HEALTH CARE VOUCHER SCHEME
DEFINITIONS, AND TERMS AND CONDITIONS OF AGREEMENT

DEFINITIONS

1. Transaction Documents

The transaction documents of the Health Care Voucher Scheme comprise the following:

(a) an Application Form (Appendix A);

(b) Authority for Payment to a Bank (Appendix B);

(c) this Definitions, and Terms and Conditions of Agreement (Appendix C);

(collectively, the “Transaction Documents”).

2. Definitions

The following expressions when used in the Covering Notes for Application to Enrol in the Health Care Voucher Scheme, Vaccination Subsidy Schemes and Primary Care Directory, and each of the Transaction Documents have the meanings assigned to them below, unless otherwise defined therein or the context otherwise requires:

“Agreement” means the agreement made by the Government with an EHCP and his Associated Organization (if any) on the terms and conditions set out in the following:

(a) this Definitions, and Terms and Conditions of Agreement in Appendix C; and

(b) the Authority for Payment to a Bank on the terms in Appendix B,
and where the context permits or requires, the terms and conditions shall include those set out in the Application Form submitted by an EHCP and his Associated Organization (if any).

“Associated Organization” means a Medical Organization specified in an EHCP’s Application Form to enrol in the HCVS and in the Notification issued by the Government in respect of that EHCP.

“Consent of Voucher Recipient” means a form prescribed by the Director of Health to be signed by a Voucher Recipient under which a Voucher Recipient consents to and authorizes the use of one or more Vouchers to settle an EHCP Fees.

“Enrolled Health Care Provider” or “EHCP” means a Health Care Provider whose application to enrol in the HCVS is accepted by the Government.

“EHCP Fees” means the fees charged by an EHCP or his Associated Organization for the health care services provided by the EHCP to a Voucher Recipient.

“Eligible Person” means a person aged 70 or above in the relevant calendar year who holds a valid Hong Kong Identity Card within the meaning of the Registration of Persons Ordinance (Cap. 177) or a valid Certificate of Exemption within the meaning of the Immigration Ordinance (Cap. 115).

“eHealth System” means the computer information system designated and provided by the Government from time to time for creation of eHealth Accounts, use of Vouchers by Voucher Recipients and other purposes relating to the HCVS.
“Medical Organization” means

(b) an organization (whether incorporated or not) which employs or engages a Health Care Provider to provide health care services to any person;

(c) an organization (whether incorporated or not):

(i) under whose name a Health Care Provider provides health care services to any person; and

(ii) of which the Health Care Provider is the sole proprietor, partner, shareholder, director or officer (other than in a capacity referred to in (a) above).

“Nominated Account” means a bank account which is maintained under the name of an EHCP or his Associated Organization and is specified by the EHCP and his Associated Organization in the Authority for Payment to a Bank (in the form attached at Appendix B) signed by the EHCP and his Associated Organization and submitted to the Government.

“SMPO” means the Supplementary Medical and Professions Ordinance (Cap. 359).

“Health Care Voucher Scheme (“HCVS”)” means a pilot scheme under which Government provides all Eligible Persons with five Vouchers each year from the Scheme Commencement Date to 31 December 2011; and with ten Vouchers each year from 1 January 2012 to 31 December 2014 to partially subsidize their use of primary health care services in the private sector.

“Scheme Commencement Date” means 1 January 2009 or a later date as specified by the Government.

“Scheme Term” means a period commencing from the Scheme Commencement Date to 31 December 2011 (both dates inclusive) and it may be extended by the Government pursuant to the Terms and Conditions of Agreement with Enrolled Health Care Providers and Associated Organizations.
“Unused Voucher” means any Voucher that is not used by a Voucher Recipient in the period from the Scheme Commencement Date to 31 December 2009 or in any subsequent period of 12 months commencing from 1 January each year during the Scheme Term, and is carried forward for use in the remainder of the Scheme Term.

