

DBS TREASURES  PRIVATE  
CLIENT

星展豐盛私人客戶

## **DBS Treasures Private Client Terms and Conditions**

## Preamble

This booklet contains the respective terms and conditions governing the respective accounts, transactions and services made available by DBS Treasures Private Client, comprising:-

- (1) the Principal Terms and Conditions which applies to the Accounts, Transactions and Services referred to therein; and
- (2) the Addenda (the “**Addenda**”) which applies to the Retail Products Accounts referred to in the Account Opening Documentation.

**DBS Bank (Hong Kong) Limited**, 11/F, The Center, 99 Queen’s Road Central, Hong Kong, is a bank licensed under the Banking Ordinance and a registered institution under the Securities and Futures Ordinance. CE Number AAL664

Hong Kong/WMG/MSV/0136 (02/17)

## **The Principal Terms and Conditions**

## The Principal Terms and Conditions

	<b>Content</b>	<b>Page</b>
A.	GENERAL TERMS AND CONDITIONS	5-20
B.	INVESTMENT SERVICES TERMS	21-24
C.	E-CHEQUES TERMS	25-26
D.	SELF-DIRECTED INVESTMENT TERMS AND CONDITIONS	27
E.	CHINA CONNECT TERMS AND RISK DISCLOSURES (SHANGHAI AND SHENZHEN STOCK CONNECT)	26-37
F.	RISK DISCLOSURE STATEMENT	38-46

## The Principal Terms and Conditions

### Introduction

These Principal Terms and Conditions contain the terms and conditions governing the Accounts, Transactions and the Services made available by DBS Treasures Private Client.

In the event of conflict, between any provision(s) found in the Account Opening Documentation, the terms and conditions of any Transactions or Services and these Terms and Conditions, the following order of priority shall prevail, subject always to mandatory provisions of applicable Laws:

- (a) the Account Opening Documentation;
- (b) the terms and conditions governing the relevant Transaction or Service; and
- (c) these Terms and Conditions.

In the event of discrepancy between the English and Chinese versions of these Terms and Conditions, the English version shall prevail.

### A. GENERAL TERMS AND CONDITIONS

#### 1 Definitions and Interpretation

- 1.1 In these Principal Terms and Conditions, the following words and expressions have the corresponding meanings wherever appropriate:

**“Account Opening Documentation”** means the account opening document(s) signed by the Customer for the purpose of opening any Account;

**“Accounts”** means the Initial Account(s) referred to in the Account Opening Documentation and any account opened and maintained by the Customer with DBS Treasures Private Client from time to time (whether singly, in joint name or in trust) which is expressly specified to be subject to these Terms and Conditions, excluding the Retail Products Account(s) referred to in the Account Opening Documentation and **“Account”** means any one of such Accounts;

**“Affiliates”** means in relation to the Bank: (a) any entity controlled, directly or indirectly, by the Bank; (b) any entity that directly or indirectly controls the Bank; or (c) any entity directly or indirectly under common control with the Bank. **“Control”** of any entity or person means beneficial ownership directly or indirectly, of more than 50% of the issued ordinary or common share capital (or the like) of the entity or person and **“Affiliate”** shall be construed accordingly;

**“Agent”** means any agent, correspondent, broker, dealer, counterparty, adviser, manager, bank, attorney or Nominee used by the Bank, whether in Hong Kong or elsewhere, and may include Affiliates;

**“Agreement”** means the Account Opening Documentation, these Terms and Conditions and all other agreements or documents signed and/or accepted by the Customer or specified by the Bank from time to time, which together constitute the agreement between the Bank and the Customer, save that the Addenda applies to the Retail Products Account(s) referred to in the Account Opening Documentation only;

**“Assets”** means the Customer’s cash, Investments and any other assets or property, as may be delivered and transferred to the Bank or to the Bank’s order whether by way of security or for management, safe-custody or any purpose whatsoever. Where the Customer is a trustee opening and maintaining the Account for the purposes of a trust, as expressly made known to and acknowledged by the Bank, references to Assets shall be construed to include references to the Assets of such trust, notwithstanding that beneficial ownership of those Assets may vest in persons other than the trustees;

**“Authorised Signatory(ies)”** means any person(s) appointed by the Customer and agreed to by the Bank to give Instructions in relation to any matter regarding the Accounts and their operation;

**“Bank”** means DBS Bank (Hong Kong) Limited, a bank incorporated in Hong Kong with limited liability and licensed under the Banking Ordinance (Cap. 155 of the Laws of Hong Kong) and a registered institution (CE number: AAL664) registered to conduct Type 1 (Dealing in securities), Type 4 (Advising on securities), Type 6 (Advising on corporate finance) and Type 9 (Asset management) regulated activities under the SFO and whose registered office is situated at 11/F, The Center, 99 Queen’s Road Central, Hong Kong, including its successors or assignees;

**“Bank Charges Schedule”** means the applicable schedule of fees, interest rates and other charges of the Bank as determined from time to time by the Bank;

**“Bank Personnel”** means the directors, managers, officers and employees of the Bank;

**“Bullion”** means Paper Gold or Paper Silver;

**“Business Day”** means, unless otherwise defined in the Offering Documents (if applicable), a day (other than Saturday, Sunday or public holiday) on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in Hong Kong;

**“CID Information”** means the client identity information (such as the identity, address, occupation and contact details of the ultimate beneficiary, and the person or entity originating or ultimately responsible for originating the instruction for, or the person that stands to gain the commercial or economic benefit or bear the commercial or economic risks of, a transaction);

**“Clearing House”** means the entity that provides for the clearing and settlement of trades and transactions effected on, or subject to the rules of, the Exchange;

**“Confirmation”** means a written confirmation, advice or contract note issued by the Bank confirming the final terms of a Transaction;

**“Customer”** means the person(s) in whose name(s) the Account is opened and held, and, where there are two or more such persons, means each and all of them jointly and severally, and any reference to “Customer” shall, where the context requires, read as **“Customers”**;

**“Customer Service Hotline”** means the telephone service facility made available by the Bank to Customers for the provision of Services and related information;

**“Data Policy Notice”** means the Bank’s general policy on disclosing customer information (including any personal data)

as set out in any statements, circulars, notice or other communications or terms and conditions the Bank has provided to the Customer;

**"DBS Group"** includes the Bank and its Affiliates together with any of their respective successors and assigns;

**"DBS Treasures Private Client"** means the Treasures Private Client banking department of the Bank;

**"Depository"** means any central depository, settlement system, Clearing House or clearing system (or its nominee company), participant in any clearing system or central depository system in relation to any Asset or any agent, sub-delegate, share registrar or other institution or body authorised by any relevant Exchange;

**"Earmarked Assets"** has the meaning specified in clause A18.2;

**"Event of Default"** has the meaning specified in clause A26.2;

**"Event of Force Majeure"** means events beyond the reasonable control of the affected party, including, but not limited to, any one or more of the following:

- (a) any act of God or sovereign;
- (b) acts, restrictions, regulations, edicts, mandates, refusals to grant any licenses or permissions, changes in policy or prohibitions or measures of any kind on the part of any government or regulatory authority or the exercise of military or usurped powers;
- (c) interruptions, calamity, war, invasion, riots, hostilities, terrorism, sabotage or other blockade or embargo, insurrection, natural disasters, adverse weather conditions, strikes or industrial actions;
- (d) breakdown, malfunction or failure of transmission or power, communication or computer facilities or systems;
- (e) infection or disease epidemic(s) or contamination; and
- (f) a material change in the monetary, political, financial or economic conditions or exchange or capital controls or other moratorium or restrictions on currency exchange or remittance, whether in Hong Kong or elsewhere;

**"Exchange"** means any stock exchange, recognised exchange or quotation system on which the Bank may conduct dealings on the Customer's behalf, including the HKEx;

**"Government Authority"** means any nation, state, de facto or de jure government, any province or other political subdivision thereof, any body, agency, department or ministry, any taxing, monetary, foreign exchange or other authority, court, tribunal, administrative instrumentality or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) and any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government;

**"HKEx"** means the Hong Kong Exchanges and Clearing Limited and any replacement or successor exchange;

**"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;

**"Indebtedness"** means: (a) all sums owing by the Customer to the Bank or that the Customer has covenanted to pay or discharge, whether owing individually, jointly or jointly and severally, including all interest (both before and after any demand or judgment), bank charges, commissions, fees (including legal fees on a full indemnity basis) and any other reasonable cost and expenses charged or incurred by the Bank, in whatever currency the same shall be denominated or owing, whether current or otherwise and whether present, future, actual or contingent, primary or collateral, secured or unsecured; and (b) any amount wrongly credited to any Account or to any of the Customer's accounts with any other bank and which amount the Customer has failed to return to the Bank;

**"Instructions"** means any request, application, authorisation, order or instructions given or deemed given to the Bank by the Customer (including any Authorised Signatory(ies)) through any communication method as the Bank may from time to time offer and includes Telephone Instructions and Remote Instructions;

**"Investment Profile"** has the meaning specified in clause A25.1(a);

**"Investments"** means such investments (exchange traded or over the counter) as the Bank may specify from time to time as acceptable to be transacted through the Accounts including cash, deposits of any nature (including, but not limited to, time deposits and other forms of deposits linked to performance of underlying financial instruments), currency linked investments, equity linked investments, interest rate linked investments, index linked investments, commodity linked investments, Securities, Bullion, commodities and all forms of commodities contract, foreign currencies on a spot, forward or option basis, all forms of derivatives that are a forward, swap, option, cap, floor, collar or other derivative on one or more rates, currencies, commodities, equity securities, equity indices or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value or other benchmarks or underlyings against which payments or deliveries are to be made or any combination of these transactions, warrants, certificate of deposits and other instruments representing rights to receive, purchase and subscribe for or in any property or assets;

**"Law"** means all relevant laws (including statutory enactments, common law and principles of equity), Regulations or other instruments (whether or not having the force of law), of any Relevant Authority (whether in Hong Kong or elsewhere) and any consolidations, amendments, re-enactments or replacements of any of them from time to time;

**"Losses"** means all and any losses, whether direct or consequential, damages, reasonable cost and expenses (including Taxes and legal fees on a full indemnity basis), penalties, actions, proceedings, suits, claims, demands and all other liabilities of whatsoever nature or description howsoever arising and "Loss" shall be construed accordingly;

**"Needs Analysis"** has the meaning specified in clause A25.1(a);

**"Nominee"** means any nominee or custodian appointed by the Bank from time to time;

**"Offering Documents"** means the offering documentation (including any constitutive documents, information memorandum, prospectus, term sheets, offering circular, product booklet, principal brochure, key facts statement and/or term sheet, as applicable) in respect of Investments;

**"Paper Gold"** is expressed in units of one fine troy ounce of gold based upon a 995 fine London Good Delivery gold bar, and represented by credit balances in the Account. Units of gold do not entitle the Customer to specific bars of gold;

**"Paper Silver"** is expressed in units of one troy ounce of silver based upon a 999 fine London Good Delivery silver bar, and represented by credit balances in the Account. Units of silver do not entitle the Customer to specific bars of silver;

**"PIN"** means the personal or telephone identification number or password which is the security code for accessing the Services;

**“Regulation”** includes any by-laws, regulation, rule, decree, directive, notice, order, judgment, request, practice note, policy, interpretation standard, code or guideline (whether or not having the force of law) of any Relevant Authority (whether in Hong Kong or elsewhere) as amended, re-enacted or replaced from time to time;

**“Relevant Authority”** means any Government Authority, statutory, revenue or other regulatory body, Exchange (including any market operated by such Exchange) or Depository whether in Hong Kong or any other jurisdiction;

**“Remote Instructions”** means any Telephone Instruction or Instruction given by facsimile, electronic mail or other electronic means through the use of any username, password (including any password that may be used one time or any other limited period), PIN, secure device or card, code and/or biometric identifier, which the Bank may allow or through such other communication channels or device as the Bank may from time to time approve;

**“Renminbi”** or **“RMB”** means the lawful currency of Mainland China, deliverable in Hong Kong;

**“RMB Stock”** means stock denominated in Renminbi listed on an Exchange;

**“Securities”** means all shares, debentures, stocks, loan stocks, warrants, bonds, notes (including, but not limited to, equity linked notes, currency linked notes, interest rate linked notes, index linked notes and commodity linked notes) and any rights, option, interest or derivative in respect of any of the same, unit or interests in any collective investment scheme and other securities that may be prescribed as securities under the SFO, in each case if (and only if) the Bank in its absolute discretion have decided to accept the same as “Securities” under these Terms and Conditions;

**“Services”** means any products, services and facilities from time to time offered by the Bank;

**“SFC”** means the Securities and Futures Commission of Hong Kong and/or any successor or other agency or authority performing or assuming its functions or substantially similar functions;

**“SFO”** means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) as amended, re-enacted or supplemented from time to time;

**“Special Investments”** means any suspended, delisted or defaulted Investments;

**“Taxes”** includes all present or future taxes (including goods and services tax or any value added tax or financial transaction tax), stamp duty, levies, imposts, duties, withholdings or other fees or charges of whatever nature imposed by any authority together with interest thereon and penalties in respect thereof;

**“Telephone Instructions”** means Instructions that are given to the Bank by telephone facilities (operated by voice or other means) whether in accordance with such identity verification or other requirements that the Bank may determine from time to time;

**“Termination Event”** has the meaning specified in clause A26.1;

**“Terms and Conditions”** means the Principal Terms and Conditions comprising these general terms and conditions, the investment services terms, the e-cheques terms, the self-directed investment terms, China Connect Terms and Risk Disclosures (Shanghai and Shenzhen Stock Connect) and the Risk Disclosure Statement, as supplemented, revised or replaced from time to time;

**“Transaction Records”** means any contract notes, receipts, confirmations, reports, advices or any other written document or notice containing the specific terms and conditions of any Investment or Transaction, including Confirmation;

**“Transactions”** means any transactions as the Bank may from time to time permit the Customer to carry out pursuant to or in connection with any Accounts and/or Services, including Investments; and

**“Unincorporated Entity”** means a sole proprietor, partnership or an unincorporated association, club or society.

1.2 In these Terms and Conditions, unless the context requires otherwise:

- (a) where the Bank has any right to make any determination or to exercise discretion as regards any matter, such right or discretion may be exercised by the Bank in such manner as the Bank shall reasonably decide in its sole discretion;
- (b) words suggesting the singular include the plural and vice versa and words importing a gender include every gender;
- (c) headings are inserted for ease of reference only and do not affect the interpretation of any provision; and
- (d) references to:
  - (i) **“Customer”** or **“Customers”** include, where the context permits, the Authorised Signatory(ies), executors, personal representatives, administrators, successors and permitted assigns and, in the case of a partnership, means each of the present and future partners of the partnership;
  - (ii) **“person”** or **“party”** include any individual, company, body corporate, firm, partnership, limited liability partnership and any other business concern, statutory body and agency and Government Authority, whether local or foreign;
  - (iii) any Account name is a reference to the Account product as identified in the Account Opening Documentation or otherwise identified in correspondence with the Customer;
  - (iv) the description or marketing name of the Accounts, products and/or services include a reference to any subsequent changes in the description or marketing name of such Accounts, products and/or services;
  - (v) **“include”, “includes”, “including”, “such as”** or **“for example”** when introducing an example do not limit the meaning of words to which the example relates to that example or examples of a similar kind and are deemed in each instance to be followed by the words **“without limitation”** or **“but not limited to”**;
  - (vi) a document includes any variations, modifications, and/or replacement thereof and supplements thereto;
  - (vii) a statute and other legislations shall be construed as a reference to such statute or legislation in force and as amended, re-enacted or replaced from time to time and any Regulation promulgated or issued thereunder;
  - (viii) all time deadlines are with reference to Hong Kong time; and
  - (ix) a **“day”** is a calendar day.

## 2 Eligibility

The Bank may refuse an application for an Account for any reason without explanation. The Bank may prescribe conditions and/or procedures for the opening and operation of the Account and Services from time to time.

### **3 Signature**

When signing Instructions and any other documentation, the Customer shall use the same signature as the specimen signature on the Bank's record. The Customer must notify the Bank of any change to the specimen signature in writing or by such other method as the Bank may from time to time permit.

### **4 Authorised Signatory(ies)**

- 4.1 The Customer may appoint one or more Authorised Signatory(ies) to give Instructions to the Bank. The Bank is authorised, until it is notified in writing by the Customer that such appointment is varied or revoked, to accept and act in accordance with such Instructions as if they were issued by the Customer, even if such Instructions would be inconsistent with the Customer's earlier Instructions.
- 4.2 All appointments, variations and revocations of appointment of Authorised Signatory(ies) must be delivered to the Bank in writing and, where applicable, by using the form prescribed by the Bank. Such appointment, variation and revocation shall only be effective after it is received by the Bank and seven days or sufficient time has elapsed to allow the Bank to record the appointment, variation or revocation on its operating system.
- 4.3 The Customer must exercise reasonable care, take reasonable precaution and establish adequate controls and security arrangements, including with Authorised Signatory(ies) to prevent unauthorised fund withdrawal or other misuse or forgery in relation to any Account or Service.
- 4.4 The Customer must notify the Bank immediately upon becoming aware of any actual or possible unauthorised use, misuse or forgery. The Bank does not assume any liability or responsibility to the Customer or any third party for the consequences arising out of or in connection with such actual or possible unauthorised use, misuse or forgery save only for reasonably foreseeable Losses resulting directly from the fraud, negligence or wilful default of the Bank or Bank Personnel.
- 4.5 The Customer must immediately notify the Bank in writing or through such other channel as the Bank may prescribe from time to time if a seal or chop used for operating the Account is lost or stolen. The Bank is not liable for any Losses suffered by the Customer arising from a payment or Transaction effected prior to receiving such notification.

### **5 Instructions**

- 5.1 The Customer or any Authorised Signatory may give Instructions to the Bank and the Bank may accept any Instructions given:
  - (a) in writing and delivered in person or by post, courier, electronic mail or facsimile and, if a specimen chop was provided to the Bank, with the affixation of a chop which resembles the specimen chop provided to the Bank;
  - (b) orally through any telephone banking service made available by the Bank from time to time with the Customer's PIN or otherwise over the telephone or in person;
  - (c) electronically through any internet banking service made available by the Bank from time to time or otherwise via the internet; or
  - (d) through any other channel as prescribed by the Bank from time to time.
- 5.2 All Instructions, as understood and acted on by the Bank, shall be binding on the Customer whether given by the Customer or Authorised Signatory(ies) or by any other person purporting to be the Customer or Authorised Signatory(ies). Any Transaction effected pursuant to or as a result of an Instruction shall be binding on the Customer whether or not made by the Customer or with the Customer's authority, knowledge or consent.
- 5.3 Where Authorised Signatory(ies) are required to give Instructions jointly, the Bank is authorised to accept and act on Instructions given or purportedly given by any one of the Authorised Signatory(ies) even if the signing conditions require that more than one person is required to give Instructions.
- 5.4 The Bank shall have no responsibility to assess the prudence or otherwise of any Instruction or to determine the authenticity of any Instruction or to verify the identity or authority of the person giving or purporting to give the Instruction.
- 5.5 All Instructions must comply with any pre-transaction, daily or other monetary limits, or such operating, procedural or other limits or requirements from time to time required by the Bank.
- 5.6 The Bank shall be entitled to act in accordance with its regular business practice and procedures and will only accept Instructions insofar as it considers practicable and reasonable to do so. The Bank reserves the right to prescribe from time to time the channels through which and any conditions and/or procedures subject to which it may accept any Instruction. The Bank may prescribe from time to time the telephone number through which any Telephone Instruction must be given or may require a PIN or such other details or security measures for provision of any Remote Instruction.
- 5.7 The Bank shall be entitled at any time, at its discretion, to refuse to carry out any Instruction. The Bank in so refusing is not obliged to give any reason nor be held responsible for refusing to act on any Instructions. For the avoidance of doubt, for so long as any of the Customer's liabilities remain outstanding, the Bank reserves the right to decline any request by the Customer to withdraw any of the Customer's property which is held by the Customer or effect any Instruction.
- 5.8 Without limiting the generality of the Bank's right to refuse to carry out any Instruction, if the Bank is of the opinion that there are errors, ambiguities or conflict in the Instruction, the Bank shall be entitled to refuse to execute the Instruction until clarification is obtained or to construe and execute the Instruction in the manner in which it is perceived by the Bank and the Bank may refuse to act on any Instruction that is inconsistent with any applicable Law to which the Bank is subject, and in doing so the Bank shall not be liable or have any responsibility of any kind for any Losses thereby incurred or suffered by the Customer.
- 5.9 If the Bank determines that any Instruction or other circumstances may expose or lead it (whether directly or indirectly) to suffer Loss or incur expense or prejudice the Bank's rights or interest or damage or prejudice the Bank's credibility, reputation or standing, it has the right to refuse to carry out the Instruction, suspend the operation of any of the Accounts without notice to the Customer or without giving any reasons for so doing and to require an indemnity from the Customer or any third party before allowing continued operation of the Accounts or complying with the Instruction, and in doing so the Bank shall not be liable or have any responsibility of any kind for any Losses thereby incurred or suffered by the Customer.
- 5.10 The Bank may set cut-off times (details are available on request) by which Instructions must be received in order for the Bank to process on the same day. If Instructions are received after the cut-off times or on a non-Business Day, the



Instruction will be processed at the next Business Day. If the Bank is to act on an Instruction before a deadline, the Customer must ensure that the Instructions are given before any cut-off times or if none are specified, reasonable time is given to the Bank to process the Instruction and to communicate to any relevant third parties. The Bank assumes no liability or responsibility for any failure to carry out Instructions in the event the Customer fails to meet the cut-off times or if the Instructions are not received within a reasonable time before the deadline.

- 5.11 Notwithstanding clauses A5.7 and A16.1, the Bank may at its discretion act on an Instruction notwithstanding insufficiency of funds or lack of credit without prior notice to or approval of the Customer and the Customer shall be responsible for repaying any debit to the relevant Account (including any interest, fees and charges charged thereon by the Bank) as a result.
- 5.12 The Customer agrees that the Bank shall have no obligation or liability for carrying out Instructions or if (despite reasonable efforts), the Instructions cannot reasonably be performed or completed by the Bank in full and on a timely basis. The Bank is entitled to effect partial performance of an Instruction without prior notice to or confirmation from the Customer.
- 5.13 The Customer acknowledges, accepts and agrees that (i) Remote Instructions are not secure communication channels and may be intercepted and altered or given by unauthorised persons and/or for dishonest purposes and (ii) giving Remote Instructions increases the risks of error, misunderstandings and/or conflicts arising. The Customer is willing to accept such risk and agrees to be bound by the resulting Transaction, as understood and carried out by the Bank in good faith. The Customer acknowledges, agrees and/or undertakes that:
- (a) the Bank shall have no liability or responsibility for errors or omission contained in any Remote instruction or any delay in receipt or execution, or any non-receipt of a Remote Instruction, provided that the Bank has acted in good faith;
  - (b) the Bank shall not be liable for any Losses which the Customer may suffer in connection with the Bank acting in accordance with the Remote Instruction including any oral instruction of a person who is not the Customer or the Authorised Signatory(ies), or any facsimile instruction upon which one or more of the signatures may be forged or is otherwise unauthorised;
  - (c) the Bank shall be entitled at any time, at its absolute discretion, to require confirmation of Remote Instructions before carrying them out, or refuse to carry out any Remote Instruction;
  - (d) if the Bank gives a confirmation of any Remote Instruction (not being a Confirmation), the Customer must examine such confirmation and notify the Bank as soon as practicable but no later than within 1 Business Day of its receipt of any error, discrepancy or unauthorised transaction. Unless notified within such period or there is manifest error, fraud or negligence by the Bank, such confirmation shall be deemed correct and conclusive evidence that the Transaction is authorised;
  - (e) a note made by any Bank Personnel of any oral Instruction shall be conclusive and binding evidence of such Instruction, provided that the Bank shall not be obliged to cause any Bank Personnel to make any note of any Instruction and the failure to make such note shall not affect the acceptance by the Bank of the oral Instruction;
  - (f) if any written confirmation of any Remote Instruction is given by the Customer to the Bank, it must be clearly marked: "Confirmation only-do not duplicate". If any confirmation is not clearly marked in this way, the Bank will not be liable for any consequences, including for any Losses if an Instruction is executed more than once; and
  - (g) the Customer should ensure that any fax is sent to the correct fax number of the Bank as advised by the Bank from time to time and the Bank shall have no liability for any claim, loss or damage in relation to any failure on the Customer's part to do so.

## **6 Other Services**

The Bank shall be entitled (but not obliged), without prior notice to or consent from the Customer, to take such steps as it may consider expedient to enable it to provide the Services and exercise its powers under the Agreement including the following:

- (a) to comply with any Law requiring the Bank to take or refrain from action including, to withhold and/or to make payment of any Taxes on behalf of the Customer;
- (b) to comply with all disclosure requests of any Relevant Authority;
- (c) to combine the Customer's orders with orders of other persons (including other customers or employees of the Bank) and the Bank may allocate subscriptions, redemption, distributions, dividends and other payments or purchases in such manner as the Bank considers appropriate subject to the Bank's allocation policies and all applicable Laws. Where orders are aggregated but execution is effected in an amount less than the aggregate amount, allocation will be in accordance with the Bank's allocation policies and all applicable Laws;
- (d) to co-mingle the Assets with the property of other persons;
- (e) to act on the opinion or advice of its legal advisers, accountants, brokers or other professional advisers; and
- (f) generally to do all acts and things which in its opinion are reasonably necessary for or incidental to the provision of the Services.

## **7 RMB Stock**

Before the Customer conducts any Transaction of any RMB Stock via the Account, the Customer will first designate to the Bank a Renminbi savings account maintained with the Bank (which must be with account holder(s) identical to that/those of the Account) as the settlement account for the RMB Stocks Transactions. The Customer will ensure sufficient Renminbi in that Renminbi savings account readily available for settlement and clearing purposes for the RMB Stocks Transactions. If the Renminbi in that Renminbi savings account is insufficient for the aforementioned purposes, the Customer hereby authorises the Bank to (to the extent permitted by the applicable Laws and Regulations) convert all or any credit balance(s) in the Account into Renminbi for the aforementioned purposes at a rate determined by the Bank; and/or unwind the Customer's Transaction(s) despite such unwinding will adversely affect or prejudice the Customer in any respect. The Customer further agrees that the Bank does not guarantee it can provide the relevant Renminbi funding for such currency conversion and the Bank has no duty to conduct such currency conversion.

## 8 Joint Account

If any Account is a joint account:

- (a) these Terms and Conditions and the obligations and liabilities of the joint account holders under any Agreement are binding on each joint account holder jointly and severally;
- (b) unless otherwise agreed by the Bank in writing, each joint account holder is separately and independently entitled to exercise all rights in respect of the Account including to open, operate and close the Account and any Instruction given in accordance with the signing arrangement will be accepted and binding on each and every joint account holder. The Bank need not enquire into the circumstances of any Instructions any joint account holder may give, nor be under any duty to notify or to consult any other joint account holder;
- (c) notwithstanding that another joint account arrangement will apply, the Bank is entitled (but not obliged) to act on any Remote Instruction given by any joint account holder singly and all the joint account holders shall be liable for any such Instruction as if such Instruction was given in accordance with the joint account arrangement;
- (d) if prior to acting on any Instructions, the Bank receives contradictory Instructions, the Bank may, at its discretion, refuse to act unless all joint account holders give consistent Instructions;
- (e) notwithstanding anything to the contrary in clause A37.2 and subject to any applicable Laws, upon receipt of notice of the death of any joint account holder, the Assets shall accrue to and be held by the Bank to the order of the surviving account holder(s) without prejudice to any right the Bank may have in respect of, or arising out of any lien, charge, pledge, set-off, counter-claim or otherwise or to any step or legal proceedings which the Bank may at its discretion choose to take in respect of the Account;
- (f) the Bank may deal separately with any of the joint account holders on any matter, including the full or partial discharge of liability of any joint account holder, without affecting the liability of any other joint account holders;
- (g) in the event of a Termination Event or Event of Default occurring against a joint account holder, the Bank has the right to set off any claims it has or may have against that person against the credit balance in the Account;
- (h) no joint account holder is entitled to enforce any rights or remedies under the Account until all Indebtedness of all joint account holders to the Bank have been fully satisfied;
- (i) any obligation to notify the joint account holders is discharged if the Bank notifies any of them; and
- (j) these Terms and Conditions govern the legal relationship between Customers as joint account holders and the Bank exclusively, irrespective of the internal relationship between the joint account holders themselves.

## 9 Account Statement and Transaction Records

- 9.1 Unless the Bank is not required by Law to do so or otherwise requested by the Customer, a monthly statement for the Accounts and Transaction Records which are automatically and systematically generated by the Bank will be sent to the Customer's mailing address as recorded by the Bank.
- 9.2 The Customer must examine each statement and Transaction Record received and notify the Bank of any error or discrepancy within the timeframe stipulated or if not expressly stipulated, promptly and in the case of monthly statements, within 90 days of delivery. Unless errors or discrepancies are notified within such period, the statement and Transaction Record shall be deemed correct and shall be conclusive and binding upon the Customer (save for manifest error, fraud or negligence on the part of the Bank or Bank Personnel).
- 9.3 Subject to clause A9.2, a statement or certificate in writing signed by the Bank or any person nominated by the Bank or any computer generated statement of the Bank (in the absence of manifest error) is final and conclusive as to the status of the Account, including any amount due to the Bank.
- 9.4 The Bank may decide not to issue any statement if an Account is inactive or there have been no transactions since the previous statement.

## 10 Dormant Accounts

- 10.1 The Bank may consider an Account to be dormant if no transaction is initiated by the Customer for such period as determined by the Bank from time to time.
- 10.2 The Bank may cease to pay interest and/or impose a charge on dormant Accounts. The Bank will give 14 days' prior notice to the Customer when a charge accrues on a dormant Account for the first time, and advise the Customer of the amount of such charges and what can be done to avoid such charges or where the Customer can obtain such information.

## 11 Deposits/Withdrawal

- 11.1 The Bank reserves the right at its discretion to:
  - (a) impose a limit on the amounts that may be deposited or withdrawn;
  - (b) set a minimum deposit amount;
  - (c) levy a charge if the average monthly balance of the Account falls below any minimum balance requirement;
  - (d) pay a lower rate of interest or no interest at all on balances below certain amounts to be determined by the Bank from time to time. The Bank will inform the Customer of the prevailing amount upon enquiry; and
  - (e) impose deposit charges (including for negative interest) on credit balances from time to time.
- 11.2 No deposits or withdrawals of physical cash may be made into the Account without the Bank's prior approval.
- 11.3 The Bank may at any time, without notice or providing a reason to the Customer and without liability, refuse to accept any deposit(s), return all or any part of the deposit(s) or reject Instructions at its discretion.
- 11.4 Withdrawals in whole or in part of any time deposit can only be made upon maturity, provided that the Bank may, at its discretion, allow the Customer to withdraw the deposits prior to maturity subject to such terms and conditions and charges as may be imposed by the Bank. In the absence of Instructions from the Customer, the Bank may in its discretion and without prior notice to the Customer automatically renew the deposit for the same term at the interest rate applicable on the date of maturity.
- 11.5 The Bank is entitled to debit any sum wrongly credited to the Account without prior notice to or approval of the Customer.

## **12 Fund Transfer Services**

- 12.1 Transactions involving transfer of funds between Accounts and/or third parties (whether or not held by the Bank) can only be accepted if the necessary arrangements have been established by the Bank. Such fund transfer transactions, wherever practicable, will be processed on the same day, the next Business Day or on another date as specified by the Customer subject to the consent of the Bank, which shall not be unreasonably withheld.
- 12.2 The Bank may set limitations on the transaction amount, payment recipient, frequency of use or other features for use of the fund transfer services.

## **13 Bank Charges and Fees**

- 13.1 The Customer shall pay to the Bank all fees, applicable charges, commissions, brokerage or any other service charges (including related custodian charges) as shown in the Bank Charges Schedule enclosed (or as notified by the Bank from time to time) and any reasonable expenses incurred by the Bank in connection with the Accounts, Transactions, Services and/or Agreement.
- 13.2 In the event there is any Tax, fee (including transaction fees imposed by the Relevant Authority), charge or cost to be paid, withheld or deducted in respect of the Transaction (for entering into the Transaction or as a result of any payment or delivery made under the Transaction or otherwise) as required by applicable Laws, such amounts will be withheld or deducted from, or charged to, the Customer and the Bank shall have the right to withhold or deduct the same from any amount payable under the Transaction.
- 13.3 The Customer agrees to be bound by the terms relating to tax reporting, withholding and associated requirements specified in the "Tax Requirements Notice" from time to time issued by the Bank, which are incorporated by reference into and shall form part of these Terms and Conditions. A copy of the "Tax Requirements Notice" is available on request at DBS Treasures Private Client or from its website ([www.dbs.com.hk](http://www.dbs.com.hk)).
- 13.4 The Bank is entitled at any time and without prior notice to the Customer to debit the Account in respect of all sums payable by the Customer (including those under clauses A13.1 and A13.2). Any delay in debiting the Account due to insufficient funds does not constitute a waiver or otherwise affect the Bank's rights under these Terms and Conditions. If the debiting of the Account results in the Account becoming overdrawn, interest and charges thereon in accordance with the Bank Charges Schedule shall be payable unless otherwise stipulated by the Bank.
- 13.5 Under insolvency Law, a person may demand the refund of a payment the Bank has received. To the extent the Bank is obliged to do so or it agrees to make a refund, the Bank may treat the original payment as if it had not been made. The Bank is then entitled to its rights against the Customer as if the payment had never been made.
- 13.6 The Bank may take reasonable actions to enforce any provisions of the Agreement, including employing lawyers and/or third party debt collection agents to collect any sums the Customer owes the Bank with advance written notice to the Customer. The Customer shall indemnify the Bank on demand for all reasonable legal and other costs and expenses incurred.

## **14 Rebate and Commission**

- 14.1 The Bank may receive, either directly or indirectly, remunerations, commissions, retrocession fees, monetary or other non-monetary benefits from third parties (including any entities belonging to the DBS Group) in connection with any Account, the provision of Services and/or Transactions. The nature, amount and method of calculating these remunerations, commissions, retrocession fees, monetary or other non-monetary benefits may vary over time, depending on the third parties and/or Transactions.
- 14.2 The Bank or any Affiliates may receive certain monetary and non-monetary benefits from the product issuer for distribution of an investment product. The Bank may also receive monetary benefit from distributing its own investment products. When the Bank distributes investment products issued by an Affiliate, the Bank may not explicitly receive monetary benefits for doing so, but the Bank and/or any Affiliate may nevertheless benefit indirectly from the origination and distribution. Accordingly, the benefits which might be received by the Bank include:
- (a) non-explicit monetary benefits for distributing an investment product which is issued by the Bank or any Affiliate;
  - (b) monetary benefits which are not quantifiable prior to or at the point of sale such as trailer fees and rebates;
  - (c) retrocession fees; and
  - (d) non-monetary benefits such as research and advisory services, market analysis, portfolio analysis, training and seminars.
- 14.3 The Customer hereby consents to the Bank receiving such remunerations, commissions, retrocession fees, monetary or other non-monetary benefits.

## **15 Payment of Interest and Interest Rates**

- 15.1 Interest (which will be rounded up to the nearest currency unit or fractional unit, at the Bank's discretion) accrues daily on the balance of all interest bearing Accounts. The rate and basis of calculation is at the Bank's discretion. Details are available by enquiry via the Customer Service Hotline or the Customer's Relationship Manager. Interest will only accrue on funds which have been successfully credited for value to an Account. Interest due shall be credited to the relevant Account at intervals determined by the Bank from time to time. If an interest bearing Account is closed during an interest period, interest will be paid up to but excluding the day of account closure.
- 15.2 The Bank reserves the right to (at its discretion) pay a lower rate of interest or no interest in respect of an interest bearing Account in circumstances prescribed by the Bank from time to time.

## **16 Overdrawn Accounts**

- 16.1 Unless the Bank has approved credit facilities, no payment, transfer or Transaction will be carried out if the funds held in the Account (together with any available credit facilities) that are required to carry out the same are insufficient and the Bank shall not be liable for any consequences resulting from delay in or non-implementation thereof.
- 16.2 Notwithstanding clause A16.1 above, auto-debits drawn on the Account may be paid notwithstanding that there may be insufficient funds in the Account to meet the payments.
- 16.3 The Bank will consider an Account to be overdrawn if it is overdrawn at the end of a Business Day. Interest and charges in accordance with the Bank Charges Schedule shall be payable on the amount overdrawn unless otherwise stipulated by the Bank.

## 17 Foreign Exchange Transactions

- 17.1 The Bank shall only accept Instructions for currency exchange transactions for such currencies as the Bank may specify from time to time.
- 17.2 The actual exchange rates for currency exchange transactions will be determined by the Bank at the time such transactions are effected. Exchange rates are available by enquiry via the Customer Service Hotline or the Customer's Relationship Manager.
- 17.3 For dealings in Investments and for cash settlement in currencies other than the base currencies of any Account, the Customer acknowledges that there may be profits or losses arising as a result of exchange rate fluctuations which shall be entirely for the Customer's account and at the Customer's risk.

## 18 Set-Off, Lien and Earmarking

- 18.1 In addition to all other rights and remedies available to the Bank and without prejudice to any lien, guarantee, mortgage or other security (now existing or established at a later date), the Bank may at any time without notice (whether before or after demand), liquidate any of the Customer's Assets and set-off, combine, consolidate or merge any balances standing to the credit of any Account (whether subject to notice or not and whether matured or not) and any other obligation of the Bank owed to the Customer towards the reduction and/or satisfaction of any liability owed by or on behalf of the Customer (whether or not monetary or financial value can be attributed to such liability at the relevant time), including (without limitation) any of the Indebtedness whether such Indebtedness is present or future, actual or contingent, joint or several, primary or collateral, accrued or not and notwithstanding whether or not the credit balances and the Indebtedness are in the same currency and the Bank is authorised to effect (or request the effecting of) any necessary transfers and currency exchanges. The Bank will notify the Customer promptly of any such set-off, combination, consolidation or merger where practicable, but failure to do so or any delay in doing so does not invalidate the Bank's exercise of such right.
- 18.2 Without prejudice to any rights which the Bank may be entitled to under applicable Laws or otherwise, the Bank is authorised to earmark any or all of the Assets in the Account (including, for the avoidance of doubt, any credit balance) ("**Earmarked Assets**"), for the purposes of ensuring the settlement of Transactions. The Customer undertakes that the Customer will not withdraw any Earmarked Assets for any purposes without the Bank's express consent. The Bank may (in its sole and absolute discretion) refuse to allow a withdrawal of any Earmarked Assets.

## 19 Charge

- 19.1 In consideration of the Bank agreeing to or continuing to:
- open and operate the Account and make available other Services or accommodation whatsoever, including to giving time and indulgence, to the Customer; and/or
  - enter into Transactions with the Customer,
- the Customer hereby charges, pledges, mortgages, assigns and otherwise creates a first fixed charge to and in favour of the Bank over all the Customer's Assets as a continuing security for the payment and discharge of the Customer's liabilities.
- The charge created hereunder is in addition to, and independent of, any charge, guarantee or other security or right or remedy now or at any time hereafter held by or available to the Bank.
- 19.2 Without prejudice to any provision in these Terms and Conditions, the Customer agrees to perform all such acts and/or execute all such documents as may be necessary for the purpose of perfecting the charge created under this clause A19.

## 20 Delegation

- 20.1 The Bank reserves the right to appoint any other person(s) (whether in Hong Kong or elsewhere) as its Nominee, broker or Agent to perform any Services. The Bank may delegate any of its powers under the Agreement to such person to be carried out in accordance with market practice and the normal dealing and operational practices of such broker or Agent. The Bank will exercise reasonable care in the selection of such person. The Bank assumes no liability or responsibility to the Customer or any third party for the acts or omissions of an Agent, except for any Losses that are reasonably foreseeable and a direct result of the Bank's fraud, negligence or wilful default.
- 20.2 In connection with the provision of Services to the Customer, the Bank is authorised to disclose information about the Customer or any Account to any person to whom it delegates its powers to.

## 21 Undertakings, Representations and Warranties

- 21.1 The Customer undertakes, represents and warrants to the Bank, as of the date of accepting these Terms and Conditions and as of each time an Instruction is given to the Bank or a Transaction is entered into, that:
- where it is a corporation or Unincorporated Entity, the Customer is duly incorporated or otherwise properly constituted and validly existing under the laws of its place of incorporation/constitution and where the Customer is an individual, the Customer is of full age and capacity;
  - the Customer has full capacity, power and authority to execute, deliver, exercise its rights, perform and comply with its obligations under the Agreement;
  - the opening and maintenance of the Account, the giving of Instructions, entering into of Transactions and the Customer's execution and delivery of and performance of its obligations under the Agreement does not and will not violate or conflict with or constitute a default or exceed any limitation under any provision of the constitutional documents (where it is a corporation or Unincorporated Entity) or the constitutive documents of the trust (where it is acting as trustee) or any instrument or agreement with any other party or of any judgment, order, injunction, decree, determination or award of any courts or any judicial, administrative or governmental authority or organisation presently applicable to it or any Laws or regulations;
  - the Agreement constitutes the Customer's legal, valid and binding obligations enforceable against it in accordance with its terms;
  - no action, suit or proceedings at Law or in equity (whether in Hong Kong or elsewhere) before any court, tribunal, arbitral or administrative body or government agency that is likely to affect the legality, validity or enforceability against the Customer of the Agreement or of the Customer's ability to perform the obligations under the Agreement is pending or, to the Customer's knowledge, threatened;

- (f) no legal or other proceedings have been initiated or threatened and no meeting has been convened for the bankruptcy, dissolution, liquidation, winding-up, judicial management, termination of existence or reorganisation of the Customer or for the appointment of a receiver, manager (judicial or otherwise), trustee or similar officer and no arrangement, composition with, or any assignment for the benefit of creditors have been made or proposed to be made against the Customer;
  - (g) except as otherwise notified, the Account(s) is opened, maintained and operated for the Customer's own benefit and all Assets are and will continue to be beneficially owned by the Customer free from any lien, charge or other encumbrance and/or restriction other than created in favour of the Bank;
  - (h) all information in the Account Opening Documentation or other supporting documents delivered to the Bank to facilitate the provision or maintenance of any Services or for the execution of any Transaction, including any information provided to the Bank for the purposes of determining the Needs Analysis and Investment Profile, is true, complete and accurate;
  - (i) the Customer has not been committed or convicted of any serious tax crimes or been subject to any investigation or criminal proceedings, whether in Hong Kong or elsewhere, in relation to tax matters nor does the Customer have knowledge of such investigations or proceedings being taken against the Customer;
  - (j) the purpose of opening of the Account and effecting Transactions is not illegitimate and the Customer will not use the Account as a platform for illegal tax activities and is aware of Hong Kong and the Bank's firm stance against illegal or illicit tax activities;
  - (k) none of the Assets are proceeds of organised crime of the specified offence of a person;
  - (l) the Customer will maintain, and, where necessary, obtain in the future at the Customer's own cost, all consents, licences, approvals required by the Customer to perform and comply with its obligations under the Agreement, including requisite exchange control approvals;
  - (m) the Customer shall conduct such investigation and analysis of the terms and conditions, risks and merits of each Transaction in light of its own circumstances, financial condition and objective and to the extent the Customer deems necessary, obtain independent advice from competent legal, financial, tax, accounting and other professional advisers;
  - (n) the Customer understands the mechanics of the Transaction and the legal, financial, tax and other risks arising in respect of the Transaction and is able to bear any such risk involved (including a total loss) of the investment;
  - (o) the Customer shall consult the Customer's own tax advisors and experts to determine the Customer's tax reporting obligations and shall be responsible for all tax filings and tax duties and obligations; and
  - (p) the Customer shall ensure that all applicable Laws (including all reporting and disclosure requirements and shareholding restrictions) are strictly adhered to and complied with at all times.
- 21.2 Notwithstanding the above clause A21.1, if the Bank solicits the sale of or recommends any financial product to the Customer, the financial product must be reasonably suitable for the Customer having regard to the Customer's financial situation, investment experience and investment objectives. No other provision of these Terms and Conditions or any other document the Bank may ask the Customer to sign and no statement the Bank may ask the Customer to make derogates from this clause A21.2. For the purposes of this clause A21.2 and clause A25.2, "financial product" means any securities, futures contracts or leveraged foreign exchange contracts as defined under the SFO. Regarding "leveraged foreign exchange contracts", it is only applicable to those traded by persons licensed for Type 3 regulated activity.
- 21.3 Where the Customer enters into any Transaction involving the dealing of Investments, the Customer undertakes, warrants and represents that the Customer:
- (a) has obtained necessary employer consent in writing if the Customer is an employee of an intermediary regulated by the SFC; and
  - (b) will on request provide details in writing to the Bank, Agent, and/or other agent(s) and/or Relevant Authority directly, of the person(s) originating any Instruction or the person or entity that stands to gain the commercial or economic benefit and/or bear its commercial or economic risk, as soon as possible but in any case within one Business Day or any other period specified whether or not the requirement to disclose has the force of law and in this regard, consents to the Bank making such disclosures on its behalf.

## 22 Conflicts of Interest

- 22.1 The Bank is part of a large international financial group and acts simultaneously for a large number of clients, as well as for the Bank's own account. As such, conflicts of interest cannot be completely avoided.
- 22.2 Conflicts may arise where:
- (a) the Bank or others in the DBS Group carry on business on behalf of other clients;
  - (b) the Bank gives advice or makes recommendations to the Customer that differ from advice or recommendation given to other clients;
  - (c) the Bank deals on the Customer's behalf through another member of the DBS Group which receives commission;
  - (d) the Bank effects, arranges or gives advice on transactions where the Bank or another member of the DBS Group benefits from a commission, fee, mark-up or markdown payable otherwise than by the Customer or is remunerated by the counterparty to the transaction;
  - (e) a deal or recommendation involves Investments issued by the Bank, another member of the DBS Group, or one of the Bank or DBS Group's clients;
  - (f) the Bank or another member of the DBS Group deals with the Customer as principal for the Bank or DBS Group account or has a long or short position in Investments that are held by the Customer or in which the Bank deals on the Customer's behalf;
  - (g) the Bank matches the Customer's transaction with that of another client by acting as agent on their behalf, as well as on the Customer's behalf;
  - (h) in advising on or executing a transaction, the Bank has knowledge of other actual or potential transactions in the investment concerned;

- (i) the Bank deals or recommends units in collective investment schemes that the Bank or another member of the DBS Group either act as, or advise, the trustee, investment manager or operator of the collective investment scheme or otherwise act in a similar capacity;
  - (j) the Bank or another member of the DBS Group are involved in or act in respect of a new issue, rights issue, takeover or any other transaction or have any other relationship with an issuer of investment which the Bank deals on the Customer's behalf or make recommendations;
  - (k) the Bank deals or recommends Investments that the Bank's officers or employees or those of another member of the DBS Group act as officers or employees of issuers of such Investments; and
  - (l) the Bank deals or recommends Investments where the Bank or another member of the DBS Group acts as issuer or may have alliances or other contractual agreements with the issuer of the Investments. The Bank or another member of the DBS Group may perform or seek to perform broking, investment banking and other banking or financial services for such issuer.
- 22.3 The Bank shall take reasonable steps to avoid conflicts of interest, and where such conflicts cannot be reasonably avoided, the Bank will use reasonable steps to ensure that the Customer (and any other clients, if applicable) is treated fairly and that the Transactions are on terms that are not materially less favourable than if no potential conflict had existed.
- 22.4 Neither the Bank nor any other member of the DBS Group is obliged to notify and be liable to account to the Customer for any fees, profit, commission, remuneration, rebates, discounts, spreads or other benefits or advantages (whether financial or otherwise) made or received from or by reason of such transactions and these amounts will not be set off against the Bank's fees unless otherwise required by applicable Laws.
- 22.5 The Bank is under no duty to the Customer to disclose any information which may come to the Bank's notice in the course of its acting in any other capacity as indicated above in clause A22.2.
- 22.6 The Bank and any other member of the DBS Group may make payments or pay on-going commissions or other benefits or advantages (whether financial or otherwise) to any third party or to other members of the DBS Group in connection with any Account, the provision of Services and/or the handling of Transactions.

