

1<sup>st</sup> June 2017

## MASTER TERMS AND CONDITIONS

To: Dah Sing Bank, Limited (the “**Bank**”)

In consideration of the Bank agreeing to open and continue accounts for me/us (the “**Customer**”) or provide or continue to provide its services or facilities to the Customer, the Customer agrees to the following terms and conditions: -

### GENERAL TERMS

The following provisions apply to all facilities and services offered by the Bank:

#### 1. Facilities and Services

- 1.1 The Bank will from time to time offer the facilities and services as set out in the Schedule hereto to its customers, as well as other facilities and services that may be agreed by the Bank and the Customer or notified by the Bank to the Customer from time to time under other terms and conditions (the “**Other Terms**”).
- 1.2 The Bank may at any time remove any facility or service from the Schedule hereto by giving notice to the Customer. The Bank will give prior notice of removal of such facility or service to the Customer if the Customer is utilizing such facility or service at the relevant time. The Bank may also introduce any new facility or service to the Schedule hereto by giving notice to the Customer.
- 1.3 Each facility and service will be provided to the Customer subject to these General Terms, the terms and conditions referred to against the relevant facility or service in the Schedule hereto (the “**Specific Terms**”), and any Other Terms, as applicable.
- 1.4 The Customer may at any time apply for any of the facilities and services offered by the Bank as set out in the Schedule hereto. Application for the use of any facility or service may be made by the Customer by giving an instruction to such effect in accordance with clause 2. However, if the Customer is a corporate entity, the Bank may refuse to accept the Customer’s application for the use of any facility or service unless the Bank is satisfied that such an application has been duly approved by the board of directors of the Customer or in such other manner acceptable to the Bank. No written acknowledgement of these General Terms and any Specific Terms will be required before the Bank allows the Customer to utilize any facility or service. The Customer undertakes not to utilize any facility or service unless and until the Customer has read and fully understood these General Terms and the Specific Terms and such Other Terms applicable to such facility or service. By utilising the relevant facility or service, the Customer will be deemed to have confirmed its agreement to all the terms applicable to the relevant facility or service. The Bank may require the Customer to submit such further information as it may require before accepting the Customer’s application for facility or service. The Bank shall also be entitled to refuse the Customer’s application for any of the facilities and services without giving any reason.
- 1.5 By submitting an application to the Bank for any facility or service, the Customer is deemed to have represented to the Bank that no credit card or other loan facility issued or granted by any financial institution to the Customer has any overdue payment record exceeding thirty

(30) days or has been cancelled due to default in payment, no bankruptcy order has ever been made against the Customer, the Customer is not involved in any bankruptcy or winding up proceedings against himself, and the Customer does not have any intention to petition for his own bankruptcy or winding up. The Customer understands that he may be liable for criminal prosecution if he makes any application with an intention to defraud the Bank.

- 1.6 Documents submitted in connection with the application of any facility or service will not be returned.
- 1.7 Notwithstanding any other agreement between the Bank and the Customer, the Bank may terminate any facility or service to the Customer by prior notice without any liability to the Customer.
- 1.8 In case of inconsistency between these General Terms (with the exception of clause 15.1 of these General Terms) and any Specific Terms, the Specific Terms shall prevail in respect of the relevant facility or service.
- 1.9 In case of inconsistency between any provision in these General Terms or any Specific Terms and any provision in any Other Terms, then, unless specified, the Bank shall determine how the terms apply in good faith. In determining how the terms apply, the Bank shall operate in a way which best enables it to discharge all of its legal and regulatory obligations in good faith.

## **2. Instructions**

- 2.1 The Bank is authorized to accept and rely on any instruction to effect any transaction through or in respect of any of the Customer's accounts or to utilize any facility or service and applications for any facility or service offered by the Bank given in writing, through the Internet or other electronic means acceptable to the Bank or by telephone in accordance with this clause 2.
- 2.2 Instructions referred to in clause 2.1 include but are not limited to the application for any facility or service from the Bank and termination of the same, the honouring of any cheque, draft, order to pay, bill of exchange and promissory note, the issuance of any letter of credit, guarantee, indemnity or counter-indemnity, the discounting of any bill endorsed on behalf of the Customer, remittance instructions from third parties to deposit funds into Customer's accounts, the purchase or sale of or other dealings in securities, foreign exchange, interest rate transaction or investment, the order to withdraw any or all money on any of accounts of the Customer or to deliver, dispose of or deal with any securities, deeds, documents or other property whatsoever from time to time in the Bank's possession for the Customer's account, the mortgage, charge, pledge, hypothecation or creation of any lien or other security interest of any account of the Customer, all or any of the Customer's assets including goodwill and uncalled capital in favour of the Bank to secure the liabilities of the Customer or any other person, the arrangement and acceptance of any credit, loan, advance, overdraft or other banking facilities from the Bank to the Customer, the authorization of any person or persons to give instruction in respect of any of the accounts of the Customer and the manner of giving instruction, any changes in the number and composition of authorized signatories and the manner of giving instruction for any particular account of the Customer.
- 2.3 Instructions given in writing in connection with any of the Customer's accounts mean instructions signed by the Customer or such number of authorized signatories from time to

time appointed by the Customer or by the Customer's authorized signatories or by person(s) to whom the Customer has delegated his authority to appoint authorized signatories or otherwise to deal with the Bank ("**Delegated Person**") (as the case may be) with such signature(s) specified in the mandate or other instructions of the relevant account in original or by fax.

- 2.4 Instructions in writing to utilize any facility or service otherwise than those referred to in clause 2.3 and applications in writing for any facility or service mean instructions signed by the Customer or any one or more of the authorized signatories of any of the Customer's accounts in original or by fax.
- 2.5 Instructions and applications referred to in clause 2.1 given through the Internet or other electronic means acceptable to the Bank mean instructions or applications given by such person who can (a) quote the account number of the Customer's account to which the instruction relates, or if it does not relate to any of the Customer's accounts, the account number of any one of the Customer's accounts, or such identifier or login name selected by the Customer and accepted by the Bank; (b) quote the personal identification number assigned by the Bank (or as may subsequently be changed by the Customer and accepted by the Bank from time to time) for the account quoted; (c) produce the digital signature of the Customer or any of the relevant authorized signatories or (where the Bank agrees to accept instructions from Delegated Person through the Internet or other electronic means) of the relevant Delegated Person, if required by the Bank; (d) input the one-time password ("**Security Code**") either (i) generated by the security device provided by the Bank to the Customer or any of the relevant authorized signatories or (where the Bank agrees to accept instructions from Delegated Person through the Internet or other electronic means) relevant Delegated Person ("**Security Device**") or (ii) sent to the mobile phone number registered by the Customer with the Bank for this purpose via Short Message Service (SMS), if required by the Bank; and (e) provide such other information as may be required by the Bank. This clause 2.5 shall apply despite any requirement to the contrary in the relevant mandate. For the avoidance of doubt, the SMS referred to in clause 2.5(d)(ii) above will not be forwarded to any mobile phone number even if the Customer has subscribed for SMS forwarding service provided by the Customer's telecommunication service provider.
- 2.6 Instructions and applications referred to in clause 2.1 given by telephone mean instructions or applications given by such person whom the Bank believes to be the Customer or any person comprising the Customer, or in the case of an instruction which relates to an account of the Customer, any of the authorized signatories or (where the Bank agrees to accept instructions from Delegated Person by telephone) any of the Delegated Person of the account from time to time to which the instruction relates.
- 2.7 The Bank may, but is not obliged to, refuse to accept any instruction or application given by telephone if the person giving the instruction shall fail to (a) quote the account number of the Customer's account to which the instruction relates, or if it does not relate to any of the Customer's accounts, the account number of any one of the Customer's accounts; (b) quote the personal identification number assigned by the Bank for the account quoted; or (c) provide such other information as may be required by the Bank. The Bank may require the Customer to confirm any instruction by telephone, through the Internet or other electronic means or by such other means as the Bank may require. The Bank may refuse to accept or rely on any instruction before receiving the Customer's confirmation.