“Voucher” means an electronic voucher with a face value of HK$50 issued by the Government for use by a Voucher Recipient, such voucher being backed by payment by the Government in accordance with the terms of the Agreement.

“eHealth Account” means an account established by an Eligible Person with the Government in the eHealth System whereby he will be provided with the entitled amount of Vouchers with effect from the Scheme Commencement Date to 31 December 2009 and thereafter in each year from 1 January during the Scheme Term.

“Voucher Recipient” means an Eligible Person who has established an eHealth Account.

3. Rules of Interpretation

In each of the Transaction Documents unless otherwise provided or the context requires otherwise:

(a) any word or expression to which a specific meaning has been attached in any Transaction Document shall bear such meaning whenever it may appear in all Transaction Documents;

(b) words importing the singular include the plural and vice versa and words importing a gender include all other genders;

(c) reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended by any subsequent enactment, order, regulation or instrument;

(d) reference to a statute includes all subsidiary legislation made under the statute;
(e) words importing a person include an individual, a firm, partnership, corporation, government, governmental body, authority, agency, unincorporated body of persons or associations, corporations and any organisations having legal capacity;

(f) reference to a month or a monthly period refers to a calendar month and reference to a year or an annual period refers to a calendar year;

(g) reference to a section, clause, sub-clause, paragraph, sub-paragraph, appendix or attachment by number or by letter in a Transaction Document shall be construed (unless the context otherwise requires) as a reference to the section, clause, sub-clause, paragraph, sub-paragraph, appendix or attachment of that number or letter contained in that Transaction Document;

(h) headings are inserted for convenience of reference only and shall not in any way vary, limit or extend the interpretation of any Transaction Document;

(i) references to time and dates shall be construed as Hong Kong time and dates;

(j) any negative obligation imposed on any party shall be construed as if it were also an obligation not to permit or suffer the act or thing in question and any positive obligation imposed on any party shall be construed as if it were also an obligation to procure that the act or thing in question be done;

(k) the words “include” and “including” shall be construed without limitation to the words following; and

(l) in case of inconsistency, the English version of the transaction documents shall prevail over the Chinese version.
Terms and Conditions of Agreement with ehcp and Associated Organizations

PREAMBLE

(A) The Government as represented by the Director of Health may invite any of the following persons (‘‘Health Care Provider’’) to enrol in the HCVS as it thinks fit –

(a) a registered medical practitioner within the meaning of the Medical Registration Ordinance (Cap. 161) who holds a valid practising certificate issued under that Ordinance;

(b) a registered dentist within the meaning of the Dentists Registration Ordinance (Cap. 156) who holds a valid practising certificate issued under that Ordinance;

(c) a registered Chinese medicine practitioner within the meaning of the Chinese Medicine Ordinance (Cap. 549) who holds a valid practising certificate issued under that Ordinance;

(d) a registered chiropractor within the meaning of the Chiropractors Registration Ordinance (Cap. 428) who holds a valid practising certificate issued under that Ordinance;

(e) a registered nurse within the meaning of the Nurses Registration Ordinance (Cap. 164) who holds a valid practising certificate issued under that Ordinance;

(f) an enrolled nurse within the meaning of the Nurses Registration Ordinance (Cap. 164) who holds a valid practising certificate issued under that Ordinance;

(g) a medical laboratory technologist registered under the Supplementary Medical Professions Ordinance (Cap. 359) (‘‘SMPO’’) who holds a valid practising certificate issued under the SMPO;
(h) an occupational therapist registered under the SMPO who holds a valid practising certificate issued under the SMPO;

(i) a physiotherapist registered under the SMPO who holds a valid practising certificate issued under the SMPO;

(j) a radiographer registered under the SMPO who holds a valid practising certificate issued under the SMPO; and

(k) an optometrist registered under the SMPO (in Part I of the register) who holds a valid practising certificate issued under the SMPO.