## 23 Limitation of Liability

- 23.1 Other than where: (i) a Law prohibits the Bank from excluding; or (ii) there is fraud, negligence or wilful default on the Bank's part, neither the Bank nor any Bank Personnel have any liability or obligation to the Customer or any third party in respect of:
- (a) an Event of Force Majeure;
  - (b) any interruption, delay, corruption, loss or interception of Instructions or other information;
  - (c) the Bank's execution of, or any delay or omission in acting on any Instruction, or any partial completion of or any failure, inability or decision of the Bank not to execute any Instruction or inability to effect any Transaction at the prices or rates quoted at any specific time;
  - (d) any loss of business, goodwill, opportunity or profit;
  - (e) any loss of or diminution in the value of Investments;
  - (f) any imposition or change of any applicable Law, market disruption or fluctuation, restrictions or suspension of trading imposed by any Relevant Authorities;
  - (g) any Losses suffered by the Customer in any way in connection with these Terms and Conditions, including the provision of Accounts and Services;
  - (h) any acts or omissions or bankruptcy or insolvency of any Agent, Relevant Authority, fund manager or issuer of Investments; and
  - (i) any delay in updating the valuation of Assets provided by the Bank.
- 23.2 This clause A23 applies where the Loss arises for any reason and even if the Loss was reasonably foreseeable or the Bank had been advised of the possibility of the Loss.

## 24 Indemnity

- 24.1 In addition to any other indemnity set out in these Terms and Conditions and to the fullest extent permitted by Law, the Customer shall on demand indemnify the Bank and any Bank Personnel against all Losses of any kind and howsoever arising, including legal fees and other expenses (on a full indemnity basis) of any kind sustained or incurred as a direct or indirect result of the Bank:
- (a) accepting or acting on any Instruction or other communication given in accordance with these Terms and Conditions;
  - (b) the Customer's breach of these Terms and Conditions; or
  - (c) the provision of any Services, the maintenance of any Account, the execution of any Transaction or the exercise or preservation of the Bank's powers and rights under these Terms and Conditions by the Bank,
- except in the case of fraud, negligence or wilful default of the Bank and any Bank Personnel.
- 24.2 The Bank is entitled to withhold, retain or deduct such portion from the Assets or such amount(s) from any of the Accounts as it determines to cover any amount which may be owed by the Customer under clause A24.1.

## 25 Customer Acknowledgements

- 25.1 The Customer understands and acknowledges that:
- (a) the Bank shall not be obliged to provide any Services, open any Accounts or enter into any Transaction unless the Bank has conducted such review of the Customer's investment knowledge, expertise and experience or the Customer's financial objectives, financial situation and particular needs ("**Needs Analysis**") and investment profile ("**Investment Profile**"), as the Bank may at its discretion require from time to time, and as the Bank will only take into account circumstances relating to the Customer which the Customer has disclosed to the Bank or that the Bank should be aware of through the exercise of reasonable due diligence, the Bank will not take into account the Customer's investments held outside of the Bank (unless the Customer has specifically disclosed such investments to the Bank);

- (b) any solicitation, recommendation or advice in respect of any Investments is likely to be based on the information provided by the Customer to the Bank and that any inaccurate, incorrect or incomplete information provided by the Customer may affect the recommendation, solicitation and advice to the Customer. The Customer is free either to follow or disregard, in whole or in part, any advice, solicitation, information or recommendation made or given by the Bank;
  - (c) failure to promptly execute and deliver such documents and perform such acts as the Bank (or its Agent) may request from time to time may result in discontinuance of Services or execution of Transactions, delay, additional costs or requirements and/or other consequences in relation to the provision of such Services or execution of Transactions;
  - (d) the Customer has read Section F (*Risk Disclosure Statement*) or Section F (*Risk Disclosure Statement*) has been explained to the Customer and the Customer is aware of the risks of trading Securities, Investments and foreign exchange transactions and is financially able to bear any risks associated therewith;
  - (e) the Customer shall be responsible for the appraisal and independent investigation of any Investment or Transaction and the decision to enter into any Investment or Transaction;
  - (f) the Bank gives no representation, assurance or guarantee as to any investment outcome or any gains or profitability to the Customer;
  - (g) from time to time, the Bank may provide the Customer with advice on an ad hoc basis. However, the Bank does not provide on-going investment advisory services to the Customer and is not responsible for monitoring the Investments in the Account. Where necessary, the Customer should seek the Customer's own investment advice from a suitably qualified adviser;
  - (h) any application for subscription, switching, redemption or other disposal of Investments is subject to approval by the Bank and/or the relevant fund manager/issuer and the Bank assumes no responsibility for ensuring that any application will be approved;
  - (i) any action, or omission taken or suffered, and any delay in acting, by the Bank or any Bank Personnel, if in good faith and in conformity with the Law, shall be binding on the Customer. Where in the Bank's opinion it is required by, or failure to do so would be inconsistent with, any applicable Law to which the Bank or the Customer is subject, the Bank may sell any of the Assets or liquidate any position or unwind any Transaction without prior notice or consent of the Customer;
  - (j) the Bank shall have sole and absolute discretion as to the exercise of any powers and discretions conferred upon the Bank under the Agreement, and shall be in no way responsible for any Losses or inconvenience which may result from the exercise or non-exercise of such powers and discretions;
  - (k) none of the Bank and the Nominee are obliged to verify the validity of the ownership of or title to any Asset and shall not be liable in respect of any defect in ownership or title;
  - (l) the Bank may at its discretion, determine the effective value date in respect of every Transaction. The Bank may approve or reject any payment instructions by reference to the actual or projected account balance as at the transaction date;
  - (m) the actual buy and/or sell price for any Transaction will be determined at the time when such Transaction is effected. Any figures quoted by the Bank or Bank Personnel at any time are for indication only and may not be reflective of current market price. The Bank and Bank Personnel shall have no liabilities whatsoever in respect of such variations;
  - (n) Investments may be acquired in the Bank's or the Nominee's names, but for the Customer's Account and at the Customer's sole risk;
  - (o) the Bank has no obligation to inquire into the purpose or propriety of any Instruction or to see to the application of any funds delivered by the Customer in respect of the Account; and
  - (p) the Bank is not responsible for the effect of any Laws of any relevant country which may be applicable to any Account or to the Assets, and the Customer accepts all the risks of or arising from any such Laws.
- 25.2 To the extent that the Bank does not solicit the sale of or recommend any financial product to the Customer or where any Service is provided as a transactional execution service, to the extent permitted by Law and unless otherwise agreed in writing, the Bank is not acting as the Customer's investment adviser or in a fiduciary capacity to the Customer. The Bank has not given and will not give any representation, guarantee or other assurance as to the outcome of any Investment. The Customer should seek his, her or its own investment advice from a suitably qualified adviser.

## 26 Termination Events and Events of Default

- 26.1 The occurrence at any time of any of the following events shall constitute a "**Termination Event**":
- (a) by reason of an Event of Force Majeure:
    - (i) occurring after a Transaction is entered into: (A) the Bank is prevented from settling such Transaction; or (B) it becomes impossible to settle such Transaction; and/ or
    - (ii) the Bank's performance under these Terms and Conditions is prevented or materially hindered or delayed;
  - (b) after a Transaction is entered into, it becomes unlawful or otherwise prohibited for the Bank or the Customer to settle a Transaction;
  - (c) it becomes impracticable, unlawful or otherwise prohibited for the Bank to perform its obligations under or in respect of the Agreement or any Account or Transaction or to hedge its obligations effectively under the Agreement or any Account or Transaction; or
  - (d) the Bank's books and records show that no Transactions have been initiated by the Customer for 12 months or such shorter period as the Bank may prescribe.
- 26.2 The occurrence at any time of any of the following events with respect to the Customer shall constitute an "**Event of Default**":
- (a) the Customer fails to perform or comply with any provision in the Agreement or any other obligation owed to the Bank;
  - (b) any representation and/or warranty by the Customer pursuant to the Agreement proves to have been false,

- incorrect, or misleading in any material respect;
- (c) the Customer becomes insolvent or unable to pay the Customer's debts as they become due, or stops, suspends or threatens to stop or suspend payment of all or a material part of the Customer's Indebtedness or begins negotiations or takes any other step with a view to the deferral, rescheduling or other readjustment of all or a material part of the Customer's Indebtedness (or of any part of such Indebtedness which the Customer will or might otherwise be unable to pay when due);
  - (d) the Customer fails to comply with any judgment or order made against the Customer within the stipulated time or if any attachment, sequestration, distress, execution or other legal process is issued or levied against the Customer;
  - (e) if the Customer is an individual, the Customer ceases to have capacity in Law to manage the Customer's affairs (whether because of mental incapacity or for any other reason whatsoever);
  - (f) if the Customer is a corporate, it is struck off the register of companies in its place of incorporation or is dissolved;
  - (g) if the Customer is a trust or a trustee, any action is initiated under any applicable Laws of the trust for its administration, management, termination or winding up;
  - (h) any attachment, sequestration, distress, execution or other legal process is issued or levied or an administrator, receiver, judicial manager, trustee-in-bankruptcy, custodian or other similar person has been appointed (or an application for the appointment of any such person has been presented) in respect of Customer or any of the Customer's assets;
  - (i) the Customer becomes involved in or public allegations are made which suggest that the Customer may be involved in abnormal or irregular activities which are not generally accepted customs and practices of a person in the same position;
  - (j) the Customer becomes, or becomes associated with, a person who is the subject of investigation under applicable anti-money laundering, counter-terrorist financing, anti-bribery and corruption or sanctions Laws whether in Hong Kong or elsewhere, or a person named in any list (including the Specifically Designated Nationals and Blocked Persons List administered by the United States Office of Foreign Assets Control) under any sanctions, freezing, anti-terrorism or other programmes enforced and administered by the relevant regulatory authorities or bodies whether in Hong Kong or elsewhere;
  - (k) the Customer consolidates, amalgamates with, or merges into, or transfers all or substantially all its assets or undertaking to another entity and such entity fails to assume all of the Customer's obligations under the Agreements or is in the Bank's opinion materially weaker financially than the Customer;
  - (l) the Customer fails to comply with any undertaking with regard to security, collateral or margin as required by the Agreement including the Customer's failure to deposit additional cash or investments in order to satisfy promptly and in full a demand for security, collateral or margin hereunder within the time specified in such demand;
  - (m) a default, potential event of default, event of default or termination event (howsoever described) occurs or is declared under any document which forms part of the Agreement;
  - (n) any other Indebtedness of the Customer (to whomsoever owing) is not paid when due, or is or is declared to be or is capable of being declared due and payable before its normal maturity by reason of any actual or potential default, event of default or the like (howsoever described);
  - (o) any event or series of events occurs which may, in the Bank's opinion: (i) have a material or adverse effect on the Customer's financial condition, or (ii) have a material or adverse effect on the Customer's ability to perform the Customer's obligations under the Agreement;
  - (p) any licence, consent or registration which is necessary or desirable under the Agreement is not obtained, granted or perfected, or is revoked, withheld, materially modified or ceases to be in full force and effect;
  - (q) the Customer becomes a resident or national of the United States of America;
  - (r) the Bank concludes that any change of the Customer's legal status, tax residency or financial condition or any other event has occurred or circumstance has arisen which in the Bank's opinion (i) may be prejudicial, impractical or may lead to a material increase of cost for the Bank in connection with the provision of Services or for the maintenance of the Account or any Transaction, or (ii) may adversely affect or prejudice the Customer's ability to perform, or the actual performance of, the Customer's obligations under the Agreement or such that it would be contrary to prudent banking practice to allow any of the Customer's obligations to remain outstanding or incur any new obligation to the Customer;
  - (s) the Customer becomes the subject of any investigation by any governmental authority or regulator (including the Independent Commission Against Corruption, the Inland Revenue Department and the Hong Kong Police Force), whether in Hong Kong or any other jurisdiction;
  - (t) any order or warrant is issued against the Customer or the Assets under applicable anti-money laundering or counter-terrorist financing Laws or if the Customer becomes (or become associated with) an individual and/or entity named in any list under any sanctions, freezing, anti-terrorism or other programs enforced and administered by the relevant regulatory authorities or bodies (including the Specifically Designated Nationals and Blocked Persons List administered by the United States Office of Foreign Assets Control), whether in Hong Kong or elsewhere;
  - (u) any event which, in the Bank's opinion, is a material adverse change or development which may result in material adverse changes in the monetary, political, financial (including conditions in any of the financial markets) or economic conditions or exchange controls, whether in Hong Kong or elsewhere (including changes in stock, bond, currency, interbank or property market conditions, interest rates or foreign exchange controls);
  - (v) any legal proceeding, suit or action of any kind whatsoever (whether criminal or civil) is instituted against the Customer and the Bank is of the opinion that it will or could materially and adversely affect the Customer's ability to perform and observe the Customer's obligations under the Agreement; or
  - (w) any other matter or event which in the sole and absolute opinion of the Bank jeopardises its rights under the Agreement or renders termination necessary or advisable in the interests of the Bank.



## 27 Termination and Suspension

- 27.1 The Bank may terminate the business relationship between the Bank and the Customer and/or the provision of any Services and close or suspend any Account or Service without obligation to provide any reason, by giving not less than 30 days' prior written notice to the Customer (or, in exceptional circumstances, without notice) or (but is not obliged to) immediately without prior notice in the event of a Termination Event or Event of Default.
- 27.2 Upon termination of an Account, the Bank has no further obligation to accept or honour any Instructions in respect of such Account whether dated before or after the Account termination date.
- 27.3 Upon termination of the business relationship between the Bank and the Customer:
- (a) any Indebtedness shall immediately become due and payable to the Bank;
  - (b) if any Transaction is likely to extend beyond the date of termination, the Bank shall at its discretion either close-out or complete such Transaction and shall be entitled to require funds to be paid and/or to retain funds in a sufficient amount, as determined by the Bank, for this purpose, provided that the outstanding transactions will continue to be governed by the provisions of the applicable Agreement; and
  - (c) all acts performed by the Bank prior to receipt of any notice resulting in termination will be valid and binding upon the Customer.
- 27.4 On closure of any Account:
- (a) the Bank may open an account in the Customer's name and allocate any of the Customer's Assets to such account, to be held until such time as the Bank shall (in its sole and absolute discretion) be satisfied that none of the Customer's liabilities to the Bank remain outstanding or it is properly and lawfully instructed, approved or authorised, by any appropriate party or authority, to release or otherwise deal with the Assets, provided that pending such satisfaction the Bank may, in its sole and absolute discretion and on such terms as the Bank may require, continue to accept Instructions;
  - (b) the Bank may, in respect of any Account that is in credit, pay the Customer the balance (after deducting any amount the Customer owes to the Bank) by posting a cashier's order or a banker's draft for the balance to the Customer's last notified mailing address or in any other manner the Bank deems fit, and the Bank shall not be liable to the Customer for any interest on any unclaimed balance on the closed Account;
  - (c) the Customer shall be responsible for all costs and expenses of reasonable amount and reasonably incurred by the Bank by reason of the exercise by the Bank of any of its rights under this clause A27.4; and
  - (d) the Bank shall not be liable for (and the Customer shall not hold the Bank responsible for) any loss, expense, damage, liability or other consequence which the Customer may suffer or incur by reason of the exercise by the Bank of any of its rights under this clause A27.4.
- 27.5 The Bank reserves the right to charge and debit an early closing fee for Accounts closed within three months after first being opened.
- 27.6 Any closure or suspension of an Account or termination of all or any Services shall be without prejudice to the rights or remedies which may then have accrued or still be accruing to the Bank in respect of any outstanding payments to it.
- 27.7 All exclusions and indemnities given by the Customer under the Agreement and the provisions in clauses A18, A23, A24, A27, A30, A33, A36 and A40 shall survive termination.

## 28 Notifications

- 28.1 The Customer undertakes to promptly notify the Bank in writing:
- (a) if any of the representations and warranties in clause A21.1 are no longer accurate or complete;
  - (b) of any change to the information provided to the Bank, including:
    - (i) the beneficial ownership of the Assets;
    - (ii) change in citizenship, residency, tax residency, address(es) on record, telephone, facsimile or mobile number, electronic mail addresses or marital status;
    - (iii) renewal of passport or change in other identity document (such as the Hong Kong identity card), including any change in passport or identity document number or name;
    - (iv) to the Authorised Signatory(ies) or signing requirements in respect of the Account;
    - (v) (in the case the Customer is acting as trustee) change of trustee(s), settlor(s), grantor(s), protector(s), enforcer(s) or beneficiary(ies) of the trust; and
    - (vi) (in the case the Customer is a corporate or Unincorporated Entity) change in its constitutional documents, shareholder(s), partner(s), director(s), company secretary or nature of business.
  - (c) in the event that any order or warrant is issued against the Customer or any of the Customer's assets under any applicable anti-money laundering Laws and counter-terrorist financing Laws, including the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405 of the Laws of Hong Kong), Organised and Serious Crimes Ordinance (Cap. 455 of the Laws of Hong Kong) and the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575 of the Laws of Hong Kong); and
  - (d) of the occurrence of any Event of Default or Termination Event or any event which may potentially constitute an Event of Default or a Termination Event or which with the passing of time or the giving of notice or both, would constitute an Event of Default or any other event which might affect its ability to perform its obligations under or in connection with the Agreement.
- 28.2 The Bank undertakes to notify the Customer in writing in the event of any material change to its name, address, licensing status with the SFC (including the types of regulated activities for which it is licensed and its CE number), the nature of services provided or available to the Customer under these Terms and Conditions, or the remuneration to be paid (and the basis for payment) by the Customer to the Bank under these Terms and Conditions.
- 28.3 If at any time the Customer ceases to be eligible to hold an Investment (whether under applicable Laws or the terms and conditions of such Investment), the Customer undertakes to notify the Bank and agrees that, at the option of the Bank: (a) the Customer shall promptly transfer its interest in the Investment to a person, selected by the Bank or the issuer of the Investment, that is eligible to hold the Investment; or (b) the Bank shall cause: (i) a transfer of the Customer's Investment

to a person, selected by the Bank in its sole discretion, that is eligible to hold the Investment; or (ii) a redemption of the Customer's Investment. The Customer hereby grants to the Bank full authority to transfer and/or redeem the Customer's Investment pursuant to this clause A28.3 and, if requested by the Bank, the Customer shall execute any and all documents, instruments and certificates as the Bank shall have reasonably requested or that are otherwise required to effect this clause A28.3.

## 29 Recording and Document Retention

- 29.1 Further to the Data Policy Notice included in the Customer's Account Opening Documentation and available at [www.dbs.com.hk](http://www.dbs.com.hk), and subject to any applicable Law, the Customer consents to the Bank:
- (a) recording all telephone calls, oral Instructions and electronic mail communication from the Customer and any Authorised Signatory to the Bank; and
  - (b) videotaping or recording them on camera at terminals or other facilities through which Instructions are given.
- 29.2 The Bank may, but is not required to, inform the Customer or any Authorised Signatory on each occasion that it makes such a recording. All such recordings are the property of the Bank and are collected for the purpose of being, and are agreed by the Customer to be, conclusive evidence of the Instructions, information and/or content. The Customer undertakes, represents and warrants that the Customer has notified, and obtained the consent of, its Authorised Signatory(ies) to the recording process described at clause A29.1 above. All such recordings shall be admissible in evidence in any proceedings and the Customer agrees not to challenge or dispute the admissibility, reliability, accuracy or authenticity of the contents merely on the basis that such recordings were incorporated and/or set out in electronic form or are produced or were the output of a computer system.
- 29.3 The Bank may set retention periods after which originals may be destroyed. Microfilm or other imaged copies may be taken and retained in place of the original documents and such imaged versions are regarded as of equivalent authenticity and effect as the originals. Consistent with the Data Policy Notice, the Bank will only keep data for as long as is reasonably required for the purpose for which it was collected.

## 30 Disclosure of Information

- 30.1 The Customer permits the Bank to disclose and/or transfer (whether with or without further notice to the Customer, and whether orally or in writing) to the extent not prohibited by applicable Laws, any information relating to the Customer, Account, Assets and/or any transactions or dealings between the Bank and the Customer (including details of Transactions) in accordance with the Data Policy Notice. In addition to the list set out in paragraph (e) of the Data Policy Notice, the Bank may transfer such information to:
- (a) employees, directors and officers of any Affiliate;
  - (b) any Agent, contractor or third party service provider (or a subsidiary, holding company or related company thereof) that provides financial, administrative, data management or archiving, telecommunications, computer, payment or securities clearing, data processing, market research or other services to the Bank or any of the Affiliates in connection with the operation of its business (including their employees, directors and officers);
  - (c) any person providing a guarantee or security in favour of the Bank to guarantee or secure the Customer's obligations to the Bank or to any professional adviser of such person;
  - (d) any person who has or will incur obligations to the Bank pursuant to which the Customer is providing a guarantee or security in favour of the Bank or to any professional adviser of such person;
  - (e) any professional advisers acting for the Bank or the Customer;
  - (f) such Relevant Authorities to whom the Bank deems fit to disclose information, for purposes in connection with the Account, Services or Transactions;
  - (g) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
  - (h) the insurer, valuer or proposed insurer or valuer of the Asset;
  - (i) credit or charge card companies in credit or charge card enquiries;
  - (j) any person with the consent of the Customer; and
  - (k) pursuant to any contractual or other commitment (which may be within or outside Hong Kong).
- Use of any personal data shall be in accordance with the Bank's Data Policy Notice.
- 30.2 If the Customer provides any personal data of another individual (including the Authorised Signatory(ies)) to the Bank, the Customer undertakes, represents and warrants that the individual has been notified of, and the consent of the individual has been obtained (if required by Law), for the collection, processing, use and disclosure of the individual's personal data in accordance with the terms of the Data Policy Notice.
- 30.3 The Customer further agrees that the Bank may, subject to the terms of the Data Policy Notice and any applicable Law:
- (a) verify, provide and collect data about the Customer from other organisations, institutions or other persons;
  - (b) transfer data outside Hong Kong; and
  - (c) compare any data obtained from the Customer and use the results for the taking of any actions, including actions that may be adverse to the Customer's interest.
- 30.4 The Bank's rights under this clause A30 shall be in addition and without prejudice to any other rights or obligations of disclosure which the Bank may have under any Laws and nothing herein is to be construed as limiting any of those other rights.

## 31 Communications

- 31.1 Any notice or communication to the Customer may be given in writing or orally. If in writing, it may be delivered personally, or by post, courier, facsimile, SMS or electronic mail to the last known address, number or electronic mail details or to such other address, number or electronic mail details as the Customer may have notified the Bank in writing or by other electronic means or on the Bank's website and will be deemed to be given or made or received:
- (a) if delivered personally, at the time left at the relevant address;
  - (b) if sent by post two days after posting or (if overseas) seven days after posting, notwithstanding that it is returned by

- the post office undelivered;
  - (c) if sent by registered mail or courier, on the date it is delivered or delivery is attempted, notwithstanding that it is undelivered or returned undelivered;
  - (d) if sent by facsimile, at the time shown on the transmission report as being successfully sent;
  - (e) if sent by electronic mail or SMS, at the time of delivery from the Bank's electronic messaging system notwithstanding that it was not successfully delivered;
  - (f) if delivered via other electronic means, 24 hours after the Bank sends it notwithstanding that it was not successfully delivered; and
  - (g) if orally, when given to the Customer or person authorised to accept such notice or communication.
- 31.2 If any notice or communication to the Customer is returned undelivered or if the Bank is notified that any particular means of communication is no longer effective, subject to applicable Laws, the Bank may at its discretion cease to use such means of communication and in particular, cease to send any statement to such address, until the Customer has updated the relevant contact information.
- 31.3 Any notice or communication to the Bank must be given in writing at its address notified to the Customer and shall be deemed to be given or made or received only on the day of actual receipt by the Bank and it being agreed that the burden of proving receipt will be on the Customer.

## **32 Amendments**

The Bank reserves the right at its discretion to review, amend, delete, modify or substitute the Bank Charges Schedule, these Terms and Conditions and/or any other terms and conditions which are supplemental to these Terms and Conditions or otherwise change any of the Services (as well as related operating and other requirements) from time to time. For changes which shall result in an increase in the fees or charges payable by the Customer and/or affect the liabilities and obligations of the Customer, the Bank shall give at least 30 days' notice to the Customer unless such changes are not within the Bank's control. In other cases, reasonable notice shall be given. Such notice may be given by such means as the Bank at its discretion sees fit. Any Customer who does not close the relevant Account(s) prior to the effective date of any changes is deemed to have agreed to such changes.

## **33 Illegality and Severance**

If at any time, any provision or any part of any provision of these Terms and Conditions is or becomes illegal, invalid or unenforceable in any respect under Hong Kong Law, the legality, validity or enforceability of the remaining provisions of these Terms and Conditions are not affected or impaired thereby.

## **34 Compliance with Laws**

The Bank may take or omit to take any action which it determines to be necessary in order to ensure compliance with the Laws, which shall bind the Customer, who shall at all times ensure compliance with the same.

## **35 Assignment**

- 35.1 The Agreement is for the benefit of the Bank and its successor, assignee or transferee, notwithstanding the Bank's absorption by or amalgamation with another person.
- 35.2 The Bank may at any time, assign, novate or transfer any of its rights and/or obligations under the Agreement and deliver all or any of the Assets held by the Bank to the successor, assignee or transferee, who shall then be vested with all the rights and/or obligations formerly vested in the Bank and the Bank shall thereafter be relieved and fully discharged from any liability or responsibility thereto.
- 35.3 The Agreement shall be binding on the Customer and the Customer's successors and personal representatives. The Customer may not charge, assign or transfer any right, benefit or obligation under the Agreement to any third party (whether by security or otherwise) without the Bank's prior consent in writing.

## **36 No Waiver**

- 36.1 No failure or delay by the Bank in exercising or enforcing any right or remedy shall constitute a waiver of such right or remedy or limit, prejudice or impair the Bank's right to take any action or to exercise any right or remedy against the Customer without notice or demand, or render the Bank responsible for any Losses arising therefrom nor shall any single or partial exercise by the Bank of its rights preclude any other or further exercise thereof or the exercise of any other rights or remedies. The Rights of the Bank are cumulative and not exclusive of any other rights, power, privilege, claim or remedy available at Law or otherwise.
- 36.2 Without limiting the foregoing, no waiver by the Bank of any breach of the Agreement shall be deemed to be waiver of any subsequent breach by the Customer.
- 36.3 Time shall be of the essence but the Bank may grant time or other indulgence to the Customer or any other person, without in any way impairing or affecting any of the Bank's rights as against the Customer or any such other person.
- 36.4 The Bank may accept late or partial payment of amounts due to the Bank or as settlement of any matters in dispute, without prejudice to any of the Bank's rights under the Agreement or at Law, and it shall not be treated as an amendment to the Agreement nor waiver thereof.

## **37 Change in Status**

- 37.1 The Customer's obligations and liability under the Agreement shall continue to be in full force and effect and be binding on the Customer notwithstanding:
  - (a) (in the case of individuals) the Customer's death, incapacity (whether mental incapacity or otherwise), bankruptcy or other legal disability;
  - (b) (in the case of a corporation) the Customer's winding up, insolvency, dissolution or other legal disability or any change by amalgamation, reconstruction or otherwise which may be made to the Customer's constitution;
  - (c) (in the case of Unincorporated Entity) any change in the partnership's name, structure, membership, partnership deed (or other constitutional documents) or in the partners, in each case whether due to death, bankruptcy, retirement, expulsion, admission of new partners, cessation of business or otherwise; and
  - (d) any change by amalgamation, reconstruction or otherwise which may be made to the constitution of the Bank and any sale of all or any part of the Bank's undertaking and assets to another person.

37.2 Subject to clause A8(e), upon the death of the Customer, all rights in and to the Account and Assets shall automatically pass and be vested in the Customer's personal representatives who shall be liable to the Bank for all charges, obligations and liabilities of all Accounts and Assets. Subject to any applicable legal obligations, the Bank shall hold any Assets for the Customer's personal representative(s) and may release the same (without any liability or obligations) in accordance with the written Instructions of any such personal representative(s).

37.3 The Agreement shall be binding on and enforceable against the heirs, personal representatives and successors in title of the Customer and binding on and enforceable by the successors in title and assigns of the Bank.

**38 Suggestions and Complaints**

The Customer can write to the Bank regarding any suggestions or complaints. Complaints will be dealt with under the Bank's complaint handling procedure.

**39 Third Party Rights**

A person who is not a party to these Terms and Conditions has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce any term of these Terms and Conditions.

**40 Governing Law and Jurisdiction**

40.1 These Terms and Conditions and/or any other terms and conditions which are supplemental to these Terms and Conditions shall be governed by and construed in accordance with the laws of Hong Kong and the Customer irrevocably submits to the non-exclusive jurisdiction of the Hong Kong courts or any court elsewhere as the Bank may elect, whether concurrent or not, and the Customer waives any objections on the ground of venue or forum non conveniens or any similar grounds.

40.2 The Customer agrees (but without limiting the Bank's rights) to services of legal process by registered mail of copies thereof to the Customer's address and/or the address of the Customer's process agent shown in the Bank's records and such service to become effective on the date it is delivered or its delivery is attempted (notwithstanding that it is undelivered or returned undelivered).

## **B. INVESTMENT SERVICES TERMS**

### **1 Services**

- 1.1 The Customer requests and authorises the Bank to open account(s) for the purposes of dealing in or holding Investments, which will be maintained and operated subject to and in accordance with Section A and this Section B.
- 1.2 The Bank may provide all or any of the following services to the Customer, in each case at the Customer's risk:
  - (a) in accordance with Instructions to:
    - (i) purchase or subscribe for Investments;
    - (ii) subscribe or take up rights or new issues in relation to Investments;
    - (iii) sell or otherwise dispose of Investments and to deal with the proceeds;
    - (iv) to enter into any agreement or instrument on behalf of the Customer in connection with Investments; and/or
    - (v) deliver or receive any Assets, the documents of title and any other instruments relating to Assets to the Customer or to the order of the Customer;
  - (b) to hold any Assets which are not fully paid, subject to such conditions as the Bank may decide;
  - (c) to request payment of and to collect and receive interest, dividends, payments or other distributions attributable to any Assets;
  - (d) to credit proceeds of a Transaction and all dividends or other monetary distributions or benefits accrued to any Assets, and debit all payments, costs and other charges arising as a result of a Transaction (on such date as the Bank may determine for the purpose of effecting such Transaction) from, the Account;
  - (e) to credit any Assets received to, and withdraw any Assets pursuant to or as a result of a Transaction (on such date as the Bank may determine for the purpose of effecting such Transaction) from, the Account; and
  - (f) to provide such other services as the Bank may from time to time offer and which the Customer requests.

### **2 Applicable Rules and Regulations**

Each Transaction shall be subject to applicable Laws, by-laws, customs, practices or procedures and the Customer may have varying levels and types of obligations or responsibilities and protection in relation to the Transactions on different markets.

### **3 Client Identity**

- 3.1 The Customer undertakes, represents and warrants that the Customer:
  - (a) will supply CID Information as requested by a Relevant Authority immediately to the Bank (or to any Relevant Authority directly);
  - (b) will continue to provide the CID Information notwithstanding termination of the Bank's Services in relation to any Transaction undertaken by the Bank prior to such termination;
  - (c) has validly and irrevocably waived any right to confidentiality or any benefit of secrecy with respect to CID Information under any applicable secrecy Laws of the ultimate beneficiary of, or the person responsible for originating or ultimately responsible for originating the Instruction for the Transaction; and
  - (d) expressly authorises the Bank to release to the Relevant Authority any CID Information available to the Bank.
- 3.2 The Bank shall refuse the business of those who are not prepared to provide the CID Information to the Relevant Authority within two days of a request to do so.

### **4 Transactions**

- 4.1 Transactions will usually be effected during the Bank's normal working hours on a Business Day but the Bank may, in its absolute discretion, effect a Transaction at other times or days.
- 4.2 The Bank reserves the right to impose a transaction limit for any Transaction from time to time at its discretion.
- 4.3 If the Bank (or its Agent) is not able to perform Instructions in full, the Bank (or its Agent) may (unless otherwise instructed by the Customer) enter into a Transaction for any quantity of Investments which is less than the amount specified in the Instructions and the Customer shall be bound by Transactions so entered into.
- 4.4 Unless the Customer gives specific Instructions that are accepted by the Bank, each Instruction may be treated by the Bank as good for the day only and as lapsed at the end of the official trading day of the relevant Exchange or trading facility.
- 4.5 Unless the Customer has instructed the Bank to the contrary in writing, the Bank may at its discretion effect Transactions for the Customer on any Exchange or market or trading forum whether in Hong Kong or other jurisdictions, and in or through any Clearing House and the Bank may effect Transactions at a non-regulated Exchange or where the Transaction is not regulated by the rules of any Exchange or market, subject always to the Customer meeting certain requirements.
- 4.6 The Bank may cancel or vary the terms of any Instructions or Transaction without prior notice to the Customer where required by the relevant Exchange or applicable Laws.
- 4.7 For Investments that require the Customer to make capital contributions from time to time, the Customer shall ensure there are sufficient funds in the Account to satisfy such commitment calls. If there are insufficient funds as of the deadline stipulated or should the Customer fail to make the required capital contribution, the Bank is authorised to take such action as is required, including to sell the Investment at a price and in such manner as the Bank deems fit and apply the proceeds of sale, after deduction of reasonable charges and expenses, to satisfy any obligations, Indebtedness and liabilities (whether or not monetary or financial value can be attributed to such liability at the relevant time) owed by the Customer to the Bank.

### **5 Transactions in Bullion**

- 5.1 All Transactions in Bullion shall be effected in whole units of ounce(s) or gram(s) or appropriate measurement unit(s) of the respective Bullion, subject to such minimum amount as the Bank may determine from time to time in its sole and absolute discretion.
- 5.2 Any Bullion to be delivered to the Customer shall be reflected by way of a credit to the Account. Any Bullion to be delivered from the Customer shall be reflected by way of a debit from the Account. The credit balance does not entitle the Customer

to any interest or right of whatsoever nature in any Bullion or any Bullion in physical form and any units of measure for any Bullion are for reference only.

- 5.3 Any transfer in of, sale, purchase, delivery or withdrawal of, Bullion into or from the Account in physical form is not permitted.

## **6 Special Investments**

The Customer agrees and acknowledges that in relation to any Special Investments, the Bank may:

- (a) refuse or be unable to hold or arrange for the Special Investments to be held in custody and if so, the Customer undertakes to immediately arrange for the transfer of the Special Investments to another account;
- (b) not be able to transfer the Special Investments to another person or another account;
- (c) charge costs and expenses to maintain custody of the Special Investments or in dealing with such other persons (including the issuer(s), bankruptcy trustee(s), liquidator(s) or regulatory authority(ies), as the case may be);
- (d) only be able to send notices, circulars or other information or documents that the Bank may receive from its custodian (if at all) which may not be timely or updated, and the Customer shall be solely responsible for obtaining such notices, circulars or other information or documents; and
- (e) refuse or be unable to file or continue with any proof of claim or any claim process or class actions or other similar processes and actions and the Customer shall, if so informed by the Bank, do so on its own and at the Customer's own cost.

## **7 Nominee**

7.1 The Customer authorises the Bank to hold any Securities on behalf of the Customer in its own name or through a Nominee. The Bank and the Nominee shall have all requisite powers and authorities to carry out any nominee and/or custody duties (as from time to time determined by the Bank), including:

- (a) to request payment of and receive all interest, dividends and other payments or distributions in respect of the Securities;
- (b) to complete and deliver any document, application or other instrument in connection with the Securities;
- (c) at its discretion to comply with any existing or future Laws in respect of any of the Securities or the holder thereof; and
- (d) to hold, dispose of or otherwise deal in Securities on the Instructions of the Customer.

7.2 The Nominee may retain or deal with the Assets in accordance with the provisions of any charge or mortgage to secure the payment of any amounts due from the Customer to the Bank, including fees, charges and expenses, as from time to time directed by the Bank.

7.3 The Customer shall perform such acts and sign and execute all such agreements, proxies, authorities or documents as may from time to time be required by the Nominee.

7.4 The Customer acknowledges that incentives, shareholder benefits and/or other entitlements arising from or conditional on the Customer holding Assets in the Customer's own name may be lost if such Assets are deposited with and/or held by the Bank or the Nominee.

7.5 If any distributions from the Nominee are received late or if there is any default by the Nominee to make such distribution, the Bank shall not be liable or responsible for such delay or default and shall not be responsible for any Losses suffered by the Customer or for any interest on the sum for any delay or default.

## **8 Custodian, Voting and Other Action**

8.1 The Bank may (but is not obliged to) provide custodian services to the Customer to hold or arrange for Assets to be held in safe custody (in Hong Kong or elsewhere) on the Customer's behalf, subject to the Laws, customs and established practices of the place of custody.

8.2 The Assets may be registered in the name of the Bank or a Nominee, whether in Hong Kong or elsewhere, as determined by the Bank. Provided that the Bank has acted in good faith and used reasonable care in the selection and continued appointment of such Nominee, the Customer agrees that the Bank shall not be responsible for any act, omission or default or for the insolvency of the Nominee. The Customer further agrees that the Bank or Nominee accept no responsibility if applicable Laws, customs and established practices prevent the return of Assets.

8.3 Unless agreed otherwise, the Bank will not accept the deposit of physical scripts nor the conversion from scripless form to physical scripts. The Bank or the Nominee shall not be bound to re-deliver to the Customer identical scrips, certificates or other documents identical with those received from or for the Customer so long as what is re-delivered are of the same class, denomination and nominal amount and rank *pari passu* with those accepted from or for the Customer, subject to any capital reorganisation or share exchange or other relevant corporate event which may have occurred.

8.4 The Bank's duty in respect of the custody of Assets shall be limited to acting as bare trustee and in good faith. For the avoidance of doubt, all cash held by the Bank, including all accruals attaching to any Assets, will be held by the Bank as banker. To the extent not prohibited by applicable Laws, all duties under the Trustee Ordinance (Cap. 29 of the Laws of Hong Kong) are excluded other than those that apply to bare trustees and the Bank's duties and obligations in respect of the custody of Assets are as specified in these Terms and Conditions.

8.5 Where Assets are not registered in the name of the Bank or Nominee, the Bank shall not be under any obligation to request payment of or to receive interest, dividends or other distributions in respect of, or exercise any rights or provide any information to the Customer with regard to, any such Assets.

8.6 Where Assets are registered in the name of the Bank or Nominee (but not otherwise):

- (a) any notices and other communication and information will be provided to the Customer on request or made available on the Bank's website or by such means as the Bank at its discretion sees fit;
- (b) the Bank is not obliged to act as the Customer's proxy or to attend or vote in any meetings and where the Bank agrees to do so, the Bank will act in accordance with Instructions received and subject to such conditions as the Bank may determine; and
- (c) the Bank shall be under no duty to investigate or participate in the exercise of any rights or take any action unless

such Instructions are received by the Bank in time for such actions to be taken and the Bank may impose such conditions, including the giving of any indemnity and the provision of such fees and charges. In the absence of or delay in receiving such Instructions, the Bank may act or refrain from acting as it may deem expedient.

- 8.7 If the Bank receives any distributions from a Nominee and credits the Account with such distributions, and the Nominee subsequently reverses the credit, the Bank is entitled to reverse such credit to the Account, including any interest accrued (if any) on such sums, without prior notice to the Customer. If the Customer has withdrawn the distribution plus interest, if any, from the Account, the Customer undertakes to immediately return the same to the Bank upon demand. The Bank shall not be responsible for any Losses suffered by the Customer in such instances.
- 8.8 Upon termination of the custodian services provided, the Customer shall arrange for the transfer of the Assets from the Bank to the Customer or some other person designated by the Customer. If the Customer fails to complete such arrangements within the time stipulated by the Bank, the Bank may continue to hold the Assets or may cause such Assets to be delivered to the Customer at the Customer's sole risk and expense. The Bank shall be entitled to liquidate any of the Customer's Assets and apply the proceeds of sale to the satisfaction of any liability owed by or on behalf of the Customer (whether or not monetary or financial value can be attributed to such liability at the relevant time), including any payment of all expenses reasonably incurred during the period after termination of the custodian services.

## **9 Short Selling**

Short-selling is prohibited and without detracting from this prohibition, the Customer agrees to immediately notify the Bank when a sale order relates to Securities which the Customer does not own (i.e. involving short selling), otherwise the Bank is entitled to assume for all purposes that the relevant sale is not a short sale. The Bank may at its absolute discretion refuse to act on an Instruction to short sell Securities. The Customer acknowledges and agrees that the Bank has the right to request delivery of such confirmation or documentary evidence as it may deem necessary in relation to any short selling order (including a confirmation that the Customer has a presently exercisable and unconditional right to vest the Securities in the purchaser or has made proper arrangements to cover the trade settlement). If the Bank inadvertently accepts or executes any Instruction without the relevant Securities being available to the Customer, the Bank may at its absolute discretion cancel the Transaction or (at the Customer's cost) obtain the Securities from the market or otherwise for delivery. The Customer shall indemnify the Bank on demand from any loss, liability, claim, damages, costs and expenses that the Bank may suffer or incur as a result of the Customer's short selling Instruction.

## **10 New Issue Application**

- 10.1 For applications for new issues, the Customer undertakes, represents and warrants to the Bank that the:
- (a) Customer's application through the Bank will be the only application made by the Customer;
  - (b) statements made by the Customer in the application form are true, accurate and complete;
  - (c) Customer satisfies all eligibility criteria set out in the Offering Document, application form and other relevant documentation;
  - (d) Customer has read and understood the Offering Document, application form and other relevant documentation and will comply with their terms;
  - (e) Customer is not a shareholder of or in any other way connected to the issuer or any of its affiliates;
  - (f) Customer is fully entitled to make such application and hold the Investments applied for and no breach of any Law or other requirement in any applicable jurisdiction will arise or result from the making or approval of any such application; and
  - (g) Bank is irrevocably authorised to sign and deliver an application and all other necessary documents on the Customer's behalf.
- 10.2 The Customer understands that the foregoing representation and warranty will be relied upon by the Bank in making the application, and by the issuer in deciding whether to make allotment to such application.

## **11 Derivative Position**

Where the Bank provides the Customer with Services in relation to derivative products, the Bank will, upon the Customer's request, provide the Customer with the Offering Documents covering such products.

## **12 Investment Information**

- 12.1 The Bank may from time to time make available to the Customer materials and information of investment opportunities, commentaries or financial information. The Customer agrees and acknowledges that the Bank:
- (a) is under no obligation to make such materials or information available to the Customer;
  - (b) cannot guarantee the accuracy, reliability, adequacy or completeness of any materials or information obtained from third parties (including any published statement and information contained in any Offering Document) and such materials or information may be changed without notice to the Customer; and
  - (c) cannot guarantee the performance or outcome of any Investment made by the Customer after receipt of such materials or information and any Losses suffered as a result of the Customer entering into any Investment are for the account of the Customer.
- 12.2 The Customer acknowledges and agrees that the Customer will make an independent analysis and decision with respect to all dealings in all Assets and Investments.

## **13 Settlement**

- 13.1 All Instructions accepted and all Transactions effected by the Bank are on the basis that the Customer contemplates actual performance. If the Customer fails to make such payment or delivery, the Bank may at its discretion and without further notice or consent from the Customer, reverse or terminate the relevant Transaction at such price and in such quantities as the Bank thinks fit or to proceed to settle the same at the Bank's expense and recover that expense from the Customer. The Bank shall recover from the Customer any Losses suffered or incurred by the Bank as a result of any action taken by the Bank pursuant to this clause B13, without prejudice to any other right which the Bank may have against the Customer. Any profit or gain made shall be forfeited to the Bank and the Customer shall have no claim in respect thereof.
- 13.2 With regard to any Transaction affecting monies in the Account, the Bank is authorised to debit the Account with the

relevant amount (converted, if necessary, at such exchange rate as shall be determined by the Bank). The Customer shall pay any shortfall immediately on demand, together with all charges and interest.

#### **14 Margin**

- 14.1 Before any margin trading facility is made available to the Customer, the Bank shall notify the Customer of the following details: (a) margin requirements; (b) interest charges; and (c) margin calls and the circumstances under which the Customer's positions may be closed without the Customer's consent (to the extent applicable). If the Bank agrees to effect a Transaction on a margin basis, the Customer shall deposit margin in the form of Assets acceptable to the Bank and of sufficient value (duly discounted by the Bank from time to time in accordance with the Bank's prevailing practice) before any Transaction is effected and any time thereafter in order to maintain the open position or contingent liability. The Bank will determine the value of margin to be provided and no previous levels shall bind the Bank in relation thereto.
- 14.2 The margin required may exceed any margin requirements prescribed by any Relevant Authority and may be changed by the Bank from time to time without prior notice. The Bank may demand additional margin from time to time.
- 14.3 Margin calls must be met immediately or within such time as specified by the Bank, failing which, the Bank may without notice to, or consent of the Customer, take such action the Bank considers appropriate, including to close, reverse or terminate the relevant open position or contingent liability at the Customer's expense and/or to sell the Assets in such manner and at such price as the Bank may deem expedient towards the satisfaction of such margin call. The Bank is authorised to debit any amount owing from the Account and any shortfall will be payable to the Bank on demand.
- 14.4 The Assets deposited as margin shall not, without the consent of the Bank, be withdrawn or substituted by the Customer nor should the Customer create or purport to create in favour of any person other than the Bank any security or similar interest over the same.
- 14.5 Where required by a Relevant Authority or counterparty through whom the Bank effects a Transaction, the Customer authorises the Bank to deposit or transfer such margin to such Relevant Authority or counterparty. Such margin will be subject to the rules or regulations of the Relevant Authority and the terms and conditions of the counterparty. Such Relevant Authority or counterparty may be outside Hong Kong and the legal and regulatory regime may be different in the event of their default. The Customer understands and acknowledges that the Relevant Authority or counterparty will, from time to time, call for margin to be deposited to cover the open positions. If the Customer fails to meet the call, the Bank may transfer such Assets and deposit the same with the Relevant Authority or counterparty without further notice or consent from the Customer and/or close-out any open position at such price as the Bank thinks fit and recover any Losses suffered or incurred by the Bank in so doing without prejudice to any other right which the Bank may have against the Customer. If the Customer is asked to put up collateral for an open position, the Bank is authorised to pledge, charge or make other security arrangements over such collateral in favour of the Relevant Authority or counterparty and it is not necessary for the Relevant Authority or counterparty to register the collateral in the Customer's name or in the name of the Bank or Nominee.

#### **15 Closing Out**

Notwithstanding anything in the Agreement to the contrary and whether or not a Termination Event or Event of Default has occurred if, in the opinion of the Bank, any Transaction, or series of Transactions has given rise, or may be liable to give rise, to Losses of any nature (whether secured or not) which in the Bank's opinion should not be allowed to continue or which should be limited, or if required by any Relevant Authority, then, without notice to the Customer, the Bank may, in its sole and absolute discretion, take all actions it considers necessary in the circumstances, including the following:

- (a) (at the Customer's cost) cause such Transaction(s) to be terminated in a manner that the Bank deems appropriate; and/or
- (b) open an account in the Customer's name and allocate any Assets to such account, to be held as security for such Losses, and to hold the same until such time as the Bank in its sole and absolute discretion may require and/or sell such Assets (in a manner that the Bank deems appropriate) and apply the proceeds of sale, after deduction of reasonable charges and expenses, to satisfy any obligations, Indebtedness and liabilities (whether or not monetary or financial value can be attributed to such liability at the relevant time) owed by the Customer to the Bank,

and, in all cases, the Bank shall not be liable to the Customer for any Losses incurred by the Customer in connection with the acts taken by the Bank pursuant to this clause B15.



