and deliver the CHATS Advice to the VMI by Dday Cut-off Time. If the VMI engages a separate law firm, the Purchaser Solicitor shall deliver the CHATS Advice to the Vendor Solicitor by such time as agreed with the Vendor Solicitor to enable the Vendor Solicitor to then confirm to the VMI Solicitor that completion of the property sale and purchase transaction has taken place and deliver the CHATS Advice to the VMI Solicitor by Transaction Closing Time for onward transmission to the VMI by Dday Cut-off Time.
- 7.30 Upon receiving the CHATS Advice by Dday Cut-off Time, the VMI will (i) proceed to loan redemption of the Vendor Mortgage and (ii) where applicable, arrange for payment of the Surplus (if any) to the Vendor by crediting the Vendor Account (if the Vendor Account is held with VMI) or by transfer to the Vendor Bank (if the Vendor Account is not held with VMI) by End of Dday (but the actual date of the Vendor receiving cleared funds will

be subject always to (i) the Relevant Checks and (ii) the VMI being satisfied that it has received all requisite documents for loan redemption, including all Purchaser CO(s) and solicitor's cheque(s) in favour of the VMI and the Vendor (if any)). The VMI will also send redemption confirmation to the Vendor via the usual mode of communication (e.g. SMS/e-mail/letter).

7.31 For the avoidance of doubt, for the purpose of delivery of CHATS Advice referred to in this paragraph 7, either physical delivery of CHATS Advice (as printed by the PMI) or digital delivery (including email and fax) of the electronic version of CHATS Advice will suffice.

8. CONVEYANCING SCENARIO 1B

8.1 This is the scenario where the Purchaser takes out a mortgage with a Mortgage Institution and the Vendor has an existing mortgage with the same Mortgage Institution.

8.2 The steps in Conveyancing Scenario 1A apply *mutatis mutandis* to Conveyancing Scenario 1B, except for the following.

(a) Paragraph 7.4 will be replaced by the following under Conveyancing Scenario 1B:

“The VMI will provide the Appointee Bank/Sell-side Contract for the Vendor to sign, either at a branch of the VMI or via the Vendor Solicitor. If the Appointee Bank/Sell-side Contract is signed at the VMI branch, the Vendor Solicitor may request a copy of the signed Appointee Bank/Sell-side Contract from the VMI. The Vendor Solicitor will seek to obtain from the VMI (i) a quotation of the Redemption Amount and (ii) the account details of the VMI. The Vendor Solicitor will in turn provide to the PMI Solicitor (through the Purchaser Solicitor, if applicable) a written confirmation of the aforementioned information”.

(b) Paragraph 7.8 will be replaced by the following under Conveyancing Scenario 1B:

“The VMI will notify Vendor Solicitor in an original letter of the updated Redemption Amount and the account details of the VMI for internal transfer of fund”.

(c) Paragraph 7.25 will be replaced by the following under Conveyancing Scenario 1B:

“The PMI will start preparing inputs for effecting loan drawdown via internal fund transfer”.

(d) References to “CHATS” in paragraph 7 will be replaced by “internal fund transfer”.

(e) References to “CHATS Advice” in paragraph 7 will be replaced by “Bank Advice”.

(f) References to “PMI” and “VMI” will be retained, despite the fact that the PMI and VMI will refer to the same Bank but in different capacities.

9. CONVEYANCING SCENARIO 2

9.1 This is the scenario where the Purchaser takes out a mortgage with a Mortgage Institution and the Vendor has no existing mortgage.

Preliminary process

9.2 The decision as to whether the PAPT applies to a particular property sale and purchase transaction needs to be firstly mutually agreed by the Purchaser and the Vendor, then to be further assessed by the PMI and VAM respectively.

9.3 When the Purchaser (and if applicable, the PMI Borrower) applies for the mortgage loan, the PMI will further assess and confirm whether the PAPT is applicable to the property sale and purchase transaction. The PMI will provide its assessment result to Purchaser Solicitor, who will communicate such assessment result to the Vendor Solicitor. (On the flip side, if the Vendor Solicitor has received assessment result from the VAM first before the Vendor Solicitor is contacted by the Purchaser Solicitor as to the PMI's assessment result, the Vendor Solicitor should communicate the assessment result of the VAM to the Purchaser Solicitor.)