- 2.8 The Bank is authorized to accept and rely on any instruction or application given in accordance with this clause 2 notwithstanding any error, misunderstanding, fraud, forgery or lack of clarity in or authorization for such instruction.
- 2.9 Notwithstanding any other provisions contained under these General Terms or any Specific Terms, the Bank may refuse to accept, rely on or act upon any instruction or application owing to:
- (a) insufficient funds in the relevant account of the Customer;
  - (b) if in the opinion of the Bank there is any lack of clarity or if there exists any contradiction or uncertainty in the instruction or application;
  - (c) or for the purpose of complying with the Applicable Laws and Regulations (as defined in clause 15.1(a)(iii) of these General Terms);
  - (d) if there exist, in the opinion of the Bank, legal, regulatory or compliance concerns regarding such instructions;
  - (e) relevant information or documentation requested by the Bank to be provided by Customer in relation to the provision of any facility or service of the Bank is inaccurate, insufficient, or not properly or timely provided;
  - (f) if such instructions or applications relate to an investment product that the Bank deems unsuitable for the Customer having regard to the Customer's financial situation, investment experience and investment objectives; or
  - (g) such other reason as the Bank deems fit.

The Customer acknowledges that this may offer more protection to the interest of the Customer particularly where fraud is suspected of an instruction or application. Notwithstanding any other provisions of these General Terms or any Specific Terms, the Bank may at any time and without prior notice to the Customer block or freeze any accounts of the Customer for the purpose of prevention of crime or compliance with the Applicable Laws and Regulations.

- 2.10 If the Bank shall decide to execute an instruction notwithstanding the insufficiency of funds in the relevant account, the Bank may do so without seeking the Customer's prior approval or giving prior notice to the Customer. The Customer shall pay to the Bank the resulting overdraft and all interest and charges incurred at such rate as may be determined by the Bank from time to time.
- 2.11 The Bank may record any telephone conversation between the Bank and the Customer or any of his authorized signatories or (where applicable) Delegated Person in the course of its business.
- 2.12 Any transaction effected pursuant to an instruction shall be binding on the Customer as soon as it has been effected by the Bank.
- 2.13 Instructions received by the Bank after its designated cut-off time on any Business Day will only be processed in the immediately following Business Day available for effecting such instructions as determined and specified by the Bank from time to time. Unless otherwise

specified in the relevant provision(s) under these General Terms or any of the Specific Terms or any notice, communication, confirmation, statement or other documents relating to the facilities and services as set out in the Schedule, the expression “**Business Day**” comprises such hours determined by the Bank from time to time when the Bank is open for business. Unless otherwise determined by the Bank, the hours during which typhoon signal number 8 or above or black rain storm signal is hoisted will not be banking hours of the Bank.

- 2.14 The Customer understands that due to unpredictable traffic congestion, openness and public nature of the Internet and other reasons, the Internet may not be a reliable medium of communication and that such unreliability is beyond the control of the Bank. This may subject transactions to delays in transmission, incorrect data transmission, delays in execution or execution of instructions at prices different from those prevailing at the time instructions were given, misunderstanding and errors in any communication between the Bank and the Customer, transmission blackouts, interruptions and so on.
- 2.15 The Customer will and will procure each of his authorized signatories and (where applicable) Delegated Person to clear the browser cache memory as soon as he signs off each time after having given instructions or made applications to the Bank through the Internet and exit the browser immediately thereafter.
- 2.16 Subject to clause 4.3, in the event of any failure, interruption or delay in performance of the Bank’s obligations or any inaccuracy in transmission resulting from breakdown, failure or malfunction of any telecommunications or computer service or system or from any other event or circumstance whatsoever not reasonably within its control, the Bank shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the Customer.
- 2.17 The Bank may terminate any standing instruction for the payment of amounts from any of the accounts of the Customer which remains inactive for a consecutive period of twenty four (24) months or such other period as the Bank may determine from time to time by giving prior notice to the Customer.

### **3. Use of PIN, Security Code and Security Device**

- 3.1 The Bank may assign one or more personal identification number (each a “**PIN**”) and/or provide one or more Security Device(s) for generating Security Code(s) to the Customer and his authorized signatories and (where the Bank agrees to accept instructions from Delegated Person through the Internet or other electronic means or by telephone) Delegated Person to enable such person to give instructions by ATM, telephone, through the Internet or other electronic means or gain access to the accounts of the Customer or other facilities or services. The Customer undertakes to keep and procure his authorized signatories and (where applicable) Delegated Person to keep his PIN and Security Code confidential and not to disclose the same to any other person. The Customer will and will procure each of his authorized signatories and (where applicable) Delegated Person to notify the Bank as soon as possible if he knows or suspects that any other person has access to his PIN and/or Security Code. The Customer undertakes to keep and procure his authorized signatories and (where applicable) Delegated Person to take reasonable measures to prevent unauthorized access to the Security Device and forthwith notify the Bank in case of loss (whether being lost or stolen) of the Security Device.

#### **4. Limitation of Liability**

4.1 In the absence of fraud, negligence or wilful default or otherwise provided in clauses 4.2 and 4.3, the Bank and/or any Bank Group Company will not be liable for any act, delay or omission to act in connection with any of the Customer's accounts or any facility or service provided by the Bank including the following:

- (a) the operation of any of the Customer's accounts and the provision of any of the facilities and services by the Bank;
- (b) the availability of any of the facilities or services being restricted or affected by any cause or for whatever reason;
- (c) the acts, omission, negligence or default of any correspondent, broker, agent, custodian or other parties involved in any transaction;
- (d) the failure, default or delay in performance resulting from any levy, tax, embargo, moratorium, exchange restriction or other act of government or other authority, any power failure, any breakdown or failure of transmission or communication or in computer facilities, postal or other strikes or industrial action, closure or suspension of trading on any exchange, board of trade, market or clearing house, any act of God, fire, flood, frost, typhoon storm, explosion, calamity, natural disaster, war, acts of terrorism, civil strife, sabotage, or any other event beyond the Bank's control which makes it impracticable, illegal or impossible for the Bank to perform its obligations under or in respect of these Master Terms and Conditions or any Other Terms;
- (e) the reliance upon any information provided by the Customer to the Bank under these Master Terms and Conditions and any Other Terms (which the Bank cannot verify after exercising reasonable due diligence) that is untrue, inaccurate, incomplete, out-of-date and/or misleading, which the Bank would not have reasonably known or suspected is untrue, inaccurate, incomplete, out-of-date and/or misleading;
- (f) the reliance upon any instruction by the Bank in accordance with these General Terms and/or any Specific Terms which the Bank believes in good faith to be given by the Customer or his authorized signatories or (where applicable) Delegated Person notwithstanding any error, misunderstanding, fraud or lack of clarity in the terms of such instructions;
- (g) the diminution or unavailability of funds due to restrictions on convertibility or transferability, requisitions, involuntary transfers, acts of war or strike, or other similar causes beyond the Bank's control; and
- (h) the Bank taking any actions permitted by, or exercising any powers under, clause 15.1 of these General Terms.

