

PAPT – Two Contracts Approach

VERSION A: PURCHASER SAME AS PMI BORROWER

Standard clauses for incorporation into the PMI/Buy-side Contract on a mandatory basis without modification or qualification

Notes:

- (1) *The following standard clauses shall be incorporated into a contract to be entered into between the PMI and the Purchaser prior to Dday (the “PMI/Buy-side Contract”). The PMI should carefully consider and review the design of its internal procedure to check and confirm whether the standard clauses have been validly and effectively incorporated into the PMI/Buy-side Contract of each conveyancing transaction.*
- (2) *The PMI/Buy-side Contract shall be drafted so that it captures the agreement of the Purchaser to the standard clauses.*
- (3) *The standard clauses below may be incorporated into the facility letter issued by the PMI to the Purchaser.*

** Standard clauses for incorporation **

To: [name of PMI]

Re: [Address of target property] (the “Property”)

In consideration of the services provided and to be provided by you to us/me and the proposed grant of the mortgage loan in connection with our/my purchase of the Property, we/I hereby agree, acknowledge and confirm that:

1. In respect of the sale and purchase of the Property, we/I hereby elect to adopt the payment arrangements for property transactions in respect of the sale and purchase transaction, under which you are authorised to transfer the net mortgage loan amount to the Appointee Bank (as defined below) via the Hong Kong Dollar Clearing House Automated Transfer System or via internal bank transfer (as the case may be) in payment (or in part payment) of the balance of the purchase price.
2. The terms and conditions of 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 (“HKAB”) (www.hkab.org.hk/en/useful-information/papt) (the “T&C”) form part of the contractual relationship between you and us/me (the “PMI/Buy-side Contract”) and we are bound by the T&C. The applicable version of the T&C shall be the T&C as of the date of the provisional sale and purchase agreement (or in the absence of a provisional sale and purchase agreement, the formal sale and purchase agreement) that has been entered into between me and the vendor of the Property.
3. “Appointee Bank” shall mean:

- (a) where there is an existing mortgage over the Property as registered at the Land Registry of Hong Kong, the existing mortgagee of the Property; or
- (b) where there is no existing mortgage over the Property, a bank to be designated by the vendor of the Property as the bank which provides mortgage services for the purpose of receiving the payment (or part payment) of the balance of the purchase price.

4. The PMI/Buy-side Contract shall be governed by the laws of Hong Kong. The parties irrevocably agree that the courts in Hong Kong shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with the PMI/Buy-side Contract.

[Note: This clause can be removed if the facility letter to which these standard clauses are incorporated has an existing similar governing law clause stipulating that the contract shall be governed by Hong Kong laws.]

SIGNED by the Purchaser: _____)

Name: _____)

In the presence of:- _____)

Solicitor, Hong Kong _____)

VERSION B: WITH THIRD PARTY PMI BORROWER

Standard clauses for incorporation into the *PMI/Buy-side Contract* on a mandatory basis without modification or qualification

Notes:

- (1) *The following standard clauses shall be incorporated into a contract to be entered into between the PMI, on the one side, and the Purchaser and the PMI Borrower, on the other side, prior to Dday (the “PMI/Buy-side Contract”). The PMI should carefully consider and review the design of its internal procedure to check and confirm whether the standard clauses have been validly and effectively incorporated into the PMI/Buy-side Contract of each conveyancing transaction.*
- (2) *The PMI/Buy-side Contract shall be drafted so that it captures the agreement of the Purchaser to the standard clauses.*
- (3) *The standard clauses below may be incorporated into the facility letter issued by the PMI to the Purchaser and the PMI Borrower.*

** Standard clauses for incorporation **

To: [name of PMI]

Re: [Address of target property] (the “Property”)

In consideration of the services provided and to be provided by you to us, the PMI Borrower and the Purchaser (whose names are set out below), including the proposed grant of the mortgage loan to the PMI Borrower in connection with the purchase of the Property by the Purchaser, we hereby agree, acknowledge and confirm that:

1. In respect of the sale and purchase of the Property, we hereby elect to adopt the payment arrangements for property transactions in respect of the sale and purchase transaction, under which you are authorised to transfer the net mortgage loan amount to the Appointee Bank (as defined below) via the Hong Kong Dollar Clearing House Automated Transfer System or via internal bank transfer (as the case may be) in payment (or in part payment) of the balance of the purchase price.
2. The terms and conditions of 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 (“HKAB”) (<https://www.hkab.org.hk/en/useful-information/papt>) (the “T&C”) form part of the contractual relationship between you and us (the “PMI/Buy-side Contract”) and we are bound by the T&C. The applicable version of the T&C shall be the T&C as of the date of the provisional sale and purchase agreement (or in the absence of a provisional sale and purchase agreement, the formal sale and purchase agreement) that has been entered into between the Purchaser and the vendor of the Property.
3. “Appointee Bank” shall mean:

- (c) where there is an existing mortgage over the Property as registered at the Land Registry of Hong Kong, the existing mortgagee of the Property; or
- (d) where there is no existing mortgage over the Property, a bank to be designated by the vendor of the Property as the bank which provides mortgage services for the purpose of receiving the payment (or part payment) of the balance of the purchase price.

4. The PMI/Buy-side Contract shall be governed by the laws of Hong Kong. The parties irrevocably agree that the courts in Hong Kong shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with the PMI/Buy-side Contract.

[Note: This clause can be removed if the facility letter to which these standard clauses are incorporated has an existing similar governing law clause stipulating that the contract shall be governed by Hong Kong laws.]

SIGNED by the Purchaser: _____)

Name: _____)

In the presence of:- _____)

Solicitor, Hong Kong _____)

SIGNED by the PMI Borrower: _____)

Name: _____)

In the presence of:- _____)

Solicitor, Hong Kong _____)