## C. E-CHEQUES TERMS

### 1 Applicability and Definitions

- 1.1 This Section C applies to the Bank's services relating to e-Cheques. Other agreements between the Customer and the Bank applicable to paper cheques or generally to the Bank's services ("**Other Agreements**") continue to apply to e-Cheques and the Bank's e-Cheques Deposit Services to the extent that they are relevant and not inconsistent with the provisions in this Section C. The provisions of this Section C prevail if there is any inconsistency between them and the provisions in the Other Agreements with respect to the e-Cheques Deposit Services.
- 1.2 For the purpose of the e-Cheques Deposit Services, the following terms have the corresponding meanings:
- (a) "**Bills of Exchange Ordinance**" means the Bills of Exchange Ordinance (Cap. 19, of the Laws of Hong Kong);
  - (b) "**Deposit Channel**" means any channel offered by the Bank from time to time for presentment of e-Cheques for deposit;
  - (c) "**e-Cheque**" has the meaning ascribed to it in the e-Cheque Drop Box Terms;
  - (d) "**e-Cheque Drop Box**" or "**e-Cheque Drop Box Service**" has the meaning ascribed to it in the e-Cheque Drop Box Terms;
  - (e) "**e-Cheque Drop Box Account**" has the meaning ascribed to it in the e-Cheque Drop Box Terms;
  - (f) "**e-Cheque Drop Box Terms**" means all the terms and conditions prescribed by the Relevant Clearing House from time to time for governing the e-Cheque Drop Box Service provided by the Relevant Clearing House and the use of the e-Cheque Drop Box Service;
  - (g) "**e-Cheques Deposit Services**" means the Services offered by the Bank to customers from time to time for depositing e-Cheques;
  - (h) "**Industry Rules and Procedures**" means the rules and operating procedures governing the handling of e-Cheques adopted by the Relevant Clearing House and the banking industry from time to time;
  - (i) "**Payee Bank**" means the bank at which a Payee Bank Account is held;
  - (j) "**Payee Bank Account**" means, in respect of each e-Cheque presented for deposit using the e-Cheques Deposit Services, the bank account of the payee of the e-Cheque maintained with the Bank into which the e-Cheque is to be deposited which may be a sole name or a joint name account of the payee;
  - (k) "**Payer Bank**" has the meaning ascribed to it in the e-Cheque Drop Box Terms; and
  - (l) "**Relevant Clearing House**" means Hong Kong Interbank Clearing Limited and its successors and assigns.

### 2 Nature and Scope of e-Cheques Deposit Services

- 2.1 The Bank may provide e-Cheques Deposit Services at its discretion. If the Bank provides e-Cheques Deposit Services to a Customer, the Customer may deposit e-Cheques. In order to use the e-Cheques Deposit Services, the Customer has to provide such information and documents and accept such terms and conditions which may be required or prescribed by the Bank and the Relevant Clearing House, respectively, from time to time. The Customer may also be required to sign forms and documents prescribed by the Bank from time to time.
- 2.2 e-Cheques Deposit Services allow the Customer and other persons to present e-Cheques (whether payable to the Customer and/or any other holder of the Payee Bank Account) for deposit with the Bank (as Payee Bank), using the e-Cheque Drop Box Service offered by the Relevant Clearing House or using the Bank's Deposit Channels, in accordance with clause C3 below.
- 2.3 The Bank may provide e-Cheques Deposit Services relating to e-Cheques that are issued in any currency specified by the Bank from time to time, including Hong Kong dollars, US dollars or Renminbi.
- 2.4 The Bank has the right to set or vary from time to time the conditions for using the e-Cheques Deposit Services. These conditions may include the following (or any of them):
- (a) the service hours of the e-Cheques Deposit Services (including cut-off times for presenting e-Cheques); and
  - (b) any fees and charges payable by the Customer for the e-Cheques Deposit Services.

### 3 e-Cheques Deposit Services

- 3.1 The e-Cheques Deposit Services may allow presentment of e-Cheques for deposit with the Bank (as Payee Bank) using the e-Cheque Drop Box Service provided by the Relevant Clearing House or using the Bank's Deposit Channels.
- 3.2 e-Cheque Drop Box Service
- (a) The e-Cheque Drop Box Service is provided by the Relevant Clearing House. The Customer is bound by the e-Cheque Drop Box Terms in relation to its use of the e-Cheque Drop Box Service. The Customer is solely responsible for performing its obligations under the e-Cheque Drop Box Terms.
  - (b) In order to use the e-Cheque Drop Box Service, the Customer is required by the e-Cheque Drop Box Terms to register an e-Cheque Drop Box Account with one or more Payee Bank Account for presenting e-Cheques. The Customer is allowed by the e-Cheque Drop Box Terms to register an e-Cheque Drop Box Account with a Payee Bank Account that is its same-name account or an account other than its same-name account. The Customer is responsible for the presentment of all e-Cheques by it or any other person using its e-Cheque Drop Box Account (including presentment of any e-Cheques to a Payee Bank Account other than its same-name account).
  - (c) Any issue relating to the use of the e-Cheque Drop Box Service should be handled in accordance with the e-Cheque Drop Box Terms. The Bank may (but has no obligation to) provide reasonable assistance to the Customer. In particular, the Bank does not have the electronic record or image of any e-Cheque deposited using the e-Cheque Drop Box Service. On the Customer's request, the Bank may (but has no obligation to) provide the date, e-Cheque amount, e-Cheque number, payee name and any other information agreed by the Bank relating to an e-Cheque deposited using the Customer's e-Cheque Drop Box Account.
  - (d) The Bank gives no representation or guarantee, whether express or implied, relating to the availability, quality, timeliness or any other aspect of the e-Cheque Drop Box Service provided by the Relevant Clearing House. Unless otherwise stated in the e-Cheque Drop Box Terms, the Customer bears the responsibilities and risks relating to the use of the e-Cheque Drop Box Service. The Bank is not liable for loss, damage or expense of any kind which the

Customer or any other person may incur or suffer arising from or in connection with the use of the e-Cheque Drop Box Service.

### 3.3 Deposit Channels

The Bank may specify or vary from time to time:

- (a) the available Deposit Channels without notice; and
- (b) the terms governing the use of any Deposit Channel.

## 4 Handling of e-Cheques, Associated Risks and the Bank's Liabilities

4.1 The Customer understands that the Bank and other banks have to follow the Industry Rules and Procedures in the handling, processing, presentment, payment, collection, clearance and settlement of e-Cheques payable to the Customer. Accordingly, the Bank is entitled to collect any e-Cheque payable to the Customer by presenting that e-Cheque to the Payer Bank in accordance with the Industry Rules and Procedures even if the Bills of Exchange Ordinance may not expressly provide for presentment of any e-Cheques or may specify another manner for presentment of any cheques.

4.2 Without reducing the effect of the other provisions of the Other Agreements:

- (a) the Bank is not liable for loss, damage or expense of any kind which the Customer or any other person may incur or suffer arising from or in connection with the use of the e-Cheques Deposit Services or the handling, processing, presentment, payment, collection, clearance or settlement of e-Cheques presented by the Customer or any other person using the Deposit Channels provided by the Bank to the Customer, except to the extent that any loss, damage or expense incurred or suffered is direct and reasonably foreseeable arising directly and solely from the Bank's negligence or wilful default or that of Bank Personnel;
- (b) in particular, and for clarity, the Bank is not liable for loss, damage or expense of any kind which the Customer or any other person may incur or suffer arising from or in connection with the following (or any of them):
  - (i) use of the e-Cheque Drop Box Service by the Customer or any other person, or the e-Cheque Drop Box Terms;
  - (ii) the Customer's failure to comply with its obligations relating to the e-Cheques Deposit Services;
  - (iii) presentment of any e-Cheque payable to the Customer in accordance with the Industry Rules and Procedures despite the provisions of the Bills of Exchange Ordinance; and
  - (iv) any failure or delay in providing the e-Cheques Deposit Services, or any error or disruption relating to the e-Cheques Deposit Services, caused by or attributed to any circumstance beyond the Bank's reasonable control; and
- (c) in no event will the Bank be liable to the Customer or any other person for any loss of profit or any special, indirect, consequential or punitive loss or damages.

4.3 The Customer's confirmation and indemnity

- (a) The Customer accepts the restriction of liabilities and disclaimers imposed by the Bank and the Relevant Clearing House in relation to the e-Cheques Deposit Services and the services provided by the Relevant Clearing House respectively. The Customer accepts and agrees to bear the risks and the liabilities for depositing e-Cheques.
- (b) Without reducing the effect of any indemnity given by the Customer under the Other Agreements or any other rights or remedies that the Bank may have, the Customer will indemnify the Bank and its officers, employees and agents and hold each of them harmless against all liabilities, claims, demands, losses, damages, costs, charges and expenses of any kind (including legal fees on a full indemnity basis and other expenses reasonably incurred) which may be incurred or suffered by the Bank or any of them and all actions or proceedings which may be brought by or against the Bank or any of them as a result of or in connection with the Bank's provision of the e-Cheques Deposit Services or the Customer's use of the e-Cheques Deposit Services.
- (c) The above indemnity does not apply to the extent that it is proved that any liabilities, claims, demands, losses, damages, costs, charges, expenses, actions or proceedings are directly and reasonably foreseeable arising directly and solely from the Bank's negligence or wilful default or that of its officers, employees or agents.
- (d) The above indemnity shall continue to have effect after the termination of the e-Cheques Deposit Services.

## D. SELF-DIRECTED INVESTMENT TERMS AND CONDITIONS

- 1 The Customer may from time to time initiate a purchase, or request for a transfer to the Bank, of an asset or investment product which the Bank may not have carried out any due diligence on or which is not available or supported by the Bank's product platform (each a "**Self-Directed Investment**").
- 2 In consideration of the Bank agreeing to act on the Customer's Instructions to acquire, or accept the transfer of, and/or hold in custody on the Customer's behalf, any Self-Directed Investment, the Customer agrees, represents, warrants and undertakes that:
  - (a) each Self-Directed Investment may be held by the Bank directly or through the Bank's Nominee as the Bank may designate in the Bank's absolute discretion;
  - (b) the Customer shall fulfil and comply with any investor requirements and conditions and other restrictions specified in the Offering Documents, term sheet, subscription agreement and any other relevant document (collectively, the "Product Documentation"), and shall, where applicable, obtain all such approvals as may be required for the acquisition or, as the case may be, transfer, and neither the Bank nor the Nominee shall be under any obligation in this regard;
  - (c) the Customer will promptly, upon the Bank's request, provide the Bank or the Nominee with copies of the Product Documentation and/or such other documents and/or information as may be required in relation to the Self-Directed Investment and the Bank and the Nominee shall be under no obligation to verify if the same are accurate, complete or up to date;
  - (d) where the Bank or the Nominee is required to provide representations and warranties on the Customer's behalf, the Customer shall ensure that each such representation and warranty shall be true, accurate and not misleading as if the same is provided by the Customer and the Customer shall forthwith notify the Bank in writing of any matter arising in the future which may render the representation or warranty untrue, inaccurate or misleading in any way;
  - (e) each acquisition of any Self-Directed Investment is made on the Customer's own initiative and risk, without any solicitation or recommendation on the Bank's part and the Bank is acting in an execution-only capacity and the Customer is not relying on any of the Bank's communication (written or oral) as investment advice;
  - (f) notwithstanding any other agreement between the Customer, the Bank or the Nominee will be holding all Self-Directed Investments on the Customer's behalf as custodian only and neither the Bank nor the Nominee assumes any fiduciary or advisory obligations to the Customer;
  - (g) the Customer has obtained and read all the Product Documentation and where required obtained the Customer's own investment advice from suitably qualified advisers before acquiring any Self-Directed Investment;
  - (h) the Customer will make the Customer's own independent assessment of each Self-Directed Investment, its complexity and associated risks and rely on the Customer's own judgment as to whether it is suitable for the Customer, in light of the Customer's own financial needs, investment experience and investment objectives and the Bank shall be under no obligation in this regard;
  - (i) the Customer will undertake sole responsibility if there is a mismatch between the risk rating of the Self-Directed Investment and the Customer's overall risk profile;
  - (j) where applicable, the Customer will ensure that all applicable laws and regulations (including listing rules and any substantial shareholder reporting and disclosure requirements and restrictions) are strictly adhered to and complied with at all times and the Bank does not need to enquire into or verify the Customer has complied with the same or any action taken by the Customer in connection therewith;
  - (k) the Customer's acquisition or transfer to the Bank of the Self-Directed Investment does not contravene any applicable laws and regulations, including laws and regulations relating to insider dealing, market manipulation and/or any other trading offences;
  - (l) there may be constraints in the Bank's ability to execute the Customer's Instructions to sell or otherwise deal with the Self-Directed Investment on the Customer's behalf;
  - (m) neither the Bank nor the Nominee shall be under any monitoring obligations and responsibilities and, in particular, neither the Bank nor the Nominee shall be under any duty to obtain information (including, but not limited to, information on corporate actions and amendments to the terms and conditions set out in the Product Documentation);
  - (n) the Bank may rely on valuations received from the issuer and/or other third parties for the purposes of reporting to the Customer the value of the Self-Directed Investment and that:
    - (i) the Bank shall be under no duty to seek to verify the basis, accuracy or otherwise of such valuations;
    - (ii) such valuations shall not bind the Bank in any way; and
    - (iii) such valuations may not be up to date; and
  - (o) the Customer shall fully indemnify the Bank and the Nominee on demand against any and all losses, damages, costs, expenses, charges, actions, suits, proceedings, claims or demands which may be brought against the Bank or which the Bank may suffer or incur in connection with the acquisition or transfer of the Self-Directed Investment and/or the custody thereof.

## E. CHINA CONNECT TERMS AND RISK DISCLOSURES (SHANGHAI AND SHENZHEN STOCK CONNECT)

### Part A: Terms for China Stock Connect

#### 1 Applicability

- 1.1 These China Connect Terms and Risk Disclosures (Shanghai and Shenzhen Stock Connect) (as amended from time to time, the **"China Connect Terms"**) shall apply where the Customer informs or indicates to the Bank that the Customer wishes to trade China Connect Securities through China Connect.
- 1.2 These China Connect Terms amend and are supplemental to, and are without prejudice to, the applicable existing terms of business, client account agreements and/or other relevant notices and disclosures between the Customer and the Bank that govern the Bank's provision of securities dealing services to the Customer, whether written or unwritten, in force between the Bank and the Customer as may be amended from time to time (collectively, the **"Terms"**). For any matter relating to China Connect, in the event of any inconsistency between these China Connect Terms and the Terms, the provisions of these China Connect Terms shall prevail.

#### 2 Definitions

Capitalised terms used in these China Connect Terms will have the meanings given below or otherwise in the Terms:

**"A Shares"** means any securities issued by companies incorporated in Mainland China which are listed and traded, from time to time, on the Mainland China A Share market (i.e. the SSE or the SZSE) and not on SEHK;

**"Cash"** means all cash or cash equivalents in Renminbi received and held by the Bank on the terms of these China Connect Terms;

**"CCASS China Connect Rules"** means the general rules of CCASS, as amended for the purposes of implementing China Connect, and as amended, supplemented, modified and/or varied from time to time;

**"ChinaClear"** means China Securities Depository and Clearing Corporation Limited;

**"China Connect"** means the Shanghai Hong Kong Stock Connect and/or the Shenzhen Hong Kong Stock Connect (as the case may be);

**"China Connect Authorities"** means the regulators which regulate China Connect and activities relating to China Connect, including, without limitation, the CSRC, the People's Bank of China, the State Administration of Foreign Exchange, SFC and any other regulator, agency or authority with jurisdiction, authority or responsibility in respect of China Connect;

**"China Connect Entities"** means the exchanges, clearing systems and other entities which provide services relating to China Connect, including, without limitation, SEHK, HKSCC, SEHK Subsidiaries, SSE, SZSE and ChinaClear;

**"China Connect Laws"** means the laws and regulations of Hong Kong and Mainland China from time to time in respect of China Connect or any activities arising from China Connect;

**"China Connect Market"** means SSE and/or SZSE (as the case may be);

**"China Connect Market System"** means the system used for the trading of China Connect Securities on SSE and/or SZSE (as the case may be), as operated by SSE and SZSE respectively;

**"China Connect Rules"** means any rules, policies or guidelines published or applied by any China Connect Authority or China Connect Entity from time to time in respect of China Connect or any activities arising from China Connect;

**"China Connect Securities"** means any securities listed and traded on a China Connect Market which may be traded by Hong Kong and international investors under China Connect;

**"China Connect Service"** means the order-routing service through which Northbound orders placed by an Exchange Participant may be transmitted by a SEHK Subsidiary to the corresponding China Connect Market for the buying and selling of China Connect Securities and any related supporting services;

**"ChiNext Shares"** means any securities listed and traded on the ChiNext Board of the SZSE which may be traded by Hong Kong and international investors under China Connect;

**"Clearing Participant"** has the meaning given to such term in the rules of CCASS;

**"Client Identity Rules"** means the SFC's client identity rules in the SFC's Code of Conduct and Client Identity Rule Policy;

**"Client Securities Rules"** means the Securities and Futures (Client Securities) Rules (Cap. 571H of the Laws of Hong Kong);

**"CSC"** means the China Stock Connect System for receiving and routing orders under China Connect to the trading system on a China Connect Market for automatic matching and execution;

**"CSRC"** means China Securities Regulatory Commission;

**"CSRC China Connect Rules"** means the Several Provisions regarding Mainland China – Hong Kong Stock Connect Mechanism, as promulgated by CSRC to prescribe the launch and operation of China Connect;

**"Exchange Participant"** has the meaning given by the rules of SEHK and shall include DBS Vickers (Hong Kong) Limited or any other affiliate of the Bank as notified by the Bank to the Customer;

**"Forced-sale Notice"** has the meaning given in clause E10.1;

**"H Shares"** means any securities issued by companies incorporated in Mainland China and listed on SEHK;

**"HKEx"** means Hong Kong Exchanges and Clearing Limited;

**"HKSCC"** means the Hong Kong Securities Clearing Company Limited, a wholly owned subsidiary of HKEx;

**"Mainland China"** means the People's Republic of China (excluding Hong Kong, Macau and Taiwan);

**"Mainland China Listco"** means a Mainland China incorporated company which is listed on a Mainland China stock exchange;

**"Mainland China Resident"** means a person who is a citizen of the People's Republic of China and who does not have permanent right of abode in a jurisdiction outside Mainland China;

**"Northbound"** denotes the trading of China Connect Securities by Hong Kong and international investors through China Connect;

**"Pre-Trade Checking"** means the requirement under the China Connect Laws pursuant to which a China Connect Market may reject a sell order if an investor does not have sufficient available China Connect Securities in its account;

**“SEHK”** means the Stock Exchange of Hong Kong Limited;

**“SEHK China Connect Rules”** means the rules of SEHK, as amended for the purposes of implementing China Connect, and as amended, supplemented, modified and/or varied from time to time;

**“SEHK Subsidiary”** means a wholly-owned subsidiary of SEHK duly authorised as an automated trading service provider under the SFO and licensed under applicable laws in Mainland China to provide the order-routing service under China Connect;

**“Shanghai Hong Kong Stock Connect”** means a securities trading and clearing links programme developed or to be developed by SEHK, SSE, HKSCC and ChinaClear for the establishment of mutual market access between SEHK and SSE;

**“Shenzhen Hong Kong Stock Connect”** means a securities trading and clearing links programme developed or to be developed by SEHK, SZSE, HKSCC and ChinaClear for the establishment of mutual market access between SEHK and SZSE;

**“Special China Connect Securities”** means any securities listed on a China Connect Market which SEHK (after consulting with the relevant China Connect Market) accepts or designates as eligible only for China Connect sell orders and not China Connect buy orders;

**“SSE”** means the Shanghai Stock Exchange;

**“SSE China Connect Rules”** means the SSE regulations on the Shanghai Hong Kong Stock Connect which have been published by SSE for the purposes of implementing China Connect, as amended, supplemented, modified and/or varied from time to time;

**“SSE Listing Rules”** means the Rules Governing the Listing of Stocks on SSE, as amended, supplemented, modified and/or varied from time to time;

**“SSE Rules”** means the SSE China Connect Rules and the business and trading rules and regulations of SSE, as amended, supplemented, modified or varied from time to time;

**“SZSE”** means the Shenzhen Stock Exchange;

**“SZSE China Connect Rules”** means the SZSE regulations on the Shenzhen Hong Kong Stock Connect which have been published by SZSE for the purposes of implementing China Connect, as amended, supplemented, modified and/or varied from time to time;

**“SZSE Listing Rules”** means the Rules Governing the Listing of Stocks on Shenzhen Stock Exchange (including the Rules Governing the Listing of Stocks on the ChiNext Board), as amended, supplemented, modified and/or varied from time to time;

**“SZSE Rules”** means the SZSE China Connect Rules and the business and trading rules and regulations of SZSE, as amended, supplemented, modified or varied from time to time;

**“Taxes”** means all taxes (including, but not limited to, all capital gains taxes), duties, levies, imposts, charges, assessments, deductions, withholdings and related liabilities, including additions to tax, penalties and interest imposed on or in respect of: (a) China Connect Securities or Cash; (b) any transaction effected under these China Connect Terms; or (c) the Customer (including, in each of cases (i), (ii) and (iii), as imposed by the relevant authorities in Hong Kong and/or Mainland China); and

**“Trading Day”** means a day on which SEHK is open for Northbound trading for: (a) Hong Kong and Shanghai (in the case of Shanghai Hong Kong Stock Connect); or (b) Hong Kong and Shenzhen (in the case of Shenzhen Hong Kong Stock Connect), where “T day” means the Trading Day on which a transaction is executed and “T+1 day” means the day which is one Trading Day after T day.

2.1 In these China Connect Terms, unless the context requires otherwise:

- (a) references to Clauses are to clauses in these China Connect Terms.
- (b) words suggesting the singular include the plural and vice versa and words suggesting any gender shall include other genders.
- (c) headings are inserted for ease of reference only and do not affect the interpretation of any provision.
- (d) references to:
  - (i) “include”, “includes”, “including”, “such as” or “for example” when introducing an example do not limit the meaning of words to which the example relates to that example or examples of a similar kind and are deemed in each instance to be followed by the words “without limitation” or “but not limited to”;
  - (ii) a document include any variations, modifications, and/or replacement thereof and supplements thereto; and
  - (iii) a statute and other legislations shall be construed as a reference to such statute or other legislations in force and as amended, re-enacted or replaced from time to time and any Regulation promulgated or issued thereunder.

### 3 Eligible Investors

The Customer represents and undertakes on a continuing basis (including, without limitation, on the first day that these China Connect Terms are accepted by the Customer and on each date the Customer places an order or gives an instruction under these China Connect Terms), that:

- (a) (i) if the Customer is a natural person, the Customer is not a Mainland China Resident; or
- (ii) if the Customer is a legal person, it is not an entity incorporated or registered under the laws of Mainland China; or
- (iii) if the Customer is a Mainland China Resident, the Customer is using funds lawfully owned by the Customer and located outside Mainland China to enter into transactions under these China Connect Terms; or
- (iv) if the Customer is an entity incorporated or registered under the laws of Mainland China, the Customer’s entry into of any transaction under these China Connect Terms has been conducted pursuant to any program (including the Qualified Domestic Institutional Investor Program, if applicable) approved by, or any other approval of, any competent Mainland China regulator; and
- (b) the Customer or the Customer’s entry into any transaction under these China Connect Terms does not violate the laws and regulations of Mainland China, including those in relation to foreign exchange control and reporting.

#### **4 Trading of ChiNext Shares**

- 4.1 Subject to clause E4.2 below, the Bank will not accept any orders to buy or sell ChiNext Shares through the China Connect Service from the Customer.
- 4.2 Where, as a result of any distribution of rights (including the right to subscribe for rights issues or open offers) or entitlements, conversion, takeover, other corporate actions or special circumstances arising from China Connect Securities, the Customer receives any ChiNext Shares and such ChiNext Shares are accepted or designated by the SEHK as China Connect Securities or Special China Connect Securities, the Bank may, at its sole discretion, accept sale orders from the Customer to sell such ChiNext Shares through the China Connect Service.

#### **5 Compliance with China Connect Laws and China Connect Rules**

- 5.1 Trading in China Connect Securities will be subject to all China Connect Laws and China Connect Rules.
- 5.2 These China Connect Terms highlight certain key features of China Connect as of the date hereof. The Bank is not liable for any inaccuracies or misstatements in the information set out in these China Connect Terms. These China Connect Terms do not purport to cover all China Connect Laws and China Connect Rules. The Customer understands that the Customer shall be fully responsible for understanding and complying with all China Connect Laws and China Connect Rules and for any consequences of Northbound trading. The Bank does not, and does not intend to, advise the Customer on any China Connect Laws or China Connect Rules.
- 5.3 The Bank shall have the right to apply any procedures or requirements in respect of any trading of China Connect Securities which it determines in its absolute discretion to be necessary or desirable for the purpose of any China Connect Laws, China Connect Rules or market practice. The Bank shall have no liability for any losses or risks which may result directly or indirectly from such procedures or requirements.
- 5.4 The Bank may, in its absolute discretion, refuse to execute any instruction provided by the Customer if such instruction is not or if the Bank reasonably believes may not be compliant with any China Connect Laws or China Connect Rules. The Bank shall have no liability for any losses or risks which may result directly or indirectly from such refusal.
- 5.5 Without limitation to the foregoing, the Bank may, in its absolute discretion, suspend, terminate or limit the Customer's ability to access China Connect through the Bank without advance notice to the Customer, including, but not limited to, where requested or directed by a China Connect Authority.

#### **6 Risk Disclosures and Acknowledgement**

- 6.1 By instructing the Bank in respect of any transaction relating to China Connect Securities, the Customer acknowledges:
  - (a) that it:
    - (i) has read and understood the risk disclosures and other information set out in Part B hereof;
    - (ii) understands that there is a risk of prohibition of trading China Connect Securities; and
    - (iii) understands its obligations set out in Part B hereof, including the consequences of a breach of China Connect Laws;
  - (b) that the Bank shall not be liable for any loss, liability or third party claim or demand that it may suffer directly or indirectly as a result of any action or inaction by the Bank in connection with the provision of Services in respect of China Connect Securities to the Customer by the Bank including, without limitation, the materialisation of any of the risks described in Part B hereof;
  - (c) that SEHK has the power not to extend the China Connect Service to the Customer if it is found that the Customer has or may have committed any abnormal trading conduct set out in the SSE Rules and/or the SZSE Rules (as the case may be);
  - (d) that if the SSE Rules and/or the SZSE Rules (as the case may be) are breached, or the disclosure and other obligations referred to in any China Connect Laws or China Connect Rules are breached, the relevant China Connect Market has the power to carry out an investigation, and may, through SEHK (or any other governmental or regulatory body), require the Bank to:
    - (i) provide relevant information and materials relating to it including, without limitation, its identity and trading activity; and
    - (ii) to assist in a China Connect Authority's investigation in relation to it and/or its trading activity;
  - (e) that where a China Connect Authority considers that there is a serious breach of the SSE Rules and/or the SZSE Rules (as the case may be), the Bank may be required by a China Connect Authority to:
    - (i) issue warning statements (verbally or in writing) to it; and
    - (ii) cease providing it with any service relating to trading China Connect Securities through China Connect;
  - (f) and agrees that prior to the Bank informing the Customer that a Northbound buy order made by the Customer has been settled, it shall not make a Northbound sell order in respect of the China Connect Securities which are the subject of such Northbound buy order;
  - (g) and consents to the Bank providing information relating to its profile, the type and value of Northbound buy and sell orders and transactions executed on its behalf to a China Connect Authority at such intervals and in such form as such China Connect Authority may specify from time to time;
  - (h) and accepts responsibility for paying all fees, charges, levies and Taxes and shall comply with any filing or registration obligations as may be required under any China Connect Laws or China Connect Rules relating to any China Connect Securities and any dividends or entitlements in respect of such China Connect Securities;
  - (i) that SEHK may, upon the request of the relevant China Connect Market, require the Bank to reject its order; and
  - (j) that none of the China Connect Authorities or their respective directors, employees or agents shall be responsible or held liable for any loss or damage that it may suffer, whether directly or indirectly in connection with the trading of China Connect Securities or the operation of the CSC in respect of China Connect Securities.

#### **7 Representations and Undertakings**

- 7.1 The Customer makes the representations set out in this clause E7.1 to the Bank on a continuing basis (including, without limitation, on the first day that these China Connect Terms are accepted by the Customer and on each date that it places

an order or gives an instruction in respect of China Connect Securities) and such representations shall apply to each transaction conducted under the China Connect Terms:

- (a) it is aware of and shall comply with all China Connect Laws and China Connect Rules to which it may be subject;
  - (b) the execution of any instruction it gives to the Bank shall not result in any breach of any China Connect Laws or China Connect Rules;
  - (c) it understands and has assessed the risks relating to China Connect and is willing to undertake such risks;
  - (d) it is not an insider as defined or interpreted under Mainland Chinese laws and it is not in possession of inside information when trading China Connect Securities or procuring others to do so;
  - (e) it does not hold more than 5% of the shares of any Mainland China-incorporated company which is listed and traded on any stock exchange in Mainland China; and
  - (f) in purchasing China Connect Securities, it has no intention to manipulate the market.
- 7.2 The Customer makes the following representations to the Bank on each date it places an order to sell China Connect Securities:
- (a) it does not know of any fact that might impair the validity of such China Connect Securities and it has full authority to receive, deal with and give instructions, authorisations or declarations in respect of the same;
  - (b) there is no adverse claim to such China Connect Securities; and
  - (c) there is no restriction on the transfer of such China Connect Securities other than those expressly provided for under the SEHK China Connect Rules or CCASS China Connect Rules.
- 7.3 The Customer undertakes to the Bank to inform it immediately in writing (and in any event no later than one Business Day after the relevant event) of anything that may potentially render any of the representations in these China Connect Terms inaccurate or misleading.

## **8 Compliance with Pre-Trade Checking Requirements**

- 8.1 The Customer undertakes to:
- (a) comply with any requirements relating to Pre-Trade Checking mandated by the China Connect Authorities, the China Connect Entities or as notified to the Customer by the Bank; and
  - (b) ensure there are sufficient available China Connect Securities in its account by the applicable cut-off time on the applicable day (as notified to it (orally or through email or other means of communication as agreed between the Bank and the Customer) by the Bank from time to time) to cover any proposed sell order given on that Trading Day.
- 8.2 The Customer understands that if the Bank considers that it does not, for whatever reason, have sufficient available China Connect Securities in its account to settle a sell order by the applicable cut-off time (as notified to the Customer by the Bank from time to time), the Bank may in its absolute discretion:
- (a) reject its sell order; or
  - (b) perform any other act which the Bank considers necessary or desirable to comply with Pre-Trade Checking and/or relevant China Connect Laws or China Connect Rules and to cover the shortfall (including, but not limited to, applying any other China Connect Securities available to the Bank from other sources).
- 8.3 In respect of any instruction to make a Northbound buy order, if the Bank determines, in its absolute discretion, that the Customer does not have sufficient funds to settle the payment obligation in respect of such order on the settlement day, the Bank may, in its absolute discretion, reject the buy order.
- 8.4 Any risk, loss or cost resulting from non-compliance or potential non-compliance with Pre-Trade Checking and/or the relevant China Connect Laws or China Connect Rules shall be borne by the Customer. The Customer shall reimburse the Bank for any costs, losses or expenses which the Bank incurs as a result of its failure to deliver in respect of its sell order on such terms and price (including any associated fees and expenses) and at such time as the Bank shall determine in its absolute discretion.

## **9 Settlement and Currency Conversion**

- 9.1 As all Northbound trading is effected and settled in Renminbi, if the Bank does not receive sufficient Renminbi before settlement of a Northbound buy order to settle such purchase of China Connect Securities, settlement may be delayed and/or fail and the Customer may not acquire title to sell or transfer the relevant China Connect Securities. Where the Bank holds any funds on the Customer's behalf, if there are insufficient Renminbi funds to settle any Northbound buy order or other payment obligation in connection with China Connect, the Customer authorises the Bank to convert any funds in another currency which the Bank holds on its behalf into Renminbi at the prevailing exchange rate of the Bank for the purposes of settlement thereof.
- 9.2 Notwithstanding any other provisions in the Terms, where it is necessary to convert one currency to another pursuant to these China Connect Terms and if the Bank chooses to do so at its absolute discretion, such conversion may be carried out automatically by the Bank in a commercially reasonable manner without prior notice to the Customer. Any risk, loss or cost resulting from any conversion of one currency into another currency pursuant to these China Connect Terms shall be borne by the Customer. For avoidance of doubt, the Customer understands and acknowledges that the Bank does not have any obligation to make any such conversion.
- 9.3 The Customer agrees that if it fails to settle any payment obligation in relation to an instruction to purchase China Connect Securities in a timely manner, the Bank has the right to immediately and without prior notice to the Customer take such action as the Bank considers appropriate to reduce or eliminate any loss or liability that the Bank suffers or may suffer (including but not limited to taking any steps to sell, realize, dispose of or otherwise deal with the relevant China Connect Securities) and the Customer shall indemnify and hold the Bank harmless for any liabilities, expenses or other losses the Bank may incur in exercising the foregoing right. The Customer further agrees that the Bank shall have no liability to it for any loss, diminution in value or other damages whatsoever for any action or inaction of the Bank or its agents pursuant to this clause.
- 9.4 Notwithstanding any other provisions in the Terms, where the Bank determines that there is insufficient liquidity in RMB to settle any buy orders, the Bank may, in its sole and absolute discretion, reject such buy order.

## 10 Sale, Transfer and Disgorgement

- 10.1 Where, under the terms of the China Connect Rules, the Bank receives notice (a **"Forced-sale Notice"**) from a China Connect Authority requiring the Bank to sell and liquidate a specified number of China Connect Securities, the Bank shall be entitled to issue a corresponding notice (a **"Client Forced-sale Notice"**) to the Customer requesting the Customer to sell and liquidate any number of such China Connect Securities that the Customer holds in its account with the Bank (as determined by the Bank in its sole discretion) within the time period specified by the relevant China Connect Authority, and the Customer undertakes to comply with any such Client Forced-sale Notice.
- 10.2 In relation to any Forced-sale Notice, the Customer authorises the Bank to sell or arrange for the sale of such China Connect Securities on its behalf at such price and on such terms as the Bank may determine, in its absolute discretion, if it fails to comply with a Client Forced-sale Notice in a timely manner, to the extent necessary to comply with all China Connect Laws and China Connect Rules.
- 10.3 Where China Connect Securities owned by the Customer that are the subject of a Client Forced-sale Notice have been transferred from the Clearing Participant that settled the relevant Northbound buy order (the **"Original CP"**) to another Clearing Participant or custodian (the **"Recipient Agent"**), the Customer authorises the Bank to provide instructions to the Recipient Agent on its behalf to return the relevant China Connect Securities to the Original CP for sale and liquidation in accordance with all China Connect Laws and China Connect Rules. The Customer also undertakes to inform the Recipient Agent of such authorisation and, where required, the Customer undertakes to instruct the Recipient Agent to act accordingly.
- 10.4 The Customer authorises the Bank to sell or arrange for the sale of any quantity of China Connect Securities owned by the Customer if the Bank receives notice from any China Connect Authority requiring it to disgorge any profits as a result of the "short swing profit rule", as more fully described under paragraph 21 (Short Swing Profit Rule) of Part B of these China Connect Terms.
- 10.5 In addition to the above, the Customer authorises the Bank to sell, transfer or carry out any other action in relation to China Connect Securities owned by the Customer if the Bank is instructed to do so by any China Connect Authority or if the Bank otherwise determines, in its absolute discretion, that it is necessary or desirable to do so in order to comply with any China Connect Laws or China Connect Rules.
- 10.6 The Bank shall have no liability for any losses or risks which may result to the Customer directly or indirectly from any actions taken by the Bank under this clause.

## 11 Fees and Taxation

- 11.1 The Bank shall be entitled in its absolute discretion, without further notice or demand, forthwith to satisfy any obligation of the Bank or the Customer to pay or account for any amounts in respect of any Taxes by selling, realising or otherwise dealing with, in such manner as the Bank, in its absolute discretion, may determine, all or part of any of the Customer's property held by the Bank for any purpose in any of its accounts, and to apply the proceeds in reduction of all or part of its liability to any tax authority or the Bank.
- 11.2 The Customer is responsible for paying all fees, charges, levies and Taxes, and the Customer undertakes that it will comply with any filing or registration obligations, in each case as may be required under any China Connect Laws or China Connect Rules relating to any China Connect Securities and any dividends or entitlements in respect of such China Connect Securities.
- 11.3 Notwithstanding any other provision in these China Connect Terms, the Bank shall not be responsible for and shall have no liability to the Customer for any damage, liability or loss (including loss of profit) which may result directly or indirectly from any actions taken by the Bank under this clause unless such damage, liability or loss is a direct result of the Bank's fraud, wilful default or negligence.

## 12 Indemnity

In addition and without prejudice to any of the Bank's rights under the Terms or under any other provisions of these China Connect Terms, including without limitation clause E9.3 above, the Customer will indemnify the Bank on a full indemnity basis against any claims, demands, actions, proceedings, damages, costs, expenses, losses and all other liabilities whatsoever arising directly or indirectly from the Bank providing any services to the Customer in respect of its trading or investment in China Connect Securities, including, without limitation, to (a) any Taxes resulting from any trading of China Connect Securities pursuant to China Connect; (b) the materialisation of any risk referred to in Part B hereof; (c) any legal costs which the Bank may incur in connection with any instruction given by the Customer; or (d) any costs incurred in connection with clause E10 (Sale, Transfer and Disgorgement) above, in each case, other than those claims, demands, actions, proceedings, damages, costs, expenses, losses and liabilities which are a direct result of the Bank's fraud, wilful default or negligence.

## 13 Payments in respect of China Connect Securities

- 13.1 All sums payable by the Customer under the Terms shall be paid or accounted for free and clear of any Taxes of any nature now or hereafter imposed, withheld or assessed by any taxing or other authority. If the Customer is required by any Law or Regulation to make any deduction or withholding on account of any Taxes from any such sums payable by it, the Customer shall, together with such sums, immediately pay or account for such additional amount as will ensure that the Bank receives or is credited (free and clear of the Taxes) the full amount which the Bank would have received or been credited if no such deduction or withholding had been required.
- 13.2 Upon the Bank's request, the Customer will promptly forward to the Bank copies of official receipts or other evidence showing that the full amount of any such deduction or withholding has been paid over to the relevant taxing or other authority.

## 14 Miscellaneous

- 14.1 The Customer will provide to the Bank all information (including translations into Chinese, if required) which the Bank requests if such information is requested by an Exchange, regulatory authority or an organisation (whether within or outside Hong Kong) with which HKEx or SEHK has entered into an information sharing arrangement or agreement. The Customer acknowledges that, the Customer's failure to comply with this provision may, among other things, result in the suspension of China Connect Service to it.
- 14.2 The Customer will execute any further documents and provide any materials and/or information as the Bank may reasonably request to enable the Bank to perform its duties and obligations under these China Connect Terms which may become necessary as and when the China Connect Rules are amended from time to time.



14.3 The Bank reserves the right, at its discretion, to review, add to, alter, vary or modify all or any of these China Connect Terms at any time without giving any reason. When any of such changes affect the liabilities and obligations of the Customer, the Bank shall give at least 30 days' notice to the Customer unless such changes are not within the Bank's control. In other cases, reasonable notice shall be given. Such notice may be given by such means as the Bank at its discretion sees fit. Any Customer who does not close the relevant account prior to the effective date of any changes is deemed to have agreed to such changes.

## 15 Governing Law and Jurisdiction

15.1 The parties agree that the governing law and jurisdiction clauses in the Terms shall also apply to these China Connect Terms.

## Part B: Risk Disclosures and Other Information

This Part B describes some of the key risk factors and other information concerning China Connect. This Part B does not disclose all the risks and other significant aspects of Northbound trading through China Connect. I acknowledge that I understand the nature and risks of China Connect and Northbound trading and I have considered carefully (and consulted my own advisers where necessary) whether trading in China Connect Securities is suitable for me in light of my circumstances.

The decision to trade in China Connect Securities is mine, and I have fully understood and am willing to assume the risks associated with China Connect and am able to comply with all relevant China Connect Laws and China Connect Rules. I acknowledge the risks and agree to the terms set out in these China Connect Terms.

I understand the Bank does not represent that the information set out in this Part B is up to date or comprehensive and does not undertake to update the information set out in this Part B. I am responsible for monitoring changes in the China Connect Laws and China Connect Rules and complying with any new requirements.

"I" or "me" means the Customer including the Customer's Authorised Signatory(ies) and "the Bank" means DBS Bank (Hong Kong) Limited.

**THIS IS NOT AN EXHAUSTIVE LIST OF ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF ANY TRANSACTION. THE BANK RECOMMENDS ME TO OBTAIN ALL RELATED TERMS AND CONDITIONS AND CAREFULLY STUDY AND EVALUATE THE SAME AND CONSULT MY OWN LEGAL, TAX AND FINANCIAL ADVISORS OR OTHER PROFESSIONAL ADVISORS AS APPROPRIATE.**

### Home Market Rules

#### 1 Home Market Rules

As Mainland China is the home market of China Connect Securities, the SSE Rules and/or SZSE Rules (as the case may be) and other Mainland China securities laws and regulations shall apply to me. If such rules and regulations are breached, the relevant China Connect Market has the power to carry out an investigation.

Nevertheless, certain Hong Kong legal and regulatory requirements will also continue to apply to Northbound trading.

### Trading and Settlement Restrictions

#### 2 Pre-Trade Checking

SEHK is required to check that, in respect of any Northbound sell orders given by an Exchange Participant, the relevant Exchange Participant holds sufficient available China Connect Securities to be able to fill such Northbound sell orders by the commencement of trading on the Trading Day I wish to execute. Otherwise, I may be unable to execute Northbound sell orders due to Pre-Trade Checking related requirements.

I shall bear any risk, loss, cost or expenses resulting from non-compliance or potential non-compliance with Pre-Trade Checking and/or the relevant China Connect Laws or China Connect Rules and/or the above actions taken by the Bank.

#### 3 Settlement

Northbound trades will follow the A Shares settlement cycle. For settlement of China Connect Securities trades, ChinaClear will debit or credit the securities accounts of its participants (including HKSCC as clearing participant) on T day free of payment and settlement of funds relating to such trading will be effected on T+1. Title to China Connect Securities will not be released until the receipt of confirmation of payment. Accordingly, for purposes of contract notes, the settlement date would be T+1 day when both the securities and the cash are settled. I understand that, until the Bank has enhanced its trading system, stock and money settlements of China Connect Securities may only be reflected in my account on T+1 (as opposed to T day for stock and T+1 for money settlements respectively). This system issue, however, will not affect the time at which title to China Connect Securities will be transferred to me on T+1.

#### 4 Quota Restrictions

Purchases of China Connect Securities are subject to daily quota controls. As a result, there is no assurance that a buy order can be successfully placed through China Connect. Any instruction to buy that has been submitted but not yet executed may be restricted or rejected.

SEHK and the relevant China Connect Market may also set pricing and other restrictions on buy orders in order to prevent the artificial use or filling of the applicable quotas.

#### 5 Restriction on Day Trading

Day (turnaround) trading is not permitted on the Mainland China A Shares market.

#### 6 No Off-Exchange Trading and Transfers

Unless otherwise provided by the CSRC, I understand that the Bank shall not, with certain limited exceptions, trade or provide services to facilitate trading of any China Connect Securities through any venue other than through the China Connect Market System, and the Bank shall not match, execute or arrange the execution of any sale and purchase instructions or any transfer instructions from me in respect of any China Connect Securities in any manner otherwise than through China Connect in accordance with the China Connect Rules.

#### 7 Placing Orders

Only limit orders with a specified price are allowed pursuant to China Connect Laws and China Connect Rules, where buy orders must not be lower than the current best price and sell orders may be executed at or higher than the specified price. Market orders will not be accepted.

**8 China Connect Market Price Limits**

China Connect Securities are subject to a general price limit of a range of percentages based on the previous trading day's closing price. The price limit may be changed from time to time. All orders in respect of China Connect Securities must be within the price limit and any orders with a price beyond the price limit will be rejected by the relevant China Connect Market.

**9 Restrictions on Selling China Connect Securities**

I am prohibited from using China Connect Securities purchased through China Connect to settle any sell orders placed through channels other than China Connect. Accordingly, there may be a limited market and/or lower liquidity for China Connect Securities purchased through China Connect (as compared to the same shares purchased through other channels). In addition, scrip entitlements received by me in respect of China Connect Securities may not be eligible for trading through China Connect. Accordingly, there is a risk of low/no liquidity for such shares received by way of scrip entitlement.

**10 Delisting of Companies Listed on a China Connect Market**

According to the SSE Listing Rules and the SZSE Listing Rules, if any SSE-listed company or SZSE-listed company (as the case may be) is in the delisting process, or its operation is unstable due to financial or other reasons such that there is a risk of being delisted or exposing my interest to undue damage, the SSE-listed company or SZSE-listed company (as the case may be) will be earmarked and traded on the "risk alert board". Any change to the risk alert board may occur without prior notice. I understand that I will only be allowed to sell such shares and are restricted from further buying.

**11 Account Information of Beneficial Owner**

I understand that my identity as the beneficial owner of China Connect Securities which are the subject of a sell order may need to be disclosed to HKSCC and/or relevant Mainland China authorities.

**12 Scripless Securities**

China Connect Securities are traded in scripless form and accordingly, China Connect Securities may not be physically deposited into and/or withdrawn from CCASS.

**13 Short Selling**

Covered short selling of China Connect Securities may be available provided such covered short selling satisfies the requirements specified by the relevant China Connect Authorities. However naked short selling of China Connect Securities is prohibited. I am fully responsible for understanding and complying with short selling requirements as amended from time to time and for any consequences of non-compliance.

**14 Amendment of Orders and Loss of Priority**

Consistent with the current practice in Mainland China, if I wish to amend an order, I must first cancel the original order and then input a new one. Accordingly, order priority will be lost and, subject to the daily quota restrictions, the subsequent order may not be filled on the same Trading Day.

**15 Warning Statements**

I understand that SEHK may require the Bank: (a) to issue warning statements to me; and/or (b) to cease to extend the China Connect Service to me.

**16 Special China Connect Securities**

I understand that SEHK will accept or designate securities which cease to meet the eligibility criteria for China Connect Securities as Special China Connect Securities (provided that they remain listed on the relevant China Connect Market). In addition, any securities or options (which are not already accepted as China Connect Securities) received by me as a result of any distribution of rights or entitlements, conversion, takeover, other corporate actions or abnormal trading activities will be accepted or designated by SEHK as Special China Connect Securities. I understand that I will only be able to sell, but not buy, any Special China Connect Securities.

**17 Margin Trading**

Subject to certain conditions prescribed by the China Connect Authorities, I may only conduct margin trading in certain China Connect Securities as determined by the relevant China Connect Authorities to be eligible for margin trading from time to time. A China Connect Market may suspend margin trading activities in any specific China Connect Security where the volume of margin trading activities in such China Connect Security exceeds certain thresholds and may resume margin trading activities when the volume drops below a prescribed threshold. The Bank shall not have any obligation to update me in respect of the list of eligible margin trading securities or any restrictions or suspensions in respect of margin trading from time to time.