4.2 The Customer undertakes to: (a) keep and procure each of his authorized signatories and (where applicable) Delegated Person to keep his PIN and Security Code secret and if the Customer and each of his authorized signatories and (where applicable) Delegated Person act in good faith and is diligent in safeguarding his PIN and Security Code / Security Device, the Customer shall not be liable to the Bank for any unauthorized transactions made pursuant to instructions given through the Internet or electronic means; (b) inform the Bank as soon as

reasonably practicable if the Customer knows or suspects that any unauthorized person knows the PIN and/or Security Code of the Customer or any of his authorized signatories or (where applicable) Delegated Person or that unauthorized transactions have been effected and if the Customer fails to do so the Customer shall be liable for any unauthorized transactions made; and (c) be liable for all losses if the Customer or any of his authorized signatories or (where applicable) Delegated Person acts fraudulently or with gross negligence including failing to properly safeguard the PIN and/or Security Code / Security Device of the Customer or any of his authorized signatories or (where applicable) Delegated Person.

- 4.3 Notwithstanding any other provisions of this clause but subject to clause 4.2 above, the Customer shall not be responsible for any unauthorized transaction effected pursuant to any instruction given through automated telephone systems, the Internet or electronic means caused by: (a) a computer crime not prevented by the security system of the Bank; (b) a human or system error primarily caused by the Bank directly resulting in an improper transaction leading to lost or misplaced funds; or (c) a missed or mis-directed payment caused by the Bank. The Customer shall be entitled to reimbursement from the Bank for interest or late penalties incurred by the Customer for missed payments attributable to the foregoing causes (a), (b) and (c).
- 4.4 The Bank shall not be responsible for any loss of profit, indirect, special or consequential losses or damages in any event.
- 4.5 The Customer shall hold the Bank harmless and indemnify the Bank against all actions, proceedings, demands, claims, liabilities, damages, losses, costs and expenses howsoever arising, directly or indirectly, out of transactions effected in accordance with instructions given in accordance with clause 2, or the Bank's failure to execute or delay in execution of any such instruction or enforcement of the Bank's rights under this clause. This indemnity shall continue notwithstanding any termination of the accounts of the Customer or these General Terms or any Specific Terms. This clause does not apply to losses suffered by the Bank as a result of the unauthorized transactions referred to in clause 4.3.
- 4.6 The Bank shall not be liable for any losses incurred by the Customer as a result of any action taken by or omission on the part of the Bank in good faith and in the belief that the same is called for in the proper performance of its duties under these General Terms or any Specific Terms, except such losses as may directly and primarily arise from the Bank's negligence or wilful default. The liability of the Bank for damages for any action or omission for which the Bank shall be held responsible under these General Terms or any Specific Terms shall be limited to the direct consequences of any such action or inaction. Specifically, the liability of the Bank for damages shall be limited: -
- (a) in the case of loss of securities or other assets by the Bank, to the replacement of such securities or other assets or the payment of the market value thereof as of the time when such loss becomes known;
  - (b) in the case of the loss of the use of funds for any reason, to the payment of interest at the overnight interbank rate for the currency or currencies in which the funds are denominated prevailing in Hong Kong or where there is no such rate, in Singapore or failing which in London, or failing which in the principal place where transactions in respect of such currencies are settled.

- 4.7 The Bank shall not be liable in respect of the default or fraud of any person, firm or company not connected with the Bank through or with whom transactions are effected for the Customer's account or in respect of the actions or omissions or solvency of agents providing custody services, brokers or dealers. However, the Bank will use its endeavours to promote the success of any proceedings by the Customer against such person, firm or company in respect of its default or fraud provided that the Customer pays the full cost and expense of the Bank arising out of such proceedings.
- 4.8 In the absence of fraud, negligence or wilful default and save as expressly provided for in these General Terms or any applicable Specific Terms, neither the Bank nor any of its officers, employees or agents shall be liable to the Customer for any loss suffered by the Customer arising out of or connected with any act or omission in relation to the establishment, operation or maintenance of any account or the transactions contemplated under these General Terms or any Specific Terms whether in connection with the Bank taking any action permitted by, or exercising any powers under, clause 15.1 of these General Terms or otherwise.
- 4.9 Without prejudice to any other provisions of clause 4, the Bank shall not be liable for any loss or damage due to:
- (a) in relation to outward remittance with the Bank acting as the ordering institution upon Customer's instructions, delay in processing or refusal to process remittance payment by any beneficiary institution or intermediary institution or agent or sub-agent thereof as a result of, including but not limited to, compliance with applicable laws, regulations, guidance, guidelines and/or requests of public authorities in various jurisdictions in relation to anti-money laundering or counter-terrorist financing purposes; or
  - (b) in relation to inward remittance with the Bank acting as the beneficiary institution, delay in processing or refusal to process remittance payment by the Bank as a result of, including but not limited to, compliance with applicable laws, regulations, guidelines and/or requests of public authorities in various jurisdictions in relation to anti-money laundering or counter-terrorist financing purposes.

## **5. Statements and Confirmations**

- 5.1 The Bank will send a confirmation to the Customer in respect of each transaction effected pursuant to an instruction given through the Internet or other electronic means or by telephone.
- 5.2 The Bank will send a monthly statement to the Customer in respect of each of the accounts of the Customer summarising the transactions effected through such account since the date of the preceding monthly statement. However, subject to applicable laws, regulations and other codes of conduct, no monthly statement will be sent in respect of accounts for which a passbook is provided to the Customer, accounts with no transaction since the date of the previous monthly statement and accounts for which the balance as at the date on which the monthly statement should otherwise be sent is less than such amount as may be notified by the Bank from time to time. Subject to the agreement of the Bank, the Customer may request the Bank to send a consolidated monthly statement to the Customer in respect of such accounts of the Customer as be acceptable to the Bank, instead of an individual statement for



each of such accounts summarising the transactions effected through such accounts since the date of the preceding monthly statement. The Bank will send such other statements and confirmations to the Customer as may be required by applicable laws, regulations and codes of practice.

- 5.3 Confirmations and monthly statements will be sent to the Customer by mail, e-mail or such other means as the Bank may determine.
- 5.4 The Customer undertakes to verify the correctness of each confirmation and monthly statement received from the Bank within ninety (90) days from the receipt thereof of any discrepancies, omissions or debits wrongly made to or inaccuracies or incorrect entries in the Bank's record of transaction, monthly statement and confirmation as so stated. At the end of the ninety (90) day period commencing from the date of the relevant monthly statement or confirmation, the Bank's record of transactions and the details of the transactions as set out in such monthly statement or confirmation shall be conclusive evidence without any further proof that the Bank's record of transaction and the details in such monthly statements or confirmation are correct except as to any alleged errors so notified.
- 5.5 Notwithstanding anything aforesaid, the Bank shall be entitled to revise any monthly statement or confirmation previously sent to the Customer to correct any details contained therein which have been wrongly or mistakenly made by the Bank. Clause 5.4 shall apply to such revised monthly statements or confirmations.
- 5.6 Except as provided above and notwithstanding anything to the contrary in these General Terms or any Specific Terms, the Bank shall be free from all claims in respect of the details of the transactions as set out in the monthly statements or confirmations notwithstanding any incorrectness of the details of the transactions as set out in the monthly statements or confirmations whether the same be a result of forgery, fraud, lack of authority, negligence or otherwise of any person whatsoever.
- 5.7 Except as provided above or unless required by applicable laws, regulations or codes of conduct, the Bank shall have no obligation to accede to the request of the Customer or any person comprising the Customer for any statement, confirmation or information in relation to any of his accounts without giving any reason. In particular, the Bank shall have no obligation to provide any statement, confirmation or information in relation to any of the Customer's dormant accounts. Without prejudice to the foregoing, even if the Bank agrees to accede to the Customer's request, the Bank may impose such fees or charges as it may deem fit.
- 5.8 Notwithstanding anything to the contrary in this clause 5 and in these Master Terms and Conditions, if the Customer is a "professional investor" as defined in Schedule 1 to the Securities and Futures Ordinance, the Customer acknowledges and agrees that the Bank is not required to provide the Customer with contract notes, statements of account or receipts pursuant to the Securities and Futures (Contract Notes, Statements of Account and Receipts) Rules (the "**Contracts Notes Rules**"). Although the Bank may provide the Customer with contract notes, confirmations, statements of account and/or receipts, the Customer agrees and acknowledges that the Bank is not required to provide the above mentioned documents in accordance with the requirement stated in the Contracts Notes Rules.