- (a) If either assessment result is that the PAPT will not apply, such assessment result will be conclusive and the PAPT will not apply to the property sale and purchase transaction.
- (b) If both assessment results are that the PAPT may apply, the VAM will give its consent to hold the Remittance Amount in a separate account by the provision of the CHATS information to the Vendor Solicitor.

9.4 The PMI will arrange with the Purchaser (and/or the PMI Borrower as the case may be) for the signing of the facility letter and other relevant bank documents, either at the PMI branch or through the PMI Solicitor and/or the Purchaser Solicitor (as the case may be). If the facility letter is signed at the PMI branch, the Purchaser Solicitor may request from the PMI for a copy of the signed facility letter. The PMI will also make known to the Purchaser Solicitor the Remittance Amount.

9.5 The VAM will provide the Appointee Bank/Sell-side Contract for the Vendor to sign, either at a branch of the VAM or via the Vendor Solicitor. If the Appointee Bank/Sell-side Contract is signed at the VAM branch, the Vendor Solicitor may request a copy of the signed Appointee Bank/Sell-side Contract from the VAM.

By 8 days before Drawdown (Dday-8)

9.6 This is the last day for the Vendor or the Purchaser (or the PMI Borrower) to withdraw its agreement to the adoption of PAPT.

By 7 days before Drawdown (Dday-7)

9.7 On or before Dday-7, the VAM will issue a Payment Confirmation Letter to the Vendor (copying the Vendor Solicitor).

By 6 days before Drawdown (Dday-6)

9.8 The Vendor Solicitor will then notify the Purchaser Solicitor in a written letter of the CHATS information of the VAM, together with a copy of the Payment Confirmation Letter.

By 5 days before Drawdown (Dday-5)

9.9 The PMI Solicitor should, and the Purchaser Solicitor should enable the PMI Solicitor to, send a book loan letter to the PMI which includes:

- (a) the facility letter signed by the Purchaser (if not already provided at an earlier stage);
- (b) drawdown details (drawdown date, loan amount, etc.);
- (c) the Remittance Amount;
- (d) the Purchaser's name and the PMI Borrower's name;
- (e) the Vendor's name, together with relevant documentary evidence provided by Vendor Solicitor to evidence the change of name (if any);
- (f) the name of the VAM;
- (g) CHATS information of the VAM or (in the event that the VAM and the PMI are the same) account details of the VAM for internal transfer of funds;
- (h) title confirmation by PMI Solicitor together with the updated land searches;
- (i) the PMI/Buy-side Contract signed by the Purchaser and the PMI Borrower (if different from the Purchaser) (if not already provided at an earlier stage);
- (j) confirmation that FSPA has been signed with FSPA sample clauses incorporated; and
- (k) other documents or information as may be required by the PMI under the relevant facility letter and instructions letter to Purchaser Solicitor, such as confirmation that the Purchaser Mortgage has been executed in escrow.

It is noted that, the book loan letter and title confirmation should clearly state that they are issued by the Purchaser Solicitor in his capacity as the PMI Solicitor.

9.10 The Purchaser Solicitor and the PMI Solicitor (if PMI engages a separate law firm) should ensure the name of the Vendor as shown on the book loan letter matches the name shown

on the documents as registered at the Land Registry or the documentary evidence provided by Vendor Solicitor to evidence the change of name of the Vendor.

- 9.11 The PMI will validate the details of the instruction in the book loan letter and relevant documents, including checking the name of the Vendor as shown on the physical book loan letter against the land search (optional) and all related documents for the purposes of drawdown preparation.
- 9.12 The PMI starts drawdown preparation.
- 9.13 The Purchaser Solicitor will advise the Purchaser of the Purchaser Top-Up Portion (if any) and the Purchaser will prepare the fund with a CO.
- 9.14 The Purchaser Solicitor will inform Vendor Solicitor of the Remittance Amount²⁵ and the Purchaser Top-Up Portion.