(B) If a Health Care Provider’s application to enrol in the HCVS is accepted by the Government, the Health Care Provider and the Medical Organization specified in the Health Care Provider’s application are required to observe the terms and conditions set out in the Agreement.

**OPERATIVE PART**

1. In consideration of the Government agreeing to meet payment of a Voucher in accordance with the terms and conditions of the Agreement, an EHCP and his Associated Organization (if any) jointly and severally undertake and agree to observe the terms and conditions of the Agreement.

2. Each of the EHCP and his Associated Organization shall inform the Health Care Voucher Unit of the Department of Health of the Government (**HCVU**) immediately of any changes in any information or document submitted to the Government in relation to the HCVS (including any information submitted in the EHCP’s application to enrol in the HCVS).

**Termination and Expiry**

3. The Government may at any time terminate the HCVS without incurring any liability to any EHCP or any Associated Organization.

4. A person shall cease to be an EHCP and the Agreement shall terminate forthwith upon occurrence of any of the following events:
(a) in the case of a person who is enrolled in the HCVS in the capacity of a registered medical practitioner within the meaning of the Medical Registration Ordinance (Cap. 161), that person ceases to be so registered or is suspended from practising as such registered medical practitioner;

(b) in the case of a person who is enrolled in the HCVS in the capacity of a registered dentist within the meaning of the Dentists Registration Ordinance (Cap. 156), that person ceases to be so registered or is suspended from practising as such registered dentist;

(c) in the case of a person who is enrolled in the HCVS in the capacity of a registered Chinese medicine practitioner within the meaning of the Chinese Medicine Ordinance (Cap. 549), that person ceases to be so registered or is suspended from practising as such registered Chinese medicine practitioner;

(d) in the case of a person who is enrolled in the HCVS in the capacity of a registered chiropractor within the meaning of the Chiropractors Registration Ordinance (Cap. 428), that person ceases to be so registered or is suspended from practising as such registered chiropractor;

(e) in the case of a person who is enrolled in the HCVS in the capacity of a registered nurse within the meaning of the Nurses Registration Ordinance (Cap. 164), the person ceases to be so registered or is suspended from practising as such registered nurse;

(f) in the case of a person who is enrolled in the HCVS in the capacity of an enrolled nurse within the meaning of the Nurses Registration Ordinance (Cap. 164), that person ceases to be so registered or is suspended from practising as such enrolled nurse;

(g) in the case of a person who is enrolled in the HCVS in the capacity of a medical laboratory technologist registered under the SMPO, that person ceases to be so registered or is suspended from practising as such medical laboratory technologist;

(h) in the case of a person who is enrolled in the HCVS in the capacity of an occupational therapist registered under the SMPO, that person ceases to
be so registered or is suspended from practising as such occupational therapist;

(i) in the case of a person who is enrolled in the HCVS in the capacity of a physiotherapist registered under the SMPO, that person ceases to be so registered or is suspended from practising as such physiotherapist;

(j) in the case of a person who is enrolled in the HCVS in the capacity of a radiographer registered under the SMPO, that person ceases to be so registered or is suspended from practising as such radiographer; and

(k) in the case of a person who is enrolled in the HCVS in the capacity of an optometrist registered under the SMPO (in Part I of the register), that person ceases to be so registered or is suspended from practising as such optometrist.

5. Immediately upon a person ceasing to be an EHCP:

(a) the Government shall not have any obligation to pay for any Voucher used to settle EHCP Fees of the person if such EHCP Fees are incurred by a Voucher Recipient on or after the date on which the person ceases to be an EHCP;

(b) the person and his Associated Organization shall in respect of that person:

(i) remove all software provided by the Government for the purpose of the HCVS from the computer system used by the person and/or his Associated Organization;

(ii) return to the Government all Scheme Equipment provided by the Government for the purpose of the HCVS;

(iii) cease to use or otherwise input any data into the eHealth System;

(iv) remove the Logo and return the Logo and any security tool provided by the Government for accessing the eHealth System to the Government;
(v) not create, or offer or procure any Eligible Person to create, any eHealth Account;

(vi) not procure or permit any Eligible Person to complete or execute any Consent of Voucher Recipient or any other forms or documents that may be prescribed by the Government or the Director of Health in relation to the HCVS;

(vii) comply with all directions and requirements made by the Government to give effect to the cessation of the person to be an EHCP; and

(c) the Scheme Licence shall terminate forthwith.