## **6. Right of Set-Off, Lien and Appropriation**

- 6.1 In addition to any general lien or similar right to which the Bank may be entitled in law, the Customer hereby agrees that the Bank shall have the right and is authorized to the fullest extent permitted by law, at any time and without prior notice, to set off and/or initiate transfers and apply any monies standing to the credit of any of the Customer's accounts with the Bank or with any Bank Group Company of whatever description and in whatever currency and whether held singly or jointly with others towards discharge of all sum due by the Customer to the Bank in whatever currency. Insofar as any of the sums may only be due to the Bank contingently or in future, the liability of the Bank or any Bank Group Company to the Customer to make payment of any sums standing to the credit of any such accounts will to the extent necessary to cover such sums be suspended until the happening of the contingency or future event. The Bank's right under this clause 6.1 will most likely be exercised by the Bank if the Customer fails to repay any outstanding indebtedness due to the Bank. In these General Terms, the expression "Bank Group Company" means the holding company of the Bank, any subsidiary of the Bank or its holding company, and the branches, affiliates, or associated or related companies of the Bank.
- 6.2 The Bank is authorized to exercise a lien over any or all property of the Customer which (for any reason) is in or which howsoever comes into the possession or control of the Bank. The Bank may sell such property and apply the proceeds of sale, after deduction of expenses, to satisfy any liabilities owed by the Customer to the Bank.
- 6.3 Notwithstanding any purported appropriation by the Customer, the Bank may at any time appropriate any money paid to the Bank or otherwise coming into the Bank's possession or control for the Customer's account in or towards discharging whichever part of the Customer's liabilities to the Bank as the Bank shall think fit.
- 6.4 Where such combination, set-off or transfer requires the conversion of one currency into another, such conversion shall be calculated at the then prevailing spot rate of exchange of the Bank as absolutely determined by the Bank (the details of which will be provided to the Customer upon request).
- 6.5 Nothing in this clause 6 shall be treated as constituting any restriction or waiver of any rights or remedies to which the Bank is or may at any time be entitled by law or otherwise. A waiver, if made by the Bank, must be in writing to be effective.

## **7. Fees and Charges**

- 7.1 The Customer will pay to the Bank such fees and charges in connection with his use of the Bank's facilities and services as may be imposed by the Bank from time to time. The fees and charges imposed by the Bank at any time are set out in the prevailing Bank Service Charges of the Bank. Fees and charges applicable to any facility or service which are not set out in the Bank Service Charges will be advised to the Customer separately.
- 7.2 The Bank may revise any fees and charges applicable to any facility and services being utilized by the Customer by giving prior notice to the Customer.
- 7.3 The Bank may debit any fees and charges payable by the Customer from any of the Customer's accounts.

- 7.4 The Customer shall maintain such minimum balance in each of his accounts as may be prescribed by the Bank from time to time. Failing which, the Bank may impose such charges or pay interest calculated at such lower interest rate as may be determined by the Bank from time to time. The Bank may also impose charges if no transaction has been effected through any of the Customer's accounts (other than interest payment or payment of any fees or charges) for such continuous period as may be determined by the Bank.
- 7.5 The Bank may include its fees or charges in the price or rate for the investment quoted by the Bank to the Customer. The Bank may also accept rebates, fees, soft dollars or other benefits from any person in connection with transactions effected by the Bank for the account of the Customer.
- 7.6 The Customer will indemnify the Bank for all its reasonable cost and expenses in connection with its enforcement of these General Terms or any Specific Terms or such other terms as agreed between the Customer and the Bank from time to time.

## **8. Deposits**

- 8.1 Foreign currency cheques, bills, drafts and other monetary instruments will be accepted for deposit only at the Bank's discretion subject to the prevailing rules, terms and conditions of the Bank governing the collection of foreign currency drafts and cheques. All items are credited subject to final clearance and no interest will be accrued on uncollected funds. The Bank reserves the right to debit the Customer's accounts with items which are subsequently returned unpaid together with any charges and expenses levied on it by the correspondent bank or drawee bank.
- 8.2 No interest will be paid on funds deposited into an interest-bearing account of the Customer until the Bank has actually received the same and, if applicable, the Bank has received the confirmation of the remittance from the relevant correspondent bank (whichever is later). However, if the later of the aforesaid shall occur after the cut-off time designated by the Bank on any Business Day, interest will only be paid on such funds from the immediately following Business Day available for paying interest on such funds.
- 8.3 Deposit may be made at such offices of the Bank and at such offices of such other bank(s) as the Bank may specify from time to time. Deposit may also be collected by authorized representatives of the Bank from the Customer at the risk of the Customer. In the case of deposit made at the office of any other bank(s), such deposit will be received by such designated bank(s) as the agent of the Bank. However, collection by such bank or authorized representatives of the Bank will not prejudice clauses 8.1 and 8.2.
- 8.4 The Bank may at its discretion refuse to accept any currency notes or coins for deposit into the Customer's accounts.
- 8.5 If interest is payable in respect of any account, it will be calculated on such basis as the Bank may notify the Customer from time to time. Interest on any debit balance of any account will be calculated on the same basis.
- 8.6 The Bank reserves the right to impose deposit charge on the credit balance of any account or service fee on bulk cash or cheque deposits in such manner as the Bank may at its discretion think fit.

## **9. Withdrawals**

- 9.1 Withdrawals may only be made against sufficiently cleared funds in the relevant account. If the Bank shall decide to permit a withdrawal notwithstanding the insufficiency of funds in the relevant account, the Bank may do so without seeking the Customer's prior approval or giving prior notice to the Customer. The Customer shall pay to the Bank the resulting overdraft and all interest and charges incurred at such rate as may be determined by the Bank from time to time.
- 9.2 The Customer agrees that the Bank shall not be responsible to the Customer for any diminution or unavailability of funds due to restrictions on convertibility or transferability, requisitions, involuntary transfers (including those contemplated under clause 15.1(j) of these General Terms), acts of war or civil strike, or other similar causes beyond the Bank's control and no other branch, subsidiary or affiliate of the Bank shall be responsible therefor and the Bank may pay in currencies different from those of the Customer's accounts.
- 9.3 The Customer agrees that if there is a transfer of funds, such funds are sent entirely at the sole risk of the Customer in every respect and the Bank shall not be liable for any mutilation, interruption, omission, error, neglect, default, mistake or delay which may occur in the transmission of any message or arise from misinterpretation by any mail, telegram, cablegram, wireless, telegraphy or telex company, internet service provider or by the Bank, the Bank's correspondent, agent or sub-agent or any employee of the aforesaid or through any other cause beyond the Bank's control.
- 9.4 Any stamp duty, taxes or charges related to withdrawals from and deposits to the Customer's accounts shall be paid by the Customer upon demand.
- 9.5 Cash withdrawals may be made at such offices of the Bank and at such offices of such other bank(s) as the Bank may specify from time to time. Cash withdrawals made at the offices of the designated bank(s) will be made by such bank(s) as agent for the Bank.
- 9.6 Without limiting the Bank's discretion under any Specific Terms, the Customer shall on demand put the Bank in funds in a timely manner to enable the Bank to discharge any liability incurred or to be incurred in connection with transactions effected or to be effected for the Customer and shall on demand reimburse the Bank in respect of all costs and expenses incurred by the Bank in connection therewith (including any amounts paid to the Authority (as defined in clause 15.1(a)(iii) of these General Terms) by the Bank with its own funds which should have been, but was not, a Collected Amount as defined in clause 15.1(j)(1) of these General Terms) and settle any debit balance.
- 9.7 The Bank is authorized (but is under no obligation) to arrange currency conversions of amounts in any account in order to settle any liability incurred or to be incurred in connection with transactions effected or to be effected for the Customer or any obligation of the Bank to the Customer, or of amounts received arising out of the sale of securities or otherwise and to be credited into any account at such prevailing exchange rate as may be quoted by the Bank from time to time.
- 9.8 Withdrawals in large sum of cash or in foreign currency are subject to prior notice by the Customer and availability of the cash and currency in question. The Bank reserves the right to refuse any instruction for withdrawal without production of such identification document

of the Customer as may be satisfactory to the Bank or if the Bank has any doubt on the authenticity of the instruction.