**18 Rights Issuances**

Where I receive as entitlements shares or other types of securities from the issuer of a China Connect Security, whether I can buy and/or sell the entitlement security through China Connect will depend on a number of factors including whether the entitlement security is a China Connect Security, whether or not it is traded in RMB and whether or not HKSCC has put in place arrangements enabling me to do so.

**19 Odd Lot Trading**

Odd lot trading in China Connect Securities is available only for sell orders and all odd lots must be sold in one single order. A board lot order may be matched with different odd lot sell orders, resulting in odd lot trades. Board lot and odd lot orders are matched on the same platform on China Connect and subject to the same share price. The maximum order size is 1 million shares and the tick size is uniformly set at RMB0.01.

**Mainland China and Hong Kong Legal Issues**

**20 Disclosure of Interests**

If I hold or control shares on an aggregate basis in a Mainland China Listco above a certain threshold, I may have to disclose such interest within the period specified by the relevant China Connect Authority, and I must not buy or sell any such shares within a specified period. I may also have to disclose any substantial change in my holdings.

At the same time, I may have to comply with disclosure obligations under Part XV of the SFO.

**21 Short Swing Profit Rule**

Under Mainland China laws, rules and regulations, the "short swing profit rule" requires me to return any profits made from purchases and sales in respect of China Connect Securities of a Mainland China Listco if: (a) my shareholding in the

Mainland China Listco exceeds the threshold prescribed by the relevant China Connect Authority from time to time; and (b) the corresponding sale transaction occurs within the six months after a purchase transaction, or vice versa. I will comply with the "short swing profit rule".

## **22 Foreign Ownership Limits**

Mainland China foreign ownership limits on the number of shares a foreign investor is permitted to hold in a single Mainland China Listco, and on the maximum combined holdings of all foreign investors in a single Mainland China Listco, may have an adverse effect on the liquidity and performance of an investment in China Connect Securities. As a result, I may suffer losses in China Connect Securities.

I understand that if the Bank becomes aware that I have breached (or reasonably believes that I may breach upon execution of further Northbound buy orders) any foreign ownership limits, or if the Bank is so required by any China Connect Authority, including, without limitation to, any Forced-sale Notice issued by the relevant China Connect Market, the Bank will sell any China Connect Securities pursuant to clause E10 (Sale, Transfer and Disgorgement) in Part A of these China Connect Terms if I fail to comply with the corresponding Client Forced-sale Notice in order to ensure compliance with all China Connect Laws and China Connect Rules. In such case, no China Connect Securities buy orders for the relevant China Connect Securities will be accepted until the relevant China Connect Market informs the corresponding SEHK Subsidiary or SEHK that the aggregate foreign shareholding has fallen below a certain percentage. SEHK may determine in its absolute discretion which Exchange Participants and what quantity of China Connect Securities should be subject to a Forced-sale Notice (this will generally be on a "last-in, first-out" basis), and SEHK's (or the relevant SEHK Subsidiary's) own records shall be final and conclusive.

Moreover, under Mainland China laws, where foreign investors hold in aggregate more than a specified percentage of the issued shares of a single Mainland China Listco, upon notification by the relevant China Connect Market to the corresponding SEHK Subsidiary, SEHK and the relevant SEHK Subsidiary are required as soon as practicable thereafter to suspend accepting China Connect Securities buy orders in respect of the relevant China Connect Securities. In such circumstances, the Bank may reject my buy orders until the aggregate shareholding of foreign investors is reduced to below the specified percentage as advised by the relevant China Connect Market.

## **23 Taxation**

I will be fully responsible for any Taxes in respect of China Connect Securities including, without limitation, any other Mainland China Taxes, and will indemnify the Bank from and against all Taxes which the Bank may incur arising in connection with any China Connect Securities which I hold, trade or otherwise deal in.

I understand and agree that the Bank assumes no responsibility for advising on or handling any tax issues, liabilities and/or obligations in connection with China Connect, nor will the Bank provide any service or assistance in this regard. Prior to investing in China Connect Securities, I understand that I should consult my own tax advisers and counsel with respect to the possible tax consequences to me of such investment since such tax consequences may differ in respect of different investors.

## **24 Insider Dealing, Market Manipulation and Other Market Conduct Rules**

Northbound trading through the China Connect will be subject to Mainland China laws and regulations prohibiting activities that constitute market manipulation, insider dealing and related offences. The scope of these restrictions may not be the same as equivalent requirements under Hong Kong laws. In particular, defences applicable under Hong Kong market misconduct rules may not be applicable under Mainland China laws and regulations. I understand that I should seek specialist advice before engaging in trading through China Connect.

## **25 Client Securities Rules and Client Identity Rules**

I understand that as the China Connect Securities traded through China Connect are not listed or traded on SEHK, I will not have protection either under the Client Securities Rules nor under the Client Identity Rules.

## **26 Investor Compensation Fund**

I understand that, in trading China Connect Securities, I will not enjoy the protection afforded by the investor compensation fund established under the SFO.

## **27 Ownership of China Connect Securities**

I acknowledge that: (a) I should conduct my own review of the materials published by HKEx on China Connect in relation to the ownership of China Connect Securities and the applicable China Connect Rules as they may be amended and supplemented from time to time; and (b) I should also consult my own legal advisers to make my own assessment of my rights as a Northbound investor in China Connect Securities.

Under the rules of CCASS, HKSCC is prepared to provide assistance to the beneficial owners of China Connect Securities where necessary. HKEx notes that any beneficial owner who decides to take legal action is responsible for seeking its own independent legal advice to satisfy itself and HKSCC that a cause of action exists and the beneficial owner should be prepared to conduct the action and take up all costs in relation to the action, including providing HKSCC with indemnities and legal representation in proceedings. Further details are set out in the HKEx published materials.

## **28 Stock Lending and Borrowing**

Stock borrowing and lending of China Connect Securities will be permitted only in certain circumstances. Restrictions on the duration of stock loans and record keeping requirements may apply.

### **Clearinghouse Risk**

#### **29 Risk of ChinaClear Default**

If ChinaClear defaults, HKSCC may, but has no obligation to, take any legal action or court proceedings to seek recovery of outstanding China Connect Securities and monies from ChinaClear. If it does so, HKSCC will distribute the China Connect Securities and/or monies recovered to clearing participants on a pro-rata basis as prescribed by the relevant China Connect Authorities. The Bank in turn will only be distributing the China Connect Securities and/or monies to the extent recovered directly or indirectly from HKSCC. Although the likelihood of a default by ChinaClear is considered to be remote, I understand that I should be aware of this arrangement and of this potential exposure before engaging in Northbound trading.

#### **30 Risk of HKSCC Default**

The Bank's provision of services pursuant to these China Connect Terms also depends upon the performance by HKSCC of its obligations. Any action or inaction of the HKSCC or a failure or delay by the HKSCC in the performance of its obligations may

result in a failure of settlement of China Connect Securities and/or monies in connection with it and I may suffer losses as a result. The Bank shall have no responsibility or liability for any such losses.

### **Other Operational Issues**

#### **31 Company Announcements on Corporate Actions**

I understand that I should refer to the website of the relevant China Connect Market and the relevant newspapers for the latest listed company announcements or, alternatively, the HKEx website's page entitled "China Stock Markets Web" (or such other replacement or successor page from time to time) for corporate actions in respect of China Connect Securities. I understand that SSE-listed and/or SZSE-listed issuers (as the case may be) publish corporate documents in Chinese only, and English translations will not be available.

In addition, HKSCC will endeavour to collect and distribute cash dividends relating to China Connect Securities to Clearing Participants participating in China Connect in a timely manner.

Unlike the current practice in Hong Kong in respect of SEHK-listed shares, I understand that I may not be able to attend meetings by proxy or in person.

I understand the Bank does not and cannot ensure the accuracy, reliability or timeliness of any company announcements of corporate actions and accepts no liability (whether in tort or contract or otherwise) for any loss or damage arising from any errors, inaccuracies, delays or omissions or any actions taken in reliance thereon. I understand the Bank has expressly disclaimed all warranties, expressed or implied, as to the accuracy of any company announcement or as to the fitness of the information for any purpose.

#### **32 Disclosure of Information and Publication of Trade Information**

I understand that SEHK may require the Bank to provide information on my identity, profile, and the type and value of my orders in relation to Northbound trading of China Connect Securities and the trades which the Bank executed for me at such intervals and in such form as SEHK may specify from time to time for purposes of their publication, dissemination or public distribution of aggregated information in respect of China Connect Securities trades under China Connect, trading volumes, investor profiles and other related data. SEHK may forward such information to the relevant China Connect Market for surveillance and investigation purposes.

#### **33 Client Error**

I understand that the Bank will not be liable for any loss, damage or expense or consequential loss, damage or expense suffered by me as a result of any trading based on my Instructions. The Bank will not be able to unwind any trade, and I should also take note of the settlement arrangements in respect of China Connect Securities under China Connect, including but not limited to quota restrictions which may affect my ability to mitigate the consequences of any error trades. The Bank shall have no liability for any losses which may result directly or indirectly from such error trades.

The Bank shall have absolute discretion to determine whether to conduct any transfer to rectify any error trade and shall have no obligation to do so. The Bank shall have no liability for any losses which may result directly or indirectly from such error trades or any refusal to conduct a transfer to correct an error trade.

#### **34 Retention of Information**

I acknowledge and accept that the Bank will be required under the China Connect Rules to keep records in relation to Northbound trading for a period of not less than 20 years.

#### **35 China Connect Market System**

The China Connect Market System is a platform for trading of China Connect Securities under China Connect. The Bank is not responsible for any delay or failure caused by any China Connect Market System and I accept all risks arising from trading China Connect Securities through any China Connect Market System. I understand that the Bank shall not be responsible or held liable for any loss or damage directly or indirectly suffered by me arising from or in connection with the China Connect Service or the CSC through Northbound trading including, without limitation, the following:

- (a) a suspension, restriction or cessation of the China Connect Service or the CSC, or any inability to access or use the CSC or the China Connect Service;
- (b) any special arrangement put in place or any action, step or measure taken or not taken to deal with an emergency, including but not limited to the cancellation of any or all China Connect orders input by Exchange Participants;
- (c) any suspension, delay, interruption or cessation of trading of any China Connect Securities;
- (d) any delay, suspension, interruption of trading or of any order cancellation in respect of China Connect Securities as a result of the hoisting of a Typhoon Signal No. 8 or above or the issuance of the Black Rainstorm Warning in Hong Kong;
- (e) any delay or failure to route any China Connect orders, any delay or failure to send any order cancellation requests or to provide the China Connect Service due to any system, communication or connection failure, power outage, software or hardware malfunction or events beyond the control of the Bank or SEHK;
- (f) in the event that a China Connect order which a China Connect Exchange Participant has requested to be cancelled is not cancelled for any reason whatsoever;
- (g) in the event that SEHK or the relevant China Connect Market requires that the Bank reject any order for China Connect Services;
- (h) any delay, failure or error of any China Connect Market System or any system upon which the relevant SEHK Subsidiary is reliant in providing the China Connect Service; and
- (i) any delay or failure to execute, or any error in matching or executing any, China Connect order due to reasons beyond the control of the Bank, SEHK, HKEx or the relevant SEHK Subsidiary including, but not limited to, any action or decision taken or made, or not taken or made, by a China Connect Market, any China Connect Authority or a relevant governmental or regulatory body.

If there is any delay or failure to send any order cancellation requests in the circumstances described in paragraph (e) above, I shall, in the event that the order is matched and executed, remain responsible to the Bank for any settlement obligations in respect of such order.

### 36 **Operational Hours**

SEHK has absolute discretion to determine from time to time the operational hours of the China Connect Service, and will have absolute discretion to change the operational hours and arrangements of the China Connect Service, whether on a temporary basis or otherwise, at any time and without advance notice.

### 37 **RMB Conversion and RMB Risks**

If I belong to certain counterparty types (such as an individual) in certain jurisdictions that are subject to currency conversion restrictions, (as required by the Relevant Authority from time to time) any conversion of any currency into RMB pursuant to clause E9 is subject to any applicable daily maximum conversion limit. Settlement of a Northbound buy order may be delayed and/or fail if there is a delay in converting the relevant currency into RMB. Any risk, loss or cost resulting from any such delay or failure of settlement shall be borne by me.

There are also significant restrictions on the remittance of RMB into and out of Mainland China. If the issuer of the RMB securities is not able to remit RMB to Hong Kong or make distributions in RMB due to exchange controls or other restrictions, the issuer may make distributions (including dividends and other payments) in other currencies. I may therefore be exposed to additional foreign exchange risk and liquidity exposures.

The liquidity and trading price of China Connect Securities may be adversely affected by the limited availability of RMB outside Mainland China and the restrictions on the conversion of RMB. These factors may affect the amount of liquidity in RMB and accordingly adversely affect the market demand for China Connect Securities.

### 38 **Other Risks Associated with Investing in China Connect Securities**

#### *ChiNext Shares*

ChiNext Shares involve a high investment risk. In particular, profitability and other financial requirements for listing on the ChiNext Board are less stringent than the Main Board and the SME Board of the SZSE.

Companies listed on the ChiNext Board may include enterprises in the innovation and technology sector, as well as other start-up and/or growth enterprises with smaller operating scale and share capital. Stock prices may also be more susceptible to manipulation due to fewer circulating shares. Accordingly, the ChiNext Shares may be very volatile and illiquid. In addition, current information on such companies may be limited and may not be widely available.

It may be more common and easier for companies listed on the ChiNext Board to be delisted. The ChiNext Shares may become very illiquid after delisting. I acknowledge that I may suffer a total loss of my investment in the event of a delisting.

I acknowledge that I should seek independent professional advice if I am uncertain of or have not understood any aspect of this Part B or the nature and risks involved in holding or disposal of ChiNext Shares.

#### *General Mainland China Related Risk*

Mainland China is an emerging market that possesses one or more of the following characteristics: a certain degree of political instability, relatively unpredictable financial markets and economic growth patterns, a financial market that is still at the development stage or a weak economy. Emerging markets investments usually result in higher risks such as event risk, political risk, economic risk, credit risk, currency rate risk, market risk, liquidity/gapping risk, regulatory/legal risk, trade settlement, processing and clearing risks and bondholder/shareholder risk.

#### *Equity Risk*

Investing in China Connect Securities may offer a higher rate of return than investing in short term and longer term debt securities. However, I understand that the risks associated with investments in China Connect Securities may also be higher, because the investment performance of China Connect Securities depends upon factors which are difficult to predict. Such factors include the possibility of sudden or prolonged market declines and risks associated with individual companies. The fundamental risk associated with any equity portfolio is the risk that the value of the investments it holds might suddenly and substantially decrease.

#### *General Legal and Regulatory risk*

I will comply with all China Connect Laws and China Connect Rules. Furthermore, I understand that any change in any China Connect Laws or China Connect Rules may have an impact on the market sentiment which may in turn affect the performance of China Connect Securities. I understand that it is impossible to predict whether such an impact caused by any such change will be positive or negative for China Connect Securities. I understand that, in the worst case scenario, I may lose a material part of my investments in China Connect Securities.

## F. RISK DISCLOSURE STATEMENT

In this Risk Disclosure Statement, “**you**” means the person(s) who open(s) an account or establish(es) a relationship with the Bank, including any Authorised Signatory(ies), “**we**” or “**the bank**” means DBS Bank (Hong Kong) Limited and “**your**”, “**our**” and “**us**” shall be construed accordingly.

The intention of this Risk Disclosure Statement is to inform you of the risks that may arise as a result of trading securities and other investments. Before considering any transaction involving financial products and services, you must carefully consider whether the transaction is appropriate in the light of your experience, objectives for engaging in the transaction, financial condition and other relevant circumstances. You should not deal in or utilise such products and services unless you have satisfied yourself of the foregoing.

**THIS RISK DISCLOSURE STATEMENT IS NOT AN EXHAUSTIVE LIST OF ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF ANY TRANSACTION OR USE OF ANY LEVERAGE. WE RECOMMEND THAT YOU OBTAIN ALL RELATED TERMS AND CONDITIONS AND PRODUCT SPECIFIC DOCUMENTATION AND CAREFULLY STUDY AND EVALUATE THE SAME AND CONSULT YOUR OWN LEGAL, TAX AND FINANCIAL ADVISORS OR OTHER PROFESSIONAL ADVISORS AS APPROPRIATE.**

This Risk Disclosure Statement comprises seven parts:

Part 1: Relates to Most Transactions Generally

Part 2: Derivatives

Part 3: Structured Products

Part 4: Non-Traditional Funds and Private Equities

Part 5: Exchange Traded Funds

Part 6: Renminbi Products

Part 7: Fixed Income Investments

### Part 1 – Relates to Most Transactions Generally

#### 39 Investment Risks

Any investment is subject to price fluctuations which provide both opportunities and risks. You may sustain substantial losses if market conditions move against your position. You may find it difficult or impossible to close-out or liquidate your investment. Your position may be closed-out or liquidated at a loss and you will be liable for any resulting deficit. There may be adjustments to your investments due to events such as market disruption, insolvency and changes in any applicable laws, such adjustments may result in a total loss of, or reduce, any amount receivable by you.

The performance of any investment, particularly off-exchange may be influenced by complex and interrelated political, economic, financial and other factors. Further, past performance is not indicative of future results.

You will be exposed to many different risks, including, without limitation, credit and insolvency risks of the issuer, interest rate, market or foreign exchange risk.

Some investments, in particular structured products and non-traditional funds and private equities, have long maturity periods or lock up periods. Heavy penalties or charges may be payable for the early termination or surrender and you may incur significant loss of your principal or the proceeds that you may receive may be substantially lower than your invested amount should you redeem before maturity date or during the lock-up period.

#### 40 Risk of Securities Trading

The prices of securities fluctuate, sometimes dramatically. The price of a security may move up or down, and may become valueless. It is as likely that losses will be incurred rather than profits made as a result of buying and selling securities. Under certain market conditions, you may find it difficult to liquidate a position. Placing buy or sell orders will not necessarily limit your losses to the intended amounts, since market conditions may make it impossible to execute such orders at the designated price.

In respect of listed securities, investor protection and securities regulations vary with different exchanges. Some may expose you to high investment risk. For example, certain exchanges allow companies to list with neither a track record of profitability nor any obligation to forecast future profitability. Such listed securities may be volatile and illiquid and suitable for trading by professional and sophisticated investors only.

In respect of “penny shares” or shares you buy in smaller companies, there may be a bigger risk of losses and they are only suitable for investors with high risk tolerance. There is often a large difference between the buying and selling price.

#### 41 Risk of Trading Alternative Stock Market Stocks

Alternative stock markets (such as the Growth Enterprise Market (“**GEM**”) in Hong Kong) stocks involve a high investment risk. In particular, companies may list on such stock markets with neither a track record of profitability nor any obligation to forecast future profitability. Such stocks may be very volatile and illiquid.

You should make the decision to invest only after due and careful consideration. The greater risk profile and other characteristics of such stock markets mean that it is a market more suited to professional and other sophisticated investors.

Current information on such stocks may only be found on the internet website such as that operated by The Stock Exchange of Hong Kong Limited in the case of GEM stocks. The companies are usually not required to issue paid announcements in gazetted newspapers.

You should seek independent professional advice if you are uncertain of or have not understood any aspect of this Risk Disclosure Statement or the nature and risks involved in trading of such stocks.

#### 42 Risk of Trading NASDAQ-AMEX Securities at The Stock Exchange of Hong Kong Limited

The securities under the NASDAQ-AMEX Pilot Program (“**PP**”) are aimed at sophisticated investors. You should consult us and become familiarised with the PP before trading in the PP securities. You should be aware that the PP securities are not regulated as a primary or secondary listing on the Main Board or the GEM of the Stock Exchange of Hong Kong Limited.

#### 43 Currency Risk

Changes in exchange rates may be unpredictable, sudden and large, and may have an unfavourable, as well as a favourable effect.

The profit or loss on transactions in foreign currency denominated contracts (whether they are traded in your own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency. Similarly, where liabilities in one currency are matched by an asset in a different currency or where assets are denominated in a currency other than your reference currency.

#### **44 Risk of Providing an Authority to Repledge your Securities Collateral etc.**

There is risk if you provide us with an authority that allows us to apply your securities or securities collateral pursuant to a securities borrowing and lending agreement, repledge your securities collateral for financial accommodation or deposit your securities collateral as collateral for the discharge and satisfaction of our settlement obligations and liabilities.

If your securities or securities collateral are received or held by us in Hong Kong, the above arrangement is allowed only if you consent in writing. Moreover, unless you are a professional investor, your authority must specify the period for which it is current and be limited to not more than 12 months. If you are a professional investor, these restrictions do not apply.

Additionally, your authority may be deemed to be renewed (i.e. without your written consent) if we issue you a reminder at least 14 days prior to the expiry of the authority, and you do not object to such deemed renewal before the expiry date of your then existing authority.

You are not required by any Law to sign these authorities. But an authority may be required by us, for example, to facilitate margin lending to you or to allow your securities or securities collateral to be lent to or deposited as collateral with third parties. We will explain to you the purposes for which one of these authorities is to be used.

If you sign one of these authorities and your securities or securities collateral are lent to or deposited with third parties, those third parties will have a lien or charge on your securities or securities collateral. Although we are responsible to you for securities or securities collateral lent or deposited under your authority, a default by it could result in the loss of your securities or securities collateral.

If you do not require margin facilities or do not wish your securities or securities collateral to be lent or pledged, do not sign the above authorities and ask to open this type of cash account.

#### **45 Risk of Margin Trading/Leveraged Transactions**

The risk of loss in financing a transaction without full payment can be substantial. You may sustain losses in excess of your cash and any other assets deposited as collateral with us.

The amount of initial margin is small relative to the value of the transaction so that the transaction is highly “leveraged” or “geared”. A relatively small market movement may have a disproportionately larger impact on the margin deposited or will have to deposit. The margin cover may fall below the amount required from time to time due to various reasons such as book losses arising from mark-to-market valuation or losses arising from closed-out contracts or fall in value of the assets deposited as margin.

Market conditions may make it impossible to execute contingent orders, such as “stop-loss” or “stop-limit” orders. You may be called upon at short notice to make additional margin deposits or interest payments. If the required margin deposits or interest payments are not made within the prescribed time, your collateral may be liquidated without your consent. Moreover, you will remain liable for any resulting deficit in your account and interest charged on your account.

You should also see “Risk-Reducing Orders or Strategies”.

You should therefore carefully consider whether such trading is suitable in light of your own financial position and investment objectives.

#### **46 Risk of Trading in Leveraged Foreign Exchange Contracts, Futures and Options**

The risk of loss in leveraged foreign exchange trading, futures or options can be substantial. You may sustain losses in excess of your initial margin funds. You may be called upon at short notice to deposit additional margin funds. If the required funds are not provided within the prescribed time, your position may be liquidated. You will remain liable for any resulting deficit in your account. You should therefore carefully consider whether such trading is suitable in light of your own financial position and investment objectives.

You should also see “Risk-Reducing Orders or Strategies”.

#### **47 Risk-Reducing Orders or Strategies**

Placing contingent orders, such as “stop-loss” or “stop-limit” orders, which are intended to limit losses to certain amounts may not be effective. Market conditions may make it difficult or impossible to execute such orders. Strategies using combinations of positions, such as “spread” or “straddle” positions may be as risky as taking simple “long” or “short” positions.

**The Bank does not accept liability for the non-execution of a “stop-loss” or “stop-limit” order and execution of such orders are strictly on the basis that you release us from any liabilities and authorise us, in such circumstances, to execute such order at such rate and in such manner as we may deem appropriate.**

#### **48 Liquidity Risks**

Certain instruments, in particular structured notes or bonds, may not be readily realisable or marketable. There may be no or a limited secondary market and there is no certainty that market traders will be prepared to deal with such instruments. Even when a market exists, there may be a substantial difference between the prevailing price of the secondary market and the purchase price paid by the investors. You may need to hold such instruments for an indefinite period.

Liquidity risks decrease for near term investments and increase for investments with longer maturity periods or investments that are linked to emerging markets or with lower credit ratings. Unexpected and sudden erosion of liquidity can also arise from sharp price movements and volatile market conditions. At certain times or under certain market conditions, it may be difficult or impossible to liquidate a position, to assess value or to determine a fair price.

#### **49 Risks of Trading Facilities and Electronic Trading**

Most open-outcry and electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the Clearing House and/or participant firms and such limits on liability may vary or there may be no recovery at all.

Trading on an electronic trading system may differ from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risks associated with the system, including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

## **50 Counterparty and Issuer Risk**

Settlement of transactions that we enter into for you will depend on the relevant counterparty and broker performing their obligations. The insolvency or default of such counterparty or broker may lead to your position being liquidated or closed-out without your consent.

If you purchase a debt instrument, such as a note or bond, you will be exposed to the credit risk of the issuer of the debt instrument, as well as the issuer of the underlying that the debt instruments invest in and of the derivative instruments that the debt instruments are exposed to. Any ability to repay may be subject to any intervening circumstances such as government action or legal inhibitions placed on the issuer or currency in which the instrument is denominated. Credit ratings assigned by credit rating agencies do not guarantee the creditworthiness of the issuer.

## **51 Suspension or Restriction of Trading**

Market conditions (e.g. illiquidity) and/or the operation of the rules of certain markets (e.g. the suspension of trading because of price limits or "circuit breakers") may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions. If you have sold options, this may increase the risk of loss.

## **52 Risks of Client Assets Received or Held Outside Hong Kong**

Your assets received or held outside Hong Kong are subject to the applicable laws and regulations of the relevant overseas jurisdiction which may be different from the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) and the rules made thereunder. Consequently, such assets may not enjoy the same protection as that conferred on assets received or held in Hong Kong.

## **53 Commission and Other Charges**

Before entering into any transaction, you should obtain details of all commissions and other charges for which you will be liable. If any charges are not expressed in money terms (but, for example, as a percentage of contract value), you should obtain a clear written explanation, including appropriate examples, to establish what such charges are likely to mean in specific money terms. You should familiarise yourself with all relevant commissions, fees and other charges and tax implications for which you will be liable as it will affect your net profit (if any) or increase your loss.

## **54 Transactions in Other Jurisdictions**

Transactions on markets in other jurisdictions outside Hong Kong, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to laws and regulations which may offer different or diminished investor protection as that conferred in Hong Kong. Before you trade, you should enquire about any rules relevant to your particular transactions. The regulatory authority in Hong Kong will be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should understand the types of redress available before you start to trade. You should take into account the applicable tax and exchange controls, including repatriation of funds. There may be restrictions on foreigners entering into transactions, repatriation of capital investments and profits and there may be withholding or additional forms of Taxes.

## **55 Deposited Cash and Property**

You should familiarise yourself with the protections given to money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some jurisdictions, property which had been specifically identifiable as your own may be distributed among other creditors on a pro-rata basis in the event of a shortfall.

## **56 Off-Exchange Transactions**

It may not always be apparent whether or not a particular transaction is on or off-exchange.

In some jurisdictions, and only then in restricted circumstances, firms are permitted to effect off-exchange transactions. The firm with which you deal may be acting as your counterparty to the transaction. It may be difficult or impossible to close-out or liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime and, as such, the risks are correspondingly greater. Before you undertake such transactions, you should familiarise yourself with applicable rules and attendant risks.

## **57 Risk of Providing an Authority to Hold Mail or to Direct Mail to Third Parties**

If you provide us with an authority to hold mail or to direct mail to third parties, it is important for you to promptly collect in person all contract notes and statements of account and review them in detail to ensure that any anomalies or mistakes can be detected in a timely fashion.

If you are a hold mail client, you have authorised us to hold mail in our custody for collection by you and as a result you will not be receiving mail regularly. Consequently, it is more likely that you will not be fully aware of all your positions and will not be able to react as quickly in dealing with changes in market conditions. In this respect, there is an increased risk of losses occurring.

## **58 Emerging Markets**

Investments in emerging market instruments may yield large gains but can also be highly risky as the markets are unpredictable and may have inadequate regulations and safeguards available to investors. Government intervention, perhaps in the form of exchange control laws or restrictions on the repatriation of profits, which have a minor or limited effect in more mature markets, could affect emerging markets profoundly.

## **59 Interest Rate Risks**

Interest rate fluctuations may have an adverse impact on the value of investments, in particular, debt instruments such as bonds or money market instruments. The degree of interest rate sensitivity depends on the maturity, coupon and call provisions.

## **Part 2 – Derivatives**

### **60 Pricing Relationships**

The normal pricing relationships between a derivative and its underlying interest may not exist in certain circumstances. The absence of an underlying reference price may make it difficult to assess the "fair value" of a derivative position. Consequently, price indications may not reflect the actual price at which the position may be terminated or unwound.



## 61 Terms and Conditions

You should familiarise yourself with the terms and conditions of the specific derivative contracts and associated obligations (e.g. the circumstances under which you may become obliged to make or take delivery of the underlying interest, expiration dates and restrictions on the time of exercise). Under certain circumstances, the specifications of outstanding contracts (including the exercise price of an option) may be modified by the counterparty due to changes effected by the Exchange or Clearing House on the underlying.

## 62 Futures and Options

Transactions in futures and options carry a high degree of risk. You should familiarise yourself with the type of futures and options (i.e. put or call) which you contemplate trading and the associated risks. You should calculate the extent to which the value of futures and the options must increase for your position to become profitable, taking into account the premium and all transaction costs. Some futures and option contracts may provide only a limited period of time for the exercise of the futures contract and the option, or that the futures contract and option can only be exercised on a specified date. You should ensure that you are aware of the procedures and your rights and obligations upon exercise or expiry.

Transactions in futures carry a high degree of risk. The amount of initial margin is small relative to the value of the futures contract so that transactions are "leveraged" or "geared". A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit: this may work against you, as well as for you.

The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the purchased options expire worthless, you will suffer a total loss of your investment which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

Selling ("writing" or "granting") an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavourably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obliged to either settle the option in cash or to acquire or deliver the underlying interest. If the option is "covered" by the seller holding a corresponding position in the underlying interest or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

The seller of a covered call option sells the call option for an underlying which he/she already owns. If the option is exercised by the purchaser, the seller will only receive the premium paid by the purchaser and not profit from the price growth of the underlying in excess of the exercise price. If the option is not exercised by the purchaser, the seller bears the full risk of the underlying.

The seller of an uncovered call option sells the call option without owning the underlying. If the option is exercised by the purchaser, the seller will have to deliver the underlying. The seller of an uncovered call option is required to deposit a margin. If the price of the underlying rises, the margin to be provided increases. Where the required margin is not paid, the position may be closed-out or liquidated without notice to you.

**ONLY EXPERIENCED PERSONS SHOULD CONTEMPLATE WRITING UNCOVERED OPTIONS AND THEN ONLY AFTER SECURING FULL DETAILS OF THE APPLICABLE CONDITION AND RISK EXPOSURE.**

The seller of a put option is required to deposit a margin. If the price of the underlying falls, the margin to be provided increases. Where the required margin is not paid the position may be closed-out or liquidated without notice to you.

Listed options may not be exercised automatically on expiry. In order to realise any profits from a long option position, it is necessary that you exercise or close-out the option before it expires failing which you may forgo all the profit that would otherwise have realised. The availability of automatic close-out and the way it works may vary from jurisdiction to jurisdiction. The value of listed options could be affected if trading is halted in either the listed options or the underlying.

## 63 Swap Transactions

Swap transactions involve an exchange of future payment streams, and occasionally, the exchange of principal on commencement and/or maturity. The risk that one of the parties to the swap will default or otherwise fail to perform its obligations is typically greater in swaps where both principal and income streams are exchanged. For uncovered contracts, there is risk which is directly related to the risks of the different instruments swapped. It is important to note that these risks may not be off-setting in effect, and should be viewed instead in aggregate.

An interest rate swap is an agreement between two parties to make reciprocal payments over a specific period of time. The payments are determined by reference to a notional principal amount and fixed or floating rates of interest. Floating rates are typically based on some published index of market rates. You may be a receiver of fixed rate and payer of floating rate, or vice versa. In either case, movements in the referenced rates could have a significant impact on your cash flow, as well as the cost of unwinding the swap position. For uncovered contracts, there is an unlimited interest rate risk, computed on the full amount(s) contracted.

## 64 Forwards/Non-Deliverable Forward Transactions

Forwards create an obligation to deliver or take delivery on a specified date of a defined quantity of an underlying at an agreed price. Your potential profit or loss corresponds to the difference between the market value and the agreed price on the specified date.

For forward sales, the underlying must be delivered at the price originally agreed even if its market value has since risen above the agreed price. In such a case, you risk losing the difference between these two amounts and, theoretically, there is no limit to how far the market value of the underlying can rise. As such, potential losses may be unlimited and can substantially exceed the margin requirements.

For forward purchases, you must take delivery of the underlying at the price originally agreed even if its market value has since fallen below the agreed price. Your potential loss corresponds to the difference between these two values. Your maximum loss corresponds to the originally agreed price. Potential losses can substantially exceed the margin requirements. In order to limit

price fluctuations, an Exchange may set price limits for certain contracts. If you sell forward an underlying which you do not hold at the outset of the contract, you risk having to acquire the underlying at an unfavourable market price in order to fulfil your obligation to effect delivery on the contract's expiration date.

Forwards can involve special risks and are only suitable for investors who are familiar with this type of instrument, have sufficient liquid assets and are able to absorb any losses that may arise.

You should note that these are illiquid instruments which are not transferable. Unwinding a contract (if allowed) under adverse market condition could incur significant losses of principal where the proceeds may be substantially lower than the original invested amount.

You shall assume the credit risk of the bank.

You acknowledge that the bank or an affiliate may be requested to provide a quotation or quotations from time to time for the purpose of determining the settlement rate used for the purposes of a transaction and such quotation(s) may affect, materially or otherwise, the settlement of that transaction.

For non-deliverable forward transactions, there is no delivery of the underlying currency pair at maturity. Instead, a net cash settlement will be made based on the final fixing of the underlying currency pair.

## **65 Risk of Warrants**

A warrant is a right to subscribe for shares, debentures, loan stock or government securities, and is exercisable against the original issuer of the securities. Warrants often involve a high degree of gearing, so that a relatively small movement in the price of the underlying results in a disproportionately large movement in the price of the warrant. Warrants have a limited life, as denoted by the expiry date. After this date, warrants can no longer be traded or exercised. The price of warrants can be volatile and the value is likely to decrease over time. In the worst case, warrants may expire worthless and you will suffer a total loss of investment. Some warrants provide only a limited period of time for exercise and some may provide for the exercise on a specified date. You should familiarise yourself with the terms of the warrant. Ordinarily, the chance of deep-out-of-the-money warrants becoming profitable is remote.

## **66 Derivative warrants and callable bull/bear contracts**

Derivative warrants (“**DWs**”) are derivative instruments which give the holders the right to buy or sell the underlying at a pre-set price within a prescribed time period. There are call and put DWs. Call DW investors have the right (but not the obligation) to buy from the issuer, and put DW investors have the right (but not the obligation) to sell to the issuer, a specified amount of underlying at a pre-set price on or before a specified date. DW investors may sell before the expiry date. DWs are usually cash-settled at expiry. DWs have no value on expiry if the price of the underlying is greater (for put warrants) or less (for call warrants) than the exercise price.

Callable bull/bear contracts (“**CBBCs**”) are derivatives that track the performance of an underlying such as a share, index, commodity or currency. CBBCs take the form of a bull contract (where the investor intends to capture potential price appreciation in the underlying) or a bear contract (where the investor is seeking to make a profit from a fall in the value of the underlying). The price movement of a CBBC reflects the price movement of the underlying.

CBBCs will expire at a predefined date or when the mandatory call mechanism becomes effective. Mandatory calls take place where the price of the underlying: (a) touches or is below the call price of a bull contract; or (b) touches or is above the call price of a bear contract. Trading is terminated immediately when a mandatory call becomes effective. Once a CBBC is called, the contract cannot be revived and you will not benefit even if the price of the underlying bounces back favourably. You should exercise special caution when a CBBC is trading close to its call price.

If a mandatory call does not occur and you hold the CBBC until expiry, a cash settlement amount is payable. The amount will depend on how much the closing price of the underlying is above (in case of a bull CBBC) or below (in the case of bear CBBCs) the strike price. The cash settlement amount may be substantially less than your initial investment and may even be zero.

Investing in DWs and CBBCs involve a high degree of risk. DWs and CBBCs place unsecured contractual obligations on the issuer and, if applicable, the guarantor. If the issuer or, if applicable, the guarantor defaults, you may lose your entire investment. DWs and CBBCs do not constitute a direct investment in the underlying. You have no right against any party that issues or holds (or if the underlying is an index, sponsor) the underlying and any decision on corporate actions by them may have an adverse impact on the value and market price of DWs and CBBCs. You will not be entitled to voting rights, dividends or any other rights in the underlying.

DWs and CBBCs may be illiquid. You may not be able to obtain a quote or to liquidate your position when you wish.

Exchange rates may affect DWs and CBBCs. Changes in exchange rates between the currency of the underlying, the currency in which DWs or CBBCs settle and/or the currency of your home currency may adversely affect the return (if any) of your investment.

CBBCs and DWs are leveraged products. The value of CBBCs and DWs may rapidly fluctuate due to changes in one or more factors and the change in value may be much greater than the price of the underlying. Assuming all other factors remain unchanged, the value of CBBCs and DWs will decrease over time as they approach their expiry dates and they should not be held as long-term investments. CBBCs and DWs have expiry dates and can become valueless after their expiry.

## **Part 3 – Structured Products**

Structured products are not conventional financial products and are formed by combining two or more financial instruments including one or more derivatives. Structured products may be traded either over-the-counter or on-exchange. Every structured product has its own risk profile and may carry a high degree of risk and may not be suitable for all investors as the risk associated with the financial instruments may be interconnected.

As most structured products are complex, you should understand the product terms and conditions, including the calculation of returns and redemption amounts, restrictions and the nature and economic risks of the underlying. The secondary market for structured products may be illiquid and you may not be able to sell your holdings when you wish. Further, the value of a structured product may be linked to the value of its embedded derivative component(s), which may be subject to considerable fluctuation in market forces.

Buyers of structured products can only assert their rights against the issuer. In addition to potential loss you may incur due to a fall in the market value of the underlying, a total loss of your investment is possible if the issuer defaults.

Structured products may not be capital guaranteed and you may sustain a total or partial loss of your investment. Where

the capital is guaranteed, you will be exposed to the credit risk of the issuer or guarantor. The guarantee does not give any assurances as to the future solvency of the guarantor and the guarantee may be terminated prior to maturity upon the occurrence of certain events as stated in the relevant product documents. Where the structured product is capital protected, this is not the same as capital guarantee. Capital protection could be less than 100% of the capital invested, depending on the product and is subject to issuer risk. Capital guarantee or protection is only available if you hold till maturity.

Structured products may provide that the issuer may discharge its obligations by delivery of the underlying to you on maturity. You should be aware of the implications of this method of settlement (e.g. you may have to pay related costs and expenses to receive delivery) and there may be particular risks and restrictions relating to trading and holding such underlying. If the underlying is denominated in a different currency to that of the structured product, you may be affected by fluctuations in exchange rates.

For structured products for which whole or partial withdrawal prior to the maturity date is permitted, the amount received by you at early withdrawal may be significantly less than the original amount invested and even equal to zero.

In addition, the recovery and resolution regimes in certain markets may empower resolution authorities to intervene if a financial institution or its parent company becomes non-viable. Such intervention may take the form of a bail-in, through the writing down of certain claims of unsecured creditors of the failing institution and/or conversion of unsecured debt claims to equity. Should the issuer and the guarantor (as applicable) and/or any of their affiliates become subject to such bail-in or resolution powers, this could have an adverse impact on the payments under and returns on the structured notes/certificates and you may lose some or all of your investment.

## **Part 4 – Non-Traditional Funds and Private Equities**

### **67 Non-Traditional Funds**

Non-traditional funds, including, but not limited to, hedge funds, alternative investment funds and offshore funds, can take a variety of legal forms (e.g. investment companies, partnerships or unit trust structures) and differ from traditional investment funds. Non-traditional funds involve a high degree of risk, in addition to the general risks associated with traditional funds, which could include, without limitation to, the following:

- (c) the investment strategies are often high risk and highly complex and may be difficult to understand. They may use derivatives for investment or speculative rather than hedging purposes. They tend to be highly geared and a small movement in the market can magnify a loss or gain sharply. The entire amount of your investment may be lost;
- (d) the non-traditional fund industry is largely unregulated and the availability, quality and flow of information may be limited. The investment strategies are usually non-transparent and sophisticated. You may not be kept informed of the strategies or changes to the fund management team;
- (e) the performance of the fund is largely dependent on individual fund managers. The fund management team may receive performance-linked-bonuses and often have a personal stake in the fund;
- (f) the valuations of some underlying investments may be uncertain, not be actively traded and require time to be sold to make any distribution or to meet redemption;
- (g) the liquidity and tradability of non-traditional funds can vary a great deal. Long fixed holding periods or “lock up” periods are common and liquidation may stretch over many years; the redemption fees are applicable in certain cases depending on the terms and conditions of the offerings of the funds;
- (h) there may be powers to compulsorily redeem all or any portion of an investor’s holdings at any time and for any reason upon short notice and the proceeds received may be substantially less than the amount invested; and there may also be powers to suspend redemption rights of investors for a considerable period of time under extraordinary circumstances as defined by the offering documents of the funds;
- (i) many non-traditional funds have an offshore domicile that may be subject to less stringent laws and supervision and thus weaker investor protection. There may be problems or delays in settlement of buy and sell orders. There is no assurance that your legal rights will be enforceable;
- (j) many non-traditional funds are not available to the general public and are not suitable for the majority of public investors; and
- (k) each fund also has its own specific risks; investors should review the offering documents carefully and seek advice before making investment decisions.

### **68 Private Equities Investments**

Private equities investment or private equities funds are investments into private/public companies through privately negotiated transactions. They involve a high degree of risk, in addition to the general risks associated with most investments, which could include, without limitation to, the following:

- (l) they often require contributions of substantial amounts, either by a single payment or by several payments known generally as “capital calls”, over a considerable period of time. Contribution is made over a period of time. The penalty for failure to make payments can be severe, including a complete forfeiture of any capital already invested;
- (m) they are subject to significant fees and expenses, typically, management fees and a substantial carried interest in the net profits generated by a fund and paid to its manager;
- (n) the performance of a private equities investment fund may be substantially adversely affected by a single investment. In addition, the funds may make minority investments where the funds may not be able to protect its investment or control or influence effectively the business or affairs of the underlying investment;
- (o) the investments may be in the form of securities among the most junior in a portfolio company’s capital structure and generally with no collateral for partial protections, thus, subject to the greatest risk of loss;
- (p) those portfolio companies’ capital structures could also be highly leveraged, which may accelerate and magnify declines in the value of any such portfolio company investments in a down market;
- (q) capital invested may be tied up, either completely or with restricted access, during a predetermined period. As there is no recognised secondary market in private equity, such investments may not be sold and/or transferred freely. Private equity funds also often make illiquid investments for which there are no readily available market prices. Private equity funds also generally provide valuations only on an infrequent basis;

- (r) private equity investments may be realised in several ways, such as a sale of the participation through eventual public listing on an Exchange, merger with or sale to another interested party or recapitalisation. Considerable losses or even a total loss of your investment may occur, for example, when the private companies and/or funds are either wound up or declared insolvent or its commercial interest fails or ceases to exist;
- (s) private equity fund investments are less transparent than public investments and private equity fund investors are afforded less regulatory protections than investors in registered public securities; and
- (t) investors in private equity funds will also have only limited rights to receive information about such funds or their managers. In addition, they will have no recourse against such funds or their managers.

## **Part 5 – Exchange Traded Funds**

Exchange Traded Funds (“ETFs”) are listed on an exchange designed to track, replicate or correspond to the performance of their underlying benchmarks e.g. an underlying index, asset or group of assets that may be in, but are not limited to, specific markets, sectors, equities, commodities or market indices. ETF managers may use different strategies to achieve this.

ETFs can be broadly categorised as physical ETFs or synthetic ETFs. Physical ETFs directly buy all or a portion of the assets needed to replicate the composition and weighting of their benchmark. Synthetic ETFs do not buy the assets in their benchmark but typically invest in derivative instruments to replicate the benchmark’s performance. ETFs involve a high degree of risk which could include, without limitation, the following:

### **69 Market Risk**

An ETF is exposed to the political, economic, currency, legal and other risks associated with the underlying index, asset or group of assets which may in the worst case scenario result in the termination of the ETF. ETF managers do not have discretion to take defensive positions in adverse markets. There is a risk of loss and volatility associated with the fluctuation of the underlying index, asset or group of assets and the derivative instruments relating to the ETFs.

### **70 Counterparty Risk**

Synthetic ETFs will be subject to the credit risk of derivative issuers and potential contagion and concentration risks should be taken into account (since derivative issuers are predominantly financial institutions and the failure of one may have a “knock-on” effect on other issuers). Some synthetic ETFs have collateral to reduce counterparty risk, but the market value of collateral could be substantially less than the amount owed to the ETF, resulting in a loss for the ETF and a reduction in the investment.

### **71 Liquidity Risk**

Listing or trading on an Exchange does not guarantee that a liquid market exists. A higher liquidity risk is involved if an ETF invests in derivative instruments that are not actively traded in the secondary market. This may result in a wider bid and offer spread. These derivatives are also susceptible to more price fluctuations and higher volatility and therefore can be more difficult and costly to unwind early, especially when the derivatives provide access to a restricted market where liquidity is limited in the first place.

Although most ETFs are supported by one or more market makers, there is no assurance that active trading will be maintained.

### **72 Tracking Error**

Tracking errors (i.e. the disparity in performance between an ETF and its underlying index, asset or group of assets) can arise due to factors such as the ETF’s replication strategy, the impact of transaction expenses and fees incurred to the ETF, or changes in composition of the underlying index, asset or group of assets.

### **73 Trading at a Discount or Premium**

An ETF may trade at a discount or premium to its net asset value. The price discrepancy is caused by supply and demand and may be particularly likely during periods of high market volatility and uncertainty. This may also be observed in ETFs tracking specific markets or sectors that are subject to restricted access or when there are disruptions to subscriptions and redemptions. Investors who buy an ETF at a premium may not be able to recover the premium in the event of termination.

### **74 Tax and Other Risks**

An ETF may be subject to tax imposed by the local authorities in the market related to the underlying that it tracks, emerging market risks and risks in relation to the change of policy of the reference market which may in the worst case scenario result in the termination of the ETF.

ETFs not denominated in the currency of the underlying index, asset or group of assets may have exposure to exchange rate risk. Currency rate fluctuations can adversely affect the value of the underlying and thus affect the ETF price.

## **Part 6 – Renminbi (“RMB”) Products**

### **75 Currency Risk**

RMB is not a freely convertible currency and is subject to foreign exchange control policies and restrictions initiated by Mainland China. Such policies and restrictions may change and this may adversely affect your investment.

RMB exchange rate may fluctuate and any devaluation of RMB may adversely affect the value of your investment. There is no guarantee that RMB will not depreciate. If you convert your home currency into RMB to invest in a RMB product and subsequently convert the RMB sale proceeds back to your home currency, you may suffer a loss if RMB depreciates against your home currency.

As the offshore deliverable RMB market is currently in the developing phase, there is no market standard determination of the exchange rate. Screen rate (if available) is for indication only and might not necessarily equal to market trading rate.

There may be restrictions or daily limits for the conversion of RMB from, or into, another currency. You should allow sufficient time for the conversion.