By 2 days before Drawdown (Dday-2)

- 9.15 The Vendor Solicitor will send to Purchaser Solicitor a Split Payment Letter by 2:00 pm on Dday-2 setting out:
 - (a) the split payments instruction in respect of (i) the Purchaser Top-Up Portion for paying to the Vendor the Balance after deduction of the Remittance Amount and (ii) the amount of Fees and Expenses (if applicable) to be paid via the Vendor Solicitor; and
 - (b) any change to the payment arrangements as last notified to the Purchaser Solicitor.
- 9.16 If any payment arrangement is changed, the Purchaser Solicitor will send such updated information to the PMI by 5:00 pm on Dday-2.
- 9.17 Where applicable, the Purchaser Solicitors will also advise the Purchaser to prepare Purchaser CO(s) in respect of the Purchaser Top-Up Portion in accordance with the Split Payment Letter and to make the same available to Purchaser Solicitor by Dday-1.

1 day before Drawdown (Dday-1)

- 9.18 Where applicable, the PMI Solicitor will collect from the Purchaser (or from the Purchaser Solicitor where applicable) the Purchaser CO(s) as described in paragraph 9.17 above.
- 9.19 The PMI will start preparing inputs for (i) effecting CHATS payment on Dday (in the event that the VAM and PMI are not the same bank), or (ii) effecting loan drawdown via internal fund transfer on Dday (in the event that the VAM and PMI are the same bank).

²⁵ This is for purposes of enabling the Vendor Solicitor to give split payment instructions to the Purchaser Solicitor in respect of that part of the Balance to be paid with the Purchaser's own funds.

Drawdown (Dday)

- 9.20 The Purchaser Solicitor and the PMI Solicitor will perform business as usual process and promptly inform the PMI of any adverse entries/ encumbrances or restrictions which may affect the PMI's interest as first mortgagee under the Purchaser Mortgage as soon as practicable.
- 9.21 The PMI will effect payment before 12 noon via (i) CHATS (in the event that the VAM and PMI are not the same bank) or (ii) internal fund transfer (in the event that the VAM and PMI are the same bank). After effecting payment, the PMI will send drawdown confirmation to the Purchaser via the usual mode of communication (e.g. SMS/e-mail/letter).
- 9.22 Subject to the PMI's effecting of payment pursuant to paragraph 9.21, the PMI will use its reasonable endeavours to circulate the CHATS Advice or the Bank Advice (as the case may be) to the PMI Solicitor before 12 noon on Dday.
- 9.23 Provided that the Purchaser is willing and ready to complete the transaction, the Purchaser Solicitor will then deliver to the Vendor Solicitor by Transaction Closing Time (i) the CHATS Advice or the Bank Advice (as the case may be), (ii) the Purchaser CO(s) or solicitor's cheque(s) (if any), (iii) a written confirmation of the Purchaser Solicitor for reference by the VAM that the PMI/Buy-side Contract containing the mandatory clauses for incorporation of the T&C has been duly signed by the Purchaser and sent to the PMI and that a copy of the PMI/Buy-side Contract (which may be redacted as appropriate) showing such mandatory terms for incorporation of the T&C will be available to the VAM upon request and (iv) relevant legal documents whereby completion of the property sale and purchase transaction will take place by solicitors' undertakings, which include (among others) the Vendor Solicitor's undertaking that it will provide a copy of the Appointee Bank/Sell-side Contract (or an extract thereof) to the Purchaser Solicitor upon its demand. Provided that the Vendor is ready and willing to complete the transaction, the Vendor Solicitor will in turn confirm to the VAM that completion of the property sale and purchase transaction has taken place and provide the VAM with the CHATS Advice or the Bank Advice (as the case may be).
- 9.24 Upon receiving the CHATS Advice or the Bank Advice (as the case may be) by Dday Cut-off Time, the VAM will credit the Remittance Amount to the account of the Vendor by End of Dday (but the actual date of the Vendor receiving cleared funds will be subject always to the Relevant Checks). The VAM will also send remittance confirmation to the Vendor via the usual mode of communication (e.g. SMS/e-mail/letter).
- 9.25 For the avoidance of doubt, for the purpose of delivery of CHATS Advice referred to in this paragraph 9, either physical delivery of CHATS Advice (as printed by the PMI) or digital delivery (including email and fax) of the electronic version of CHATS Advice will suffice.