9.9 The Bank shall have the right to pay to the Customer any amount withdrawn from any account by any of the following methods or by any combination of two or more thereof at the Bank's discretion, namely:

- (a) by cash in the currency of the relevant account;
- (b) by issuing to the Customer a cheque drawn by the Bank on any bank in a country payable in the required currency whereupon the Customer shall pay to the Bank its prescribed service charge; and
- (c) by cash or the Bank's cashier's order in Hong Kong dollars after converting the amount equivalent at the Bank's then prevailing buying rate, whereupon the Customer shall pay to the Bank its prescribed service charge.

## **10. General Credit Provision**

10.1 To secure the performance of these General Terms and any Specific Terms and the payment and discharge of all debts and liabilities of the Customer to the Bank of whatever nature, whether they be present or future, joint or several, direct or indirect, actual or contingent, the Customer as beneficial owner hereby charges and assigns by way of a first fixed charge and pledge and grants to the Bank a first priority interest in all right title and interest of the Customer's accounts and all assets therein, all interest dividends benefits therein and all other assets of the Customer kept by the Bank. The aforesaid security shall be a continuing security and shall remain in full force and effect notwithstanding any liquidation, composition, insolvency, administration, bankruptcy, death or other incapacity of the Customer or any intermediate settlement of the Customer's accounts or any withdrawals by the Customer. This security is in addition to, and not in substitution for, and shall not merge with or otherwise affect any other security, guarantee, indemnity right or remedy which the Bank may now or hereafter have.

If the Customer shall fail to comply with the provisions of these General Terms or any Specific Terms or shall fail to pay and discharge any debts and liabilities to the Bank, the Bank may, without further demand, legal process or any other action realise, dispose of or sell any asset in any of the Customer's accounts with the Bank and any other assets of the Customer kept by the Bank at any time and in any way which the Bank may deem expedient, free from all claims or other rights in or towards payment and discharge of any debt and liabilities of the Customer to the Bank. The Bank shall not be liable for any loss of the Customer arising out of such realisation, disposal or sale, howsoever such loss may have been caused, and whether or not a better price could or might have been obtained by either deferring or advancing the date of realisation, disposal or sale.

10.2 Unless and until all debts and liabilities of the Customer to the Bank of whatever nature, whether they be present or future, joint or several, direct or indirect, actual or contingent have been fully and unconditionally discharged or otherwise with the Bank's consent, the Customer will not be entitled to withdraw or have any right to receive any money from the Customer's accounts or any of his assets kept by the Bank.

- 10.3 The Customer agrees that he shall not, during such time when he has any liabilities (present or future, joint or several, direct or indirect, actual or contingent) to the Bank, charge, assign, sell, transfer or create any encumbrance or deal with or grant any third party rights over or against any part of his accounts or any of his assets kept by the Bank or the proceeds thereof.
- 10.4 The Customer irrevocably appoints the Bank to be his agent, and in his name or otherwise on his behalf to sign, execute, deliver, perfect and do all instruments, acts and things which may be required or which the Bank shall think fit for carrying out any of his obligations under these Master Terms and Conditions and of the security granted hereunder. The Customer ratifies and confirms and agrees to ratify and confirm any instrument, act and thing which such attorney may lawfully execute or do.

## **11. Linkage of Accounts**

- 11.1 Subject to the agreement of the Bank, the Customer may request the Bank to link any of the following accounts: (a) all accounts in the sole name of the Customer; (b) all accounts in joint names of the Customer and any other person which the Customer or any person comprising the Customer may operate solely as an authorised signatory.
- 11.2 By linking any of the accounts referred to in clause 11.1, any one authorised signatory or holder of the PIN relating to any of the accounts linked may gain access to or withdraw or transfer funds from any of the accounts linked notwithstanding that such authorised signatory or holder of PIN is not the authorised signatory or holder of PIN of the account from which funds are to be withdrawn or transferred.
- 11.3 The Customer accepts that the account linkage service is offered by the Bank to enable it to have more flexibility and better management of the Customer's accounts and funds. The Bank will not be liable for loss or withdrawal of funds or investments or disclosure of account information arising out of such account linkage, save to the extent directly and primarily caused by the Bank's negligence or wilful default.

## **12. Indebtedness**

- 12.1 A certificate issued by the Bank stating the amount due and payable by the Customer to the Bank or interest rates, exchange rates and prices of securities at any particular time shall be final and conclusive for all purposes including for the purpose of legal proceedings.
- 12.2 The Bank may commission debt collection agencies to collect any overdue amount owed by the Customer to the Bank. The Customer shall indemnify the Bank for all reasonable fees and charges payable to such debt collection agencies.
- 12.3 The Customer should inform the Bank as soon as possible of any difficulty in repaying his outstanding indebtedness to the Bank or servicing any loan over the credit period.

## **13. Investment and Other Information**

- 13.1 The Customer may request the Bank to approach him from time to time and provide financial, investment and other information or investment opportunities which may be of interest to the Customer. Where the Bank approaches the Customer in such manner (whether requested by the Customer or otherwise), the Customer understands that:-

- (a) to the extent permitted by law, the Bank is not acting in a fiduciary capacity to the Customer;
- (b) the Bank will only take into account circumstances relating to the Customer that:-
  - (i) the Customer has disclosed to the Bank in accordance with clause 13.1(c); or
  - (ii) the Bank should reasonably be aware of through the Bank's know-your-client process;
- (c) the Customer agrees that it will specifically disclose information on the Customer's financial situation, investment experience (including information on the Customer's investments held outside of the Bank) and investment objectives if the Customer would like the Bank to take such information into account:
  - (i) to the Customer's relationship manager and/or appropriate employee of the Bank who is authorized to provide investment services on behalf of the Bank; and
  - (ii) clearly indicate that the disclosure is made for the purposes of facilitating the Bank's provision of investment opportunities to the Customer;
- (d) if the Bank is not provided with the Customer's up-to-date financial situation, investment experience and investment objectives or if the Bank is provided with incorrect information on the Customer's financial situation, investment experience and investment objectives, the Bank's ability to assess the suitability of any solicitation or recommendation may be affected;
- (e) any information or suggestion provided to the Customer is obtained by the Bank from sources which it believes to be reliable. However, the Bank makes no representation or warranty on the accuracy, timeliness, completeness or reliability of such information or suggestion;
- (f) any investment made whether after receipt of any information or suggestion from the Bank is made at his own discretion and at his own risk;
- (g) the Bank makes no representation and does not guarantee the outcome or performance of any investment made by the Customer after receipt of information or suggestion from the Bank;
- (h) the Bank may make available to the Customer general information or explanations about investments and investment strategies (including market views, research products, investment ideas and/or advice) whether prepared by the Bank or others. Unless expressly acknowledged by the Bank in writing, none of this information is personalized or in any way tailored to reflect the Customer's particular financial situation, investment experience or investment objectives;
- (i) where the Customer instructs the Bank to enter into a transaction, the Customer does so on the basis that: (i) the Customer has carefully considered any information provided by the Bank (whether personalized or not) in connection with any transaction or investment (including explanations of the risks and features of

transactions or investments); (ii) the Customer is satisfied with the information provided by the Bank (if any) in connection with the transaction or investment (including explanations of its risks and features); and (iii) the Customer had the opportunity to ask questions and seek independent advice;

- (j) the Customer must promptly notify the Bank if the Customer does not understand any information provided by the Bank (whether personalized or not);
- (k) subject to Applicable Laws and Regulations, the Bank does not accept any responsibility for the performance of, monitoring of, or dealing with the Customer's investments;
- (l) the Bank will not advise the Customer on an ongoing or holistic basis on the making and/or disposal of investments in the Customer's accounts and/or the entering into or unwinding of transactions; and
- (m) the Customer is responsible for being fully apprised of market prices and conditions and the effect of the same on any investments held by the Customer.