6. The Government may at any time terminate the Agreement forthwith by written notice to an EHCP if:

(a) the Government is of the reasonable opinion that the EHCP has failed to provide health care services in a professional manner or is otherwise guilty of professional misconduct or malpractice; or

(b) the EHCP or his Associated Organization fails to comply with any provision in the Agreement or with any direction or requirement given by the Government or Director of Health in relation to the HCVS.

7. The Government may also terminate the Agreement for any reason whatsoever on giving the EHCP 7 days’ prior written notice.

8. Subject to Clause 11, the Agreement shall expire on 31 December 2014.

9. Without prejudice to Clause 4, upon the expiry or earlier termination of the Agreement, a Health Care Provider shall immediately cease to be an EHCP.

10. The expiry or termination of the Agreement shall be without prejudice to any provision of the Agreement capable of being performed or observed notwithstanding such expiry or termination, which shall survive the same and shall continue to be binding on the parties and shall remain in full force and effect.
Extension

11. The Government may at any time extend the term of the HCVS. In such event, the Government may extend the term of the Agreement by prior written notice to an EHCP and the terms and conditions of the Agreement shall, unless the Government otherwise specifies, continue to have full force and effect until the date specified in the written notice.

eHealth System

12. It is a condition precedent to any successful enrolment by a Health Care Provider in the HCVS that the Health Care Provider subscribes to an eHealth System prescribed by the Director of Health for the HCVS on the terms set out below and in the manner specified by the Director of Health within 21 days of a notice issued by the Director of Health to this effect.

Creation of eHealth Account

13. If an Eligible Person requests an EHCP to create an eHealth Account for the Eligible Person, the EHCP shall verify from the eHealth System whether an eHealth Account has already been created in respect of the Eligible Person. If not, the EHCP shall create an eHealth Account for the Eligible Person.

14. In creating an eHealth Account an EHCP shall comply with the following procedures:

(a) collect from the Eligible Person his personal details (including his name and Hong Kong Identity Card number or the serial number of a Certificate of Exemption issued by the Immigration Department) and verify such information with the Hong Kong Identity Card or Certificate of Exemption produced by the Eligible Person;

(b) if the EHCP is reasonably satisfied that the personal details provided are correct, explain to the Eligible Person the purpose for which his personal details and data is collected and used; and

(c) log on the eHealth System and input the information required in the eHealth System in respect of the Eligible Person.
15. An EHCP warrants and undertakes that prior to creation of an eHealth Account of an Eligible Person, he shall obtain from the Eligible Person a valid and effective consent for the use and transfer of the Eligible Person’s personal data for the purpose of creation of eHealth Account, administration and monitoring of HCVS, including but not limiting to a verification procedure by electronic means with the Register of Persons. An EHCP shall declare via the eHealth System that such a consent has been obtained for each eHealth Account created.

**Equipment and software**

16. Save as otherwise expressly provided for in the Agreement or specified by the Government, an EHCP and his Associated Organization shall provide all computer hardware, software, other equipment, machinery, devices and facility and obtain all utility for the use of the eHealth System.

17. The Government may, for the purpose of facilitating an EHCP’s use of the eHealth System, provide the EHCP any hardware, devices or other equipment (“Scheme Equipment”), or grant or procure the grant of a licence to the EHCP to use any software (“Scheme Licence”) in each case on such terms and conditions as the Government may specify from time to time.

18. An EHCP shall use the eHealth System solely for the purpose of enabling the creation of eHealth Accounts and the use of Vouchers by Voucher Recipients to settle the EHCP Fees.