Investors may be exposed to the risk of exchange rate fluctuation such that the potential loss from the product could offset (or even exceed) the potential gain if RMB depreciates against the investor’s home currency. RMB products which are not denominated in RMB or with underlying investments which are not RMB-denominated will be subject to multiple currency conversion costs involved in making and liquidating the investments.

### **76 Interest Rate Risk**

Mainland China has gradually liberalised the regulation of interest rates in recent years. Further liberalisation may increase interest rate volatility. Where RMB products invest in RMB debt instruments, such instruments are susceptible to interest rate

fluctuations, which may adversely affect the return and performance of the RMB products.

**77 Limited Availability of Underlying Investments Denominated in RMB**

Some RMB products do not have access to invest directly in Mainland China. The pool of underlying investments denominated in RMB outside Mainland China may be limited and may not be regularly traded or have an active secondary market. RMB products may therefore incur significant trading and realisation costs and suffer losses in liquidating such underlying investments. This may adversely affect the return and performance of the RMB products.

**78 No Guaranteed Projected Returns**

For some RMB investment products, their return may not be guaranteed or may only be partly guaranteed. You should read carefully the statement of illustrative return attached to such products and, in particular, the assumptions on which the illustrations are based, including, for example, any future bonus or dividend declaration.

**79 Long Term Commitment**

For RMB products which involve a long period of investment, if you redeem the investment before the maturity date or during the lock-up period (if applicable), you may incur a significant loss of principal where the proceeds may be substantially lower than the invested amount. You may also suffer from early surrender/withdrawal fees and charges, as well as the loss of returns (where applicable) as a result of redemption before the maturity date or during the lock-up period.

**80 Issuer Risk**

RMB products are subject to the credit and insolvency risks of their issuers. You should consider carefully the creditworthiness of the issuers before investing. RMB product may invest in derivative instruments, counterparty risk may also arise as the default by the derivative issuers may adversely affect the performance of the RMB products and result in substantial losses.

**81 Liquidity Risk**

RMB is less liquid than other currencies. There may not be regular trading or active secondary markets for RMB products. Payments and redemption of RMB products may not always be made within the expected timescales, or you may have to sell at a deep discount to the product value.

Restrictions in the repatriation of RMB out of Mainland China may limit the amount of RMB available offshore and reduce the liquidity of your investment.

**82 Possibility of Not Receiving RMB upon Redemption**

For RMB products with a significant portion of non-RMB denominated underlying investments, you may not receive the full amount in RMB on redemption/sale. Even if sufficient underlying investments are RMB denominated, there may not be sufficient RMB to satisfy the redemption/sale requests due to repatriation or other controls on RMB. As such, you may not receive RMB when you redeem/sell.

**Part 7 – Fixed Income Investments**

You take on the risk that the issuer of the fixed income instrument or the counterparty may not honour its obligations to pay principal and/or interest, resulting in losses to you. In this regard, published ratings of any issuer of fixed income instrument should be supplemented by your own credit analysis of the issuer's credit risk as changes in the ratings of any issuer of fixed income instrument may lag behind changes in financial conditions. You should perform periodic independent analysis to determine the credit risk of the issuer of any fixed income instrument and evaluate the merits and risks of such fixed income instrument.

You are exposed to liquidity risk as there may be no market for a fixed income instrument and you may not be able to sell the fixed income instrument at the desired time or price. Even when a market exists, there may be a substantial difference between the offer and purchase price for a fixed income instrument.

You are exposed to the risk of interest rate fluctuations as the value of fixed income instruments will fluctuate with changes in interest rates. The degree of interest rate sensitivity depends on the maturity, coupon and call provisions of the fixed income instrument. Floating rate fixed income instruments lessen your interest rate risk to the extent that the interest rate adjustments are responsive to market rate movements. If the issuer of the fixed income instruments has the right to redeem the fixed income instruments before maturity, this can adversely affect your exposure.

Additional Risks of Investing in Fixed Income Investments with Special Features

**83 High Yield**

High-yield bonds/debentures are typically rated below investment grade or are unrated and as such are often subject to a higher risk of issuer default. High-yield bonds/debentures typically fall more in value than investment grade bonds/debentures during economic downturns as: (a) investors become more risk averse; and (b) default risk rises.

**84 Perpetual**

Perpetual bonds/debentures are perpetual in nature and do not have a maturity date. Interest pay-out depends on the viability of the issuer in the very long term.

**85 Convertible/Exchangeable**

The price structure of convertible and exchangeable bond is constituted by value of the straight bond plus value of the option embedded. The bondholder acts like holding a straight bond and an option with long position. Having this feature, when the stock price of a company goes up, the value of convertible bond will follow. On the other hand, when the value of convertible bond drops, it will only fall to the value of straight bond floor. Investors are subject to both equity and bond investment risk.

**86 Callable**

Callable bonds allow the issuer to redeem the bond at a predetermined price on or after a specific date before maturity. Exercising the call on call date is at the issuer's discretion but it is not obliged to do so. This may increase the investor's reinvestment risk when the issuer exercises its right to redeem the bond before it matures.

**87 Distressed**

The bond issuer may not be able to meet their financial obligations and near or even in default. The bond price may be highly volatile. An investor who purchases distressed bonds is speculating that the issuer will be able to fulfil its financial obligations and will not go into default. The issuer of the distressed bond may go into/already in default. When holding a "distressed bond", the holder is facing much higher default risk than holding other bonds that are not in "distress". As the bond is at high default risk,

liquidity of distressed bonds may be much lower than bonds not in distress. An investor may suffer considerable loss in order to liquidate the holdings.

**88 Subordinated**

It is a debt that ranks below other bonds with regard to claims on assets or earnings. In the case of default, holders with subordinated bonds would not get paid out until the senior bondholders are paid in full. Subordinated debts have a lower priority of claims in the event of liquidation of the issuer. Investors can only get back the principal after other senior creditors are paid.

**89 Contingent Convertible or Bail-in**

Issuers of contingent convertible bonds ("**CoCos**") are mainly banks. It is a hybrid capital security that absorbs losses in accordance with its contractual terms when the capital of the issuing bank falls below a certain level. Then, the debt is reduced and bank capitalization gets a boost. Owing to its capacity to absorb losses, CoCos have the potential to satisfy regulatory capital requirements.

CoCos can absorb losses either by converting into common equity or by suffering a principal write down. The trigger can be either mechanical (i.e. defined numerically in terms of a specific capital ratio) or discretionary (i.e. subject to supervisory judgement).

Investors face higher risks as these are hybrid debt-equity instruments that may be written off or converted to common stock on the occurrence of a trigger event. Bonds/debentures with a contingent write down or loss absorption feature may be written-off fully or partially or converted to common stock on the occurrence of a trigger event. Investors face both equity and bond investment risk if the bonds/debentures are converted to common stock on the occurrence of a trigger event.

**90 Variable/Deferral of Interest Payment**

Bonds/debentures with variable and/or deferral of interest payment terms have a higher uncertainty over the amount and time of the interest payments to be received.

**91 Extendable Maturity Dates**

Bonds/debentures with extendable maturity dates do not have a definite schedule of principal repayment.

**92 Risk of Statutory Resolution**

The recovery and resolution regimes in certain markets may empower resolution authorities to intervene if a financial institution or its parent company becomes non-viable. Such intervention may take the form of a bail-in, through the writing down of certain claims of unsecured creditors of the failing institution and/or conversion of unsecured debt claims to equity. Should the issuer and the guarantor (as applicable) and/or any of their affiliates become subject to such bail-in or resolution powers, this could have an adverse impact on the payments under and returns on the bonds/notes and you may lose some or all of your investment.

**DBS TREASURES PRIVATE CLIENT  
ADDENDA TO THE TERMS AND CONDITIONS**

## **ADDENDA**

The Addenda applies to the Retail Products Account(s) referred to in the Account Opening Documentation, comprising-

- (a) Addendum One – Bank Accounts and Services Terms and Conditions (formerly known as Packaged Account Terms and Conditions; and
- (b) Addendum Two – Investment Products Consolidated Terms and Conditions.



**ADDENDUM ONE**  
**Bank Accounts and Services Terms and Conditions**

## **Addendum One – Bank Accounts and Services Terms and Conditions**

<b>Content</b>	<b>Page</b>
<b>PART I – STANDARD TERMS AND CONDITIONS</b>	
A. Introduction	51
B. General Terms and Conditions	52-66
<b>PART II – ACCOUNT RELATED TERMS AND CONDITIONS</b>	
C. Current Account	67
• Hong Kong Dollar Current Account	
• Hong Kong Dollar Save & Cheque Account	
• US Dollar Current Account	
• Renminbi Current Account	
D. Savings Account	68
• Statement Savings Account	
• Hong Kong Dollar / Multi-Currency Savings Account	
E. Time/Call Deposit Account	69
<b>PART III – LOAN RELATED TERMS AND CONDITIONS</b>	
F. Secured Loan Facilities	70-71
<b>PART IV – OTHER SERVICES RELATED TERMS AND CONDITIONS</b>	
G. General Service Channels	72
H. Phone Banking Services	73
I. Automatic Teller Machine Card Services	74
J. Internet Banking Services	75
K. e-Cheques	76-77
L. Safe Deposit Box	78

## PART I - STANDARD TERMS AND CONDITIONS

### A. Introduction

**This booklet contains the Bank Accounts and Services Terms and Conditions governing the Accounts, Transactions and Services, subject to any other applicable terms and conditions and other requirements of the Bank (the “Additional Terms and Conditions”).**

If there is any inconsistency between these Terms and Conditions, the Account Opening Documentation and/or the Additional Terms and Conditions, preference should be given in the following order, subject always to mandatory provisions of applicable Laws:

- (a) Account Opening Documentation;
- (b) Additional Terms and Conditions; and
- (c) these Terms and Conditions.

## B. General Terms and Conditions

### 1. Definitions and interpretation

(a) In this Addendum One, the following words and expressions have the corresponding meanings wherever appropriate.

**“Account Opening Documentation”** means the account opening document(s) signed by the Customer for the purpose of opening any Account.

**“Accounts”** means any account opened and maintained by the Customer with the Bank from time to time (whether singly, in joint name or in trust), excluding the “Accounts” defined in the Principal Terms and Conditions and **“Account”** means any one of such Accounts.

**“Affiliates”** means, in relation to the Bank, (i) any entity controlled, directly or indirectly, by the Bank; (ii) any entity that directly or indirectly controls the Bank or (iii) any entity directly or indirectly under common control with the Bank; and “control” of any entity or person means beneficial ownership directly or indirectly, of more than 50% of the issued ordinary or common share capital (or the like) of the entity or person and **“Affiliate”** shall be construed accordingly.

**“Agent”** means any agent, correspondent, broker, dealer, counterparty, adviser, manager, bank, attorney or Nominee used by the Bank, whether in Hong Kong or elsewhere, and may include Affiliates.

**“Agreement”** means the Account Opening Documentation, these Terms and Conditions, Facility Documents and all other agreements or terms and conditions or documents signed and/or accepted by the Customer or specified by the Bank from time to time, which together constitute the agreement between the Bank and the Customer, save that the Principal Terms and Conditions applies to the Accounts defined therein only.

**“Assets”** means cash, Investments and any other assets or property of the Customer, as may be delivered and transferred to the Bank or to the Bank’s order whether by way of security or for management, safe-custody or any purpose whatsoever. Where the Customer is a trustee opening and maintaining the Account for the purposes of a trust, as expressly made known to and acknowledged by the Bank, references to Assets shall be construed to include references to the Assets of such trust, notwithstanding that beneficial ownership of those Assets may vest in persons other than the trustees.

**“ATM”** means Automatic Teller Machine.

**“Authorised Signatory(ies)”** means any person appointed by the Customer and agreed to by the Bank, to give Instructions in relation to any matter regarding any Account and its operation.

**“Bank”** means DBS Bank (Hong Kong) Limited, a bank incorporated in Hong Kong with limited liability and licensed under the Banking Ordinance (Cap 155 of the Laws of Hong Kong) and a registered institution (CE Number: AAL664) registered to conduct Type 1 (dealing in securities), Type 4 (advising on securities), Type 6 (advising on corporate finance) and Type 9 (asset management) regulated activities under the SFO and whose registered office is situated at 11/F, The Center, 99 Queen’s Road Central, Hong Kong, including its successors or assignees.

**“Bank Business Day”** means a day (other than Saturday, Sunday or public holiday) on which commercial banks are open for general business in Hong Kong.

**“Bank Charges Schedule”** means the applicable schedule of fees, interest rates and other charges of the Bank, as determined from time to time by the Bank.

**“Bank Personnel”** means the directors, managers, officers and employees of the Bank.

**“Branch”** refers to any branch of the Bank in Hong Kong.

**“Card”** refers to (a) an ATM card with ATM functions by which the Customer can access such Accounts as the Bank may determine; or (b) a DBS Octopus ATM Card, being an ATM card with ATM functions by which the Customer can access such Accounts as the Bank may determine and Octopus functions by which the card can function as a stored value card issued by Octopus Cards Limited.

**“Clearing House”** means the entity that provides for the clearing and settlement of trades and transactions effected on, or subject to the rules of the Exchange.

**“Confirmation”** means a written confirmation, advice or contract note issued by the Bank confirming the final terms of a Transaction.

**“Customer”** means the person(s) in whose name(s) the Account is opened and held, and, where there are two or more such persons, means each and all of them jointly and severally, and any reference to **“Customer”** shall, where the context requires, read as **“Customers”**.

**“Customer Segment”** means DBS Account, DBS Treasures, DBS Treasures Private Client, DBS Private Bank and any other segment made available by the Bank from time to time.

**“Customer Service Hotline”** means the telephone service facility made available by the Bank to Customers for the provision of Services and related information.

**“Data Policy Notice”** means the Bank’s general policy on disclosing customer information (including any personal data) as set out in any statements, circulars, notice or other communications or terms and conditions the Bank has provided to the Customer from time to time.

**“Depository”** means any central depository, settlement system, Clearing House or clearing system (or its nominee company), participant in any clearing system or central depository system in relation to any Asset or any agent, sub-delegate, share registrar or other institution or body authorised by any relevant Exchange including but not limited to the Central Clearing and Settlement System and the Hong Kong Securities Clearing Company Limited.

**“EPS”** means the Easy Pay System Service.

**“Exchange”** means any stock exchange, recognised exchange or quotation system on which the Bank may conduct dealings on the Customer’s behalf, including the HKEx.

**“Event of Force Majeure”** means events beyond the reasonable control of the affected party, including but not limited to any one or more of the following:

(a) any act of God or sovereign;

(b) acts, restrictions, Regulations, edicts, mandates, refusals to grant any licenses or permissions, changes in policy or

- prohibitions or measures of any kind on the part of any government or regulatory authority or the exercise of military or usurped powers;
- (c) interruptions, calamity, war, invasion, riots, hostilities, terrorism, sabotage or other blockade or embargo, insurrection, natural disasters, adverse weather conditions, strikes, industrial actions;
  - (d) breakdown, malfunction or failure of transmission or power, communication or computer facilities or systems;
  - (e) infection or disease epidemic(s) or contamination; and
  - (f) a material change in the monetary, political, financial or economic conditions or exchange or capital controls or other moratorium or restrictions on currency exchange or remittance, whether in Hong Kong or elsewhere.

“**Facilities**” includes an overdraft or such credit or other facilities (including but not limited to those described in Section F) and “**Facility**” means any one of such Facilities.

“**Facility Documents**” means any Facility letter, guarantee, security or any other agreement, document or instrument or arrangement between the Bank and the Customer or any security provider or any other person relating to the Facilities (as from time to time amended, supplemented, or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any such Facility Document) or any one or more of them as the context may require.

“**FX Orders**” has the meaning specified in Clause B19.4.

“**Government Authority**” means any nation, state, government (in fact or according to the law), any province or other political subdivision thereof, any body, agency, department or ministry, any taxing, monetary, foreign exchange or other authority, court, tribunal, administrative, instrumentality or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) and any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

“**HIBOR**” means the Hong Kong Dollar Interbank Offered Rate administered by the Hong Kong Association of Banks (or any other person which takes over the administration of that rate) for the relevant period displayed on such information service which publishes that rate from time to time.

“**Hong Kong**” means the Hong Kong Special Administrative Region of the People’s Republic of China.

“**HKE**” means Hong Kong Exchange and Clearing Limited and any replacement or successor exchange.

“**Indebtedness**” means (a) all sums owing by the Customer to the Bank or that the Customer has covenanted to pay or discharge, whether owing individually, jointly or jointly and severally, including all interest (both before and after any demand or judgement), bank charges, commissions, fees (including legal fees on a full indemnity basis) and any other reasonable cost and expenses charged or incurred by the Bank, in whatever currency the same shall be denominated or owing, whether current or otherwise and whether present, future, actual or contingent, primary or collateral, secured or unsecured and (b) any amount wrongly credited to any Account or to any other Customer account with any other bank and which amount the Customer has failed to return to the Bank.

“**Instructions**” means any request, application, authorisation, order or instructions given or deemed given to the Bank by the Customer (including any Authorised Signatory(ies)) through any communication method as the Bank may from time to time offer and includes instructions given with the affixing of the Customer’s seal, mark, thumbprint or chop and Remote Instructions.

“**Investment**” means such investments (exchange traded or over the counter) as the Bank may specify from time to time as acceptable to be transacted through the Accounts.

“**Law**” means all relevant laws (including statutory enactments, common law and principles of equity), Regulations or other instruments (whether or not having the force of law) of any Relevant Authority (whether in Hong Kong or elsewhere) and any consolidations, amendments, re-enactments or replacements of any of them from time to time.

“**LIBOR**” means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for the relevant period displayed on such information service which publishes that rate from time to time.

“**Losses**” means all and any losses, whether direct or consequential, damages, reasonable costs and expenses (including Taxes and legal fees on a full indemnity basis), penalties, actions, proceedings, suits, claims, demands and all other liabilities of whatsoever nature or description howsoever arising and “**Loss**” shall be construed accordingly.

“**Member Bank**” means any member banks of the JETCO ATM network, (if applicable) PLUS ATM network and/or (if applicable) China UnionPay ATM network.

“**Minimum Balance Requirement**” means such sum as the Bank sets from time to time as the minimum balance for an Account as shown in the Bank Charges Schedule.

“**Minimum Total Relationship Balance Requirement**” means such sum as the Bank sets from time to time as the minimum balance for a Customer Segment as shown in the Bank Charges Schedule.

“**Nominee**” means any nominee or custodian appointed by the Bank from time to time.

“**Order**” means all cheques, bills of exchange, notes, drafts, promissory notes, negotiable instruments and any other payment orders.

“**Overdraft Application**” means an application for an overdraft facility.

“**Phone Banking Services**” means the phone banking services described in Section H.

“**PIN**” means the Personal Identification Number or Telephone Identification Number or password which is the security code for accessing the service channels described in Part IV.

“**PPS**” means the Payment by Phone Service from time to time offered by the Bank.

“**Prime Rate**” means the Hong Kong Dollar Prime Rate from time to time quoted by the Bank.

“**Regulation**” includes any bye-laws, regulation, rule, decree, directive, notice, order, judgment, request, practice note, policy, interpretation standard, code or guideline (whether or not having the force of law) of any Relevant Authority (whether in Hong Kong or elsewhere) as amended, re-enacted or replaced from time to time.

“**Relevant Authority**” means any relevant Government Authority, statutory, revenue or other regulatory body, Exchange

(including any market operated by such Exchange) or Depository whether in Hong Kong or any other jurisdiction.

**"Remote Instructions"** means any Telephone Instruction or Instruction given by facsimile, electronic mail or other electronic means through the use of any username, password (including any password that may be used one time or any other limited period), PIN, secure device or card, code, biometric identifier, which the Bank may allow or through such other communication channels or device as the Bank may from time to time approve.

**"Secured Assets"** has the meaning specified in Clause F3.

**"Services"** means any products, services and facilities from time to time offered by the Bank.

**"SFC"** means the Securities and Futures Commission of Hong Kong and/or any successor or other agency or authority performing or assuming its functions or substantially similar functions.

**"SFO"** means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) as amended, re-acted or supplemented from time to time.

**"sign"** means the placing of a handwritten signature or, in the case of a person unable to write, includes the affixing or making of a seal, mark, thumbprint or chop or through other means as the Bank may from time to time agree.

**"Specified Rate"** has the meaning specified in Clause B19.4.

**"Taxes"** includes all present or future taxes (including goods and services tax, value added tax or financial transaction tax), levies, imposts, duties, withholdings or other fees or charges of whatever nature imposed by any authority together with interest thereon and penalties in respect thereof.

**"Telephone Instructions"** means Instructions that are given to the Bank by telephone facilities (operated by voice or other means) whether in accordance with such identity verification or other requirements that the Bank may determine from time to time.

**"Terms and Conditions"** means the Bank Accounts and Services Terms and Conditions as supplemented, revised or replaced from time to time.

**"Transaction Records"** means any contract notes, receipts, confirmations, reports, advices or any other written document or notice containing the specific terms and conditions of any Investment or Transaction, including Confirmation.

**"Transactions"** means such transactions as the Bank may from time to time permit the Customer to carry out pursuant to or in connection with the Accounts and/or Services including Investments.

**"Unincorporated Entity"** means a sole proprietor, partnership or an unincorporated association, club or society.

**"Wealth Management Account"** means the account in the name of the Customer opened and maintained with the Bank subject to the Terms and Conditions for Accounts under Wealth Management Investment Portfolio (Wealth Management Accounts).

(b) In the Agreement, unless the context requires otherwise:

- (i) where the Bank has any right to make any determination or to exercise discretion as regards any matter, such right or discretion may be exercised by the Bank in such manner as the Bank shall reasonably decide in its sole discretion;
- (ii) words suggesting the singular include the plural and vice versa and words importing a gender include every gender;
- (iii) headings are inserted for ease of reference only and do not affect the interpretation of any provision; and
- (iv) references to:
  - a. **"Customer"** or **"Customers"** include, where the context permits, the Authorised Signatory(ies), executors, personal representatives, administrators, successors and permitted assigns and, in the case of a partnership, means each of the present and future partners of the partnership;
  - b. **"person"** or **"party"** include, any individual, company, body corporate, firm, partnership, limited liability partnership, and any other business concern, statutory body and agency and Government Authority, whether local or foreign;
  - c. any Account name is a reference to the Account product as identified in the Account Opening Documentation or otherwise identified in correspondence with the Customer;
  - d. the description or marketing name of the Accounts, products and/or Services include a reference to any subsequent changes in the description or marketing name of such Accounts, products and/or Services;
  - e. **"include"**, **"includes"**, **"including"**, **"such as"** or **"for example"** when introducing an example do not limit the meaning of words to which the example relates to that example or examples of a similar kind and are deemed in each instance to be followed by the words **"without limitation"** or **"but not limited to"**;
  - f. a document include any variations, modifications, and/or replacement thereof and supplements thereto;
  - g. a statute and other legislation shall be construed as a reference to such statute or legislation in force and as amended, re-enacted or replaced from time to time and any Regulation promulgated or issued thereunder;
  - h. all time deadlines are with reference to Hong Kong time; and
  - i. a "day" are to a "calendar day".

## 2. Eligibility and Conditions for Operation

- 2.1 The Bank may refuse an application for an Account for any reason without any explanation.
- 2.2 The Bank may prescribe conditions and/or procedures for the opening and operation of the Account and Services from time to time.

## 3. Customer Segment

- 3.1 Each Customer Segment shall be subject to its corresponding fees and charges.
- 3.2 The applicable fees and charges of a joint account shall be determined by the Customer Segment of the primary account holder unless otherwise specified by the Bank.

## 4. Signature

- 4.1 When signing Orders, Instructions and any other documentation, the Customer shall use the same signature as the

Customer's specimen signature on the Bank's records.

- 4.2 The Customer must notify the Bank of any change to the specimen signature in writing or by such other method as the Bank may from time to time permit.

## 5. Authorised Signatory(ies)

- 5.1 The Customer may appoint one or more Authorised Signatory(ies) to give Instructions to the Bank. The Bank is authorised, until it is notified in writing by the Customer that such appointment is varied or revoked, to accept and act in accordance with such Instructions as if they were issued by the Customer, even if such Instructions would be inconsistent with the Customer's earlier Instructions.
- 5.2 Authorised Signatory(ies) may only give Instructions in respect of Current Account, Savings Account, Time Deposit Account and Wealth Management Account. Any Instructions in respect of any other type of Account shall only be acted upon subject to the conditions and/procedures of the Bank.
- 5.3 All appointments, variations and revocations of appointment of Authorised Signatory(ies) must be delivered to the Bank in writing and, where applicable, by using the form prescribed by the Bank. Such appointment, variation and revocation shall only be effective after it is received by the Bank and 7 Bank Business Days or sufficient time has elapsed to allow the Bank to record the appointment, variation or revocation on its operating system.

## 6. Joint Account

- 6.1 If any Account is a joint account:
- (a) the Agreement is binding on each joint account holder jointly and severally;
  - (b) the obligations and liabilities of the joint account holders are joint and several;
  - (c) unless otherwise agreed by the Bank in writing, each joint account holder is separately and independently entitled to exercise all rights in respect of the Account including to open, operate and close the Account and any Instruction given in accordance with the signing arrangement will be accepted and binding on each and every joint account holder. The Bank need not enquire into the circumstances of any Instructions any joint account holder may give nor be under any duty to notify or to consult any other joint account holder;
  - (d) notwithstanding that another joint account arrangement will apply, the Bank is entitled (but not obliged) to act on any Remote Instruction given by any joint account holder singly and all joint account holders shall be liable for any such Instruction as if such Instruction was given in accordance with the joint account arrangement;
  - (e) if prior to acting on any Instructions, the Bank receives contradictory Instructions, the Bank may, at its discretion, refuse to act unless all joint account holders give consistent Instructions;
  - (f) notwithstanding anything to the contrary in Clause B39.1 and subject to any applicable Laws, upon receipt of notice of the death of any joint account holder, the Assets shall accrue to and be held by the Bank to the order of the surviving account holder(s) without prejudice to any right the Bank may have in respect of, or arising out of any lien, charge, pledge, set-off, counter-claim or otherwise or to any step or legal proceedings which the Bank may at its discretion choose to take in respect of the Account;
  - (g) the Bank may deal separately with any of the joint account holders on any matter, including the full or partial discharge of liability of any of the joint account holders, without affecting the liability of any other joint account holder(s);
  - (h) rights of set-off under Clause B38 apply to all Accounts of each of the joint account holders (whether in single name or in joint names with any other person);
  - (i) no joint account holder is entitled to enforce any rights or remedies under the Account until all Indebtedness of all joint account holders to the Bank have been fully satisfied;
  - (j) any obligation to notify the joint account holders is discharged if the Bank notifies any of them; and
  - (k) the Agreement governs the legal relationship between Customers as joint account holders and the Bank exclusively, irrespective of the internal relationship between the joint account holders themselves.

## 7. Ultimate beneficiary and trust account

- 7.1 Unless expressly notified in writing to the Bank, the Customer is deemed to be the principal and ultimate beneficiary of the Account and not acting as agent or trustee of any other person.
- 7.2 The Bank is not required to recognise any person other than the Customer as having any interest in the Account. If the Bank agrees to open the Account in the Customer's name "in trust" or "as nominee" or using some other similar designation, whether or not for a named third party, the Bank will accept Orders and other Instructions relating to the Account from the Customer only and will not be required to obtain any consent from or see to the execution of any trust for any person, unless agreed otherwise by the Bank in writing.
- 7.3 If the Bank agrees to open an Account "in trust" for a beneficiary, the Customer undertakes to operate such Account solely for the beneficiary, and the Bank has no obligation to monitor this. The Customer agrees to indemnify the Bank against any Losses in respect of or relating to or in connection with the operation or closure of the Account, and any dispute between the beneficiary and the Customer except in the case of fraud, negligence or wilful default of the Bank and only to the extent of direct and reasonably foreseeable Loss (if any).
- 7.4 If the beneficiary dies, the Bank may close the Account and at its discretion:
- (a) open a new in-trust Account, which will be operated by the Customer as trustee for the benefit of the deceased beneficiary's estate; or
  - (b) pay to the trustee the balance standing to the credit of the Account together with any interest payable thereon and such payment shall be treated as a full discharge of the Bank's obligation under the Account.
- 7.5 Upon the death of the Customer, the Bank may do any of the following:
- (a) if the Account has more than one trustee, the Bank is authorised to hold any Assets for the surviving trustee; or
  - (b) if the Account has no surviving trustee:
    - (i) if the beneficiary (being an individual) is 21 years old or older, the Bank will close the Account and release the Assets to the beneficiary; or

- (ii) if the beneficiary (being an individual) is below 21 years old, the Bank will close the Account, release the Assets to the personal representative(s) of the Customer in accordance with the written Instructions of the personal representative(s) to be held in trust for the beneficiary.

Before the Bank agrees to take any of the actions referred to in this Clause B7.5, the Bank may require the Customer's personal representative(s) to produce certain documents (including the death certificate) as stipulated by the Bank.

## **8. Account statement and Transaction Records**

- 8.1 Unless the Bank is not required by Law to do so or otherwise requested by the Customer, a monthly statement for the Accounts and Transaction Records will be sent to the Customer's relevant correspondence address as recorded by the Bank.
- 8.2 The Customer must examine each statement and Transaction Record received and notify the Bank of any error or discrepancy within the timeframe stipulated or if not expressly stipulated, promptly or in the case of monthly statement, within 90 days of delivery. Unless any errors or discrepancies are so notified within such period, the statement and Transaction Record shall be deemed correct and shall be conclusive and binding upon the Customer (save for manifest error, fraud, or negligence on the part of the Bank or Bank Personnel).
- 8.3 The Bank may decide not to issue any statement if an Account is inactive or there have been no transactions since the previous statement.
- 8.4 Hold statements, hold mail and correspondence services are not available.

## **9. Responsibilities for security**

- 9.1 The Customer must exercise reasonable care, take reasonable precaution and establish adequate controls and security arrangements including with Authorised Signatory(ies) to prevent unauthorised fund withdrawal or other misuse or forgery in relation to all Accounts and Services.
- 9.2 The Customer must notify the Bank immediately upon becoming aware of any actual or possible unauthorised use, misuse or forgery. The Bank does not assume any liability or responsibility to the Customer or any third party for the consequences arising out of or in connection with such actual or possible unauthorised use, misuse, or forgery save only for reasonably foreseeable Losses resulting directly from the fraud, negligence or wilful default of the Bank or Bank Personnel.
- 9.3 The Bank will never request Account details, PINs or other security codes. The Customer and the Authorised Signatory(ies) must not disclose the Account details, PIN or other security code if it receives such a request from anyone (even if that person is using the Bank's name and logo which appear to be genuine). The Customer and/or the Authorised Signatory(ies) must notify the Bank as soon as possible upon receipt of such request.

## **10. Deposits**

- 10.1 Deposits of cash or cheques may be made:
  - (a) at any Branch, together with a completed deposit form which will be acknowledged, with a transaction advice bearing terminal validation or authorisation by the relevant Bank Personnel; or
  - (b) via ATM, by drop-in boxes at any Branch subject to any applicable requirements of the Bank.
- 10.2 Cheques may also be deposited by post, provided that it is properly crossed with the account number written on the reverse side. Cash should never be sent by post. The Customer agrees to bear all consequences of cash or any cheque being lost or delayed in transit.
- 10.3 Deposit slips are not valid receipts unless validated by the Bank's machine print or by the stamp and initial of the relevant Bank Personnel. If the amount indicated on the deposit slip differs from the Bank's cash count or actual amount of a cheque, in the absence of manifest error, the Bank's cash count or the cheque amount cleared is final and conclusive. Deposit slips are not documents of title.
- 10.4 The Bank reserves the right at its discretion to set a minimum or limit the deposit amount, or reject or return a deposit to the Customer. Dishonoured cheques may be returned by post to the Customer's last known address, at the Customer's own risk and expense.
- 10.5 All cheques or drafts accepted for deposit are subject to collection from the drawer, at the Bank's discretion. Drawings on such deposits may only be permitted following collection from the drawer, at the Bank's discretion.
- 10.6 Any cheques, drafts or Orders which are deposited and returned unpaid are null and void. The Customer is not entitled to interest on that deposit. The Bank may debit the Account in respect of such deposit, together with all applicable interest charges, any foreign exchange loss and other charges and expenses as described in the Bank Charges Schedule. For foreign currency cheques, interest will only accrue upon collection.
- 10.7 The Bank is entitled to debit from the Account any sum wrongly credited into that Account.
- 10.8 The Customer acknowledges that for deposit of a cheque or Order drawn on a financial institution outside of Hong Kong:
  - (a) clearance of that cheque or Order will depend on the Laws of the relevant jurisdiction; and
  - (b) the Bank is not responsible for the value given to that cheque or Order by the financial institution or any other Loss incurred by the Customer in connection with that cheque or Order.

## **11. Withdrawals**

- 11.1 Withdrawals can be made at any Branch or through designated ATMs. Withdrawals will be in the currency of the Account or at the discretion of the Bank, in Hong Kong Dollar equivalent converted at such exchange rate as shall be determined by the Bank.
- 11.2 Any payments made by the Bank to a person producing a withdrawal or transfer form purporting to be duly signed by or on behalf of the Customer has the same effect as if made by the Customer personally, provided the Bank has acted in good faith.
- 11.3 The Bank reserves the right (at its discretion) to:
  - (a) impose a limit on the amounts that may be withdrawn;
  - (b) decline to act on any payment or withdrawal request even if there are sufficient funds in the Account, if:



- (i) the signature on the Instruction is different from the specimen on the Bank's record or not drawn in accordance with the signature requirements prevailing at the time of presentation;
- (ii) the cheque or Order is presented more than 6 months after date of issuance;
- (iii) the Bank is obliged to comply with any applicable Laws or the Bank is served with a court order or other form of legal process requiring the Bank to freeze the Account or to disallow withdrawals; or
- (iv) funds in the Account have been earmarked by the Bank for any reason;
- (c) pay to the Customer any amount withdrawn by any of the following methods:
  - (i) cash payment;
  - (ii) a cheque or cashier's order drawn on the Bank;
  - (iii) a demand draft drawn on the Bank's correspondent;
  - (iv) a transfer to an account with any other financial institutions(s); or
  - (v) by such other means as the Bank thinks fit;
- (d) permit the Customer to draw against funds due to be credited to the Account and should the Account become overdrawn, the Customer must upon demand pay the overdrawn amount (including all charges and overdraft interest); and
- (e) decide on the order of payment if several Instructions are presented to the Bank for withdrawal simultaneously.

11.4 The Bank may approve or reject any payment Instructions or cheques drawn, by reference to the actual or projected account balance as at the transaction date.

## 12. Fund transfer and bill payment services

12.1 Transactions involving transfer of funds between Accounts and/or third parties (whether or not held by the Bank) can only be accepted if the necessary arrangements have been established by the Bank. Such fund transfer transactions, wherever practicable, will be processed on the same day, the next Bank Business Day or on another date as specified by the Customer subject to the consent of the Bank, which shall not be unreasonably withheld.

12.2 The Bank may set limitations on the transaction amount, payment recipient, frequency of use or other features for use of the fund transfer or bill payment services.

## 13. Over the counter transactions

The Customer is responsible for examining the transaction advice before leaving the counter to ensure that the transaction has been carried out correctly. Subsequent rectification of any error may not be possible and is subject to the Bank's discretion.

## 14. Instructions

14.1 The Customer or any Authorised Signatory may give Instructions to the Bank in English or Chinese and the Bank may accept any Instructions given:

- (a) in writing and delivered in person or by post, courier, electronic mail or facsimile and, if a specimen chop was provided to the Bank, with the affixation of a chop which resembles the specimen chop provided to the Bank;
- (b) orally through Phone Banking Services with the Customer's PIN or otherwise over the telephone or in person;
- (c) electronically through any internet banking service made available by the Bank from time to time or otherwise via the internet; or
- (d) through any other channel as prescribed by the Bank from time to time.

14.2 All Instructions as understood and acted on by the Bank, shall be binding on the Customer whether given by the Customer or Authorised Signatory(ies) or by any other person purporting to be the Customer or Authorised Signatory(ies). Any Transaction effected pursuant to or as a result of an Instruction shall be binding on the Customer whether or not made by the Customer or with the Customer's authority, knowledge or consent.

14.3 Where Authorised Signatory(ies) are required to give Instructions jointly, the Bank is authorised (but not obliged) to accept and act, on Instructions given or purportedly given by any one of the Authorised Signatory(ies) even if the signing conditions require more than one person to give Instructions.

14.4 The Bank shall have no responsibility to assess the prudence or otherwise of any Instruction or to determine the authenticity of any Instruction or to verify the identity or authority of the person giving or purporting to give the Instruction.

14.5 All Instructions must comply with any pre-transaction, daily or other monetary limits, or such operating, procedural or other limits or requirements from time to time required by the Bank.

14.6 The Bank shall be entitled to act in accordance with its regular business practice and procedures and will only accept Instructions insofar as it considers practicable and reasonable to do so. The Bank may prescribe from time to time the telephone number through which any Telephone Instruction must be given or may require a PIN or such other details or security measures before the Customer can give any Remote Instruction.

14.7 The Bank shall be entitled at any time, at its discretion, to refuse to carry out any Instruction. The Bank in so refusing is not obliged to give any reason nor be held responsible for refusing to act on any Instructions. For the avoidance of doubt, for so long as any of the Customer's liabilities remain outstanding, the Bank reserves the right to decline any request by the Customer to withdraw any of the Customer's property which is held by the Customer or effect any Instruction.

14.8 Without limiting the generality of the Bank's right to refuse to carry out any Instruction, if the Bank is of the opinion that there are errors, ambiguities or conflict in the Instruction, the Bank shall be entitled to refuse to execute the Instruction until clarification is obtained or to construe and execute the Instruction in the manner in which it is perceived by the Bank, and the Bank may refuse to act on any Instruction that is inconsistent with any applicable Law to which the Bank is subject, and in doing so the Bank shall not be liable or have any responsibility of any kind for any Losses thereby incurred or suffered by the Customer.

14.9 If the Bank determines that any Instruction or other circumstances may expose or lead it (whether directly or indirectly) to suffer Loss or incur expense or prejudice the Bank's rights or interest, or damage or prejudice the Bank's credibility, reputation or standing, it has the right to refuse to carry out the Instruction, suspend the operation of any of the Accounts without notice to the Customer and without giving any reasons for so doing, and to require an indemnity from the

Customer or any third party before allowing continued operation of the Accounts or complying with the Instruction, and in doing so the Bank shall not be liable or have any responsibility of any kind for any Losses thereby incurred or suffered by the Customer.

- 14.10 The Bank may set cut-off times (details are available on request) by which Instructions must be received in order for the Bank to process on the same day. If Instructions are received after the cut-off times or on a non Bank Business Day, the Instruction will be processed on the next Bank Business Day. If the Bank is to act on an Instruction before a deadline, the Customer must ensure that the Instructions are given before any cut-off times or if none are specified, reasonable time is given to the Bank to process the Instruction and to communicate to any relevant third parties. The Bank will not be liable for any failure by the Customer to meet the cut-off time or if the Instructions are not received within a reasonable time before the deadline.
- 14.11 Notwithstanding Clause B17.2, the Bank may at its discretion act on an Instruction notwithstanding insufficiency of funds or lack of credit without prior notice to or approval of the Customer and the Customer shall be responsible for repaying any debit to the relevant Account (including any interest, fees and charges charged thereon by the Bank) as a result.
- 14.12 The Customer agrees that the Bank shall have no obligation or liability for carrying out Instructions if (despite reasonable efforts), the Instructions cannot reasonably be performed or completed by the Bank in full and on a timely basis. The Bank is entitled to effect partial performance of an Instruction without prior notice to or confirmation from the Customer.
- 14.13 The Customer acknowledges, accepts and agrees that (i) Remote Instructions are not secure communication channels and may be given by unauthorised persons and/or for dishonest purposes and (ii) giving Remote Instructions increases the risks of error, misunderstanding and/or conflict arising. The Customer is willing to accept such risks and agrees to be bound by the resulting Transaction, as understood and carried out by the Bank in good faith. The Customer acknowledges, agrees and/or undertakes that:
- (a) the Bank shall have no liability or responsibility for errors or omission contained in any Remote Instruction, or any delay in receipt or execution or any non-receipt of a Remote Instruction, provided that the Bank has acted in good faith;
  - (b) the Bank shall not be liable for any Losses which the Customer may suffer in connection with the Bank acting in accordance with the Remote Instruction including any oral instruction of a person who is not the Customer or the Authorized Signatory(ies), or any facsimile instruction upon which one or more of the signatures may be forged or is otherwise unauthorised;
  - (c) the Bank shall be entitled at any time, at its absolute discretion, to require confirmation of Remote Instructions before carrying them out, or refuse to carry out any Remote Instruction;
  - (d) if the Bank gives a confirmation of any Remote Instruction (not being a Confirmation), the Customer must examine such confirmation and notify the Bank as soon as practicable but no later than within 1 Bank Business Days of its receipt of any error or discrepancy or unauthorized transaction. Unless notified within such period or there is manifest error, fraud or negligence by the Bank or Bank Personnel, such confirmation shall be deemed correct and conclusive evidence that the Transaction is authorised;
  - (e) a note made by the Bank Personnel of any oral Instruction shall be conclusive and binding evidence of such Instruction, provided that the Bank shall not be obliged to cause any Bank Personnel to make any note of any Instruction and the failure to make such note shall not affect the acceptance by the Bank of the oral Instruction;
  - (f) If any written confirmation of any Remote Instruction is given by the Customer to the Bank, it must be clearly marked: "Confirmation only-do not duplicate". If any confirmation is not clearly marked in this way, the Bank will not be liable for any consequences, including for any Losses if an Instruction is executed more than once; and
  - (g) the Customer should ensure that any facsimile is sent to the correct facsimile number of the Bank as advised by the Bank from time to time and the Bank shall have no liability for any claim or Loss in relation to any failure on the Customer's part to do so.

## 15 Value date

The Bank may, at its discretion, determine the effective value date in respect of every Transaction.

## 16 Payment of interest and interest rates

16.1 **Interest (which will be rounded up to the nearest currency unit or fractional unit, at the Bank's discretion) accrues daily on the balance of all interest bearing Accounts. The rate and basis of calculation is at the Bank's discretion. Details are available by enquiry at Branches or via the Customer Service Hotline. Interest will only accrue on funds which have been successfully credited for value to an Account. Interest due shall be credited to the relevant Account at intervals determined by the Bank from time to time. If an interest bearing Account is closed during an interest period, interest will be paid up to but excluding the day of account closure.**

16.2 The Bank reserves the right to (at its discretion) pay a lower rate of interest or no interest in respect of an interest bearing Account in circumstances prescribed by the Bank from time to time.

## 17 Insufficient funds

17.1 The Customer must ensure an Account has funds sufficient for the Customer to perform its obligations and for the purpose of giving and receiving Instructions and Orders.

17.2 Unless the Bank has approved Facilities or otherwise permits an overdraft at its discretion, no Transaction will be carried out if the funds held in the Account (together with any available credit facilities) are insufficient and the Bank shall not be liable for any consequences resulting from delay in or non-implementation thereof.

17.3 Cheques and auto-debits drawn on the Account may at the Bank's discretion be paid notwithstanding that there may be insufficient funds in the Account.

## 18 Overdrawn Accounts

18.1 The Bank will consider an Account overdrawn if it is overdrawn at the end of a Bank Business Day. Interest and charges in accordance with the Bank Charges Schedule shall be payable unless otherwise stipulated by the Bank.

18.2 Overdrafts are not allowed on Savings Accounts.

18.3 The Bank is not under any obligation to transfer funds from any other Account to the overdrawn Account in order to repay the overdrawn amount or to effect a Transaction on the Account.

18.4 The Customer shall repay the Bank upon demand any overdraft on any Account, including any overdraft approved or permitted under Clauses B17.2 and B17.3, and all advances, loans or other financial accommodation, together with interest and charges thereon.

## **19 Foreign exchange transactions**

19.1 The Bank shall only accept Instructions for currency exchange transactions for such currencies as the Bank may specify from time to time.

19.2 The actual exchange rates for currency exchange transactions will be determined by the Bank at the time such transactions are effected. Exchange rates are available by enquiry at Branches or via the Customer Service Hotline.

19.3 Foreign exchange involves risk. For dealings in Investments and for cash settlement in currencies other than the base currencies of any Account, the Customer acknowledges that there may be profits or losses arising as a result of exchange rate fluctuations which shall be entirely for the Customer's account and risk.

19.4 The Customer acknowledges that, in relation to any order watching services on foreign exchange transactions:

- (a) the Customer may from time to time provide the Bank with any Instruction for any foreign exchange transaction (on a spot basis) to be concluded at a certain currency exchange rate set by the Customer (the "**Specified Rate**"). Unless otherwise agreed, each such Instruction received by the Bank will only be available for execution after it has been accepted by the Bank as a foreign exchange order for such purpose (the "**FX Order**"). Such FX Order will remain open for execution unless and until (i) the expiry of the FX Order Good-Till-date or (ii) the Bank receives the Customer's Instruction for its amendment or cancellation and informs the Customer of its due amendment or cancellation, whichever is earlier;
- (b) the FX Order will be conclusive and binding on the Customer upon the Customer's placement of the FX Order (whether in writing or over the phone) but is subject to final execution and acceptance by the Bank as confirmed orally or in writing;
- (c) execution of any FX Order at the Specified Rate cannot be guaranteed due to the possibility of unexpected market fluctuations. The Bank shall not be liable for any unsuccessful execution or any delay in the execution of the FX Order by the Bank. Executed FX Orders will be settled on no later than the next Bank Business Day following the FX Order execution day. Settlement risk involved as a result of cross-border and/or cross-time zone nature of foreign exchange transactions and other circumstances is beyond the Bank's control;
- (d) unless the Customer submits a cancellation / amendment request (written or by phone) which is validly accepted by the Bank (as confirmed orally or in writing), the Customer cannot cancel / amend any FX Order placed. The Customer shall indemnify the Bank on demand for all costs, charges, loss and damages incurred by the Bank in unwinding any valid FX Order placed;
- (e) charges specified in the FX Order Watching Service Form by reference to basis points will be incurred and paid to the Bank for each executed FX Order. This will be charged against the FX Order executed price;
- (f) upon acceptance of a FX Order and while it is outstanding, the Bank is authorised to hold sufficient funds from any of the Accounts equivalent to 100% of the transaction amount plus all the applicable fees and charges which would be required to settle the FX Order. If the FX Order is executed, the Bank may apply such amount in satisfaction of the transaction amount plus all the applicable fees and charges on the settlement date. Funds will be released 2 Bank Business Days after (i) the order Good-Till-date or (ii) the Bank receives the Customer's Instruction for amendment or cancellation of FX Order and informs the Customer of its due amendment or cancellation, whichever is earlier. In the event of insufficient funds in the Account to cover the full amount of any executed transaction due to any reason whatsoever, the Bank may at any time and without prior notice to the Customer reject the FX Order or reverse the transaction so executed. If the Bank acts on the FX Order, the Customer agrees to fully indemnify the Bank against all costs, charges, loss and damages incurred by the Bank as a result of acting on the FX Order;
- (g) Notwithstanding Clauses B19.4 (a) to (c) above, the Bank may follow market practice and conditions and conduct transactions with or for the Customer on any FX Order in any foreign exchange market and in a manner acceptable to the Bank;
- (h) The Bank or any financial institution in the group to which the Bank belongs or any of their employees or representatives may trade in foreign exchange on its or his own account or take the opposite position or be the counterparty to any of the Customer's FX Orders or foreign exchange contracts;
- (i) the Bank is acting as principal and not as the Customer's advisor or agent. The Bank does not give to the Customer any investment advice, assurance or guarantee regarding any expected outcome of any FX Order; and
- (j) the judgment and decision with respect to any FX Order is made by the Customer independently. The Customer has not received and/or relied on any representation, warranty, undertaking or information from the Bank and/ or any of the Bank's Personnel in respect of any foreign currency transaction risks.