13.2 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 General Terms or any Specific Terms or Other Terms 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 13.2.

*Note: "financial product" means any securities, futures contracts or leveraged foreign exchange contracts as defined under the Securities and Futures Ordinance. Regarding "leveraged foreign exchange contracts", it is only applicable to those traded by persons licensed for Type 3 regulated activity.*

13.3 To the extent that (a) the Bank does not solicit or recommend any investment product to the Customer or advise the Customer on any investment product; or (b) where any service is provided as a transactional execution service, and to the extent permitted by law and unless otherwise agreed in writing, the Customer understands that in respect of such investment product or service:

- (i) the Bank is not acting as the Customer's investment adviser or in a fiduciary capacity to the Customer;
- (ii) the Customer is solely responsible for making his own independent appraisal of the investment product with which the Customer intends to deal and for seeking independent professional advice on tax, legal and other issues;
- (iii) the Bank is not obliged to provide any investment information to the Customer and any memorandum, information or document provided to the Customer at his request is provided for information purposes only;
- (iv) the Bank makes no representation and does not guarantee the outcome or performance of any investment made by the Customer; and



- (v) the Customer should seek investment advice from a suitably qualified adviser as the Customer deems appropriate.
- 13.4 In no event will the Bank be liable to the Customer for any losses, damages, expenses and costs arising out of or in connection with the use or reliance of any information or suggestion from the Bank, save to the extent directly and primarily caused by the Bank's negligence or wilful default.
- 13.5 If services are to be provided to the Customer in relation to derivative products, including options, the Bank will provide to the Customer upon request product specifications and any prospectus or other offering document covering such products.
- 13.6 Any exchange rate, interest rates, price of securities or other information of a similar nature quoted by the Bank is for the Customer's reference only and shall not be binding on the Bank unless confirmed for a transaction effected by the Customer.
- 13.7 The Bank shall not be required to provide reports and information if to do so would contravene any law or regulation or request or direction of any government or regulatory authority, whether or not having the force of law.
- 13.8 Unless otherwise agreed by the Bank, the Bank will not provide any discretionary management services to the Customer.
- 13.9 The Customer represents and warrants that in respect of investment transactions, unless the Bank has been notified otherwise by the Customer in writing, he is acting as principal and is the person ultimately responsible for originating instructions in relation to all such investment transactions and is the person who stands to gain the commercial and economic benefit and benefit the commercial and economic risks of such investment transactions. The Customer undertakes that if he is not such a person in relation to any investment transaction, he will not request the Bank to accept such an instruction unless he has provided the full name, address and contact details of the relevant persons to the Bank.

**14. Information available on Internet and other Channels**

Without prejudice to Clause 13.1, in respect of any information which is made available by the Bank on the Internet or through other channels, the Customer agrees that:

- (a) such information may be inaccurate, incorrect, not up-to-date or incomplete;
- (b) unless circumstances suggest otherwise, such information does not constitute any solicitation to purchase or sell any securities, unit trust, mutual funds or other investment where such information is widely available and is not information targeted or directed at the Customer or certain customers;
- (c) access to other sites via links available at any site of the Bank will be made by the Customer at his own risk. The Bank makes no warranty as to the accuracy, timeliness, completeness or reliability of any information contained in such sites; and
- (d) all rights (including copyright) subsisting in the information and contents of any sites of the Bank are the sole property of the Bank and shall not be reproduced, distributed or published without the prior written consent of the Bank.

## 15. Data of Customers

### 15.1 Provision of Information

- (a) The Customer shall provide the Bank with his Personal Information and Transaction Information and Documents, and where reasonably required by the Bank, those of any Consenting Person, in such form and within such time, as the Bank may require from time to time. Such data are necessary for the Bank to provide its facilities and services to the Customer or otherwise for the Bank and any Bank Group Company to comply with the Applicable Laws and Regulations. In these terms,
- i. **“Personal Information”** means: (i) where the Customer and any Consenting Person is an individual, his full name, Hong Kong Identity Card/passport number, date and place of birth, residential and mailing address, contact information (including telephone number), any taxpayer identification number, social security number, citizenship(s), residency(ies), tax residency(ies), and such information as the Bank may reasonably require regarding the Customer and any Consenting Person; (ii) where the Customer and any Consenting Person is a corporate/entity, its date and place of incorporation, contact information (including telephone and fax numbers and email address), website address, registered office or place of business, tax identification number, tax status, tax residency, directors, shareholders, and such information as the Bank may reasonably require regarding the Customer, Consenting Person, and each of its substantial owners, controlling persons, and beneficial owners;
  - ii. **“Consenting Person”** means the Customer and any individual, sole proprietorship, partnership, body corporate, trust, or other entities (**“Person”**) other than the Customer who is beneficially interested or financially interested in the payments with respect to any account of the Customer. For the avoidance of doubt, this term includes, but is not limited to, a director, shareholder, or officer of a company, a partner of a partnership, the sole proprietor of a sole proprietorship, the trustee, settlor, or protector or beneficiary of a trust, the account holder of a designated account, the payee of a designated payment, the substantial owner, controlling person, or beneficial owner of the Customer, the representative, agent or nominee of the Customer, or any other individual or entity having a relationship to the Customer that is relevant to its relationship with the Bank as determined in the Bank’s sole discretion. For purposes of the preceding sentence, a “substantial owner” includes any individual person who is entitled to more than 10 percent of the profits or capital of an entity or with an interest of more than 10 percent of the entity’s equity or beneficial interests;
  - iii. **“Applicable Laws and Regulations”** means obligations of the Bank to comply with: (i) any applicable local or foreign law, ordinance, regulation, rules, demand, request, guidance, guidelines, and codes of practice, whether or not relating to an intergovernmental agreement between the governments or regulatory authorities of two or more jurisdictions; and (ii) any agreement between the Bank (or any Bank Group Company) and any national, state, or

local government and any political subdivisions thereof, any agency, authority, instrumentality (whether judicial or administrative), regulatory or self-regulatory organization, law enforcement body, court, central bank, or tax or revenue authority in any jurisdiction whether within or outside Hong Kong (“**Authority**”); and

- iv. “**Transaction Information and Documents**” means, in relation to remittance transactions (whether inward or outward remittance), purpose of remittance transactions, types, origins and destinations of underlying goods or services, certification for underlying goods, invoices, bills of lading and other supporting documents for such remittance transactions and such information and documents as the Bank may reasonably require arising out of or in connection with remittance transactions already carried out or to be carried out by the Bank.
- (b) Where there is a change or addition to the Customer’s Personal Information (including but not limited to situation where the account holder of a Renminbi account who is not a holder of Hong Kong Identity Card has subsequently become a Hong Kong Identity Card holder), and, where applicable, those of any Consenting Person, the Customer shall update the Bank of the change or addition promptly (and in any event no later than 30 days from the date of the change or addition).
- (c) The Customer shall, and, where applicable, procure any Consenting Person to, complete and sign such documents and do such things in relation to his obligation under clauses 15.1(a)-(d) of these General Terms as the Bank may reasonably require from time to time for the purpose of complying with the Applicable Laws and Regulations.
- (d) The Customer agrees that the Bank may directly require any Consenting Person to, in which case, the Customer shall procure such Consenting Person to, provide or confirm accuracy of his Personal Information if the Bank reasonably considers it to be appropriate for the purpose of complying with the Applicable Laws and Regulations.
- (e) The Customer represents and warrants that any information provided by the Customer to the Bank under these Master Terms and Conditions and any Other Terms (including any Personal Information, Transaction Information and Documents or Tax Information) will be true, accurate, complete, up-to-date and not misleading.