19. An Associated Organization shall not, and an EHCP shall procure that his Associated Organization will not, use or otherwise deal with the eHealth System, the Scheme Equipment, the Scheme Licence and any eHealth Accounts.

20. An EHCP and his Associated Organization acknowledges that a Scheme Equipment and a Scheme Licence may be subject to the proprietary rights of third parties. The EHCP undertakes not to use the Scheme Equipment or the Scheme Licence for any purposes other than those specified in the Agreement or by the Government unless with prior written consent of the Government. The EHCP and his Associated Organization shall be responsible for any liabilities towards any other parties arising out of any actions, claims or
demands in connection with the EHCP’s use of the Scheme Equipment or the Scheme Licence.

21. An EHCP shall not make any modifications to the Scheme Equipment or the Scheme Licence unless the prior written consent of the Government has been obtained.

Use of Vouchers

22. Notwithstanding Clauses 28, 29, 31 and 32, an EHCP shall make available the use of Vouchers by Voucher Recipients to settle the EHCP Fees once an eHealth Account is created in the manner set out in Clauses 14 and 15 above.

23. If a Voucher Recipient notifies an EHCP that he will use one or more Vouchers to settle the EHCP Fees after provision of a health care service by the EHCP to the Voucher Recipient, the EHCP shall obtain from the Voucher Recipient a completed and signed Consent of Voucher Recipient.

24. On condition that:

(a) a Voucher Recipient has signed a Consent of Voucher Recipient and has duly authorized an EHCP to use one or more Vouchers to settle the EHCP Fees;

(b) the EHCP Fees is not less than the value of one Voucher;

(c) the total value of the Vouchers authorized by the Voucher Recipient to be used to settle the EHCP Fees is equal to or less than the EHCP Fees; and

(d) the number of the Vouchers proposed to be used by the Voucher Recipient does not exceed the balance of Vouchers remaining unused in the Voucher Recipient’s eHealth Account,

the EHCP shall assist the Voucher Recipient to use such number of Vouchers as agreed by the Voucher Recipient and stated in the Consent of Voucher Recipient completed and signed by the Voucher Recipient to settle all or part of the EHCP Fees by performing the following:
(i) log on the eHealth System;

(ii) request the Voucher Recipient to produce his Hong Kong Identity Card or Certificate of Exemption issued by the Immigration Department for verification of his personal particulars;

(iii) search and retrieve the record of the Voucher Recipient in manner provided in the eHealth System;

(iv) confirm with the Voucher Recipient the number of Vouchers that he agrees to use;

(v) check the balance of the Vouchers remaining unused in the eHealth Account in manner provided in the eHealth System; and

(vi) input all information required by the eHealth System.

25. An EHCP shall ensure that total value of the Vouchers used by a Voucher Recipient to settle the EHCP Fees shall not exceed the amount of EHCP Fees.

26. In relation to a health care service provided by an EHCP to a Voucher Recipient, each of the EHCP and his Associated Organization shall not demand a Voucher Recipient who consents to use one or more Vouchers to settle the EHCP Fees for such health care service to pay any amount to the EHCP or his Associated Organization unless:

(a) the EHCP Fees exceeds the total value of the Vouchers so used by the Voucher Recipient, in which event, the EHCP and his Associated Organization shall only collect from the Voucher Recipient the excess amount; or

(b) no confirmation is generated by the eHealth System on the use of a Voucher or the transaction on the use of a Voucher through the eHealth System has otherwise failed, in which event, neither the EHCP nor his Associated Organization shall collect from the Voucher Recipient any sums exceeding the amount of EHCP Fees due and payable by the Voucher Recipient in respect of the health care service.
27. Neither an EHCP nor his Associated Organization shall enter into any agreement or arrangement with an Eligible Person or Voucher Recipient which has the effect of:

(a) modifying any provision of any forms or documents prescribed by the Director of Health for the purpose of or in relation to the HCVS; or

(b) sharing the value of any Voucher with the Eligible Person or the Voucher Recipient.