10. SPECIAL HANDLING ON DDAY

10.1 This section relates to special situations that may arise in relation to the CHATS system on Dday and is applicable to Conveyancing Scenario 1A and Conveyancing Scenario 2 where CHATS payment is involved.

Transaction fallen through or no CHATS Advice received by Dday Cut-off Time

10.2 If the conveyancing transaction has fallen through after CHATS payment settlement, the Vendor Solicitor should notify the VMI or the VAM (whichever applicable) in writing that the property sale and purchase transaction has not taken place as soon as possible, but in any case no later than Dday Cut-off Time, via email, mail or fax, in order to arrange for the return of funds. After receiving such notification from the Vendor Solicitor, the VMI or the VAM should arrange for refund to the PMI via CHATS or internal fund transfer by 11:59 pm on the Payment Date pursuant to the inter-bank protocol. For the avoidance of doubt, even if no such notification is received from the Vendor Solicitor, if the VMI or the VAM does not receive the CHATS Advice or the Bank Advice by Dday Cut-off Time, it should also arrange for refund to the PMI by 11:59 pm on the Payment Date.

Missing CHATS Advice

10.3 If the PMI does not receive the CHATS Advice after initiating payment to the VMI (or the VAM, whichever applicable), the PMI should promptly contact the HKICL to check for any technical problems. If the CHATS settlement is in fact successful, the system can re-issue a CHATS Advice to the PMI to evidence payment, such that no refund is required under the inter-bank protocol and re-initiating a new CHATS payment is not necessary.

10.4 In the event that the CHATS Advice cannot be issued to the PMI in the manner described in paragraph 10.3 above, the PMI will promptly request the VMI or the VAM to confirm whether it has in fact received the relevant funds in its settlement account for receiving CHATS payment. Upon receipt of the PMI's request, if the VMI or the VAM is able to identify such funds, the VMI or the VAM will promptly issue a certificate or receipt to the PMI confirming receipt of such funds.²⁶ In such circumstances, CHATS Advice will be replaced by such certificate for completion of the sale and purchase transaction. If the VMI or the VAM is unable to identify such funds, the VMI or the VAM will promptly notify the PMI that it is unable to identify such funds. In such case, the PMI should contact HKICL to look into the matter and locate the Remittance Amount.

10.5 As a general note, as all payments submitted to CHATS will go through a validation process, payment instructions with input errors will be automatically rejected.

Incorrect payment detail in CHATS Advice

10.6 The PMI should check that all details contained in the CHATS Advice are correct upon receipt. If it discovers any errors in relation to any information in the CHATS Advice other

²⁶ The obligations of PMI, VMI and VAM under this paragraph 10.4 will be reflected in the inter-bank protocol.

than the Key Information,²⁷ the PMI should contact the Purchaser Solicitor immediately, who will directly liaise with the VMI (or the VAM, whichever applicable) on the correct information required. To the extent that the Redemption Reference is incorrect, the PMI will then issue a “**CHATS Advice Correction Notice**” (a template of which is appended to this Proposal at Appendix 2), stating the correct information. The CHATS Advice Correction Notice shall then be deemed to be and be used as a CHATS Advice.

Wrong amount of payment effected

- 10.7 If the PMI wrongly effects a payment to the VMI (or the VAM) via CHATS for a wrong amount different from the Remittance Amount, upon discovering the issue, the PMI shall promptly notify the VMI (or the VAM).
- 10.8 If the wrong amount is smaller than Remittance Amount, resulting in a shortfall, the PMI shall effect a further payment in the amount of the shortfall to the VMI (or the VAM) via CHATS as promptly as possible. The PMI shall circulate both the CHATS Advices in respect of the wrong amount and the shortfall to the Purchaser Solicitor. The CHATS Advice in respect of the wrong amount and the CHATS Advice in respect of the shortfall shall, collectively, function as the CHATS Advice for the Remittance Amount for the purpose of the arrangement under the Proposal. The PMI and VMI (or the VAM) shall proceed as usual in accordance with this Proposal.
- 10.9 If the wrong amount is larger than the Remittance Amount, resulting in an excess, the CHATS Advice in respect of the wrong amount shall function as the CHATS Advice for the Remittance Amount for the purpose of the arrangement under this Proposal. The PMI and VMI (or the VAM) shall proceed as usual in accordance with this Proposal and the VMI (or the VAM) shall effect a payment in the amount of the excess to the PAPT Dedicated Account of the PMI via CHATS by End of Dday (or such other time as agreed between the VMI (or the VAM) and the PMI).