#### Disclosure of Information

- (f) The Customer agrees that any Bank Group Company (including the Bank) and any third party wherever situated selected by the Bank or any Bank Group Company to provide services to it (“**Third Party Service Providers**”) may, at any time (whether within or outside Hong Kong and whether before or after the termination of this agreement), use, retain and disclose his Tax Information, as well as those of any Consenting Person, to any Authority (even if such Tax Information may be transferred to a jurisdiction without adequate personal data privacy laws in place) for the purpose of ensuring compliance with the Applicable Laws and Regulations on the part of the Bank or any Bank Group Company. For the avoidance of doubt, the

Customer waives, and where reasonably required by the Bank, agrees to procure any Consenting Person to waive, any applicable restrictions which would otherwise hinder the ability of the Bank or any Bank Group Company or Third Party Service Providers to use, retain and disclose the Tax Information in the aforesaid manner. In these terms,

- i. **“Tax Information”** in respect of the Customer and any Consenting Person, means: (i) any documentation or information (and accompanying statements, waivers, and consents as the Bank may from time to time require or as the Customer and any Consenting Person may from time to time give) relating, directly or indirectly, to the tax status of the Customer and any Consenting Person; (ii) Personal Information of the Customer and any Consenting Person; and (iii) Account Information; and
  - ii. **“Account Information”** means any information relating to (i) any account of the Customer including, without limitation, the account number, account balance or value, gross receipts, and withdrawals and payments to or from such account; and (ii) any transaction of the Customer including, without limitation, foreign exchange forward transactions.
- (g) The Customer shall obtain or, as the case may be, has obtained the requisite consent from each Consenting Person for the provision of his Tax Information to the Bank Group Company (including the Bank) and any Third Party Service Providers and the usage, retention and disclosure of such Tax Information by the aforesaid parties.
- (h) The Customer agrees that the Bank may directly require any Consenting Person to, in which case, the Customer shall procure such Consenting Person to, agree to the usage, retention and disclosure described in clause 15.1(f) of these General Terms and/or waive any otherwise applicable restrictions on such usage, retention and disclosure if the Bank reasonably considers it to be appropriate for the purpose of complying with the Applicable Laws and Regulations.
- (i) The Customer agrees that the Bank may:
- (i) in handling outward remittance transactions for the Customer, without prior reference to or confirmation of the Customer, disclose his Personal Information and/or Transaction Information and Documents to the relevant beneficiary institution, intermediary institution and/or agent or sub-agent thereof upon their request;
  - (ii) in handling inward remittance transactions for the Customer, without prior reference to or confirmation of the Customer, disclose his Personal Information and/or Transaction Information and Documents to the relevant ordering institution, intermediary institution and/or agent or sub-agent thereof upon their request; and
  - (iii) without prior reference to or confirmation of the Customer, disclose his Transaction Information and Documents to any Authority upon their request in accordance with the Applicable Laws and Regulations.

## Failure to Provide Information

- (j) Failure to provide such data referred to under this clause 15.1 to the Bank may result in the Bank being unable to provide any facility or service to the Customer. Notwithstanding any other provisions in these General Terms or any Specific Terms, the Customer agrees that:
- i. where the Customer fails to comply with his obligations under clauses 15.1(a)-(h) of these General Terms;
  - ii. where any Consenting Person fails to comply with the requirements of the Bank under clauses 15.1(a)-(h) of these General Terms;
  - iii. where the Personal Information (regardless of whether such Personal Information is in relation to the Customer or any Consenting Person) is inaccurate, incomplete, or not promptly updated; or
  - iv. for whatever reason, the Bank or any Bank Group Company is prevented (under the laws of Hong Kong or otherwise) from disclosing the Tax Information of the Customer and/or any Consenting Person to the Authority as required by the Applicable Laws and Regulations,

the Bank may at any time take one or more of the following actions as the Bank in its sole and absolute discretion deems necessary to ensure compliance with the Applicable Laws and Regulations on the part of the Bank and any Bank Group Company:

- (1) deduct from or withhold part of any amounts for or on account of, or which represents, withholding, income tax, value added tax, tax on the sale or disposition of any property, duties, or any other lawfully collected amount which is required to be so deducted or withheld to comply with the Applicable Laws and Regulations (“**Collected Amount**”) from any payments payable to the Customer under or from any account of the Customer and pay such Collected Amount to the Authority or hold such Collected Amount in escrow as permitted by the Applicable Laws and Regulations with no obligation in any case to gross-up or reimburse the Customer with respect to such amounts or payments;
- (2) block or freeze the account of the Customer, transfer all or part of the Bank’s rights, benefits, and liabilities under any account of the Customer or any amounts therein to any Bank Group Company, and/or terminate any account of the Customer and discontinue the banking relationship with the Customer entirely or in part by giving notice to the Customer;
- (3) provide (whether before or after termination of the account of the Customer) the Tax Information relating to the Customer and/or any Consenting Person to such Authority as required to ensure compliance with the Applicable Laws and Regulations on the part of the Bank and any Bank Group Company (even if such Tax Information may be transferred to a jurisdiction without adequate personal data privacy laws in place); and

- (4) take any actions necessary or useful to the Bank in exercising any rights of the Bank under this clause 15.1(j) of these General Terms.

15.2 If the Customer is an individual, he may at any time in accordance with the Personal Data (Privacy) Ordinance (a) contact the Personal Data Officer of the Bank to gain access to the personal data of the Customer upon paying such fees as may be imposed by the Bank; (b) require the Bank to correct any data relating to the Customer which is inaccurate upon production of such proof as may be satisfactory to the Bank; (c) ascertain the Bank's policies and practices in relation to personal data; (d) request the Bank to inform the Customer of the items of data which are routinely disclosed to a credit reference agency and in the event of default to a debt collection agency; (e) request the Bank to provide the Customer with further information to enable the making of an access and correction request to the relevant credit reference agency or debt collection agency; and (f) require the Bank to cease using the personal data of the Customer for its marketing purposes without charge.

15.3 The Bank may from time to time send to the Customer its Notice to Customers relating to Customers' Data. The current version of the Notice may also be made available on the website of the Bank from time to time. Without prejudice and in addition to clause 15.1 of these General Terms, the Bank may use the data of the Customer for such purposes and disclose the same to such classes of persons as set out in such Notice from time to time.

15.4 Without prejudice and in addition to clause 15.1 of these General Terms, the Customer agrees that the Bank may provide to any person who has given or who proposes to give a guarantee or a third party security to secure any of the Customer's liabilities with a copy or summary of the contract evidencing the obligations to be guaranteed or secured, copies of any formal demand for overdue payment sent to the Customer, the monthly statements, confirmations and such of other data of the Customer as the Bank may deem fit.