## **20 Issue of demand drafts or cashier's orders**

20.1 Any demand draft or cashier's order requested by the Customer may be collected personally by the Customer or a person authorised by the Customer under the specified application form or an authorisation letter duly signed by the Customer.

20.2 Any request for amendment, stop payment, cancellation or refund of a demand draft or cashier's order is subject to the Bank's discretion and to such conditions and fees as the Bank may determine.

## **21 Bank charges and fees**

21.1 The Customer shall pay to the Bank all fees, applicable charges, commissions, brokerage and any other service charges (including related custodian charges or negative interest) as shown in the Bank Charges Schedule (or as notified by the Bank from time to time) and any reasonable expenses incurred by the Bank in connection with the Accounts, Transactions, Services and/or the Agreement.

21.2 In the event that there is any Tax, fee (including transaction fees imposed by the Exchange or regulatory bodies), stamp duty, charge or cost to be paid, withheld or deducted in respect of a Transaction (for entering into the Transaction or as a result of any payment or delivery made under the Transaction) as required by applicable Laws, such amounts will be withheld or deducted from, or charged to, the Customer and the Bank shall have the right to withhold or deduct the same from any amount payable under the Transaction.

21.3 The Bank is entitled at any time and without prior notice to the Customer to debit the Account with all sums payable by the Customer (including those under Clauses B21.1 and B21.2). Any delay in debiting the Account due to insufficient funds does not constitute a waiver or otherwise affect the Bank's rights under the Agreement. If the debiting of the Account results in the Account becoming overdrawn, interest and charges thereon in accordance with the Bank Charges Schedule shall be payable unless otherwise stipulated by the Bank.

21.4 Under insolvency Law, a person may demand the refund of a payment the Bank has received. To the extent the Bank is obliged to do so or it agrees to make a refund, the Bank may treat the original payment as if it had not been made. The Bank is then entitled to its rights against the Customer as if the payment had never been made.

## **22 Collection costs**

The Bank may take reasonable actions to enforce any provision of the Agreement including employing lawyers and/or third party debt collection agents to collect any sums the Customer owes the Bank with advance written notice to the Customer. The Customer shall indemnify the Bank on demand for all reasonable legal and other costs and expenses reasonably incurred.

## **23 Rebate and commission**

23.1 The Bank may receive, either directly or indirectly, remunerations, commissions, retrocession fees, monetary or other non-monetary benefits from third parties (including any Affiliates) in connection with any Account, Services and/or Transactions. The nature, amount and method of calculating these remunerations, commissions, retrocession fees, monetary or other non-monetary benefits may vary over time, depending on the third parties and/or Transactions.

23.2 The Bank or any Affiliates may receive certain monetary and non-monetary benefits from the product issuer for distribution of an investment product. The Bank may also receive monetary benefit from distributing its own investment products. When the Bank distributes investment products issued by an Affiliate, the Bank may not explicitly receive monetary benefits for doing so, but the Bank and/or any Affiliate may nevertheless benefit indirectly from the origination and distribution. Accordingly, the benefits which might be received by the Bank include: (i) non-explicit monetary benefits for distributing an investment product which is issued by the Bank or any Affiliate; (ii) monetary benefits which are not quantifiable prior to or at the point of sale such as trailer fees and rebates; (iii) retrocession fees; and (iv) non-monetary benefits such as research and advisory services, market analysis, portfolio analysis, training and seminars. The Customer hereby consents to the Bank receiving such remunerations, commissions, retrocession fees, monetary or other non-monetary benefits.

23.3 The Bank may offer benefits and/or advantages to any person in connection with the Accounts, Transactions, Services and the Agreement.

## **24 Right to withhold payments**

24.1 Any sum payable by the Bank to the Customer is subject to all applicable Law, including any Tax requirement, foreign exchange restriction or control.

24.2 The Customer agrees and acknowledges that the Bank:

- (a) may perform, or cause to be performed, withholding of any monies payable to the Customer, deposit any such monies into a sundry or other account and/or retain such monies pending determination of the applicability of such Tax requirement, foreign exchange restriction or control; and
- (b) shall not be liable for any Tax, gross-up or similar charges payable in connection with any Transaction and the Bank is authorised to deduct or withhold, without notice to the Customer, any amount of Tax deducted from any payments, interest, dividends or any other amounts whatsoever payable to the Customer and pay such amounts to the relevant tax authorities.

24.3 The Bank is not liable for any Losses that may be incurred by reason of such withholding, retention or deposit.

## **25 Recording and document retention**

25.1 Further to the Data Policy Notice, and subject to any applicable Law, the Customer consents to the Bank:

- (a) recording all telephone calls, oral Instructions and electronic mail communication from the Customer and any Authorised Signatory to the Bank; and
- (b) videotaping or recording them on camera at terminals or other facilities through which Instructions are given.

25.2 The Bank may, but is not required to, inform the Customer or any Authorised Signatory on each occasion that it makes such a recording. All such recordings are the property of the Bank and are collected for the purpose of being, and are agreed by the Customer to be, conclusive evidence of the Instructions, information and/or content. The Customer undertakes, represents and warrants that the Customer has notified, and obtained the consent of its Authorised Signatory(ies) to the recording process described at Clause B25.1 above. All such recordings shall be admissible in evidence in any proceedings and the Customer agrees not to challenge or dispute the admissibility, reliability, accuracy or authenticity of the contents merely on the basis that such recordings were incorporated and/or set out in electronic form or are produced or were the output of a computer system, and the Customer waives any right (if any) to so object.

25.3 The Bank may set retention periods after which originals may be destroyed. Microfilm or other imaged copies may be taken and retained in place of the original documents and such imaged versions are regarded as of equivalent authenticity and effect as the originals. Consistent with the Data Policy Notice, the Bank will only keep data for as long as is reasonably required for the purpose for which it was collected.

## **26 Suggestions and complaints**

The Customer can call the Customer Service Hotline or write to the Bank regarding any suggestions or complaints. Complaints will be dealt with according to the Bank's complaint handling procedure.

## **27 Communication to Customers**

27.1 Any notice or communication to the Customer may be given in writing or orally. If in writing, it may be delivered personally, or by post, courier, facsimile, SMS or electronic mail to the last known address, number or electronic mail details or to such other address, number or electronic mail details as the Customer may have notified the Bank in writing or by other electronic means or by publication in daily newspapers, or posted at any Branch, ATM or on the Bank's website and will be deemed to be given or made or received:

- (a) if sent by facsimile, at the time shown on the transmission report as being successfully sent;

- (b) if delivered personally, at the time left at the relevant address;
- (c) if sent by post in Hong Kong, 2 days after posting (notwithstanding that it may be returned through the post office undelivered);
- (d) if sent by post outside Hong Kong, 7 days after posting (notwithstanding that it may be returned through the post office undelivered);
- (e) if sent by registered mail or courier, on the date it is delivered or delivery is attempted (notwithstanding that it is undelivered or returned undelivered);
- (f) if sent by electronic mail or SMS, at the time of delivery from the Bank's electronic messaging system (notwithstanding that it was not successfully delivered);
- (g) if delivered via other electronic means, 24 hours after the Bank sends it (notwithstanding that it was not successfully delivered);
- (h) if published in daily newspapers, posted at any Branch, ATM or on the Bank's website, at the time of publication or posting; and
- (i) If orally, when given to the Customer or person authorised to accept such notice or communication.

27.2 If any communication sent to the Customer is returned to the Bank or if the Bank is otherwise notified that any particular means of communication is no longer effective, subject to applicable Laws, the Bank may at its sole discretion cease to use such means of communication until the Customer has updated the relevant contact information. In particular, the Bank may cease to send any statement to any address of the Customer upon receiving any returned mail from such address.

## **28 Communication to the Bank**

Any notice or communication to the Bank must be in English or Chinese and may only be given in writing at its address notified to the Customer and shall be deemed to be given or made or received only on the day of actual receipt by the Bank, and the burden of proving receipt will be on the Customer.

## **29 Notifications**

29.1 The Customer undertakes to promptly notify the Bank in writing:

- (a) if any of the representations and warranties in clause B43 are no longer accurate or complete;
- (b) of any change to the information provided to the Bank including:
  - (i) the beneficial ownership of the Assets;
  - (ii) change in citizenship, residency, tax residency, address(es) on record, telephone, facsimile or mobile number, electronic mail addresses or marital status;
  - (iii) renewal of passport or change in other identity document (such as the Hong Kong identity card) including any change in passport or identity document number or name;
  - (iv) the Authorised Signatory(ies) or signing requirements in respect of the Account;
  - (v) (if the Customer is acting as trustee) change of trustee(s), settlor(s), grantor(s), protector(s), enforcer(s) or beneficiary(ies) of the trust; and
  - (vi) (if the Customer is a corporate or Unincorporated Entity) change in its constitutional documents, shareholder(s), partner(s), director(s), company secretary or nature of business;
- (c) in the event any order or warrant is issued against the Customer or any of the Customer's assets under any applicable anti-money laundering Laws and counter-terrorist financing Laws, including Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405 of the Laws of Hong Kong), Organised and Serious Crimes Ordinance (Cap. 455 of the Laws of Hong Kong) or the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575 of the Laws of Hong Kong).

29.2 The Bank undertakes to notify the Customer in writing in the event of any material change to its name, address, licensing status with the SFC (including the types of regulated activities for which it is licensed and its CE number), the nature of services provided or available to the Customer under the Agreement, or the remuneration to be paid (and the basis for payment) by the Customer to the Bank under the Agreement.

## **30 Change in status**

30.1 The Customer's obligations and liability under the Agreement shall continue to be in full force and effect and be binding on the Customer notwithstanding:

- (a) (in the case of individuals) the Customer's death, incapacity (whether mental incapacity or otherwise), bankruptcy or other legal disability;
- (b) (in the case of a corporation) the Customer's winding up, insolvency, dissolution or other legal disability or any change by amalgamation, reconstruction or otherwise which may be made to the Customer's constitution;
- (c) (in the case of Unincorporated Entity) any change in the partnership's name, structure, membership, partnership deed (or other constitutional documents) or in the partners, in each case whether due to death, bankruptcy, retirement, expulsion, admission of new partners, cessation of business or otherwise; and
- (d) any change by amalgamation, reconstruction or otherwise which may be made to the constitution of the Bank and any sale of all or any part of the Bank's undertaking and assets to another person.

## **31 Loss of seal / chop**

If a seal or chop used for operating any Account is lost or stolen, the Customer must immediately notify the Bank in writing or through such other channel as the Bank may prescribe from time to time. The Bank is not liable for any Losses suffered by the Customer arising from a payment or Transaction effected prior to receiving such notification.

## **32 Anti-money laundering and sanctions**

32.1 Notwithstanding any other provision of the Agreement to the contrary, the Bank is not obliged to do or omit to do anything if it would, or might in the Bank's reasonable opinion, constitute a breach of any anti-money laundering, counter-terrorist financing or economic or trade sanctions Laws applicable to the Bank.

32.2 The Customer must provide the Bank upon request with all documents and information as reasonably required by the

Bank from time to time in order for the Bank to comply with any anti-money laundering, counter-terrorism financing or economic or trade sanctions Laws or other laws, Regulations and policies or ongoing customer due diligence requirements, policies or regulations applicable to the Bank.

32.3 The Bank reserves the right (at its discretion) to request the Customer to produce identification documents, such as Hong Kong Identity Card, for the purpose of identity verification before processing any Instruction.

32.4 The Customer will cooperate fully in respect of any enquiry that the Bank may make for the purposes of compliance with any applicable Law and/or any other reporting and/or withholding requirements including promptly providing all relevant information, details and/or documents as may be necessary.

32.5 The Customer agrees:

- (a) to exercise its rights and perform its obligations under the Agreement in accordance with all applicable anti-money laundering, counter-terrorism financing and economic and trade sanctions Laws; and
- (b) that the Bank may block a Transaction, if the Customer or any other person or entity in connection with the Transaction becomes a sanctioned person or entity, or upon the occurrence of a match on the Bank's sanction filters and that this may cause a Transaction to be delayed or cancelled.

### **33 Reliability of information**

Information including but not limited to interest rate, exchange rate, stock price and product information quoted by the Bank through any channels is indicative and for reference only. The actual rate or price applicable shall be as determined or quoted at the time the Transaction is entered into.

### **34 Bank's records conclusive**

Subject to Clause B8.2, a statement or certificate in writing signed by the Bank or any person nominated by the Bank or any computer generated statement of the Bank (in the absence of manifest error) is final and conclusive as to the status of the Account, including any amount due to the Bank.

### **35 Dormant Accounts**

35.1 The Bank may consider an Account to be dormant if no transaction is initiated by the Customer for such period as determined by the Bank from time to time.

35.2 The Bank may cease to pay interest and/or impose a charge on dormant Accounts. The Bank will give 14 days' prior notice to the Customer when a charge accrues on a dormant Account for the first time, and advise the Customer of the amount of such charges and what can be done to avoid such charges or where the Customer can obtain such information.

### **36 Tax**

The Customer agrees to be bound by the terms relating to tax reporting, withholding and associated requirements specified in the "Tax Requirements Notice" from time to time issued by the Bank, which are incorporated by reference into and shall form part of the Agreement. A copy of the "Tax Requirements Notice" is available on request at any Branch or from the Bank's website ([www.dbs.com.hk](http://www.dbs.com.hk)).

### **37 Delegation**

37.1 The Bank reserves the right to appoint any other person(s) (whether in Hong Kong or elsewhere) as its Nominee, broker or Agent to perform any Services. The Bank may delegate any of its powers under the Agreement to such person to be carried out in accordance with market practice and the normal dealing and operational practices of such person. The Bank will exercise reasonable care in the selection of such person. The Bank assumes no liability or responsibility to the Customer or any third party for the acts or omissions of such person except for any Losses that are reasonably foreseeable and a direct result of the fraud, negligence or wilful default of the Bank or Bank Personnel.

37.2 In connection with the provision of Services to the Customer, the Bank is authorised to disclose information about the Customer or any Account to any person to whom it delegates its powers to.

### **38 Set-off right and lien**

38.1 In addition to all other rights and remedies available to the Bank and without prejudice to any lien, guarantee, mortgage or other security (now existing or established at a later date), the Bank may at any time without notice (whether before or after demand), liquidate any of the Customer's Assets and set-off, combine, consolidate or merge any balances standing to the credit of any Account (whether subject to notice or not and whether matured or not) and any other obligation of the Bank owed to the Customer towards the reduction and/or satisfaction of of any liability owed by or on behalf of the Customer (whether or not monetary or financial value can be attributed to such liability at the relevant time), including (without limitation) any of any Indebtedness whether such Indebtedness be present or future, actual or contingent, joint or several, primary or collateral, accrued or not and notwithstanding whether or not the credit balances and the Indebtedness are in the same currency and the Bank is authorised to effect (or request the effecting of) any necessary transfers and currency exchanges at such exchange rate as shall be determined by the Bank.

38.2 The Bank will notify the Customer promptly of any such set-off, combination, consolidation or merger where practicable, but failure to do so or any delay in doing so does not invalidate the Bank's exercise of such right.

38.3 In consideration of the Bank agreeing to or continuing to:

- (a) open and operate the Account and make available other Services or accommodation whatsoever, including to giving time and indulgence, to the Customer; and/or
  - (b) enter into Transactions with the Customer,
- the Customer hereby charges, pledges, mortgages, assigns and otherwise creates a first fixed charge to and in favour of the Bank over all the Customer's Assets as a continuing security for the payment and discharge of the Customer's liabilities.

38.4 The charge created hereunder is in addition to, and independent of, any charge, guarantee or other security or right or remedy now or at any time hereafter held by or available to the Bank.

38.5 Without prejudice to any provision in these Terms and Conditions, the Customer agrees to perform all such acts and/or execute all such documents as may be necessary for the purpose of perfecting the charge created under this clause B38.

### **39 Death**

39.1 Subject to Clause B6.1(f), upon the death of the Customer, all rights in and to the Account and Assets shall automatically

pass and be vested in the Customer's personal representative(s) who shall be liable to the Bank for all charges, obligations and liabilities of all Accounts and Assets. Subject to any applicable legal obligations, the Bank shall hold any Assets for the Customer's personal representative(s) and may release the same (without any liability or obligations) in accordance with the written Instructions of any such personal representative(s).

**39.2 The Agreement shall be binding on and enforceable against the heirs, personal representatives and successors in title of the Customer and binding on and enforceable by the successors in title and assigns of the Bank.**

#### **40 Termination and Suspension**

40.1 All Accounts must be operated in accordance with the Agreement and any other applicable requirements of the Bank.

40.2 The Bank may terminate the business relationship between the Bank and the Customer and/or the provision of any Service and close or suspend any Account or Service without obligation to provide any reason, by giving not less than 30 days' prior written notice to the Customer (or, in exceptional circumstances, without notice).

40.3 The Bank also reserves the right to suspend or terminate any Account at any time without giving any notice or reason if:

- (a) any legal or regulatory requirement prohibits or renders illegal the maintenance or operation of the Account;
- (b) the Customer commits any breach of the Agreement which, in the Bank's opinion is a material default;
- (c) the Bank determines that the Customer may refuse to or is unable or unwilling to comply with any of the Customer's obligations to the Bank or that there has been a material adverse change in the circumstances relating to the Customer, including the Customer's legal status, capacity, financial condition or business;
- (d) a receiver, administrator, liquidator, trustee or analogous office is appointed over all or a material part of the Customer's property;
- (e) a petition is presented or filed in respect of the Customer in any court of law or before any agency seeking any reorganization, arrangement, composition, readjustment, administration, liquidation, dissolution, bankruptcy or analogous or similar relief under any applicable Law; or
- (f) the Account is being used or is suspected of being used for unlawful activities such as illegal gambling, money laundering and terrorist financing.

40.4 Upon termination of the business relationship between the Bank and the Customer:

- (a) any Indebtedness shall immediately become due and payable to the Bank;
- (b) if any Transaction is likely to extend beyond the date of termination, the Bank shall at its discretion either close out or complete such Transaction and shall be entitled to require funds to be paid and/or to retain funds in a sufficient amount, as determined by the Bank, for this purpose, provided that the outstanding transactions will continue to be governed by the provisions of the applicable Agreement; and
- (c) all acts performed by the Bank prior to receipt of any notice resulting in termination will be valid and binding upon the Customer.

40.5 Upon Termination of any Account, the Bank:

- (a) has no further obligation to accept or honour any Instructions or Orders in respect of such Account which may be presented to the Bank, whether such Instruction or Order is dated before or after the Account termination date;
- (b) may transfer by any means of remittance to such account (including another Account with the Bank) as it deems fit or post to the Customer at the Customer's last notified mailing address or in any other manner the Bank deems fit a cashier's order or other negotiable instrument (at its discretion) for the net balance less all charges and Indebtedness and in this regard to convert from one currency to another at the rate of exchange determined by the Bank to be prevailing in the relevant foreign exchange market at the relevant time and the Bank shall not be liable to the Customer for any interest on any unclaimed balance on the terminated Account;
- (c) may take any other action it considers appropriate to mitigate or limit its potential loss;
- (d) may open an account in the Customer's name and allocate any of the Customer's Assets to such account, to be held until such time as the Bank shall (in its sole and absolute discretion) be satisfied that none of the Customer's liabilities to the Bank remain outstanding or it is properly and lawfully instructed, approved or authorised, by any appropriate party or authority, to release or otherwise deal with the Assets, provided that pending such satisfaction the Bank may, in its sole and absolute discretion and on such terms as the Bank may require, continue to accept Instructions on the Assets in such account;
- (e) the Customer shall be responsible for all costs and expenses of reasonable amount and reasonably incurred by the Bank by reason of the exercise by the Bank of any of its rights under this Clause B40; and
- (f) the Bank shall not be liable for (and the Customer shall not hold the Bank responsible for) any loss, expense, damage, liability or other consequence which the Customer may suffer or incur by reason of the exercise by the Bank of any of its rights under this Clause B40.

40.6 The Bank reserves the right to charge and debit an early closing fee for Accounts closed within 3 months after first being opened.

40.7 Any closure or suspension of an Account or termination of all or any Services shall be without prejudice to the rights or remedies which may then have accrued or still be accruing to the Bank in respect of any outstanding payments to it.

40.8 Without limiting the generality of the Bank's rights under the Agreement, where in the Bank's opinion it is required by, or failure to do so would be inconsistent with, any applicable Law to which the Bank or the Customer is subject, the Bank may sell any of the Assets or liquidate any position or unwind any Transaction without prior notice or consent of the Customer.

40.9 All exclusions and indemnities given by the Customer under the Agreement and the provisions in Clauses B25, B38, B40, B41, B42, B46, B47, B48, B49, B50 and B52 of these Terms and Conditions shall survive termination.

#### **41 Limitation of liability**

41.1 Other than where: (i) a Law prohibits the Bank from excluding; or (ii) there is fraud, negligence or wilful default on the Bank's part, neither the Bank nor any Bank Personnel shall have any liability or obligation to the Customer or any third party in respect of:

- (a) any Event of Force Majeure;
- (b) any interruption, delay, corruption, loss or interception of Instructions or other information;
- (c) the Bank's execution of, or any delay or omission in acting on any Instruction, or any partial completion of or any failure, inability or decision of the Bank not to execute any Instruction, or inability to effect Transactions at the prices or rates quoted at any specific time;
- (d) loss of business, goodwill, opportunity or profit;
- (e) loss of or diminution in the value of Investments;
- (f) imposition or change of any applicable Law, market disruption or fluctuation, restrictions or suspension of trading imposed by any Relevant Authorities;
- (g) any Losses suffered by the Customer in any way in connection with the Agreement including the provision of Accounts and Services;
- (h) acts or omissions or the bankruptcy or insolvency of any Agent, Relevant Authority, fund manager or issuer of Investments;
- (i) any delay in presentation of cheques caused by or any loss or destruction of cheques while the cheques are in the custody of any authorised third party through whom such cheques are presented for collection; and
- (j) any delay in updating the valuation of Assets provided by the Bank.

41.2 This Clause B41 applies where the Loss arises for any reason and even if the Loss was reasonably foreseeable or the Bank had been advised of the possibility of the Loss.

## **42 Indemnity**

42.1 In addition to any other indemnity set out in the Agreement and to the fullest extent permitted by Law, the Customer shall on demand indemnify the Bank and the Bank Personnel against all Losses of any kind and howsoever arising, including legal fees and other expenses (on a full indemnity basis) of any kind sustained or incurred as a direct or indirect result of the Bank:

- (a) accepting or acting on any Instruction or Order or other communication given in accordance with the Agreement;
- (b) the Customer's breach of the Agreement; or
- (c) the provision of any Services, the maintenance of any Account, the execution of any Transaction or the exercise or preservation of the Bank's powers and rights under the Agreement by the Bank.

except in the case of fraud, negligence or wilful default of the Bank and any Bank Personnel.

42.2 The Bank is entitled to withhold, retain or deduct such portion from the Assets or such amount(s) from the Accounts to cover any amount which may be owed by the Customer under Clause B42.1.

## **43 Undertakings, Representations and Warranties**

43.1 The Customer undertakes, represents and warrants to the Bank, as of the date of accepting these Terms and Conditions and as of each time an Instruction is given to the Bank or a Transaction is entered into that:

- (a) Where it is a corporation or Unincorporated Entity, the Customer is duly incorporated or otherwise properly constituted and validly existing under the laws of its place of incorporation/constitution and where he or she is an individual, the Customer is of full age and capacity;
- (b) the Customer has full capacity, power and authority to execute, deliver, exercise its rights, perform and comply with its obligations under the Agreement;
- (c) the opening and maintenance of the Account, the giving of Instructions, entering into of Transactions and the Customer's execution and delivery of and performance of its obligations under the Agreement does not and will not violate or conflict with or constitute a default or exceed any limitation under any provision of the constitutional documents (where it is a corporation or Unincorporated Entity) or the constitutive documents of the trust (where it is acting as trustee) or any instrument or agreement with any other party or of any judgment, order, injunction, decree, determination or award of any courts or any judicial, administrative or governmental authority or organisation presently applicable to it or any Laws or Regulations;
- (d) the Agreement constitutes the Customer's legal, valid and binding obligations enforceable against it in accordance with its terms;
- (e) no action, suit or proceedings at Law or in equity (whether in Hong Kong or elsewhere) before any court, tribunal, arbitral or administrative body or government agency that is likely to affect the legality, validity or enforceability against the Customer of the Agreement or of the Customer's ability to perform the obligations under the Agreement is pending or, to the Customer's knowledge, threatened;
- (f) no legal or other proceedings have been initiated or threatened and no meeting has been convened for the bankruptcy, dissolution, liquidation, winding-up, judicial management, termination of existence or reorganisation of the Customer or for the appointment of a receiver, manager (judicial or otherwise) trustee or similar officer and no arrangement, composition with, or any assignment for the benefit of creditors have been made or proposed to be made against the Customer;
- (g) except as otherwise notified, the Account(s) is opened, maintained and operated for the Customer's own benefit and all Assets held under the Account(s) are and will continue to be beneficially owned by the Customer free from any lien, charge or other encumbrance and/or restriction other than created in favour of the Bank;
- (h) all information in the Account Opening Documentation or other supporting documents delivered to the Bank to facilitate the provision or maintenance of any Services or for the execution of any Transaction is true, complete and accurate;
- (i) the Customer has not been committed or being convicted of any serious tax crimes or been subject to any investigation or criminal proceedings, whether in Hong Kong or elsewhere, in relation to tax matters nor does the Customer have knowledge of such investigations or proceedings being taken against the Customer;
- (j) the purpose of opening of the Account and effecting Transactions is not illegitimate and the Customer will not use the Account as a platform for illegal tax activities and is aware of Hong Kong and the Bank's firm stance against illegal or illicit tax activities;



- (k) none of the Assets are proceeds of organised crime of the specified offence of a person;
- (l) the Customer will maintain, and, where necessary, obtain in the future at the Customer's own cost, all consents, licenses, approvals required by the Customer to perform and comply with its obligations under the Agreement including requisite exchange control approvals;
- (m) the Customer shall conduct such investigation and analysis of the terms and conditions, risk and merits of each Transaction in light of its own circumstances, financial condition and objective and to the extent the Customer deems necessary, obtain independent advice from competent legal, financial, tax, accounting and other professional advisers;
- (n) the Customer understands the mechanics of the Transaction and the legal, financial, tax and other risks arising in respect of the Transaction and is able to bear any such risk involved (including a total loss) of the investment;
- (o) the Customer shall consult the Customer's own tax advisors and experts to determine the Customer's tax reporting obligations and shall be responsible for all tax filings and tax duties and obligations; and
- (p) the Customer shall ensure that all applicable Laws (including any reporting and disclosure requirement and shareholding restriction) are strictly adhered to and complied with at all times.

#### 44 Further assurance

- 44.1 The Customer shall at the request of the Bank, promptly execute and deliver such documents and perform such acts as the Bank (or its Agent) may request from time to time to allow the Bank to provide the Services, operate the Account or execute the Transactions.
- 44.2 Failure to comply may result in discontinuance of Services, non-execution of Transactions, delay, additional costs or requirements and/or other consequences in relation to the provision of such Services or execution of the Transactions.

#### 45 Amendments

**The Bank reserves the right at its discretion to review, amend, delete, modify or substitute the Bank Charges Schedule, these Terms and Conditions and/or any other terms and conditions which are supplemental to these Terms and Conditions or otherwise change any of the Services (as well as related operating and other requirements) from time to time.** For changes which shall result in an increase in the fees or charges payable by the Customer and/or affect the liabilities and obligations of the Customer, the Bank shall give at least 30 days' notice to the Customer unless such changes are not within the Bank's control. In other cases, reasonable notice shall be given. Such notice may be given by such means as the Bank at its discretion sees fit. **Any Customer who does not close the relevant Account(s) prior to the effective date of any changes is deemed to have agreed to such changes.**

#### 46 Illegality and severance

- 46.1 Notwithstanding any provision to the contrary in the Agreement, if it shall become (or it shall appear to the Bank that it has or will become) unlawful or otherwise prohibited for the Bank to maintain or give effect to any of the Bank's obligations in the Agreement, the Bank shall thereupon notify the Customer to that effect and the Bank shall be entitled to close any of the Accounts and/or terminate any Service.
- 46.2 If at any time any provisions of the Agreement is or becomes illegal, invalid or unenforceable in any respect under Hong Kong Law, the legality, validity or enforceability of the remaining provisions are not affected or impaired thereby.

#### 47 Assignment

- 47.1 The Agreement is for the benefit of the Bank and its successor, assignee or transferee notwithstanding the Bank's absorption by or amalgamation with another person.
- 47.2 The Bank may, at any time, assign, novate or transfer any of its rights and/or obligations under the Agreement and deliver all or any of the Assets held by the Bank to the successor, assignee or transferee, who shall then be vested with all the rights and/or obligations formerly vested in the Bank and the Bank shall thereafter be relieved and fully discharged from any liability or responsibility thereto.
- 47.3 The Agreement shall be binding on the Customer and the Customer's successors and personal representatives. The Customer may not charge, assign or transfer any right, benefit or obligation under the Agreement to any third party (whether by security or otherwise) without the Bank's prior consent in writing.

#### 48 No waiver

- 48.1 No failure or delay by the Bank in exercising or enforcing any right or remedy shall constitute a waiver of such right or remedy or limit, prejudice or impair the Bank's right to take any action or to exercise any right or remedy against the Customer without notice or demand, or render the Bank responsible for any Losses arising therefrom nor shall any single or partial exercise by the Bank of its rights preclude any other or further exercise thereof or the exercise of any other rights or remedies. The rights of the Bank are cumulative and not exclusive of any other rights, power, privilege, claim or remedy available at Law or otherwise.
- 48.2 Without limiting the foregoing, no waiver by the Bank of any breach of the Agreement shall be deemed to be waiver of any subsequent breach of the Agreement by the Customer.
- 48.3 Time shall be of the essence but the Bank may grant time or other indulgence to the Customer or any other person, without in any way impairing or affecting any of the Bank's rights as against the Customer or any such other persons.
- 48.4 The Bank may accept late payment or partial payment in respect of amounts due to the Bank or as being settlement of any matters in dispute, without prejudice to any of the Bank's rights under the Agreement or at Law, and it shall not be treated as an amendment to the Agreement nor waiver thereof.

#### 49 Governing law and jurisdiction

- 49.1 These Terms and Conditions **and/or any other terms and conditions which are supplemental to these Terms and Conditions** shall be governed by and construed in accordance with the Laws of Hong Kong and the Customer irrevocably submits to the non-exclusive jurisdiction of the Hong Kong courts or of any court elsewhere as the Bank may elect, whether concurrent or not and the Customer waives any objections on the ground of venue or any similar grounds.
- 49.2 The Customer agrees (but without limiting the Bank's rights) to services of legal process by registered mail of copies thereof to the Customer's address and/or the address of the Customer's process agent shown in the Bank's records and such service to become effective on the date it is delivered or its delivery is attempted (notwithstanding that it is undelivered or returned undelivered).

## 50 Third parties rights

A person who is not a party to the Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Ordinance (Cap 623 of the Laws of Hong Kong).

## 51 Relationship with directors/employees etc.

51.1 As a licensed bank, the Bank is subject to certain limitations on advances to persons related to the directors, employees, controllers or minority shareholder controllers of the Bank, its subsidiaries or Affiliates (“**Connected Persons**”). Unless otherwise declared or disclosed to the Bank, the Customer hereby confirms to the Bank that it is not a Connected Person. The Customer undertakes to immediately advise the Bank in writing upon becoming a Connected Person at any time while the loan or other Indebtedness to the Bank is outstanding.

51.2 For the purpose of this Clause B51, the following terms shall have the following definition:-

“controllers” and “minority shareholder controllers” shall have the meanings used within section 83 of the Banking Ordinance (Cap 155 of the Laws of Hong Kong);

“subsidiary” shall have the meaning ascribed to it in the Companies Ordinance (Cap 622 of the Laws of Hong Kong); and

“Affiliates” in respect of a party, means any other legal entity, directly or indirectly controlling or controlled by or under the direct or indirect common control with that party and “control” in this definition means (i) the direct or indirect ownership of 50% or more of the voting share capital of a party; or (ii) the entitlement to exercise, or control the exercise of 50% or more of the voting power of a party; or (iii) the ability of a party (whether directly or indirectly and whether by ownership of share capital, possession of voting power, contract or otherwise) to direct the management and policies of another party or to control the composition of the other party’s board of directors or equivalent body.

## 52 Disclosure of Information

52.1 The Customer permits the Bank to disclose and/or transfer (whether with or without notice to the Customer and whether orally or in writing) to the extent not prohibited by applicable Laws, any information relating to the Customer, Account, Assets and/or any transactions or dealings between the Bank and the Customer (including details of Transactions) in accordance with the Data Policy Notice. In addition to the list set out in paragraph (e) of the Data Policy Notice, the Bank may transfer such information to:

- (a) any Affiliates and their respective employees, directors and officers;
- (b) any Agent, contractor or third party service provider (or a subsidiary, holding company or related company thereof) that provide financial, administrative, data management or archiving, telecommunications, computer, payment or securities clearing, data processing, market research or other services to the Bank or any of the Affiliates in connection with the operation of its business (including their employees, directors and officers);
- (c) any person providing a guarantee or security in favour of the Bank to guarantee or secure the Customer’s obligations to the Bank or to any professional adviser of such person;
- (d) any person who has or will incur obligations to the Bank pursuant to which the Customer is providing a guarantee or security in favour of the Bank or to any professional adviser of such person;
- (e) any professional advisers acting for the Bank or the Customer;
- (f) such Relevant Authorities to whom the Bank deems fit to disclose information, for purposes in connection with the Account, Services or Transactions;
- (g) any person to whom information is required to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes;
- (h) the insurer, valuer or proposed insurer or valuer of the Asset;
- (i) credit or charge card companies in credit or charge card enquiries;
- (j) any person with the consent of the Customer;
- (k) pursuant to any contractual or other commitment (which may be within or outside Hong Kong).

Use of any personal data shall be in accordance with the Bank’s Data Policy Notice.

52.2 If the Customer provides any personal data of another individual (including the Authorised Signatory(ies)) to the Bank, the Customer undertakes, represents and warrants that the individual has been notified of, and the consent of the individual has been obtained (if required by Law), for the collection, processing, use and disclosure of the individual’s personal data in accordance with the terms of the Data Policy Notice.

52.3 The Customer further agrees that the Bank may, subject to the terms of the Data Policy Notice and any applicable Laws:

- (a) verify, provide and collect data about the Customer from other organisations, institutions or other persons;
- (b) transfer data outside Hong Kong; and
- (c) compare any data obtained from the Customer and use the results for the taking of any actions including actions that may be adverse to the Customer’s interest.

52.4 The Bank’s rights under this Clause B52 shall be in addition and without prejudice to any other rights or obligations of disclosure which the Bank may have under any Laws and nothing herein is to be construed as limiting any of those other rights.

## 53 Compliance with Laws

The Bank may take or omit to take any action which it determines to be necessary in order to ensure compliance with the Laws, which shall bind the Customer, who shall at all times ensure compliance with the same.

## 54 Governing version

**Wherever there is a discrepancy between the English and Chinese version of the Agreement, the English version prevails.**

## PART II - ACCOUNT RELATED TERMS AND CONDITIONS

### C. Current Account

**Section C of Part II is applicable to Hong Kong Dollar Current Account, Hong Kong Dollar Save & Cheque Account, US Dollar Current Account and Renminbi Current Account.**

#### 1. Cash withdrawals

Cash withdrawals can be made by presenting the Customer's cheque or a withdrawal or transfer slip in such form as the Bank may prescribe.

#### 2. Manner of using cheques

2.1 Cheque books must be kept in a safe place and all necessary precautions must be taken to prevent loss and possible fraudulent or unauthorised use. Before using a new cheque book, the Customer should count the number of cheques and confirm that the account name (if any) and account number is correct. Any irregularities should be immediately reported to the Bank.

2.2 When drawing cheques, the words and figures must be written distinctly, in permanent ink and in such manner to prevent unauthorised alteration. The word "only" should be added after the amount stated in words. Only Arabic numerals should be used for figures.

2.3 All alterations must be confirmed with full signature of the drawer(s) near the alteration. As cheques using initials or abbreviations can be easily altered, the Bank may not accept such cheques unless specific previous written arrangements have been made. **The Bank will not be responsible or liable for any Losses arising from alterations which cannot be easily detected.**

2.4 To prevent fraud, the Customer should never issue signed but incomplete cheques to any person. Cheques should be crossed and not made out to bearer.

2.5 When a cheque book or cheque is lost or stolen or any suspicion that there is or may be any fraudulent or unauthorised use, the Customer must report to the Bank immediately. **The Bank has no liability for any payment made prior to receiving such written notice and having reasonable time to act on it.**

#### 3. Stop payment

3.1 The Customer may instruct the Bank to stop payment of a cheque in writing or by telephone or by such other means as acceptable to the Bank, provided that the cheque has not already been paid on. The Bank shall not be liable for clearing of cheques if the Bank is unable to effect the stop payment for whatsoever reason.

3.2 In acting on any stop payment Instruction, the Bank:

(a) has no obligation to verify the status of the cheque; and

(b) shall not be liable for any Losses howsoever arising as a consequence of exercising the Instructions in good faith; and

(c) the Customer agrees to indemnify the Bank for any Losses suffered or incurred by the Bank as a result of so acting.

3.3 Charges for stop payment are set out in the Bank Charges Schedule.

#### 4. Request for cheque books

4.1 The Customer may only request a new cheque book by means acceptable to the Bank. The Bank may, at its discretion, refuse the issue of a cheque book.

4.2 The Bank may deliver new cheque books by post to the Customer's last known address at the cost and risk of the Customer. If the Customer does not inform the Bank of any non-receipt within a reasonable period from the date of application, the Bank will assume that the cheque book has been received by the Customer.

#### 5. Validity of a cheque

The Bank can dishonour and/or return cheques unpaid which are post-dated, altered without authorisation, incomplete or incorrectly completed or if presented more than 6 months after the date it is drawn or if there is insufficient funds in the Account and the Bank may impose a charge in accordance with the Bank Charges Schedule.

#### 6. Recording of cheques

Cheques drawn by the Customer which have been paid may, once recorded in electronic form, be retained by the collecting bank or Hong Kong Interbank Clearing Limited ("HKICL") for such period as is required by Law and then either the collecting bank or HKICL may destroy them.

#### 7. Ownership of cheque books

Cheque books remain the Bank's property and must be returned immediately upon request. The Bank may at its discretion destroy any cheque books.

#### 8. Overdraft facility

8.1 At the request of the Customer, the Bank may, at its discretion, grant an overdraft facility either secured against Assets or on an unsecured basis. Where the overdraft is secured against Assets, the overdraft limit may be adjusted at the Bank's discretion, upon changes in the valuation of such Assets.

8.2 Any overdraft is subject to the Bank's overriding right of repayment on demand in accordance with Clause B18.

## **D. Savings Account**

**Except as otherwise stated, this section D of Part II is applicable to Statement Savings Account and Hong Kong Dollar/Multi-Currency Savings Account.**

### **1. Account statements – Statement Savings Accounts**

All transaction details of Statement Savings Accounts will be included in the monthly statement as described in Clause B8.

The remainder of this Section D does not apply to Statement Savings Accounts.

### **2. Passbook**

The Customer may be provided with a passbook which must be presented for every withdrawal and updates. The passbook should only be used by the Customer as the person to whom the passbook is issued. It is not transferable and the Customer is not permitted to pledge it as security. Entries may only be made in the passbook by the Bank. The Bank shall have the sole discretion to stop issuance of passbook and issue account statements instead.

### **3. Passbook updating and examination**

3.1 The passbook must be presented to the Bank for regular updating of any unposted transactions. The Customer may ask a third party to present the passbook solely for the purpose of updating unposted transactions. Unless the Bank has notice of fraudulent activities or has been given notice in accordance with Clause D6 below, the Bank is entitled to deem any third party presenting the passbook for updating as duly authorised by the Customer for that purpose. Nonetheless, the Bank may, at its sole discretion, decide not to accept instruction from any third party to update the passbook.

3.2 The passbook is for the Customer's reference. It does not necessarily indicate the most up-to-date balance, as deposits may have been made or fees and/or charges deducted since the passbook was last updated by the Customer.

3.3 The Customer must examine the updated passbook and any consolidated entry in the passbook (as referred to in Clause D4 below) and notify the Bank of any error or discrepancy within 90 days of the date of the relevant transaction, failing which the passbook record of the Bank shall be conclusive and binding upon the Customer.

### **4. Presentation of unposted transactions**

4.1 When the number of unposted transactions exceeds any threshold set by the Bank at its discretion from time to time, all such unposted transactions will be consolidated as one single entry, which will be shown on the passbook when presented to the Bank. Individual items will not be updated.

4.2 The Customer may request a statement detailing each unposted entry within a particular period in writing and upon payment of the Bank's handling charge.

### **5. Deposits and withdrawals**

5.1 Cash withdrawal requests must be made at a Branch upon production of the passbook and by presenting a completed Branch withdrawal slip, signed with a signature corresponding to the specimen signature of the Customer. The Bank may, at its discretion, but is not obliged to, accept any cash withdrawal requests made without production of the passbook. Withdrawal may not be made by cheque or other negotiable instrument.

5.2 Any payments made by the Bank to any person producing a Branch withdrawal slip purporting to be signed by the Customer has the same effect as if made by the Customer personally and discharges the Bank from all liabilities to the Customer or to any other person. The Bank may, but is not obliged to, refuse such third party payment at its discretion.

### **6. Notification of passbook loss**

**The Customer must give immediate notice in writing to the Bank of any theft, loss or destruction of the passbook. The Bank has no liability for any payment made prior to receiving such written notice and having reasonable time to act on it.** The Bank will only issue a new passbook with a new account number upon receipt of a signed indemnity and provided a full search and inquiry has taken place, to the satisfaction of the Bank. A charge for issuing a replacement passbook as shown in the Bank Charges Schedule may be levied.

## **E. Time/Call Deposit Account**

**This Section E of Part II is applicable to Time/Call Deposit Account in such currencies as the Bank may permit.**

### **1. Deposit period and maturity date**

- 1.1 The deposit period is the duration of the deposit agreed with the Bank prior to or at the time of making the deposit. The deposit may not be withdrawn prior to the maturity date without the Bank's consent.
- 1.2 If the maturity date for a time deposit (irrespective of the currency) falls on a day other than a Bank Business Day, it will be postponed to the next Bank Business Day and interest shall accrue accordingly.

### **2. Interest rate**

The interest rate throughout the deposit period will be simple interest at the rate determined by the Bank on the first day of the deposit period. Interest is calculated up to but excluding the maturity date.

### **3. Payment on maturity**

On maturity, the proceeds of the deposit (including any accrued interest) will be dealt with in accordance with Instructions held by the Bank, requesting that the proceeds be:

- (a) renewed, either principal plus any interest or principal only, for the same deposit period or for a different period;
- (b) credited, in whole or in part, to one or more Savings or Current Accounts with the Bank; or
- (c) disposed of in other ways as agreed by the Bank.

### **4. Automatic renewal**

Unless the Bank receives a valid Instruction on or before maturity date, the Bank reserves the right (but has no obligation) to re-deposit the total deposit (principal plus interest) for the same deposit period at the then applicable interest rate.

### **5. Premature withdrawal**

If a Customer requests withdrawal of a deposit prior to its maturity date, the Bank may at its discretion permit such early withdrawal. No interest shall accrue in respect of any such deposit and the Bank will charge a fee as set out in the Bank Charges Schedule for such premature withdrawal. The Bank will deduct such fee from the principal.

### **6. Overdue deposits**

If the Bank receives no Instructions by the maturity date on a deposit which is not to be renewed automatically, the Bank will hold the deposit, and interest on the maturity date and thereafter will accrue on the principal amount only, as follows:

- (a) for Hong Kong Dollar deposits, at the Bank's prevailing standard savings rate; and
- (b) for foreign currency deposits:
  - (i) at the Bank's prevailing foreign currency savings interest rate for the relevant currency provided that the Bank reserves the right not to pay such interest if the Bank is unable to quote a 24-hour call deposit rate for the currency concerned; and
  - (ii) the interest accrued will be credited into such Account the Customer may instruct.

### **7. Advice**

The Bank will provide an advice for all deposits. The advice is only evidence of the deposit and not a document of title and must not be pledged as security.

## PART III - LOANS RELATED TERMS AND CONDITIONS

### F. Secured Loan Facilities

This Section F of Part III is applicable to Treasures Secured Line of Credit, Secured Line of Credit, Mortgage Overdraft Facilities, Automatic Secured Line of Credit and/or other overdraft facilities.

#### 1. Interest calculation and payment method

- 1.1 Except for Treasures Secured Line of Credit, Secured Line of Credit, Mortgage Overdraft Facilities and Automatic Secured Line of Credit, for which interest is calculated and charged on a 365 days per year basis, the Bank will calculate and charge interest based on the outstanding amount of the Facilities and on a 365/360 days per year basis depending on the currency of the Facilities. The interest is accrued daily and charged to the Facilities account monthly in arrears. Interest charged can be settled by cash on the date specified by the Bank or rolled over to the outstanding balance.
- 1.2 In relation to Automatic Secured Line of Credit, the Bank will charge interest on the outstanding debit balance to the Facility which is secured by Hong Kong Dollar deposits at a deposit rate of the secured deposit plus 2% per annum or at Prime Rate whichever is higher. For automatic overdraft secured by foreign currency deposit, the Bank will charge interest at Prime Rate plus 2% per annum.

#### 2. Excess overdraft interest

The Bank will calculate and charge a default interest rate at the Bank's prevailing Prime Rate plus 9% per annum:

- (a) on any outstanding amount of Facilities which exceeds the applicable overdraft limit, from the date on which such excess was incurred up to the date of actual payment of such excess; and
- (b) if the Facilities expire or are not renewed, on the amount of the utilised facilities, from the date of such expiry or non-renewal up to the date of repayment.

The Bank shall inform the Customer if such default rate is applied.

#### 3. Security

If the Customer is granted any Facilities, the Customer shall provide security acceptable to the Bank ("Secured Assets"). Subject to the terms and conditions of the Facility Documents and the Bank's discretion to permit otherwise, the Facilities shall become available for utilisation only after the Bank has received such documents and/or conditions precedent as the Bank may require or impose in the Facility Documents.

#### 4. Overdraft limit

- 4.1 The overdraft limit shall be determined by the Bank at its discretion from time to time. The total outstanding must not exceed the approved overdraft limit and/or the current market value of the Secured Assets multiplied by the lending ratio applicable from time to time, failing which the Bank may:
  - (a) reduce the overdraft limit; and/or
  - (b) request the Customer to deposit additional Assets immediately into the Facilities account,so that such requirement is met. Should the Customer fail to do so, the Bank may demand immediate repayment. The Bank's lending ratio will differ for various types of Secured Assets and may be varied from time to time. For details, please contact the Customer Service Hotline or any Branch.
- 4.2 The Bank may, in its sole discretion, allow the Customer to draw in excess of the approved overdraft limit but this is not a waiver of the Bank's right to require the Customer to maintain within the approved limit.

#### 5. Payments from the Secured Assets

All interest, dividends, distributions and other payments or monies whatsoever made, paid or payable in respect of any Secured Assets shall be paid to the Facilities account (notwithstanding any contrary instruction given by the Customer) and shall be applied to or towards repayment of the Facilities.