Failure of CHATS system

- 10.10 If there is a system failure of CHATS which prevents the PMI from making remittance or transfer to the VMI or the VAM via CHATS (a “**CHATS Failure**”) at any time before 12 noon on Dday, completion shall automatically be postponed to the next business day on which no CHATS Failure has occurred before 12 noon.²⁸

²⁷ The paragraph only deals with incorrect details in respect of information in the CHATS Advice other than the Key Information since any incorrect input of Key Information would result in (i) a failure to effect the CHATS payment (and so, no CHATS Advice will be issued), (ii) wrong recipient of the Remittance Amount, or (iii) wrong amount of Remittance Amount being paid via CHATS. For scenarios (i) and (ii), the PMI shall re-effect payment of the Remittance Amount via CHATS as promptly as possible, instead of using a CHATS Advice Correction Notice as described in paragraph 10.6. Further, for scenario (ii), the inter-bank protocol contains provisions on the obligations of the unintended recipient bank. For scenario (iii), please refer to paragraphs 10.7 to 10.9 below.

²⁸ For the avoidance of doubt, CHATS Failure does not cover (i) singular incidents of missing CHATS Advice or missing funds that are caused by reasons other than system-wide failure of CHATS or (ii) individual circumstances where there has been a failure to transfer the Remittance Amount to the VMI or VAM due to human error.

10.11 On such next business day to which the completion has been postponed, the Purchaser and the Vendor shall continue to use PAPT for S&P as the method of settlement.

Others

10.12 In relation to the special handling situations described in paragraphs 10.3 to 10.9, for the avoidance of doubt, completion will not be automatically postponed to the next business day in such situations. The parties should adopt the handling procedures described in such paragraphs with an aim to proceed with completion on the same day using PAPT for S&P. However, if the handling procedures have been adopted but have not been successful in rectifying the relevant error(s) in relation to the operation of PAPT for S&P, the Purchaser and the Vendor should and in consultation with the PMI and the VMI (or VAM) mutually agree on the applicable handling procedures, which may include adoption of a conventional approach for completion of the transaction.

10.13 For other exceptional circumstances not covered above, the Purchaser and the Vendor may wish to and in consultation with the PMI and the VMI (or VAM) promptly communicate with each other and seek to identify the issue(s) in the settlement process. They should mutually agree on the applicable handling procedures, which may include adoption of a conventional approach for completion of the transaction.

11. COMPARISON WITH PAPT FOR REFINANCING

11.1 As mentioned in the “Introduction” section above, PAPT for Refinancing addresses PAPT for property refinancing transactions. While PAPT for Refinancing deals with financing scenarios and PAPT for S&P covers conveyancing scenarios, the two phases are largely similar in terms of their applicable scope. They both cover residential properties and car parking spaces in residential buildings, whether or not there is single or multiple Borrowers (in the case of PAPT for Refinancing) or Vendors/Purchasers (in the case of PAPT for S&P), whether or not there is an existing mortgage and whether or not the mortgage(s) involved is two-party or three-party.

11.2 Similar to this proposal for PAPT for S&P, a few scenarios are covered and discussed in PAPT for Refinancing and they are compared against the conveyancing scenarios of PAPT for S&P as follows.