**Payment by the Government**

28. The Government will within 7 days after the creation of an eHealth Account in accordance with the Agreement verify whether a proposed holder of the eHealth Account:

(a) holds a valid Hong Kong Identity Card or a valid Certificate of Exemption issued by the Immigration Department; and

(b) is aged 70 or above.

Such verification will be conducted on the basis of information input in the eHealth System. If the Government is of the reasonable opinion that the proposed holder fails to meet any of (a) or (b) above, the Government will remove the eHealth Account of the proposed holder from the eHealth System and notify the EHCP who has assisted in the creation of the eHealth Account accordingly.

29. If the Government is satisfied that a proposed holder of an eHealth Account meets the conditions in Clause 28(a) and (b), the Government shall indicate in the eHealth Account established on the eHealth System that the eHealth Account has been validated by the Government (“Validated Account”).

30. The EHCP and his Associated Organization shall submit to the Government such information or document as required by the Director of Health from time to time in relation to the HCVS.

31. Subject to Clauses 5, 32 and 35(b), within 30 days after the end of each month during the Scheme Term, the Government shall, in respect of each Voucher
used in that month by a Voucher Recipient of a Validated Account to settle the EHCP Fees of an EHCP or his Associated Organization, pay the EHCP or the Associated Organization HK$50. Such payment shall be made by the Government crediting the Nominated Account. An acknowledgement issued by the bank with which the Nominated Account is maintained of the sums credited by the Government to the Nominated Account shall be deemed to be a receipt issued by the EHCP and the Associated Organization of the sums so credited and shall be conclusive evidence of due payment of such sums by the Government to the EHCP or the Associated Organization under the Agreement.

32. The Government shall not have any obligation to pay an EHCP or his Associated Organization the value of any Voucher that a Voucher Recipient has consented to use in a Consent of Voucher Recipient to settle EHCP Fees if:

(a) the eHealth Account of that Voucher Recipient is not a Validated Account;

(b) the Voucher Recipient consents to use that Voucher in the period from the Scheme Commencement Date to 31 December 2009 and the Government has in respect of that period already paid for five Vouchers used by the Voucher Recipient;

(c) the Voucher Recipient consents to use that Voucher in any subsequent period of 12 months commencing from 1 January each year during the Scheme Term and the Government has in respect of that period already paid for the entitled amount of Vouchers for the year plus the total number of Unused Vouchers carried forward; or

(d) any information provided by the EHCP to the Government under or in relation to the HCVS is at any time found to be incomplete, untrue or inaccurate or if the EHCP or his Associated Organization is in breach of any provisions in the Transaction Documents.

33. The total number of Unused Voucher carried forward to the remaining period of the Scheme Term shall be determined on 1 January each year during the Scheme Term with effect from 1 January 2010.
34. Each of the EHCP and his Associated Organization shall not pay any Voucher Recipient all or part of the amount paid or payable by the Government to the EHCP or the Associated Organization pursuant to the Agreement.

35. Notwithstanding anything provision herein, if the Government at any time certifies that the Government has overpaid an EHCP or an Associated Organization, the Government may:

(a) deduct such overpaid amount from any sums which may thereafter be payable by the Government to the EHCP or the Associated Organization; or

(b) direct the EHCP or the Associated Organization to forthwith repay the Government the amount overpaid on a date specified by the Government and the EHCP or the Associated Organization (as the case may be) shall comply with the direction. The Government has the right to withhold any sums due to the EHCP or the Associated Organization under clause 31 until the EHCP of the Associated Organization has fully repaid the aforesaid amount.

This Clause shall survive the expiry or termination of the Agreement.

36. Neither an EHCP nor an Associated Organization may charge any person any fees for creating an eHealth Account or using an eHealth Account.