#### 6. Effect on guaranteed returns/other product benefits

Where the Secured Assets include any benefit or return that is conditional (e.g. a condition that the Secured Assets are held until maturity), the Customer understands and accepts that by charging the Secured Assets, the Customer will no longer have control over the Secured Assets and following a default the Bank is fully entitled to realise the Secured Assets at any time, without prior notice and so any such benefit or return may not be realised.

#### 7. Confirmation letter

Other than for Automatic Secured Line of Credit, a confirmation letter will be issued to successful applicants stating:

- (a) the amount of the Facilities approved; and
- (b) the final applicable interest rate, lending ratio and any applicable handling charges.

#### 8. Availability

- 8.1 The Facility is revolving and subject to the terms of the Facility Documents, any amounts utilised within the Facility limit and repaid may be utilised again.
- 8.2 The Bank may at any time refuse further utilisation of the Facilities without giving any reason, even if the maximum amount of the Facilities has not been utilised.

#### 9. Periodic review

In addition to the Bank's customary overriding right of repayment on demand, the Bank may carry out periodic reviews of the Facilities. The Bank has no obligation in respect of such review but will notify the Customer if the Bank decides to discontinue the Facilities. If renewed, the Facilities will remain subject to the provisions of these Terms and Conditions and the Facility Documents.

#### 10. Replacement of interest rate

- 10.1 For Facilities denominated in Hong Kong Dollar, if the prevailing HIBOR is higher than the Prime Rate, the Bank may at its discretion and without notice adopt the prevailing HIBOR in place of the Prime Rate, as the base of interest rate determination.

10.2 For Facilities denominated in US Dollar, if the prevailing US Dollar LIBOR is higher than the USD Prime Rate, the Bank may at its discretion and without notice adopt the prevailing LIBOR in place of the USD Prime Rate, as the base of interest rate determination.

**11. Credit references**

11.1 The Customer authorises the Bank to contact all relevant parties including any credit reference agency for verification of information provided and/or to obtain any other information from time to time as it deems reasonably necessary, without further reference to or consent of the Customer.

11.2 In relation to consumer credit, Customer has the right to:

- (a) request to be informed which items of data are routinely so disclosed to credit reference agencies or debt collection agencies;
- (b) request to be provided with further information to enable an access and correction request to be made to the relevant credit reference agency or debt collection agency; and
- (c) ask the Bank to request the relevant credit reference agencies to delete data of Customer's Facilities Account once the Facilities Account has been fully repaid and terminated, if there is no payment default in excess of 60 days in the past 5 years from the account termination date. If Customer has any such payment default, Customer is liable to have the Facilities Account data retained by the relevant credit reference agencies until 5 years from the final settlement date of the default amount.

**12. Cancellation rights**

Once submitted, the Customer may not cancel the Facilities application but may in writing request the Bank to do so. It is at the Bank's discretion to allow any cancellation and if possible, the Customer shall pay to the Bank all costs and expenses in connection with the cancellation as determined by the Bank.

**13. Overdraft Application enquiry**

13.1 To allow the Customer to make telephone enquiries, the Customer hereby agrees that if the enquirer gives the Customer's correct Hong Kong Identity Card number and the overdraft limit applied for (to within the nearest thousand dollars), the Bank is authorised to disclose by telephone:

- (a) loan approval status (approved, pending or declined); and
- (b) if approved, details of the Facility.

13.2 The Bank shall be under no obligation to verify the enquirer's identity further and **the Bank shall have no liability for any Losses that the Customer may suffer (if any) if such disclosure is made to any person other than the Customer.**

**14. Repayment**

The Customer will repay the Bank all amounts owed on demand in accordance with Clause B18.4, including all fees, charges and interest owing under this Section F.

**15. Payments**

15.1 All sums payable by the Customer to the Bank shall be paid without set-off, counterclaim or any other restriction or condition and free and clear of any Tax or other deduction or withholdings of any nature.

15.2 Any moneys received by the Bank in respect of any of the Customer's liabilities to the Bank, howsoever arising may be applied to such liabilities as the Bank may in its absolute discretion determine, or be paid into and held in a suspense account for so long as the Bank thinks fit. In the event of any proceedings in or analogous to bankruptcy, winding-up, liquidation, composition or arrangement, the Bank may prove for and agree to accept any dividend or composition in respect of the Customer's outstanding liabilities as if there had been no suspense account or no credit therein.

15.3 The Bank shall have the right at all times to reverse any erroneous entries to any of the Accounts with effective back-value to when the correct entry (or no entry) should have been made.

**16. Obligation to keep Bank informed**

The Customer will promptly inform the Bank in writing:

- (a) if the Customer's employment or employment status changes; or
- (b) of any difficulty in meeting the Customer's payment or other obligations.

**17. Correctness of information**

The Customer acknowledges and agrees that the Bank will rely on the correctness and completeness of information provided, in assessing the Facilities application and warrants and represents to the Bank that all such information and any other information from time to time provided is and shall be true and correct.

## Part IV – OTHER SERVICES RELATED TERMS AND CONDITIONS

### G. General Service Channels

This Section G of Part IV is applicable to the use of any of the service channels.

#### 1. Transactions during non-business hours

All Instructions given outside of business hours on Bank Business Days or during such time when a black rainstorm or typhoon no. 8 (or above) signal is hoisted will be treated as being given on the next Bank Business Day.

#### 2. Personal Identification Number (PIN)

2.1 The Bank may issue a PIN to the Customer for accessing a service channel. The PIN is issued and delivered to the Customer at its own risk.

2.2 The Customer undertakes to ensure that all necessary precautions are taken to keep the PIN confidential. In no circumstances should the Customer disclose the PIN to any other person. In particular, the Customer must:

- (a) destroy the original printed copy of the PIN;
- (b) not allow anyone else to use their PIN;
- (c) not write down or record the PIN without disguising it; and
- (d) change the PIN regularly for protection.

**2.3 Access of any service channel by any person (whether or not authorised by the Customer) with the correct PIN is deemed as use by the Customer and any Instructions received by the Bank pursuant to such access is binding on the Customer.**

2.4 The Bank is not under any duty to verify the identity of the person giving any Instructions through any service channel with the correct PIN, but may, as the Bank sees fit, require the provision of personal identification information and satisfy an identity verification process before carrying out any Instructions.

2.5 If the Account is a joint account or if the Customer is a limited company or an Unincorporated Entity, any person accessing any service channel with the correct PIN is entitled to give Instructions to the Bank singly irrespective of the signing authority under the Accounts and all such Instructions are binding on the Customer. The Customer is solely responsible for the selection and control of person(s) having access to the PIN.

#### 3. Unauthorised use /loss of PIN

The Customer must, immediately after becoming aware of any loss or actual or possible unauthorised use or disclosure of the PIN, change the PIN and notify the Bank. **The Bank assumes no liability or responsibility to the Customer or any third party for the consequences arising out of or in connection with such loss or actual or possible unauthorised use or disclosure, except in the case of fraud, negligence or wilful default of the Bank or Bank Personnel and only to the extent of direct and reasonably foreseeable Loss (if any).** The Customer is fully responsible for all Instructions given through any service channel with the correct PIN, whether or not authorised by the Customer, prior to the Bank's receipt of such notice and having reasonable time to act on it. If the Customer had acted fraudulently or negligently (including failing to take all necessary precautions to protect and keep the PIN confidential), the Customer is responsible for all Instructions given, whether before or after such notice and agrees to indemnify the Bank on demand for all Losses in respect of or relating to or in connection with the use of the PIN, whether or not authorised by the Customer.

#### 4. Liability of the Bank

4.1 The Bank, any Bank Personnel and/or any Member Bank assumes no liability or responsibility to the Customer or any third party for any consequences arising out of or in connection with any transaction involving the use of Card or PIN not being honoured or if there is any malfunction and/or failure of an ATM, PIN or Card, except:

- (a) in the event of misuse, when the Card or PIN has not been received by the Customer;
- (b) for all transactions not authorised by the Customer after the Bank has been given adequate notification that the Card or PIN has been lost or stolen or that someone else knows the PIN (as provided in Clause G3 above) and the Bank has had reasonable time to act on it;
- (c) when faults have occurred in the terminals or other systems used, which causes the Customer to suffer direct loss unless the fault was obvious or advised by a message or notice on the ATM display; or
- (d) when transactions are made through the use of, in the Bank's determination, a counterfeit Card, and in any such case, such liability is strictly limited to direct and reasonably foreseeable loss (if any).

4.2 The Customer is liable in respect of all transactions using its Card and/or PIN, except those for which the Bank is responsible, as described in Clause 4.1 above.

4.3 In using any point of sales terminal, no claim by the Customer against a merchant or any other person may be the subject of set-off or counterclaim against the Bank and the Bank is not responsible in any way for the goods and/or services supplied to the Customer by or other acts or omissions of such merchant or other person.



## **H. Phone Banking Services**

**This Section H of Part IV is applicable to Customers holding a Phone Banking Service Account (“PBS Account”).**

### **1. Use of the Phone Banking Services**

Phone Banking Services must be accessed with the PIN issued for the PBS Account. The Customer may use the Phone Banking Services to request or accept specified Services and to give Instructions.

### **2. Joint Account**

Any requirement in the mandate for joint signatories is regarded as satisfied by the use of the correct PIN for Phone Banking Services.

### **3. Acceptance of Instructions**

3.1 Instructions given through the Phone Banking Services once acknowledged by the Bank are treated as accepted and binding and any amendment, cancellation or reversal is not normally possible and will be at the discretion of the Bank.

3.2 The Bank reserves the right to reject certain types of Instructions to be given through the Phone Banking Services.

### **4. Confirmation of Instructions**

Each Instruction given through Phone Banking Services will be confirmed by a confirmation reference number, if applicable, given during the same telephone call.

### **5. Exchange Rate / Interest Rate**

Any exchange rate or interest rate quoted is for reference only and shall not be binding on the Bank. Where the Bank confirms an exchange rate or interest rate for the purpose of a transaction, such confirmed exchange rate or interest rate, if accepted by the Customer through Phone Banking Services, shall be binding on the Customer notwithstanding that a different exchange rate or interest rate might have been quoted by the Bank through other means of communication.

## **I. Automatic Teller Machine Card Services**

### **Applicable to Customers issued with Cards.**

**The use of the DBS Octopus ATM Card is also subject to the DBS Octopus ATM Card Terms and Condition and other terms and conditions imposed by Octopus Card Limited and Octopus Rewards Limited in addition to these Terms and Conditions.**

#### **1. Availability**

- (a) Availability of ATM Services is subject to the Bank's approval, including approval of the Customer's selected PIN and Accounts that can be operated through ATM Services.
- (b) The Customer must activate each Card in accordance with the Bank's requirements for use of ATM Services at ATMs outside Hong Kong.

#### **2. Termination**

- 2.1 The Customer may terminate ATM Services with written notice to the Bank. ATM Services will be terminated automatically if the Card is cancelled.
- 2.2 The Bank may terminate ATM Services at any time at its discretion and without giving any reason or prior notice to the Customer, by suspending the use of the Card or the ATM Service or by refusing to renew the Card.
- 2.3 The Card is the property of the Bank and must be surrendered upon request.

#### **3. Cash / Cheque deposit by ATM**

Hong Kong Dollar cash (but not coins) and/or cheques may be deposited by the use of the Card at ATMs of the Bank provided always that:

- (a) cash deposits will be credited to the Account after verification by the Bank (which may not be on the same day), and the Customer cannot withdraw or utilise the deposit unless it is so credited;
- (b) cheques deposited are accepted for collection only and the proceeds will not be available for withdrawal or transfer until after the cheques have been duly cleared;
- (c) the advice issued by the ATM upon acceptance of a deposit represents what the Customer has purported to have deposited and does not bind the Bank as to its correctness; and
- (d) the Customer agrees to indemnify the Bank and keep the Bank fully indemnified against all Losses which may be suffered or incurred by the Bank arising from or relating to the making of deposits using the Card, and ATM.

#### **4. Use of the Card**

- 4.1 The Card incorporates ATM functions to operate the Current Account and/or Savings Accounts. It is also accepted by ATMs installed by or belonging to the Bank or any Member Bank and can be used to make payment at point of sale terminals as recognised by the Bank as notified to the Customer from time to time, EPS, PPS and to deposit cash and cheques via ATM and to operate any other services that may from time to time be provided.
- 4.2 The Customer irrevocably authorises the Bank to debit (without notice to the Customer) from any Account the amount of any transaction arising from use of the Card and PIN, whether or not made with the knowledge or authority of the Customer, save only where the Bank is responsible for the transaction, as described in Clause G4.
- 4.3 The Card is issued and delivered to the Customer at its own risk. The Card is non-transferable and must only be used by the Customer. The Customer must safeguard the PIN in accordance with Clauses G2 and G3 above. The Card should be used in conjunction with the PIN. The Customer agrees to keep the Card safe and never write down the PIN on the Card or on anything usually kept with or near it.
- 4.4 The Customer is required to sign on the signature panel on the back of the Card. A merchant may verify the Customer's signature against that signed on the signature panel.

#### **5. Insufficient funds**

The Card shall only be used for cash withdrawal or transfer if there are sufficient funds in the Customer's relevant Account failing which, the Customer shall repay to the Bank immediately on demand such amount overdrawn together with bank charges and interest at the rate shown in the Bank Charges Schedule.

#### **6. Transaction processing**

- 6.1 The Bank shall at its discretion determine the transaction date of every transaction and may reject any transaction and/or any cheque presented via the ATM.
- 6.2 Card transactions which are effected in currencies other than the currency of the Account will be debited to the Account after conversion into the currency of the Account at such exchange rate as shall be determined by the Bank.

#### **7. Transaction Records**

- 7.1 Fund transfers and withdrawal transactions and any other transaction carried out by the use of the Card will be shown on the statement or passbook for Current Account and Savings Account respectively.
- 7.2 The records of the Bank and/or any other Member Bank in relation to any transaction made by the user of the Card on any ATM and/ or point of sale terminals (save for manifest error or fraud, or negligence on the part of the Bank or Bank Personnel) is conclusively binding on the Customer.

#### **8. Limits on the usage of the Card**

The Bank is entitled from time to time to determine and impose any limit whether in amount, frequency of use or otherwise on the use of the Card.

#### **9. Charges**

The Bank is entitled to levy a reasonable charge for issuance, re-issuance and use of the Card or PIN, as shown in the Bank Charges Schedule.

**J. Internet Banking Services**

Please refer to the DBS iBanking Terms and Conditions for terms and conditions applicable to the use of the internet banking services.

## **K. e-Cheques**

### **1. e-Cheques Deposit Services provisions - applicability and definitions**

- 1.1 This Section K of Part IV applies to the Bank's services relating to e-Cheques. Other agreements between the Customer and the Bank applicable to paper cheques or generally to the Bank's services ("**Other Agreements**") continue to apply to e-Cheques and the Bank's e-Cheques Deposit Services to the extent that they are relevant and not inconsistent with the provisions in this Section K. The provisions of this Section K prevail if there is any inconsistency between them and provisions in the Other Agreements with respect to the e-Cheques Deposit Services.
- 1.2 For the purpose of the e-Cheques Deposit Services, the following terms have the following meanings:
- "Bills of Exchange Ordinance"** means the Bills of Exchange Ordinance (Cap. 19, Laws of Hong Kong), as may be amended from time to time.
- "Clearing House"** means HKICL and its successors and assigns.
- "Deposit Channel"** means any channel offered by the Bank from time to time for presentment of e-Cheques for deposit.
- "e-Cheque"** has the meaning ascribed to it in the e-Cheque Drop Box Terms.
- "e-Cheques Deposit Services"** mean the services offered by the Bank to customers from time to time for depositing e-Cheques.
- "e-Cheque Drop Box"** or **"e-Cheque Drop Box Service"** has the meaning ascribed to it in the e-Cheque Drop Box Terms.
- "e-Cheque Drop Box Account"** has the meaning ascribed to it in the e-Cheque Drop Box Terms.
- "e-Cheque Drop Box Terms"** means all the terms and conditions prescribed by the Clearing House from time to time for governing the e-Cheque Drop Box Service provided by the Clearing House and the use of the e-Cheque Drop Box Service.
- "Industry Rules and Procedures"** means the rules and operating procedures governing the handling of e-Cheques adopted by the Clearing House and the banking industry from time to time.
- "Payee Bank"** means the bank at which a Payee Bank Account is held.
- "Payee Bank Account"** means, in respect of each e-Cheque presented for deposit using the e-Cheques Deposit Services, the bank account of the payee of the e-Cheque maintained with the Bank into which the e-Cheque is to be deposited which may be a sole name or a joint name account of the payee.
- "Payer Bank"** has the meaning ascribed to it in the e-Cheque Drop Box Terms.

### **2. Nature and scope of e-Cheques Deposit Services**

- 2.1 The Bank may provide e-Cheques Deposit Services at its discretion. If the Bank provides e-Cheques Deposit Services to a Customer, the Customer may deposit e-Cheques. In order to use the e-Cheques Deposit Services, the Customer has to provide such information and documents and accept such terms and conditions which may be required or prescribed by the Bank and the Clearing House respectively from time to time. The Customer may also be required to sign forms and documents prescribed by the Bank from time to time.
- 2.2 e-Cheques Deposit Services allow the Customer and other persons to present e-Cheques (whether payable to the Customer and/or any other holder of the Payee Bank Account) for deposit with the Bank (as Payee Bank), using the e-Cheque Drop Box Service offered by the Clearing House or using the Bank's Deposit Channels, in accordance with Clause K3 below.
- 2.3 The Bank may provide e-Cheques Deposit Services relating to e-Cheques that are issued in any currency specified by the Bank from time to time, including Hong Kong dollars, US dollars or Renminbi.
- 2.4 The Bank has the right to set or vary from time to time the conditions for using the e-Cheques Deposit Services. These conditions may include the following (or any of them):
- the service hours of the e-Cheques Deposit Services (including cut-off times for presenting e-Cheques); and
  - any fees and charges payable by the Customer for the e-Cheques Deposit Services.

### **3. e-Cheques Deposit Services**

- 3.1 The e-Cheques Deposit Services may allow presentment of e-Cheques for deposit with the Bank (as Payee Bank) using the e-Cheque Drop Box Service provided by the Clearing House or using the Bank's Deposit Channels.
- 3.2 e-Cheque Drop Box Service
- The e-Cheque Drop Box Service is provided by the Clearing House. The Customer is bound by the e-Cheque Drop Box Terms in relation to its use of the e-Cheque Drop Box Service. The Customer is solely responsible for performing its obligations under the e-Cheque Drop Box Terms.
  - In order to use the e-Cheque Drop Box Service, the Customer is required by the e-Cheque Drop Box Terms to register an e-Cheque Drop Box Account with one or more Payee Bank Account for presenting e-Cheques. The Customer is allowed by the e-Cheque Drop Box Terms to register an e-Cheque Drop Box Account with a Payee Bank Account that is its same-name account or an account other than its same-name account. The Customer is responsible for the presentment of all e-Cheques by it or any other person using its e-Cheque Drop Box Account (including presentment of any e-Cheques to a Payee Bank Account other than its same-name account).
  - Any issue relating to the use of the e-Cheque Drop Box Service should be handled in accordance with the e-Cheque Drop Box Terms. The Bank may (but have no obligation to) provide reasonable assistance to the Customer. In particular, the Bank does not have the electronic record or image of any e-Cheque deposited using the e-Cheque Drop Box Service. On the Customer's request, the Bank may (but have no obligation to) provide the date, e-Cheque amount, e-Cheque number, payee name and any other information agreed by the Bank relating to an e-Cheque deposited using the Customer's e-Cheque Drop Box Account.
  - The Bank gives no representation or guarantee, whether express or implied, relating to the availability, quality, timeliness or any other aspect of the e-Cheque Drop Box Service provided by the Clearing House. Unless otherwise stated in the e-Cheque Drop Box Terms, the Customer bears the responsibilities and risks relating to the use of the e-Cheque Drop Box Service. The Bank is not liable for loss, damage or expense of any kind which the Customer or any other person may incur or suffer arising from or in connection with the use of the e-Cheque Drop Box Service.

### 3.3 Deposit Channels

The Bank may specify or vary from time to time (i) the available Deposit Channels without notice; and (ii) the terms governing the use of any Deposit Channel.

## 4. Handling of e-Cheques, associated risks and the Bank's liabilities

### 4.1 Handling of e-Cheques

The Customer understands that the Bank and other banks have to follow the Industry Rules and Procedures in the handling, processing, presentment, payment, collection, clearance and settlement of e-Cheques payable to the Customer. Accordingly, the Bank is entitled to collect any e-Cheque payable to the Customer by presenting that e-Cheque to the Payer Bank in accordance with the Industry Rules and Procedures even if the Bills of Exchange Ordinance may not expressly provide for presentment of e-Cheques or may specify other manner for presentment of cheques.

### 4.2 Restriction of the Bank's liability

Without reducing the effect of the other provisions of the Other Agreements:

- (a) the Bank is not liable for loss, damage or expense of any kind which the Customer or any other person may incur or suffer arising from or in connection with the use of the e-Cheques Deposit Services or the handling, processing, presentment, payment, collection, clearance or settlement of e-Cheques presented by the Customer or any other person using the Deposit Channels provided by the Bank to the Customer, except to the extent that any loss, damage or expense incurred or suffered is direct and reasonably foreseeable arising directly and solely from the Bank's negligence or wilful default or that of Bank Personnel;
- (b) in particular and for clarity, the Bank is not liable for loss, damage or expense of any kind which the Customer or any other person may incur or suffer arising from or in connection with the following (or any of them):
  - (i) use of the e-Cheque Drop Box Service by the Customer or any other person, or the e-Cheque Drop Box Terms;
  - (ii) the Customer's failure to comply with its obligations relating to the e-Cheques Deposit Services;
  - (iii) presentment of any e-Cheque payable to the Customer in accordance with the Industry Rules and Procedures despite the provisions of the Bills of Exchange Ordinance; and
  - (iv) any failure or delay in providing the e-Cheques Deposit Services, or any error or disruption relating to the e-Cheques Deposit Services, caused by or attributed to any circumstance beyond the Bank's reasonable control; and
- (c) in no event will the Bank be liable to the Customer or any other person for any loss of profit or any special, indirect, consequential or punitive loss or damages.

### 4.3 The Customer's confirmation and indemnity

- (a) The Customer accepts the restriction of liabilities and disclaimers imposed by the Bank and the Clearing House in relation to the e-Cheques Deposit Services and the services provided by the Clearing House respectively. The Customer accepts and agrees to bear the risks and the liabilities for depositing e-Cheques.
- (b) Without reducing the effect of any indemnity given by the Customer under the Other Agreements or any other rights or remedies that the Bank may have, the Customer will indemnify the Bank and its officers, employees and agents and hold each of them harmless against all liabilities, claims, demands, losses, damages, costs, charges and expenses of any kind (including legal fees on a full indemnity basis and other expenses reasonably incurred) which may be incurred or suffered by the Bank or any of them and all actions or proceedings which may be brought by or against the Bank or any of them as a result of or in connection with the Bank's provision of the e-Cheques Deposit Services or the Customer's use of the e-Cheques Deposit Services.
- (c) The above indemnity does not apply to the extent that it is proved that any liabilities, claims, demands, losses, damages, costs, charges, expenses, actions or proceedings are direct and reasonably foreseeable arising directly and solely from the Bank's negligence or wilful default or that of its officers, employees or agents.
- (d) The above indemnity shall continue to have effect after the termination of the e-Cheques Deposit Services.

**L. Safe Deposit Box**

Please refer to the DBS Safe Deposit Box Terms and Conditions for terms and conditions applicable to the use of the safe deposit box services.

**ADDENDUM TWO**  
**Investment Products Consolidated Terms and Conditions**

## Addendum Two – Investment Products Consolidated Terms and Conditions

	Content	Page
A.	General Terms and Conditions	81-91
B.	Investment Fund Account	92-93
C.	Securities Account	94-95
D.	Investment ID Account	96
	D1. Equity-Linked Deposit	97
	D2. Structured Investment Product	98
	D3. Currency Linked Investment	99

These Investment Products Consolidated Terms and Conditions are supplemental to and should be read in conjunction with Addendum One - Bank Accounts and Services Terms and Conditions (as the same may be supplemented, revised or replaced from time to time) and any other terms and conditions of any applicable products and services.

If there is any inconsistency between these Investment Terms and Conditions and the terms in any Term Sheet, Order Form, Confirmation, Application Form and/or Addendum One - Bank Accounts and Services Terms and Conditions, preference should be given in the following order, subject always to mandatory provisions of applicable Laws:

- (a) Confirmation;
- (b) Order Form;
- (c) Term Sheet;
- (d) Application Form;
- (e) these Investment Terms and Conditions; and
- (f) Addendum One - Bank Accounts and Services Terms and Conditions.

In respect of any Investment Products that are specified to be authorised by the SFC in the Offering Documents, such authorisation does not imply official approval or recommendation.



## A. General Terms and Conditions

### 1. Definitions and interpretation

In this Addendum Two, unless otherwise stated, terms defined in Addendum One - Bank Accounts and Services Terms and Conditions (as the same may be supplemented, revised or replaced from time to time) shall have the same meaning in these Investment Terms and Conditions.

1.1 The following words and expressions have the corresponding meanings wherever appropriate.

**"Alternate Currency Event"** means one of the following:

- (a) Banking Event;
- (b) Currency Event;
- (c) Currency Hedging Disruption Event; and
- (d) Governmental Event.

**"Alternate Currency Event Designation"** has the meaning specified in Clause A9.

**"Application Form"** means any account opening or application form signed by or for and on behalf of the Customer in connection with the Investment Account and/or Investment Product, as may be supplemented or revised from time to time.

**"Banking Event"** means:

- (a) a declaration of a banking moratorium or any suspension, waiver, deferral or repudiation of payments by banks with respect to indebtedness or deposits in the Relevant Jurisdiction;
- (b) the imposition by any Government Authority of the Relevant Jurisdiction of any moratorium on or any suspension, waiver, deferral, repudiation or required rescheduling or required approval of, the payment of any amount of principal, interest or other amount of indebtedness of banks, or restriction on withdrawal of any deposited funds from banks, in the Relevant Jurisdiction;
- (c) any general disruption in the bank payments system in the Relevant Jurisdiction which prevents banks from receiving or paying in any currency payable under the CLI or SIP; or
- (d) any condition created by or resulting from any action or failure to act by a Government Authority of the Relevant Jurisdiction which, in the opinion of the Bank, has an analogous effect.

**"Business Day"** means, unless otherwise defined in the Offering Documents (if applicable):

- (a) in respect of Securities, SIP, ELD, CLI and in respect of any Scheme as far as any activities other than the subscription or application for, dealing and/or trading of Units are concerned, a day (other than Saturday or Sunday) on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in Hong Kong and, for the purposes of payment by the Bank, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in Hong Kong and in the principal financial centre for the relevant currency in which payment is to be made (which, if the currency of the payment obligation is Euro, shall be a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer System (or any successor to such system) is open);
- (b) in respect of any Scheme as far as the subscription or application for, or the dealing and/or trading of Units is concerned, a day (other than Saturday or Sunday) on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in Hong Kong and which is also a Dealing Day;
- (c) in respect of any other circumstances, a day (other than Saturday or Sunday) on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in Hong Kong,

in each case as determined by the Bank.

**"CNY(offshore)"** means, the lawful currency of the People's Republic of China that are deliverable offshore outside of the People's Republic of China, and for this purpose, excluding Hong Kong, Macau Special Administrative Region and the Republic of China (Taiwan).

**"Conversion Rate"** means, in respect of CLI, the exchange rate shown in the Confirmation, at which the Bank has the right to convert the Principal Amount and Interest Amount from the Investment Currency to the Linked Currency on Maturity Date.

**"Currency Disruption Event"** means, in respect of SIP or CLI:

- (a) any event (including any event or condition that occurs as a result of the imposition of, or any change in, any applicable Law of any Government Authority or otherwise), which makes it impracticable, illegal or impossible for the Bank to:
  - (i) convert through the customary legal channels one Relevant Currency into another Relevant Currency;
  - (ii) deliver through the customary legal channels any funds in the Relevant Currency ("**Affected Currency**") from accounts inside the jurisdiction of the Affected Currency to accounts outside the jurisdiction of the Affected Currency;
  - (iii) deliver the Affected Currency between accounts inside the jurisdiction of the Affected Currency, or to a party that is a non-resident of the jurisdiction of the Affected Currency; or
  - (iv) purchase, sell or otherwise deal (or to continue to do so) in the Relevant Currency or to enter into any option, forward or futures contract, swap or any other hedging arrangements to hedge its currency, price or other risks in order to perform its obligations under the Customer Agreement or any Investment Product under any restriction or limitation of any existing or future Law of any Government Authority or otherwise; or
- (b) the currency exchange rate between one Relevant Currency and another Relevant Currency has been (or will be) split into dual or multiple rates or discontinued, or it has become impracticable, illegal or impossible for the Bank to (i) determine (1) a currency exchange rate between one Relevant Currency and another Relevant Currency; or (2) the relevant interest rate; or (ii) obtain a firm quote for any such rate for payment under the Customer Agreement or any Investment Product.

**"Currency Event"** means the occurrence of any event or existence of any condition (including any such event or condition that occurs as a result of the enactment, promulgation, execution, ratification, interpretation or application of, or any change in or amendment to, any Law by any Government Authority of the Relevant Jurisdiction) that generally makes it impossible, illegal or impracticable, or materially hinders the ability of any person to:

- (a) convert CNY (offshore) into United States Dollars and/or Hong Kong Dollars or, in each case, vice versa through customary legal channels; or
- (b) effect currency transactions on terms as favourable as those available to residents of the Relevant Jurisdiction; or
- (c) transfer any funds (i) from accounts inside the Relevant Jurisdiction to accounts outside the Relevant Jurisdiction; or (ii) between accounts inside the Relevant Jurisdiction,

except to the extent any such restrictions or conditions are already in force and applicable to any person of the Relevant Jurisdiction as of the Investment Value Date.

**"Currency Hedging Disruption Event"** means the Bank is either (a) unable, after using commercially reasonable efforts, or (b) would incur a materially increased (as compared with circumstances existing on the Investment Value Date) amount of tax, duty, expense or fee to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the currency risk (or any other relevant risk including, but not limited to, interest rate risk) of entering into and performing its obligations with respect to CLI or SIP, or (ii) freely realise, recover, receive, repatriate, remit or transfer the proceeds of such transaction(s) or asset(s).

**"Currency Linked Investment"** or **"CLI"** means a currency linked investment of a type which the Bank may, from time to time, make available subject to these Investment Terms and Conditions.

**"Customer Agreement"** means the agreed terms and conditions pursuant to which any Transaction is entered into between the Customer and the Bank, consisting of the Application Form, these Investment Terms and Conditions, any Instruction, Order Form, Offering Documents or Confirmation, which together constitute the agreement between the Bank and the Customer.

**"DBS Group"** includes the Bank and its Affiliates together with any of their respective successors and assigns.

**"Dealing Day"** means, in respect of each Scheme, a day on which dealings take place in Units of that Scheme.

**"Dealing Procedures"** means, in respect of each Scheme, any procedures specified from time to time for subscription, switching, redemption and disposal of Units and other incidental matters which may be different from the dealing procedures specified in the Offering Documents of that Scheme.

**"Debit Date"** means, in respect of an Investment Fund Account, such day as selected by the Customer and agreed to by the Bank on which the Monthly Contributions shall be debited from the Settlement Account.

**"Deposit Protection Scheme"** means the Deposit Protection Scheme established under the Deposit Protection Scheme Ordinance (Cap. 581 of the Laws of Hong Kong) as amended, reacted or supplemented from time to time.

**"Equity Linked Deposit"** or **"ELD"** means an equity-linked deposit of a type which the Bank may, from time to time, make available subject to these Investment Terms and Conditions.

**"Event of Default"** has the meaning ascribed to it in Clause A16.2;

**"Final Redemption Amount"** means, in respect of SIP, the amount specified in, or calculated in accordance with the provisions set out in the Term Sheet and, in respect of CLI, the Principal Amount and Interest Amount in respect of the Interest Period that are payable either in (a) the Investment Currency or (b) the Linked Currency, as set out in the Confirmation.

**"Fixing Date"** means, in respect of SIP, the date on which the Bank determines the relevant amounts, prices, values or rates as specified in the relevant Confirmation and, in respect of CLI, the date on which the Bank determines the relevant amounts, prices, values or rates as specified in the relevant Important Facts Statement.

**"Fixing Rate"** means, in respect of CLI, the spot rate in the inter bank foreign exchange market (which may be determined by reference to a rate source) at or about the Fixing Time for which the Investment Currency may be exchanged for the Linked Currency, all determined by the Bank in its sole and absolute discretion.

**"Fixing Time"** means, in respect of CLI, approximately 11:00 a.m. Hong Kong time, provided that with respect to any currency pair that has a different fixing time determined in accordance with market convention for such currency pair as determined by the Bank in its sole and absolute discretion, the Fixing Time shall be determined by the Bank in its sole and absolute discretion in accordance with such market convention.

**"Fund Manager"** means, in respect of each Scheme, the manager of that Scheme from time to time.

**"Governmental Event"** means any expropriation, confiscation, freezing, requisition, nationalisation or other action by any Government Authority of the Relevant Jurisdiction, which directly or indirectly deprives any person or entity of any of its assets (including rights to receive payments) in the Relevant Jurisdiction.

**"Hedging Costs"** means the losses, expenses and costs (if any) incurred by the Bank of unwinding, terminating, liquidating, adjusting, obtaining, replacing or re-establishing any underlying or related hedging arrangements (including, but not limited to, any options or selling or otherwise realising any instruments of any type whatsoever which the Bank may hold as part of such hedging arrangements), all as calculated by the Bank acting in good faith and in a commercially reasonable manner.

**"Hong Kong Dollar"** means the lawful currency of Hong Kong.

**"Important Facts Statement"** means a document containing terms and particulars of CLI or SIP issued by the Bank as may be amended, supplemented or revised by the Bank from time to time.

**"Interest Amount"** means, in respect of SIP, such amount (if any) specified in, or calculated in accordance with the provisions set out in, the Offering Documents and, in respect of CLI, such amount calculated in accordance with the provisions set out in the Important Facts Statement and as set out in the Confirmation.

**"Interest Payment Date"** means, in respect of SIP, such date(s) (if any) as specified in, or determined in accordance with the provisions set out in, the Offering Documents and, in respect of CLI, the Maturity Date.

**"Interest Period"** means, in respect of SIP, such period(s) (if any) as specified in, or determined in accordance with the provisions set out in, the relevant Offering Documents and in respect of CLI, the period from (and including) the Investment Value Date to (but excluding) the Maturity Date.

**"Interest Rate"** means, in respect of SIP, such rate (if any) as specified in the Offering Documents and in respect of CLI, the rate per annum as specified in the Confirmation.

**"Investment Account"** means the Securities Account, Investment Fund Account, Investment ID Account and Settlement Account (and any successor or replacement account and any re-designation of such account from time to time). References to an Investment Account shall include any credit balance.

**"Investment Currency"** means, in respect of CLI, the original currency that the Customer places as specified in the relevant Order Form and Confirmation.

**"Investment ID Account"** means the account in the name of the Customer opened and maintained with the Bank for the purposes described in Section D of these Investment Terms and Conditions.

**"Investment Fund"** means each unit trust or mutual fund which the Bank may, from time to time, make available subject to these Investment Terms and Conditions.

**"Investment Fund Account"** means the account in the name of the Customer opened and maintained with the Bank for the purposes described in Section B of these Investment Terms and Conditions.

**"Investment Fund Savings Plan"** or the **"Plan"** means the investment fund savings plan which the Bank may, from time to time, make available subject to these Investment Terms and Conditions.

**"Investment Fund Service"** means the Services, to the extent they relate to an Investment Fund Account.

**"Investment Period"** means, in respect of SIP, such period (if any) as specified in the Offering Documents and in respect of CLI, the period from (and including) the Investment Value Date to (but excluding) the Maturity Date, as specified in the Confirmation.

**"Investment Product"** means any of the Scheme, Securities, ELD, SIP and CLI.

**"Investment Profile"** has the meaning specified in Clause A4.2.

**"Investment Terms and Conditions"** means these Investment Products Consolidated Terms and Conditions (as supplemented, revised, or replaced from time to time).

**"Investment Value Date"** means, in respect of CLI or SIP, the date specified as such in the Confirmation.

**"Linked Currency"** means the currency into which the Investment Currency may be converted.

**"Mandatory Redemption Amount"** means an amount in an alternate currency to be determined by the Bank acting in good faith and in a commercially reasonable manner, adjusted downward to account fully for all Hedging Costs. The Mandatory Redemption Amount is likely to be substantially less than the Principal Amount and, in the worst case scenario, the Mandatory Redemption Amount may be zero.

**"Mandatory Redemption Date"** means the date designated as such in the Mandatory Redemption Notice, which shall be a date falling not less than 2 Business Days after the date of the Mandatory Redemption Notice.

**"Mandatory Redemption Notice"** has the meaning specified in Clause A9.

**"Maturity Date"** means:

- (a) in relation to CLI, the date on which the Bank will pay the Final Redemption Amount as specified in the Confirmation; and
- (b) in relation to SIP, the date specified in the Confirmation on which the Bank shall, subject to the relevant terms and conditions, pay the Final Redemption Amount.

**"Monthly Contribution"** means each monthly contribution made by the Customer in a Plan.

**"Needs Analysis"** has the meaning specified in clause A4.2.

**"Offering Documents"** means the offering documentation (including these Investment Terms and Conditions, any constitutive documents, information memorandum, prospectus, offering circular, product booklet, principal brochure, key facts statement and/or term sheet, as applicable) in respect of the Investment Products.

**"Order"** means, in respect of an Investment Product, an Instruction validly placed with the Bank, which upon acceptance by the Bank and execution in the market by the Bank will be confirmed by a Confirmation.

**"Order Form"** means a form in the Bank's format.

**"Pending Orders"** has the meaning specified in Clause A7.8.

**"Principal Amount"** means:

- (a) in respect of SIP or CLI, the amount to be invested as set out in the Confirmation or, as the case may be, which has been invested by the Customer in, and accepted by, the Bank;
- (b) in respect of ELD, the amount specified as such in the Offering Documents.

**"Relevant Currency"** means, in respect of SIP, the currency(ies) specified in the Term Sheet and, in respect of CLI, the Investment Currency and/or Linked Currency.

**"Relevant Jurisdiction"** means the People's Republic of China (for the purpose of these Investment Terms and Conditions, including Hong Kong but excluding Macau Special Administrative Region and the Republic of China (Taiwan)).

**"Scheme"** means any Investment Fund Savings Plan and Investment Fund, which the Bank may, from time to time, make available subject to these Investment Terms and Conditions.

**"Securities"** means all shares, stocks, warrants, covered warrants, bonds, debt instruments, notes, interest in any collective investment scheme (except Scheme), SIP, ELD, equity linked investment, equity linked notes and any other structured product as prescribed under the SFO which the Bank may from time to time allow to be held in, or traded through the Securities Account.

**"Securities Account"** means the account in the name of the Customer opened and maintained with the Bank for the purposes described in Section C of these Investment Terms and Conditions.

**"Services"** means the banking, investment, nominee and other services the Bank may, from time to time, make available under and subject to these Investment Terms and Conditions.

**"Settlement Account"** means each account (whether single or multicurrency and of whatever type) opened and maintained by the Customer with the Bank for the purposes of settling Transactions and/or making or receiving payments

in connection with the Transactions and/or Services.

**“Structured Investment Product”** or **“SIP”** means any structured investment product of a type which the Bank may, from time to time, make available subject to these Investment Terms and Conditions.

**“Tenor”** means, in respect of SIP, the tenor as provided in the Order Form and the Confirmation, and in respect of CLI, the total number of calendar days from and including the Investment Value Date to and excluding the Maturity Date.

**“Termination Event”** has the meaning ascribed to it in Clause A16.1;

**“Term Sheet”** means a document or other evidence containing terms and conditions and particulars of an Investment Product.

**“Transaction”** means each transaction in an Investment Product entered into between the Bank and the Customer.

**“Unit”** means, in respect of each Scheme, a unit / share / interest / deposit amount or other unit in or of that Scheme.

- 1.2 In these Investment Terms and Conditions, unless the context requires otherwise, any Investment Account or Investment Product name is a reference to the Investment Account or Investment Product as identified in the Customer Agreement or otherwise identified in correspondence with the Customer.

## 2. Eligibility of Customers

- 2.1 The Bank may prescribe, from time to time, any conditions and/or procedures for the Services, Investment Products, Orders, and Instructions.
- 2.2 A Customer who maintains an Investment Fund Account, Securities Account or Investment ID Account for ELD represents and warrants to the Bank that the Customer is not a resident or national of the United States of America and will notify the Bank in writing as soon as reasonably practicable and in any event within 30 days of any change in such status or becoming aware of the likelihood of change of such status.

## 3. Investment Account

- 3.1 It is a condition to the Bank providing any Services that the Customer opens one or more Settlement Accounts.
- 3.2 In connection with a Transaction, the Customer requests and authorises the Bank to:
- (a) credit proceeds of a Transaction and all dividends or other monetary distributions or benefits accrued to, and debit all payments, costs and other amounts arising as a result of a Transaction (on such date as the Bank may determine for the purpose of effecting such Transaction) from, the Settlement Account or such account as notified by the Customer, or if the Bank has not been notified of such account or that such account notified by the Customer or Settlement Account has ceased to be operative, any account for the Customer as the Bank shall in its absolute discretion determine;
  - (b) credit any Securities or Units received to, and withdraw any Securities or Units pursuant to or as a result of a Transaction (on such date as the Bank may determine for the purpose of effecting such Transaction) from, the applicable Securities Account or Investment Fund Account unless the Bank has received contrary Instructions;
  - (c) not act on an Instruction, if there are insufficient funds or pre-arranged credit is not available. The Bank may however at its discretion act on such Instruction without approval of or giving prior notice to the Customer; and
  - (d) place order(s) or enter into Transaction(s) at its discretion to set off order(s) which has been placed or entered into, for the purpose of effecting an Instruction which was not effected due to insufficiency of funds, Securities or Units in the applicable Investment Account and/or such account as notified by the Customer. Any resulting loss shall be borne by the Customer but any resulting gain shall belong to the Bank. The Bank's notification in writing as to such loss shall in the absence of manifest error be conclusive and binding on the Customer.
- 3.3 The Bank reserves the right to reject Investment Products that the Customer deposits without any reason or prior notice.

## 4. Investment Services

- 4.1 The Customer represents and warrants to the Bank that, as of the date of giving any Instruction and entering into any Transaction, that:
- (a) the Customer is acting on the Customer's own account and no one else has any interest in the Investment Account or any Investment Product;
  - (b) the Customer has received the Offering Documents and the Customer is fully capable of assessing the merits of the Transaction and understands (where needed, with or through independent professional advice) and accepts, the terms and conditions of the resulting Transaction and also fully understands and is capable of assuming and assumes, the risks of the Transaction; and
  - (c) the Customer has reviewed carefully the Customer's specific financial needs and investment objectives and is responsible for entering into the Transaction.
- 4.2 The Customer understands and acknowledges that:
- (a) the Bank shall not be obliged to provide any Services, open any Investment Account or enter into any Transaction unless the Bank has conducted such review of the Customer's investment knowledge, expertise and experience or the Customer's financial objectives, financial situation and particular needs (**“Needs Analysis”**) and investment profile (**“Investment Profile”**), as the Bank may at its discretion require from time to time, and as the Bank will only take into account circumstances relating to the Customer which the Customer has disclosed to the Bank or that the Bank should be aware of through the exercise of reasonable due diligence, the Bank will not take into account the Customer's investments held outside of the Bank (unless the Customer has specifically disclosed such investments to the Bank);
  - (b) none of the Bank and the Nominees are obliged to verify the validity of the ownership of or title to any Asset and shall not be liable in respect of any defect in ownership or title;
  - (c) from time to time, the Bank may provide the Customer with advice on an ad hoc basis. However, the Bank does not provide on-going investment advisory services to the Customer and is not responsible for monitoring the Investment Products in the Investment Account;;
  - (d) the Bank gives no representation, assurance or guarantee as to any investment outcome or any gains or profitability to the Customer;

- (e) any solicitation, recommendation or advice in respect of any Investment Product is likely to be based on the information provided by the Customer to the Bank and that any inaccurate, incorrect or incomplete information provided by the Customer may affect the recommendation, solicitation and advice to the Customer. The Customer is free either to follow or disregard, in whole or in part, any solicitation, recommendation, advice or information made or given by the Bank;
  - (f) any application for subscription, switching, redemption or other disposal of Investment Products is subject to approval by the Bank and/or the relevant Fund Manager/issuer and the Bank assumes no responsibility for ensuring that any application will be approved;
  - (g) the Customer shall be responsible for the appraisal and independent investigation of any Investment Product or Transaction and the decision to enter into any Transaction;
  - (h) all Instructions and the resulting dealings, transactions and payments shall be subject to the Offering Documents and where applicable, the Dealing Procedures;
  - (i) the Bank is entitled, without reference to the Customer, either to ignore any Instruction which fails to comply with the Offering Documents and where applicable, the Dealing Procedures, or to execute such Instruction with such modifications or changes as may be necessary to comply with the same;
  - (j) the Customer shall ensure that the information provided to the Bank in the Application Form including any information provided for the purposes of determining the Needs Analysis and Investment Profile is true, complete and accurate;
  - (k) any application to subscribe for Investment Products must be submitted to the Bank by the relevant prescribed cut-off time set out in the Offering Documents or otherwise stipulated by the Bank and accompanied by the requisite payment in available funds, together with other necessary documents. Without limiting the generality of the foregoing, any application received on a Business Day after the prescribed cut-off time shall be processed by the Bank on the next Business Day on which such applications may be accepted in accordance with or as permitted by the Offering Documents and where applicable, the Dealing Procedures;
  - (l) the Customer will not subscribe for Investment Products if the Customer is a restricted person as specified under the Offering Documents. If the Bank becomes aware that the Customer's status causes a breach of any selling restrictions provided in the Offering Documents, the Bank may decline to carry out the Instruction or suspend the Investment Account without prior notice and redeem the Investment Products at the Customer's loss; and
  - (m) the receipt of Application Forms and the requisite payment and documents by the Bank shall not amount to acceptance of the application by the Fund Manager/issuer.
- 4.3 The Bank may from time to time make available to the Customer materials and information of investment opportunities, commentaries or financial information or data. The Customer agrees and acknowledges that:
- (a) the Bank is under no obligation to make such materials or information available to the Customer;
  - (b) any information communicated to the Customer by the Bank, based upon information obtained from third party sources believed by the Bank to be reliable, may be incomplete, inaccurate and may not have been verified and may be changed without notice to the Customer; and
  - (c) the Bank cannot guarantee the accuracy, reliability, adequacy or completeness of any such materials or information provided to the Bank by third parties (including any published statement and information contained in any Offering Document or product documentation prepared by third parties concerning any Investments).
- 4.4 The Customer acknowledges that, in respect of any Transaction entered into, the Bank may (but need not) enter into funding, hedging and/or other supporting arrangements. If the Customer does not perform all of the Customer's obligations under any such Transaction, the Customer shall reimburse the Bank (on a full indemnity basis) for any Hedging Costs.
- 4.5 Where applicable, the Customer authorises the Bank to hold or to arrange for the Investment Products to be held in safe custody (in Hong Kong or elsewhere) in such manner as the Bank may in its absolute discretion determine and to register such Investment Products in the name of the Bank or Nominee subject to compliance with all applicable Laws. For operational ease and efficiency, the Customer agrees that the Bank and/or Nominee shall be entitled, without any prior notice to the Customer and without any liability on the part of the Bank and/or Nominee, to round up or round down the number of Units to the number of decimal places as specified by the Fund Manager.
- 4.6 The actual buy and/or sell price for any Transaction will be determined at the time when such Transaction is effected. Any figures quoted by the Bank or Bank Personnel at any time including but not limited to that which is quoted by the Phone Banking Service, are for indication only and may not be reflective of current market price. The Bank and Bank Personnel shall have no liabilities whatsoever in respect of such variations.
- 4.7 The Customer acknowledges and agrees that:
- (a) the Bank or the Bank's Affiliates may hold or deal in any Investment Products for their own account or for the account of the Bank's other clients;
  - (b) the Investment Products may be held by the Bank or the Bank's Affiliates (in any capacity);
  - (c) the Bank may have banking or other financial relationships with the Fund Manager/issuer; and
  - (d) any Affiliate may be the Fund Manager/issuer.
- 4.8 Neither the Bank nor the Bank's Affiliates shall be liable to account to the Customer for any emoluments, commission, profits or any other benefits whatsoever resulting from the Bank or the Bank's Affiliates doing any of the aforementioned things in Clause A4.7.
- 4.9 Where the Bank provides the Customer with Services in relation to derivative products, the Bank will, upon the Customer's request, provide the Customer with product specifications and any prospectus or other offering documents covering such products.
- 4.10 The Bank may act as a principal or agent in any Transaction. Customer should refer to each Transaction document for confirmation of the Bank's capacity.
- 4.11 Notwithstanding the above Clause A4, if the Bank solicits the sale of or recommends any Financial Product to the Customer, the Financial Product must be reasonably suitable for the Customer having regard to the Customer's financial situation, investment experience and investment objectives. No other provision of these Investment Terms and Conditions

or any other document the Bank may ask the Customer to sign and no statement the Bank may ask the Customer to make derogates from this Clause A4.11. For the purposes of Clause A4.11 and A4.12, "Financial Product" means any securities, futures contracts or leveraged foreign exchange contracts as defined under the SFO. Regarding "leveraged foreign exchange contracts", it is only applicable to those traded by persons licensed for Type 3 regulated activity.