(a) Under Refinancing Scenario A of PAPT for Refinancing, a Borrower seeks a refinancing loan from a Mortgage Institution (the “**Refinancing Mortgage Institution**” or “**RMI**”) which is **different** from the Mortgage Institution which has granted the Borrower the existing mortgage (the “**Original Mortgage Institution**” or “**OMI**”), whether or not the Borrower under the existing mortgage is same as the borrower under the refinancing mortgage. This scenario is comparable to Conveyancing Scenario 1A of PAPT for S&P. Two different Mortgage Institutions are involved (the RMI and OMI in PAPT for Refinancing and the VMI and PMI in PAPT for S&P). The RMI Borrower’s position corresponds to that of the Purchaser as they are both obtaining a fresh amount of

monies under a new mortgage, whereas the OMI Borrower's position corresponds to that of the Vendor as they both have an existing mortgage to be discharged.

- (b) Under Refinancing Scenario B of PAPT for Refinancing, the refinancing loan is provided by the OMI (in other words, the OMI and the RMI are the same Mortgage Institution) but a new Borrower replaces the existing Borrower under the refinancing loan. This is analogous to Conveyancing Scenario 1B of PAPT for S&P, to the extent that there is also only one Mortgage Institution (as the VMI and PMI are the same) but two different Borrowers (being the Vendor and the Purchaser).
- (c) There are two different situations under Refinancing Scenario C of PAPT for Refinancing. The first one is where the refinancing loan is provided by the OMI (which is also the RMI) to the same Borrower but the existing mortgage deed needs to be discharged and a new mortgage deed needs to be executed. There is no apparent comparable scenario in PAPT for S&P. The second situation of Refinancing Scenario C of PAPT for Refinancing is where a loan is provided by a Mortgage Institution to a Borrower, which is secured by a mortgage-free property. This is arguably comparable to Scenario 2 of PAPT for S&P which also deals with a property with no existing mortgage. A difference however is that there are two parties, the Vendor and the Purchaser, for Scenario 2 of PAPT for S&P whereas there is only one Borrower for Refinancing Scenario C of PAPT for Refinancing.

11.3 The biggest difference of the mechanisms of PAPT for Refinancing and PAPT for S&P is the usage of a "**Refinancing Mortgage Institution Confirmation**" or "**RMIC**" in PAPT for Refinancing as contrasted with the usage of a CHATS Advice in PAPT for S&P.

- (a) A "**Refinancing Mortgage Institution Confirmation**" or "**RMIC**" is a document issued by the RMI confirming that the Redemption Amount (or such part thereof) will be transferred by the RMI via CHATS according to the payment details set out therein on Dday.
- (b) Under PAPT for Refinancing, where there are two Mortgage Institutions involved (i.e. Refinancing Scenario A), an RMIC will be used on Dday and its passage is briefly summarised as follows: -
 - (i) The RMI issues the RMIC and sends it by encrypted email to its solicitors before 12 noon.
 - (ii) The RMI's solicitors will then verify the information stated in the RMIC. If in order, the RMI's solicitors will send the RMIC to the OMI's solicitors by 5:00 pm.
 - (iii) Upon the delivery of the RMIC by the RMI's solicitors to the OMI's solicitors, it is irrevocable and the Remittance Amount payable from the RMI to the OMI will be transferred by the RMI to the OMI save for exceptional circumstances.

- (c) Accordingly, the issuance of an RMIC is not an automated process but it needs to be actively generated by the RMI to kick-start the payment process and RMI will subsequently further effect payment after the RMIC is verified by the solicitors of OMI and RMI respectively, provided other conditions to completion of refinancing are satisfied.
- (d) By contrast, under PAPT for S&P, a CHATS Advice is generated and issued automatically in the name of HKICL as third-party evidence that CHATS payment has been completed after the PMI effects payment on Dday.

12. **DISCLAIMER**

- 12.1 This Proposal does not constitute legal advice and shall not be used, relied on or referred to in any manner by any party for such purpose. It is recommended that independent legal advice be obtained for the purpose of participation in a property sale and purchase transaction adopting PAPT for S&P.
- 12.2 The Hong Kong Association of Banks does not assume any duty or liability to any person to whom this Proposal has been disclosed or otherwise provided.