Directions

37. An EHCP and an Associated Organization shall comply with all directions given by the Director of Health or the Government or any employee, officer or agent of the Government from time to time under the Agreement or in relation to the HCVS.

38. If an EHCP or his Associated Organization fails to comply with any provision of the Agreement or any direction referred to in Clause 37, without prejudice to the right of the Government to issue a notice under Clause 6 or 7, the Government may by notice in writing to the EHCP or the Associated Organization require the EHCP or the Associated Organization to make good or rectify the non-compliance by the date specified and in accordance with the
requirements of notice. The EHCP and his Associated Organization shall comply with such requirements.

Information and keeping of records

39. An EHCP shall keep the Government immediately informed of any changes or proposed changes to his status as a person registered or enrolled (as the case may be) under any of the legislation referred to in Preamble (A).

40. Without prejudice to Clause 39, an EHCP shall notify the Government forthwith of his becoming aware of:

   (a) any action taken (or proposed to be taken) or any order made (proposed to be made) to remove the EHCP from a register or roll maintained pursuant to any of the legislation referred to in Preamble (A) on which the EHCP’s name has been entered;

   (b) any action, disciplinary proceeding or inquiry being taken against the EHCP by any person; or

   (c) any complaints filed or claims made (whether or not any legal action is threatened) against the EHCP for any act, negligence, misconduct or malpractice.

41. An EHCP shall provide the Government with such information as requested by the Government in relation to any of the matters referred to in Clause 39 or 40.

42. An EHCP and his Associated Organization shall keep proper and full record of all Consent of Voucher Recipient completed or signed by Voucher Recipients at the address(es) which the EHCP practises his profession as stated in Section (E) of Part II of the Application Form submitted by the EHCP for a period of not less than 7 years after the date of the Consent of Voucher Recipient.

43. An EHCP and his Associated Organization shall submit to HCVU complete, true and accurate information as required in the Authority for Payment to a Bank at Appendix B.
44. Each of the EHCP and his Associated Organization warrants and undertakes with continuing effect that all information and documents provided by each of them to the Government from time to time under or in relation to the HCVS (including the data input by each of them on the eHealth System) are true, accurate and complete.

45. The Government, the Director of Health or any person authorized by the Director of Health may by prior notice to an EHCP or his Associated Organization attend at any premises at reasonable hours to inspect any information or record kept or required to be kept by the EHCP or the Associated Organization under the Agreement, or to ascertain whether the provisions of the Agreement are complied with. The EHCP and his Associated Organization shall fully co-operate with and give all assistance required by the Government, the Director of Health and the authorized person. The EHCP and his Associated Organization shall ensure that the Government, the Director of Health and the authorized person are given free and uninterrupted access to the information and record and the premises at which they are kept. The EHCP and the Associated Organization shall, if so requested by the Government, the Director of Health or the authorized person, provide them with copies of information and record specified by any of them.

This Clause shall survive the expiry or termination of the Agreement.

**Logo and Publication**

46. Upon successful enrolment in the HCVS, the Government will provide an EHCP with a logo (“Logo”). Subject to Clause 5, an EHCP and his Associated Organization shall at all times display the Logo at the premises specified by the Director of Health. Neither the EHCP nor his Associated Organization shall make any copies of the Logo or display the Logo at any places other than at that specified by the Director of Health.

47. The Government may use any personal data of an EHCP for the purposes set out in the Statement of Purpose. Each of the EHCP and his Associated Organization further agrees the Government may publish any or both of their names and the particulars of practice at any time for the purpose of the HCVS, Primary Care Directory and/or other Government programmes to promote primary care.
Government Disclaimer

48. The Government does not warrant or represent that:

(a) its title to and property in the eHealth System, the Scheme Equipment or the Scheme Licence are free and unencumbered;

(b) the eHealth System, the Scheme Equipment or the Scheme Licence is free from defects in materials, design and workmanship;

(c) the use of the eHealth System, the Scheme Equipment or the Scheme Licence will meet an EHCP’s or his Associated Organization’s data processing requirements, the requirements of the HCVS or the requirements of any machine, equipment or hardware or software used or to be used by the EHCP or his Associated Organization in relation to the eHealth System; or

(d) the operation of the eHealth System, the Scheme Equipment or the Scheme Licence will be uninterrupted or error free.