- 4.12 To the extent that the Bank does not solicit the sale of or recommend any Financial Product to the Customer or where any Service is provided as a transactional execution service, to the extent permitted by Law and unless otherwise agreed in writing, the Bank is not acting as the Customer's investment adviser or in a fiduciary capacity to the Customer. The Bank has not given and will not give any representation, guarantee or other assurance as to the outcome of any Investment. The Customer should seek his, her or its own investment advice from a suitably qualified adviser.

## **5. Customer's undertaking, representations and warranties**

- 5.1 Where the Customer enters into any Transaction involving the dealing of Investment Products, the Customer undertakes, warrants and represents that:
- (a) all information provided to the Bank for the purposes of determining the Needs Analysis and Investment Profile, is true, complete and accurate;
  - (b) the Customer has obtained necessary employer consent in writing if the Customer is an employee of an intermediary regulated by the SFC; and
  - (c) the Customer will on request provide details in writing to the Bank, Agent, and/or other agent(s) and/or Relevant Authority directly, of the person(s) originating any Instruction or the person or entity that stands to gain the commercial or economic benefit and/or bear its commercial or economic risk, as soon as possible but in any case within 1 Business Day or any other period specified whether or not the requirement to disclose has the force of law and in this regard, consents to the Bank making such disclosures on the Customer's behalf.
- 5.2 If at any time the Customer ceases to be eligible to hold an Investment Product (whether under applicable Laws or the terms and conditions of such Investment Product), the Customer undertakes to notify the Bank and agrees that, at the option of the Bank, (i) the Customer shall promptly transfer its interest in the Investment Product to a person, selected by the Bank or the issuer of the Investment Product, that is eligible to hold the Investment Product or (ii) the Bank shall cause (x) a transfer of the Customer's Investment Product to a person, selected by the Bank in its sole discretion, that is eligible to hold the Investment Product or (y) a redemption of the Customer's Investment Product. The Customer hereby grants to the Bank full authority to transfer and/or redeem the Customer's Investment Product pursuant to this Clause A5.2 and, if requested by the Bank, the Customer shall execute any and all documents, instruments and certificates as the Bank shall have reasonably requested or that are otherwise required to effect this Clause A5.2.

## **6. Limitation of liability**

The Bank is not providing any service of, and accepts no liability for any Losses resulting from the absence of, the monitoring or cross-checking of:

- (a) whether the Investment Products received by the Bank for deposit in the Investment Account is invalid, stolen, fraudulent or forged; and/or
- (b) the validity or genuineness of Instructions, notices, requests, waivers, consents, receipts, corporate actions or any other documents which the Bank in good faith believes to be valid or genuine.

## **7. Placing and acceptance of Orders for SIP or CLI**

- 7.1 All Orders once submitted to the Bank are binding on the Customer and cannot be amended or withdrawn without the Bank's agreement.
- 7.2 SIP and CLI may be placed for such Investment Period as the Bank may from time to time allow.
- 7.3 SIP and CLI will not be automatically renewed upon maturity. A new Order must be agreed and placed for any subsequent SIP and CLI.
- 7.4 Orders are subject to acceptance by the Bank and to final execution. The Bank shall have no obligation or liability in respect of any Order that is not accepted or executed.
- 7.5 The Principal Amount must be received by the Bank on or before the close of business on the Investment Value Date. Once the Principal Amount has been so received, it may not be withdrawn prior to the Maturity Date. The Bank is authorised to direct debit the Settlement Account for payment of the Principal Amount.
- 7.6 The Bank reserves the right, in its sole discretion on or before the Investment Value Date not to accept any funds received (or to accept only part of such funds) as the Principal Amount. In such event, the Bank will notify the Customer as soon as practicable and any funds received but not accepted as the Principal Amount will be paid to the Settlement Account or such account as notified by the Customer or if the Bank has not been notified of such account or that such account notified by the Customer or Settlement Account has ceased to be operative, to any account for the Customer as the Bank shall in its absolute discretion determine. The Bank is not obliged to pay any interest on such funds.
- 7.7 The Bank will not accept and execute any Orders unless the aggregate of all orders received on or before the closing date for subscription is of a minimum offer amount as prescribed by the Bank in its sole and absolute discretion.
- 7.8 In relation to SIP, if the market moves upward significantly before the closing date for subscription, the Bank may shorten the period of subscription and stop accepting Orders prior to the closing date. If an Order for such SIP has not yet been confirmed by the Bank as being successfully executed ("**Pending Orders**"), the Bank will on a best effort basis seek to execute such Pending Orders, but the Bank will otherwise have no obligation with respect to the Pending Orders.

## **8. Payment on Maturity Date for SIP or CLI**

- 8.1 The Final Redemption Amount will be paid on Maturity Date or, if such day is not a Business Day, the Business Day immediately following Maturity Date, to such account as notified by the Customer to the Bank at least 2 Business Days prior to Maturity Date or, if the Bank has not been notified of such account, to the Settlement Account. If such account notified by the Customer or if the Settlement Account has ceased to be operative, the Final Redemption Amount will be paid to any account for the Customer as the Bank shall in its absolute discretion determine.
- 8.2 The Bank shall not be responsible for any Losses suffered by the Customer or for any interest due to any delay in effecting the payment to the Customer. If the Maturity Date is not a Business Day, the Customer shall not be entitled to

any interest on the Final Redemption Amount from, and including, the Maturity Date and the Bank shall not be responsible for the Losses suffered by the Customer in respect of such delay.

**9. Alternate Currency Event for a SIP or CLI**

For a SIP or CLI that has a Relevant Currency in CNY(offshore), upon the occurrence of an Alternate Currency Event at any time from and including the Investment Value Date to and including the Maturity Date, the Bank may (but shall not be obliged to) give notice ("**Mandatory Redemption Notice**") to the Customer designating the occurrence of such Alternate Currency Event ("**Alternate Currency Event Designation**"). The Mandatory Redemption Notice may be given by the Bank at any time (even if such Alternate Currency Event is no longer continuing at such time) so long as it is given not later than 2 Business Days after the Maturity Date. Upon Alternate Currency Event Designation by the Bank, the Bank will pay the Mandatory Redemption Amount (which may be payable in an alternate currency as selected by the Bank in its sole and absolute discretion) to the Customer on the Mandatory Redemption Date and no Interest Amount shall be payable to the Customer. The Mandatory Redemption Amount is likely to be substantially less than the Principal Amount and, in the worst case scenario, the Mandatory Redemption Amount may be zero.

**10. Transaction Confirmation**

The parties intend that they are bound by the terms of each Transaction from the moment those terms are agreed (whether orally or otherwise). The Bank will, where applicable, deliver to the Customer a Confirmation.

**11. Fees, charges and expenses**

11.1 Every Transaction shall be subject to any applicable Taxes, normal stock transaction and/or deposit, custody and settlement fees which an Exchange and/or Depository may from time to time impose and the Bank is authorised to deduct any such amounts from the Settlement Account. The rules of such Exchange and Depository (including those relating to trading and settlement) shall be binding upon both the Customer and the Bank.

11.2 In respect of any ELD, CLI or SIP, the Customer hereby irrevocably authorises the Bank to collect such fees, commissions and other remuneration by deducting such amounts from any of the Customer's Investment Accounts.

**12. Transaction limit**

The Bank reserves the right to impose a transaction limit for any Transaction from time to time at its discretion.

**13. Exchange rate**

13.1 The Bank shall be entitled to effect any Transaction or payment in relation to any Investment Products or the Investment Account in any currency as the Bank may consider appropriate. Where a conversion of one currency into another currency is required, such conversion shall be calculated at such exchange rate as shall be determined by the Bank.

13.2 No payment to the Bank pursuant to any judgment or order of any court or otherwise shall operate to discharge the obligations of the Customer unless and until payment in full is received by the Bank in the currency in which such payment was due (the "**Currency of Obligation**"). To the extent that the amount of such payment shall, on actual conversion into the Currency of Obligation at such exchange rate as shall be determined by the Bank, fall short of the amount due in the Currency of Obligation, the Bank shall have a separate and additional cause of action against the Customer for the recovery of such sum as shall, after conversion into the Currency of Obligation, be equal to the amount of the shortfall.

**14. Binding Effect and Enforceability**

These Investment Terms and Conditions shall be binding on and enforceable against the heirs, personal representatives and successors in title of the Customer and be binding on and enforceable by the successors in title and assigns of the Bank.

**15. Currency Disruption Event**

15.1 The Bank may terminate an ELD, CLI or SIP if there is a Currency Disruption Event.

15.2 Upon the termination as aforesaid, the Bank will, in respect of any ELD, CLI or SIP cause to be paid to the Customer an amount determined to be the fair market value of such ELD, CLI or SIP as at the termination taking into consideration all information which the Bank deems relevant (including the impracticability, illegality or impossibility) less the Hedging Costs, all as determined by the Bank in its reasonable discretion. Payment will be made, as the case may be, in such manner as shall be notified to the Customer. The Customer shall not hold the Bank responsible for any Losses suffered or incurred by the Customer by reason of such termination.

**16. Termination Events and Events of Default**

16.1 The occurrence at any time of any of the following events shall constitute a "**Termination Event**":

- (a) by reason of an Event of Force Majeure:
  - (i) occurring after a Transaction is entered into (A) the Bank is prevented from settling such Transaction, or (B) it becomes impossible to settle such Transaction; and/or
  - (ii) the Bank's performance under the Customer Agreement, Investment Product or Investment Account is prevented or materially hindered or delayed;
- (b) after a Transaction is entered into, it becomes unlawful or otherwise prohibited for the Bank or the Customer to settle a Transaction;
- (c) it becomes impracticable, unlawful or otherwise prohibited for the Bank to perform its obligations under or in respect of the Customer Agreement or any Investment Account or Transaction or to hedge its obligations effectively under the Customer Agreement or any Investment Account or Transaction; or
- (d) the Bank's books and records show that no Transactions have been initiated by the Customer for 12 months or such shorter period as the Bank may prescribe.

16.2 The occurrence at any time of any of the following events with respect to the Customer shall constitute an "**Event of Default**":

- (a) the Customer fails to perform or comply with any provisions in the Customer Agreement or any other obligation owed to the Bank;
- (b) any representation and/or warranty by the Customer pursuant to the Customer Agreement proves to have been false, incorrect or misleading in any material aspect;
- (c) the Customer becomes bankrupt or insolvent or unable to pay his or her debts as they become due, or stops,

- suspends or threatens to stop or suspend payment of all or a material part of his or her Indebtedness or begin negotiations or take any other step with a view to the deferral, rescheduling or other readjustment of all or a material part of his or her Indebtedness (or of any part of such Indebtedness which he or she will or might otherwise be unable to pay when due);
- (d) the Customer fails to comply with any judgment or order made against him or her within the stipulated time or if any attachment, sequestration, distress, execution or other legal process is issued or levied against the Customer;
  - (e) if the Customer is an individual, the Customer ceases to have capacity in Law to manage its, his or her affairs (whether because of mental incapacity or for any other reason whatsoever);
  - (f) if the Customer is a corporate, it is struck off the register of companies in its place of incorporation or is dissolved;
  - (g) if the Customer is a trust or a trustee, any action is initiated under any applicable Laws of the trust for its administration, management, termination or winding up;
  - (h) if the Customer becomes involved in or public allegations are made which suggest that the Customer may be involved in abnormal or irregular activities which are not generally accepted customs and practices of a reasonable person in the same position;
  - (i) if the Customer becomes, or becomes associated with, a person who is the subject of investigation under applicable anti-money laundering, counter-terrorist financing, anti-bribery and corruption or sanctions Laws and regulations whether in Hong Kong or elsewhere, or a person named in any list (including the Specially Designated Nationals and Blocked Persons List administered by the United States Office of Foreign Assets Control) under any sanctions, freezing, anti-terrorism or other programs enforced and administered by the relevant regulatory authorities or bodies whether in Hong Kong or elsewhere;
  - (j) the Customer consolidates, amalgamates with, or merges into, or transfers all or substantially all its assets or undertaking to another entity and such entity fails to assume all of the Customer's obligations under the Customer Agreement or is in the Bank's opinion materially weaker financially than the Customer;
  - (k) the Customer fails to comply with any undertaking with regard to security, collateral or margin as required by the Customer Agreement including the Customer's failure to deposit additional cash or investments in order to satisfy promptly and in full a demand for security, collateral or margin hereunder within the time specified in such demand;
  - (l) a default, potential event of default, event of default or termination event (howsoever described) occurs or is declared under any document which forms part of the Customer Agreement;
  - (m) any other indebtedness of the Customer (to whomsoever owing) is not paid when due, or is or is declared to be or is capable of being declared due and payable before its normal maturity by reason of any actual or potential default, event of default or the like (howsoever described);
  - (n) any event or series of events occurs which may, in the Bank's opinion: (i) have a material or adverse effect on the Customer's financial condition, or (ii) have a material or adverse effect on the Customer's ability to perform his or her obligations under the Customer Agreement;
  - (o) any licence, consent or registration which is necessary or desirable under the Customer Agreement is not obtained, granted or perfected, or is revoked, withheld, materially modified or ceases to be in full force and effect;
  - (p) the Customer becomes a resident or national of the United States of America;
  - (q) the Bank concludes that any change of the Customer's legal status, tax residency or financial condition or any other event has occurred or circumstance has arisen which in the Bank's opinion (i) may be prejudicial, impractical or may lead to a material increase of cost for the Bank in connection with the provision of Services or for the maintenance of the Account or any Transaction, or (ii) may adversely affect or prejudice the Customer's ability to perform, or the actual performance of, the Customer's obligations under the Customer Agreement or such that it would be contrary to prudent banking practice to allow any of the Customer's obligations to remain outstanding or incur any new obligation to the Customer;
  - (r) the Customer becomes the subject of any investigation by any governmental authority or regulator (including the Independent Commission Against Corruption, the Inland Revenue Department and the Hong Kong Police Force), whether in Hong Kong or any other jurisdiction;
  - (s) any order or warrant is issued against the Customer or the Assets under applicable anti-money laundering or counter-terrorist financing Laws;
  - (t) any event which, in the Bank's opinion, is a material adverse change or development which may result in material adverse changes in the monetary, political, financial (including conditions in any of the financial markets) or economic conditions or exchange controls, whether in Hong Kong or elsewhere (including changes in stock, bond, currency, interbank or property market conditions, interest rates or foreign exchange controls);
  - (u) any legal proceeding, suit or action of any kind whatsoever (whether criminal or civil) is instituted against the Customer and the Bank is of the opinion that it will or could materially and adversely affect the Customer's ability to perform and observe his or her obligations under the Customer Agreement; or
  - (v) any attachment, sequestration, distress, execution or other legal process is issued or levied or an administrator, receiver, judicial manager, trustee-in-bankruptcy, custodian or other similar person has been appointed (or an application for the appointment of any such person has been presented) in respect of Customer or any of the Customer's assets; or
  - (w) any other matter or event which in the sole and absolute opinion of the Bank jeopardises its rights under the Customer Agreement or renders termination necessary or advisable in the interests of the Bank.
- 16.3 The Customer undertakes to promptly notify the Bank in writing of the occurrence of any Event of Default or Termination Event or any event which may potentially constitute an Event of Default or a Termination Event or which with the passing of time or the giving of notice or both, would constitute an Event of Default or any other event which might affect its ability to perform its obligations under or in connection with the Customer Agreement.
- 16.4 If any Account is a joint account, in the event of a Termination Event or Event of Default occurring against a joint account holder, the Bank has the right to set off any claims it has or may have against that person against the credit balance in the Account.



## 17. Termination

- 17.1 The Bank may terminate and/or close or suspend any of the Services or Investment Accounts at any time (without giving any reason) by giving the Customer not less than 30 days prior notice (or, in exceptional circumstances, without notice).
- 17.2 The Customer may close the Investment Account at any time prior to the occurrence of a Termination Event or an Event of Default, by giving the Bank not less than 30 days prior written notice.
- 17.3 If a Termination Event or an Event of Default has occurred or the Customer or the Bank have given notice to close any of the Investment Accounts, the Bank may at any time and immediately without prior notice to the Customer do all or some of the followings:
- (a) terminate the Customer Agreement whereupon all outstanding liabilities owing by the Customer to the Bank will become immediately due and payable, including overdrawn amounts (if any), interest, costs, expenses, commission and any other charges the Customer owes to the Bank;
  - (b) cancel any open Orders or terminate early and close-out any or all outstanding Transactions at such times and in such manner as the Bank considers necessary or appropriate to cover, reduce or eliminate any loss or liability under or in respect of any Transaction;
  - (c) determine all amounts payable under Transactions (including losses, costs or gains under terminated (closed-out) Transactions) in its discretion (taking into account all information which the Bank may consider relevant including the Hedging Cost);
  - (d) set off the obligations of each party to pay an amount to the other party under the Transactions and determine a single net sum amount payable in respect thereof;
  - (e) convert any amount from one currency into another currency at such exchange rate as shall be determined by the Bank; and
  - (f) take any other action the Bank considers appropriate to mitigate or limit its potential Loss from any Termination Event or Event of Default including the closing of any Investment Accounts.
- 17.4 If the Bank exercises any of the above rights, any sale proceeds may be applied:
- (a) first in payment of all costs and expenses incurred by the Bank in connection therewith;
  - (b) second in settlement of any liabilities the Customer may have to the Bank; and
  - (c) third the balance (if any) shall be returned to the Customer,
- provided always that, if such proceeds are insufficient to meet such liabilities, the Customer shall on demand (notwithstanding that the payment date or other date originally stipulated for settlement may not have arrived) pay the Bank any shortfall together with interest and all reasonable professional costs and expenses (including reasonable legal fees) incurred by the Bank.
- 17.5 In addition to the rights of the Bank under this Clause 17, the Bank shall not be liable for (and the Customer shall not hold the Bank responsible for) any Losses which the Customer may suffer or incur by reason of the exercise by the Bank of any of its rights.
- 17.6 Notwithstanding any closure of any Investment Account, the Customer shall continue to be bound by the Customer Agreement to the extent that they relate to any obligations or liabilities of the Customer which remain to be performed or discharged.
- 17.7 All exclusions and indemnities given by the Customer under the Customer Agreement and the provisions in Clauses A6, A17, A21, A23, A24, A25 and A26 of these Investment Terms and Conditions shall survive termination.

## 18. Applicable rules and regulations

- 18.1 Each Transaction shall be subject to applicable Laws, by-laws, customs, practices or procedures and the Customer may have varying levels and types of obligations or responsibilities and protection in relation to the Transactions on different markets.

## 19. Other Services

The Bank shall be entitled (but not obliged), without prior notice to or consent from the Customer, to take such steps as it may consider expedient to enable it to provide the Services and exercise its powers under the Customer Agreement including the following:

- (a) to comply with any Law, to take or refrain from action including to withhold and/or to make payment of any Taxes on behalf of the Customer;
- (b) to comply with all disclosure requests of any Relevant Authority;
- (c) to combine the Orders with orders of other persons (including other customers or employees of the Bank) and to allocate subscriptions, redemption, distributions, dividends and other payments or purchases in such manner as the Bank considers appropriate subject to the Bank's allocation policies and all applicable Laws. Where orders are aggregated but execution is effected in an amount less than the aggregate amount, allocation will be in accordance with the Bank's allocation policies and all applicable Laws;;
- (d) to surrender any Securities, CLI, ELD and SIP against receipt of the moneys payable upon maturity or on redemption of any Securities, CLI, ELD and SIP if called prior to maturity;
- (e) to co-mingle the Investment Products to which the Customer is entitled with the property of other persons;
- (f) upon termination of the Investment Account and/or the Services and in the absence of Instructions to dispose of the Investment Products, to continue to hold the same but the Bank shall no longer be required to provide the Services or perform its obligations under these Investment Terms and Conditions;
- (g) where the Investment Products are registered in the name of the Bank or Nominee (but not otherwise) any notices and other communication and information will be provided to Customer on request or made available on the Bank's website or by such means as the Bank at its discretion sees fit. The Bank is not obliged to act as the Customer's proxy, to attend meetings or vote in any meetings except in accordance with Instructions received and subject to such conditions as the Bank may determine. The Bank is not obliged to take any other action in relation to such information, notices

or communications unless such Instructions are received by the Bank in time for such actions to be taken and, in the absence of or delay in receiving such Instructions, to act or refrain from acting as it may deem expedient;

- (h) to act on the opinion or advice of its legal advisers, accountants, brokers or other professional advisers; and
- (i) generally to do all acts and things which in its opinion are reasonably necessary for or incidental to the provision of the Services,

in each case at the Customer's risk.

## 20. Governing version

**Wherever there is a discrepancy between the English and Chinese version of these Investment Terms and Conditions, the English version prevails.**

## 21. Third Parties Rights

A person who is not a party to the Customer Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Ordinance (Cap 623 of the Laws of Hong Kong).

## 22. Amendments

**The Bank reserves the right at its discretion to review, amend, delete, modify or substitute the Bank Charges Schedule, these Investment Terms and Conditions and/or any other terms and conditions which are supplemental to these Investment Terms and Conditions or otherwise change any of the Services (as well as related operating and other requirements) from time to time.** For changes which shall result in an increase in the fees or charges payable by the Customer and/or affect the liabilities and obligations of the Customer, the Bank shall give at least 30 days' notice to the Customer unless such changes are not within the Bank's control. In other cases, reasonable notice shall be given. Such notice may be given by such means as the Bank at its discretion sees fit. **Any Customer who does not close the relevant Investment Account(s) prior to the effective date of any changes is deemed to have agreed to such changes.**

## 23. Illegality and severance

If at any time any provisions or any part of any provision of the Customer Agreement is or becomes illegal, invalid or unenforceable in any respect under Hong Kong Law, the legality, validity or enforceability of the remaining provisions are not affected or impaired thereby.

## 24. Assignment

- 24.1 The Customer Agreement is for the benefit of the Bank and its successor, assignee or transferee notwithstanding the Bank's absorption by or amalgamation with another person.
- 24.2 The Bank may, at any time, assign, novate or transfer any of its rights and/or obligations under the Customer Agreement and deliver all or any of the Assets held by the Bank to the successor, assignee or transferee, who shall then be vested with all the rights and/or obligations formerly vested in the Bank and the Bank shall thereafter be relieved and fully discharged from any liability or responsibility thereto.
- 24.3 The Customer Agreement shall be binding on the Customer and the Customer's successors and personal representatives. The Customer may not charge, assign or transfer any right, benefit or obligation under the Customer Agreement to any third party (whether by security or otherwise) without the Bank's prior consent in writing.

## 25. No waiver

- 25.1 No failure or delay by the Bank in exercising or enforcing any right or remedy shall constitute a waiver of such right or remedy or limit, prejudice or impair the Bank's right to take any action or to exercise any right or remedy against the Customer without notice or demand, or render the Bank responsible for any Losses arising therefrom nor shall any single or partial exercise by the Bank of its rights preclude any other or further exercise thereof or the exercise of any other rights or remedies. The rights of the Bank are cumulative and not exclusive of any other rights, power, privilege, claim or remedy available at Law or otherwise.
- 25.2 Without limiting the foregoing, no waiver by the Bank of any breach of the Customer Agreement shall be deemed to be waiver of any subsequent breach of the Customer Agreement by the Customer.
- 25.3 Time shall be of the essence but the Bank may grant time or other indulgence to the Customer or any other person, without in any way impairing or affecting any of the Bank's rights as against the Customer or any such other persons.
- 25.4 The Bank may accept late payment or partial payment in respect of amounts due to the Bank or as being settlement of any matters in dispute, without prejudice to any of the Bank's rights under the Customer Agreement or at Law, and it shall not be treated as an amendment to the Customer Agreement nor waiver thereof.

## 26. Governing Law and Jurisdiction

- 26.1 The Customer Agreement shall be governed by and construed in accordance with the Laws of Hong Kong and the Customer irrevocably submits to the non-exclusive jurisdiction of the Hong Kong courts or any court elsewhere as the Bank may elect, whether concurrent or not, and the Customer waives any objections on the ground of venue or any similar grounds.
- 26.2 The Customer agrees (but without limiting the Bank's rights) to services of legal process by registered mail of copies thereof to the Customer's address and/or the address of the Customer's process agent shown in the Bank's records and such service to become effective on the date it is delivered or its delivery is attempted (notwithstanding that it is undelivered or returned undelivered).

## 27. Conflicts of interest

- 27.1 The Bank is part of a large international financial group and acts simultaneously for a large number of clients as well as for the Bank's own account. As such, conflicts of interest cannot be completely avoided.
- 27.2 Conflicts may arise where:
  - (a) the Bank or others in the DBS Group carry on business on behalf of other clients;
  - (b) the Bank gives advice or makes recommendations to the Customer that differ from advice or recommendation given to other clients;
  - (c) the Bank deals on the Customer's behalf through another member of the DBS Group which receives commission;
  - (d) the Bank effects, arranges or gives advice on transactions where the Bank or another member of the DBS Group

- benefits from a commission, fee, mark-up or markdown payable otherwise than by the Customer or is remunerated by the counterparty to the transaction;
- (e) a deal or recommendation involves Investments issued by the Bank, another member of the DBS Group, or one of the Bank's or DBS Group's clients;
  - (f) the Bank or another member of the DBS Group deals with the Customer as principal for the Bank or DBS Group account or has a long or short position in Investments Products that are held by the Customer or in which the Bank deals on the Customer's behalf;
  - (g) in advising on or executing a transaction, the Bank has knowledge of other actual or potential transactions in the investment concerned;
  - (h) in advising on or executing a transaction, the Bank has knowledge of other actual or potential transactions in the investment concerned;
  - (i) the Bank deals or recommends units in collective investment schemes that the Bank or another member of the DBS Group either act as, or advise, the trustee, investment manager or operator of the collective investment scheme or otherwise act in a similar capacity;
  - (j) the Bank or another member of the DBS Group are involved in or act in respect of a new issue, rights issue, takeover or any other transaction or have any other relationship with an issuer of investment which the Bank deals on the Customer's behalf or make recommendations;
  - (k) the Bank deals or recommends Investments that the Bank's officers or employees or those of another member of the DBS Group act as officers or employees of issuers of such Investments; and
  - (l) the Bank deals or recommends Investment Products where the Bank or another member of the DBS Group acts as issuer or may have alliances or other contractual agreements with the issuer of the Investment Products. The Bank or another member of the DBS Group may perform or seek to perform broking, investment banking and other banking or financial services for such issuer.
- 27.3 The Bank shall take reasonable steps to avoid conflicts of interest and where such conflicts cannot be reasonably avoided, the Bank will use reasonable steps to ensure that the Customer (and any other clients, if applicable) are treated fairly and that the Transactions are on terms that are not materially less favourable than if no potential conflict had existed.
- 27.4 Neither the Bank nor any other member of the DBS Group is obliged to notify and be liable to account to the Customer for any fees, profit, commission, remuneration, rebates, discounts, spreads or other benefits or advantages (whether financial or otherwise) made or received from or by reason of such transactions and these amounts will not be set off against the Bank's fees unless otherwise required by applicable Laws.
- 27.5 The Bank is under no duty to the Customer to disclose any information which may come to the Bank's notice in the course of its acting in any other capacity as indicated above in Clause A27.2.
- 27.6 The Bank and any other member of the DBS Group may make payments or pay on-going commissions or other benefits or advantages (whether financial or otherwise) to any third party or to other members of the DBS Group in connection with any Investment Account, the provision of Services and/or the handling of Transactions.

## **B. Investment Fund Account**

### **1. Services**

- 1.1 The Investment Fund Account will be maintained and operated subject to and in accordance with the Bank Accounts and Services Terms and Conditions, Sections A and B of these Investment Terms and Conditions.
- 1.2 The Bank may add, reduce or otherwise change the list of available Schemes without prior notice to the Customer.
- 1.3 The Bank may provide all or any of the following Services to the Customer:
  - (a) in accordance with Instructions received:-
    - (i) to make an application to the relevant Fund Manager for subscription, switching, redemption and/or other disposal of Units;
    - (ii) to deal with the proceeds from redemption or other disposal of Units;
    - (iii) to deliver documents of title and any other instruments relating to any Units to the Customer or to the order of the Customer;
  - (b) to request, collect, receive and make payments or distributions attributable to any Units to which the Customer is entitled; and
  - (c) to provide such other services as the Bank may from time to time offer and which the Customer accepts or requests,  
in each case at the Customer's risk.
- 1.4 The Bank shall be entitled (but not obliged), without prior notice to or consent from the Customer, to take such steps as it may determine to be expedient to enable it to provide the Services and exercise its powers under the Customer Agreement including the following:
  - (a) to offer monthly saving plans or other products relating to Units and/or Schemes subject to such terms and conditions as the Bank may from time to time prescribe;
  - (b) subject to any specific Instructions to the contrary, to reinvest any dividends payable on the Units by subscribing for Units in any Scheme at the Bank's discretion or in such other manner as the Bank may consider appropriate; and/or
  - (c) generally to do all acts and things which are necessary for or incidental to the provision of the Services,  
in each case at the Customer's risk.
- 1.5 Settlement of the Investment Fund subscription amount by credit card account will be subject to the terms and conditions of the relevant credit card account.

### **2. Acknowledgement**

The Customer acknowledges and agrees that where there is any conflict on a procedural matter between the Offering Documents and the Dealing Procedures, the Dealing Procedures shall prevail.

### **3. Investment Fund Savings Plan**

#### **3.1 Scope**

The Plan is offered by the Bank subject to the Bank Accounts and Services Terms and Conditions, Sections A and B of these Investment Terms and Conditions.

#### **3.2 Monthly Contributions**

- (a) The Customer shall make Monthly Contributions to the Plan.
- (b) The Bank is entitled to prescribe from time to time any minimum or maximum amount (whether in respect of the Plan or any particular Scheme) of initial contribution to be made by the Customer and each Monthly Contribution.
- (c) The initial investment shall be made in the currency of the Scheme on such date and by such means as the Bank and the Customer may agree. Unless otherwise specified by the Bank, all Monthly Contributions shall be made in Hong Kong Dollars by direct debit from the Settlement Account, on each Debit Date.
- (d) If any Debit Date is not a Business Day, the relevant Monthly Contribution will be debited on the next Business Day. If the Debit Date is a Saturday which falls on month end, the relevant Monthly Contribution will be debited on the preceding Friday or the preceding Business Day.

#### **3.3 Direct Debit Arrangements**

- (a) The Customer shall make the necessary direct debit arrangement from the Settlement Account for the purpose of the Plan.
- (b) The Bank shall not be under any duty to subscribe for Units unless the Bank has actually received the relevant Monthly Contribution in cleared funds.
- (c) Notwithstanding Clause B3.3(b), if the Bank subscribes for Units and the relevant Monthly Contribution is not received in cleared funds for any reason other than the negligence, fraud or willful default of the Bank or Bank Personnel, the Bank shall be entitled to be reimbursed by the Customer (together with any interest charged thereon by the Bank) on demand. If the Customer fails to reimburse the Bank, the Bank shall be entitled at any time without prior notice to or consent from the Customer to sell or redeem the Units subscribed at such price and in such manner as the Bank considers appropriate and apply the net proceeds (that is after deduction of reasonable charges and expenses) to satisfy the Customer's liability to reimburse the Bank. If the amount of net proceeds falls short of the amount of reimbursement, the Customer shall repay the shortfall.
- (d) The Customer shall be responsible for all costs, fees, charges, interest and expenses in relation to the direct debit arrangement which may be imposed by the Bank for the Settlement Account.

#### **3.4 Selection of Schemes**

The Customer may include in the Plan such Schemes as the Customer wishes to select subject to any minimum or maximum number of Schemes that may be so included as the Bank may prescribe. The Customer is responsible for making the selection and the Bank shall have no responsibility or liability for the selection or the performance of the Scheme(s) selected.

### 3.5 Investment of Monthly Contributions

- (a) The Bank shall use any Monthly Contribution actually received by it to subscribe for Units in the Schemes selected by the Customer for the Plan and, if applicable, in such proportion as the Customer may have specified to the Bank.
- (b) The Bank will normally subscribe for Units on behalf of the Customer in a Scheme on such number of Business Days after the Debit Date as may be specified by the Bank to the Customer for that Scheme for that purpose (the “**Subscription Date**”). If the Subscription Date is not a Dealing Day, the relevant subscription will be made on the next Dealing Day.
- (c) No interest will be payable by the Bank on any Monthly Contribution for the period between its Debit Date and the Subscription Date.

### 3.6 Change of instructions

- (a) Subject to the provisions of Clauses B3.6 (b), (c) and (d), the Customer may:
  - (i) vary the Scheme covered by the Plan;
  - (ii) vary the amount of Monthly Contributions to the Plan or to any particular Scheme covered by the Plan; and/or
  - (iii) make any other variation as the Bank and the Customer may agree from time to time.
- (b) The Customer must give at least 7 Business Days’ prior written notice to the Bank in such form as the Bank may prescribe for making any variation.
- (c) The Bank shall be entitled to prescribe any minimum or maximum amount applicable to any variation or type of variation.
- (d) The Customer must make any necessary adjustment to the direct debit arrangement to enable the Bank to implement the variation requested by the Customer.

### 3.7 Reinvestment

Subject to any Instructions to the contrary, the Bank shall reinvest any distributions, dividends and other payments actually paid on the Units of any Scheme comprised in the Plan by subscribing for further Units in the same Scheme.

### 3.8 Redemption and Switching

The Customer may instruct the Bank to effect any redemption and/or switching of the Units comprised in the Plan subject to such minimum or maximum amount as the Bank may prescribe from time to time including any amount in respect of the value of the Units redeemed or switched or the value of the Units remaining in the Plan after redemption or switching.

### 3.9 Termination of the Plan

- (a) The Customer may terminate the Plan at any time by giving to the Bank at least 7 Business Days’ prior written notice.
- (b) The Bank shall be entitled to terminate the Plan at any time if:
  - (i) the Customer fails to make two consecutive Monthly Contributions;
  - (ii) the direct debit arrangement for the purpose of the Plan is cancelled or becomes ineffective for any reason; or
  - (iii) the Investment Fund Account is suspended or closed for any reason.
- (c) Subject to any Instructions to the contrary, all Units comprised in the Plan at the time of termination of the Plan shall remain in the Investment Fund Account after termination except where the Investment Fund Account is closed and Clause A19(f) shall apply.

## **C. Securities Account**

### **1. Services**

- 1.1 The Securities Account will be maintained and operated subject to and in accordance with the Bank Accounts and Services Terms and Conditions, Sections A and C of these Investment Terms and Conditions.
- 1.2 The Bank may provide all or any of the following Services to the Customer:
  - (a) in accordance with Instructions received to:
    - (i) purchase or subscribe for Securities;
    - (ii) subscribe, take up or otherwise dispose of such rights or new issues in relation to Securities;
    - (iii) sell or otherwise dispose of Securities and to deal with the proceeds; and/or
    - (iv) deliver the Securities, documents of title and any other instruments relating to Securities to the Customer or to the order of the Customer.
  - (b) to hold Securities which are not fully paid, subject to such conditions as the Bank may decide;
  - (c) to request, collect, receive and make payments or distributions attributable to Securities arising from any call, subscription, offer, acquisition, ownership, exchange, conversion, redemption, disposal or other dealing and to take any action as regards any merger, consolidation, reorganisation, receivership, bankruptcy or insolvency proceedings, compromise or arrangement as the Bank may decide (or arrange for any Nominee to take such action); and/or
  - (d) to provide such other services as the Bank may from time to time offer and which the Customer accepts or requests,  
in each case at the Customer's risk.

### **2. Market data**

The Customer understands and agrees that:

- 2.1 the market data and information made available to the Customer are provided to the Bank by each participating Exchange, association(s) or agent(s) (which disseminate such data and information) with assertion of a proprietary interest in such data and information;
- 2.2 neither the Bank nor any disseminating party guarantees the timeliness, sequence, accuracy or completeness of market data or any other information made available or shall be liable in any way for any Losses arising from or caused by any inaccuracy, error or delay in or omission from any such information or data or message, or the transmission or delivery of the same or for any non-performance or interruption of any such information, message or data, or for any other consequence beyond the reasonable control of any such party; and
- 2.3 the Customer shall use all such data, information and real-time quotes for the Customer's personal use and reference only, and these must not be reproduced, duplicated, re-sold, licensed, sub-listed or transmitted or framed on a third party web site or otherwise used for commercial purposes, and the Customer shall not furnish the same to any other person or entity for any of these purposes.

### **3. Short selling**

The Customer accepts and acknowledges that short-selling is prohibited and without detracting from the above prohibition, the Customer agrees to immediately notify the Bank when a sale order relates to Securities which the Customer does not own (i.e. involving short selling), otherwise the Bank is entitled to assume for all purposes that the relevant sale is not a short sale. The Bank may at its absolute discretion refuse to act on an Instruction to short sell Securities. The Customer acknowledges and agrees that the Bank has the right to request delivery of such confirmation or documentary evidence as it may deem necessary in relation to any short selling order (including a confirmation that the Customer has a presently exercisable and unconditional right to vest the Securities in the purchaser or have made proper arrangements to cover the trade settlement). If the Bank inadvertently accepts or executes any Instruction without the relevant Securities being available to the Customer, the Bank may at its absolute discretion cancel the Transaction or (at the Customer's cost) obtain the Securities from the market or otherwise for delivery. The Customer shall indemnify the Bank on demand from any loss, liability, claim, damages, costs and expenses that the Bank may suffer or incur as a result of the Customer's short selling Instruction.

### **4. New issue application**

- 4.1 Whenever the Customer asks the Bank to apply for new issues of Securities, the Customer undertakes, represents and warrants to and agrees with the Bank that:
  - (a) the Customer's application through the Bank will be the only application made by the Customer;
  - (b) all statements made by the Customer in the Application Form are true, accurate and complete;
  - (c) the Customer satisfies all eligibility criteria set out in the Offering Document, Application Form and the relevant documentation in respect of such new listing;
  - (d) the Customer has read and understood the terms and conditions set out in the Offering Document, Application Form and other relevant documentation in respect of such new listing and will comply with their terms;
  - (e) the Customer is not a shareholder of or in any other way connected to the issuer or any of its affiliates;
  - (f) the Customer is fully entitled to make such application and hold the Securities applied for and no breach of any Law, regulation or other requirement in any jurisdiction will arise or result from the making or approval of any such application; and
  - (g) the Bank is irrevocably authorised to sign and deliver an application and all other necessary documents on the Customer's behalf.
- 4.2 The Customer understands that the foregoing representation and warranty will be relied upon by the Bank in making the application, and by the issuer in deciding whether to make allotment to such application.

**5. Delivery of Securities**

If the Bank is at any time under an obligation to deliver Securities to the Customer, the Bank shall be entitled to arrange for such delivery obligation to be fulfilled in any manner that it deems fit. The Bank may itself deliver or procure a third party to deliver the relevant Securities to the Customer. Where such Securities are delivered to the Customer, the Customer shall have no claim against the Bank with respect to the delivery of such Securities.

## **D. Investment ID Account**

**This Section D is applicable to CLI, ELD and SIP.**

### **1. Services**

- 1.1 The Investment ID Account will be maintained and operated subject to and in accordance with the Bank Accounts and Services Terms and Conditions, Sections A and D of these Investment Terms and Conditions.
- 1.2 The Bank may add to, reduce or otherwise change the list of available products without prior notice to the Customer.
- 1.3 The Bank may provide all or any of the following Services to the Customer:
  - (a) in accordance with Instructions received to:-
    - (i) purchase or subscribe for CLI, ELD and SIP;
    - (ii) sell or otherwise terminate CLI, ELD and SIP and to deal with the proceeds;
    - (iii) deliver the documents of title and any other related instruments relating to CLI, ELD and SIP to the Customer or to the order of the Customer;
  - (b) to request, collect, receive and make payments or distributions attributable to CLI, ELD and SIP arising from any call, subscription, offer, acquisition, ownership, exchange, conversion, redemption, disposal or other dealing and to take any action as regards any merger, consolidation, reorganisation, receivership, bankruptcy or insolvency proceedings, compromise or arrangement as the Bank may decide (or arrange for any Nominee to take such action); and/or
  - (c) to provide such other services as the Bank may from time to time offer and which the Customer accepts or requests,

in each case at the Customer's risk.



**D1. Equity-Linked Deposit**

The terms and conditions for ELD shall be further set out in the relevant principal brochure notified by the Bank to the Customer and as supplemented by the relevant Confirmation.

## **D2. Structured Investment Product**

**This Section D2 is applicable to SIP.**

### **1. Introduction**

- 1.1 SIP is a structured investment product involving derivatives and is intended to provide a potentially higher return than a normal time deposit. SIP may be linked to the performance of a currency, interest rate, equity security or other underlying asset, rate or index.
- 1.2 SIP is subject to the terms and conditions and risks as set out in the Offering Documents. SIP is NOT a protected deposit and is NOT protected by the Deposit Protection Scheme or any other deposit protection scheme in any other jurisdiction.
- 1.3 The product terms and conditions, subscription and redemption process and details relating to payments applicable to a SIP are set out in the relevant Offering Documents and shall be deemed to be incorporated herein with effect from the date on which they are signed or acknowledgement of receipt received by the Bank or the date of the first transaction to which they relate (whichever is earlier), and in the event of any conflict between their terms and these Investment Terms and Conditions, the former shall prevail.

### **2. Confirmation**

The Bank will, as soon as practicable after the terms of the SIP have been agreed and the Principal Amount deposited, issue and send a Confirmation.

### **3. Early withdrawal/termination**

- 3.1 The Customer may not terminate the SIP or withdraw all or any part of the Principal Amount prior to the Maturity Date unless agreed otherwise by the Bank.
- 3.2 In the event the Bank at its sole and absolute discretion agrees to the termination or withdrawal prior to the Maturity Date, the Customer will bear the Losses incurred by the Bank including the Hedging Costs as a result of or arising from such termination or withdrawal.
- 3.3 The Bank shall be entitled to set-off all such Losses incurred from the Final Redemption Amount or the Investment Account or any other account of the Customer and pay to the Customer the remaining balance thereof. The Customer understands that the Losses incurred by the Bank in relation to such early termination or withdrawal may substantially reduce, or result in a total loss of the Principal Amount and the earnings thereon, and the Customer may bear further costs and expenses in addition to such a loss of the Principal Amount and the earnings thereon.

### **4. Interest**

- 4.1 Interest shall accrue on the Principal Amount at the Interest Rate during the Interest Period and shall be calculated as set out in the Term Sheet.
- 4.2 The Interest Amount (if any) shall be payable in arrears on the Interest Payment Date, or, if such day is not a Business Day, the Business Day immediately following such Interest Payment Date to such account as notified by the Customer to the Bank or, if the Bank has not been notified of such account, to the Settlement Account. If such account notified by the Customer or if the Settlement Account has ceased to be operative, the Interest Amount will be paid to any account for the Customer as the Bank shall in its absolute discretion determine. The Customer shall not be entitled to any further interest or other payment and the Bank shall not be responsible for the losses suffered by the Customer in respect of such delay.

### **5. Certain specific SIPs**

An SIP linked to an underlying asset that is an equity security will also be subject to the provisions set out in Section C of these Investment Terms and Conditions (unless otherwise specified in the Offering Documents or notified by the Bank).

### **D3. Currency Linked Investment**

**This Section D3 is applicable to CLI.**

#### **1. Introduction**

- 1.1 CLI is a structured investment product involving a currency option and is intended to produce a yield higher than a conventional time deposit. Part of or the entire yield on a CLI represents the premium on the underlying currency option. The Customer may choose an Investment Currency and a Linked Currency and agree the Conversion Rate and Tenor with the Bank.
- 1.2 If, during the Investment Period, the Linked Currency appreciates or remains constant against the Investment Currency (measured by comparing the Fixing Rate at the Fixing Time on Fixing Date and the Conversion Rate), the Customer will receive, for value on the Maturity Date, the Final Redemption Amount in the Investment Currency.
- 1.3 If, during the Investment Period, the Linked Currency depreciates against the Investment Currency (measured by comparing the Fixing Rate at the Fixing Time on Fixing Date and the Conversion Rate), the Customer will receive the Final Redemption Amount in the Linked Currency, converted at the Conversion Rate.
- 1.4 CLI is subject to the terms and conditions and risks as set out in the Offering Documents. CLI is NOT a protected deposit and is NOT protected by the Deposit Protection Scheme or any other deposit protection scheme in any other jurisdiction.

#### **2. Early withdrawal/termination**

CLI, or any part thereof, cannot in any circumstances be withdrawn or terminated by the Customer prior to the Maturity Date.

#### **3. Confirmation**

- 3.1 Confirmation will be sent for Orders executed.
- 3.2 The Conversion Rate will be determined by reference to the actual spot price at execution of the Order.

#### **4. Proceeds on Maturity Date**

The Final Redemption Amount shall be calculated in the manner set out in the Order Form and/or Confirmation.

#### **5. Market disruption**

If any event occurs including, where there is a No. 8 typhoon signal or a black rainstorm, making it impossible for the Bank to obtain a Fixing Rate at the Fixing Time on Fixing Date, the Bank will, acting in good faith and in a commercially reasonable manner, determine the Fixing Rate and all determinations of the Bank will, in the absence of manifest error, be binding and conclusive on the Customer.

#### **6. Indemnity and set-off upon early withdrawals/termination**

- 6.1 In the event of an early withdrawal or termination of a CLI pursuant to Clauses A14, A15 and/or A17, the Customer will bear all Losses incurred by the Bank including the Hedging Costs as a result of or arising from such early withdrawal or termination.
- 6.2 The Bank shall be entitled to set-off all Losses incurred from the Final Redemption Amount and pay to the Customer the remaining balance thereof. The Customer understands that the Losses incurred by the Bank in relation to such early withdrawal or termination may substantially reduce, or result in a total loss of the Principal Amount and the earnings thereon, and the Customer may bear further costs and expenses in addition to a loss of the Principal Amount and the earnings thereon.



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