Appendix 1 – Template CHATS Advice

**CLEARING HOUSE AUTOMATED TRANSFER SYSTEM (“CHATS”) ADVICE FOR
PAYMENT ARRANGEMENTS FOR PROPERTY TRANSACTIONS (“PAPT”)**

To whom it may concern,

This advice is to confirm that the credit transfer payment pertaining to details as stipulated below has been settled by CHATS*:

| | |
|-------------------------|--|
| SETTLEMENT DATE & TIME: | YYYY/MM/DD HH:MM:SS |
| HKICL REFERENCE NUMBER: | H01234567 |
| INSTRUCTION IDENTIFIER: | 9999999999999999 |
| SENDER’S BANK: | BANK OF CHINA (HONG KONG) LIMITED |
| SENDER’S SWIFT CODE: | BKCHHKHHXXX |
| RECEIVER’S BANK: | THE HONG KONG AND SHANGHAI BANKING CORPORATION LIMITED |
| RECEIVER’S SWIFT CODE: | HSBCHKHHHKH |
| REMIT CURRENCY: | HKD |
| REMIT AMOUNT: | 9,999,999.99 |
| BENEFICIARY CUSTOMER: | HSBCHKHHMTG |
| PAYMENT DETAIL: | PAPT XXXXXXXXXX |

Yours faithfully,
Hong Kong Interbank Clearing Limited

(This is a computer-generated letter and no signature is required.)

IMPORTANT: This is an automated Advice message for information on the successful settlement of the above credit transfer payment only. It is not, and should not be taken as, an advice from the Receiver’s Bank confirming the funds have been deposited into the accounts of the ultimate intended recipient(s) opened with the Receiver’s Bank. It should not be relied upon as, or treated as a substitute for, a specific advice from the Receiver’s Bank for that purpose. Other than the confirmation of successful settlement of the above credit transfer payment, Hong Kong Interbank Clearing Limited makes no representations or warranties, express or implied, in relation to the contents herein. The details of the credit transfer payment were given to it by the Sender’s Bank and, Hong Kong Interbank Clearing Limited accepts no responsibility for any loss which may arise from reliance on any of these details. All proprietary rights in relation to the contents herein are hereby fully reserved. This Advice will be stored for ten working days within the CHATS system after which it will be removed from online access.

* For any enquiry related to subject CHATS payment, please directly contact the respective bank(s).

Appendix 2 – Template CHATS Advice Correction Notice

[Bank Header] (i.e. PMI)

Our Ref: [Sender's Bank Reference]

Your Ref: [Receiver's Bank Reference (if known by sender)]

Date :

[Receiver's Bank] (i.e. VMI)

Dear Sirs,

Re: HKICL Reference Number:

Property:

(Note: Borrower/Purchaser/Vendor name is not recommended as privacy issue)

We refer to the CHATS payment and the CHATS Advice sending to or already received by you today under HKICL reference number stated as above. We hereby confirm that the Payment Detail of the said CHATS payment shall be as follows:

[Payment Detail]

We also confirm that all other information of the CHATS payment remains unchanged, and refund or re-issue of the payment is not needed.

If you have any queries, please do feel free to contact our Mr./Ms.[Contact Person] of [Department] at Tel No.: [Tel no.] or Fax No.: [Fax No.].

Yours faithfully,

For and on behalf of

[Sender's Bank] (i.e. PMI)

Authorised Signature(s)

c.c. [PMI Solicitor and Vendor Solicitor]

Appendix 3 – Template Bank Advice

**NOTIFICATION OF LOAN DRAWDOWN COMPLETION FOR PAYMENT
ARRANGEMENTS FOR PROPERTY TRANSACTIONS (“PAPT”)**

DATE: YYYY/MM/DD

To whom it may concern

This notice is to confirm that drawdown of the loan facility has been completed and the net loan proceeds amount have been transferred to the designated account for PAPT.

Please find the details of the payment below:

| | |
|------------------------|-----------------|
| Property | XXXXXXXXXXXX |
| Payment Detail | PAPT XXXXXXXXXX |
| Transfer Amount | HKD[●] |

[SENDER'S BANK]

THIS COMPUTER PRINTOUT DOES NOT REQUIRE A SIGNATURE