49. The Government shall not be liable to an EHCP or his Associated Organization for any claims, actions, investigations, demands, proceedings, brought or instituted against the EHCP or his Associated Organization, or any liabilities, compensation, damage, loss, costs, charges and expenses which the EHCP or his Associated Organization may sustain or incur in relation to the EHCP’s enrolment in the HCVS, the use of the eHealth System, the Scheme Equipment or the Scheme Licence, or inability to receive from the Government payment of any Voucher that a Voucher Recipient consents to use to settle the EHCP Fees.

Confidentiality

50. Each of the EHCP and his Associated Organization undertakes and agrees to keep all information provided by the Government in relation to the HCVS confidential. Neither the EHCP nor his Associated Organization shall disclose any such information to any person without the prior written consent of the Government.
Indemnity

51. Each of the EHCP and his Associated Organization shall indemnify and keep the Government fully and effectively indemnified from and against:

(a) any and all claims, actions, investigations, demands, proceedings, brought or instituted against the Government; and

(b) any and all liabilities, compensation, damage, loss, costs, charges and expenses which the Government may sustain or incur (including but not limited to legal and other costs, charges, and expenses, on a full indemnity basis, which the Government may pay or incur in relation to any claim, action or proceeding instituted by, or against, the Government),

which in any case arise directly or indirectly from, or as a result of, or in connection with, or which relate in any way to:

(i) any non-compliance by the EHCP, his Associated Organization, or any employees, agents or sub-contractors of the EHCP or his Associated Organization of any provision of the Agreement; or

(ii) the negligence, recklessness, omission, default, act or misconduct on the part of the EHCP or his Associated Organization, or any employees, agents or sub-contractors of the EHCP or his Associated Organization in the use, operation or implementation of the eHealth System; or

(iii) the data or information input by the EHCP or his Associated Organization or any employees, agents or sub-contractors of the EHCP or his Associated Organization in the eHealth System; or

(iv) the enrolment by the EHCP in the HCVS.

52. Without prejudice to Clause 51, any act, default, neglect or omission of any sub-contractor or the employee or agent of an EHCP or his sub-contractor shall be deemed to be the act, default, neglect or omission of the EHCP, and any act, default, neglect or omission of any employee, agent or any
sub-contractor of an Associated Organization shall be deemed to be the act, default, neglect or omission of the Associated Organization.

53. Each of the EHCP and his Associated Organization agrees to do all things and execute all deed, instruments, transfer or other documents as may be necessary or desirable to give full effect to the provisions of the Agreement.

54. The Agreement is governed by and construed in accordance with the laws of Hong Kong and each of the EHCP and his Associated Organization irrevocably and unconditionally submits to the exclusive jurisdiction of any of the courts of Hong Kong.

55. Nothing in the Agreement will fetter or prejudice the exercise by the Government of any discretion or right it has under any law.

56. Neither an EHCP nor an Associated Organization shall represent himself as an employee, servant, agent or partner of the Government. Neither an EHCP nor an Associated Organization has, nor shall any of them represent that it has, any authority to make any commitments on the Government’s behalf.

57. Neither an EHCP nor an Associated Organization shall, without the prior written consent of the Government, assign or otherwise dispose of or transfer or sub-contract any of his interests, rights, benefits and obligations under the Agreement in whole or in part.

58. The Government may at any time vary or supplement any terms or conditions of the Agreement by prior written notice to an EHCP and his Associated Organization.

59. The definitions and rules of interpretation set out in the Schedule of Definitions shall apply to the Agreement.

60. Any provision of the Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of the Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.