15.5 The Customer will obtain the prior consent of his referees before giving their names and other personal data to the Bank.

#### 15.6 Hong Kong Client Identity Rule

The Hong Kong Client Identity Rule, introduced by the Securities and Futures Commission, applies to the Bank, as a registered institution, which deals in securities and/or futures contracts that are listed or traded on a recognized stock market or a recognized futures market or derivatives, including over the counter derivatives, written over such securities or futures contracts (as principal or agent) regardless of where such trades are effected. The Securities and Futures Commission and/or one of the exchanges (the "**Regulators**") can request that the Bank provides to them within two business days (or a shorter period in exceptional market conditions) 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 (the "**HK CID Information**"). In this regard, the Customer warrants or confirms that:

- (a) the Customer will supply immediately to the Bank (or to the Regulators directly) the HK CID Information as requested by a Regulator;

- (b) the Customer agrees that, where the Customer is acting as agent for or on behalf of another, the Customer has in place arrangements which will ensure that the Customer's client will provide the HK CID Information to the Customer (or to the Regulators directly) upon request;
- (c) if the Customer effects the dealing for a collective investment scheme, discretionary account or discretionary trust, the HK CID Information shall be those of the scheme, account or trust and, if applicable, those of the person who, on behalf of the scheme, account or trust, instructed the Customer to effect the dealing or, as applicable, who has or have given instructions resulting in such instruction being given;
- (d) if the Customer effects the dealing for a collective investment scheme, discretionary account or discretionary trust, the Customer, as soon as practicable but in any event within the time limit specified by the Bank, agrees to inform the Bank when the Customer's discretion to invest on behalf of the scheme, account or trust has been overridden. In the case where the Customer's investment discretion has been overridden, the Customer shall, within the time limit specified by the Bank (which request shall include the contact details of the Regulator(s)), inform the Regulator(s) of the full details (including the identity, address, occupation and contact details) of the person(s) who has or have given the instruction in relation to the dealing or, as applicable, who has or have given any instructions resulting in such instruction being given;
- (e) the Customer will continue to provide, or ensure that the Customer's client provides, the information under this clause 15.6 as requested by the Regulators to the Bank (or to the Regulators directly) notwithstanding termination of the Bank's services to the Customer in relation to any transactions undertaken by the Bank prior to such termination;
- (f) any right to confidentiality or any benefit of secrecy with respect to information under this clause 15.6 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 has been validly and irrevocably waived by them; and
- (g) the Bank is expressly authorised to release information under this clause 15.6 to the Regulators, upon request.

15.7 The Bank must refuse the business of those who are not prepared to provide information under clause 15.6 of these General Terms to the Regulators within two business days of a request to do so.

## **16. Joint and Partnership Accounts**

16.1 In respect of accounts in the names of or opened by two or more persons, (a) all agreements, obligations, powers, authorities and liabilities of the joint account holders to the Bank in connection with such account shall be joint and several; (b) upon the death of any joint account holder the balance (if any) standing to the credit of such account and any investments and properties of any description held in the joint names of the account holders shall, subject to applicable laws, belong to the survivor(s) thereof; (c) the credit balance and all properties held under such accounts shall be held by the Customer as joint tenant.

16.2 If the Customer is a partnership, (a) the agreements, obligations, powers, authorities and liabilities of each person comprising the Customer shall be joint and several; (b) these General Terms and any Specific Terms shall continue to bind the Customer notwithstanding any change in the Customer's constitution, name or membership by reason of death, bankruptcy, retirement, disability, or admission of new partners or the occurrence of any other event which may dissolve the partnership or otherwise affect the Customer's obligations hereunder; (c) upon any partner ceasing to be a member of the Customer's partnership by death or otherwise, the Bank may in the absence of written instruction to the contrary from the Customer or any person comprising the Customer or the personal representatives or trustees of any person comprising the Customer treat the surviving or continuing partners or partner or other partners for the time being as having full power to carry on the business of the partnership.

## **17. Termination and Suspension of Services**

17.1 The Bank may at any time, by giving prior notice to the Customer and without giving any reason, close or suspend (for any duration as the Bank sees fit) any of the Customer's account(s) which fails to maintain such minimum balance as may be determined by the Bank or which is not operated in a manner satisfactory to the Bank. The Bank may also close or suspend (for any duration as the Bank sees fit) any of the Customer's accounts or terminate or suspend (for any duration as the Bank sees fit) any service to the Customer by giving prior notice to the Customer without giving any reason therefor. The notice may, if necessary, take effect immediately. The Bank may (in its sole and absolute discretion) impose conditions on the Customer, which the Customer must fulfil or agree to, before any account is re-opened, any suspension is lifted or any service is made available to the Customer. For the avoidance of doubt, the Customer acknowledges that it is most likely that such right will only be exercised by the Bank under exceptional circumstances such as for the prevention of crime or compliance with the Applicable Laws and Regulations.

17.2 On closure or suspension of any of the Customer's account(s) or on the termination or suspension of any service to the Customer, all debts and liabilities of the Customer to the Bank shall become immediately due and payable, all other rights, powers and remedies of the Bank shall become immediately enforceable and the Bank shall become immediately entitled to exercise any and all of the same. The Bank may (subject to clause 15.1(i) of these General Terms) send its cheque in favour of the Customer for the balance of such account, or if the account contains any investment in unit trusts, mutual funds and securities, send a certificate representing such investment to the Customer in his name, after deducting all the Bank's charges therefor (including any amounts paid to the Authority by the Bank with its own funds which should have been, but was not, a Collected Amount) to the last known address of the Customer whereupon the Bank shall have no further liability to the Customer in relation to such account.

17.3 The Bank may at any time declare that a particular status of the Customer be terminated if the Customer shall fail to fulfil such conditions applicable to all customers having such status as it may prescribe from time to time. In the event that a particular status of the Customer shall be terminated, the Customer shall not be entitled to the benefits which are offered by the Bank to its customers with such status generally. However, the Customer may continue to utilize any facility or service offered to him by the Bank in accordance with these Master Terms and Conditions notwithstanding that such status of the Customer has been terminated.



17.4 Notwithstanding any suspension or termination of an account or a service, the Customer shall continue to be bound by these Master Terms and Conditions and any Other Terms to the extent that they relate to any of the Customer's obligations or liabilities which remain to be performed or discharged.

## **18. Communication**

18.1 Any notice or instruction from the Customer to the Bank shall be ineffective until actually received by the Bank and shall be irrevocable.

18.2 Any notice, communication, confirmation or statement required to be given by the Bank to the Customer shall be deemed to have been so given if addressed to the Customer or any one person comprising the Customer or any authorised representative of the Customer at the last known address, e-mail address, phone number or other destination of the recipient. Any notice, communication, confirmation or statement delivered by the Bank personally shall be deemed to have been given at the time of delivery. Any notice, communication, confirmation or statement despatched by the Bank by letter postage prepaid or through courier services shall be deemed to have been given immediately after posting. Any notice, communication, confirmation or statement sent by facsimile, by e-mail or otherwise via the Internet or other electronic means shall be deemed to have been given at the time of transmission.

18.3 The Customer will promptly notify the Bank in writing of any change of address, e-mail address, phone number or other destination to which monthly statements, confirmations, notices or communications should be sent. Such changes shall not be effective until duly entered in the Bank's records.

18.4 The Customer agrees that the Bank may send any statements, confirmations, notices or communications to him in electronic form.

## **19. Hold Mail Services**

If the Bank agrees to offer its Hold Mail Service to the Customer, the Customer shall authorize the Bank to receive and hold on behalf of the Customer all notices, communications, confirmations and statements to be sent to the Customer hereunder until they are collected by the Customer or the authorized representative of the Customer. Any notices, communications, confirmations and statements which are not collected by the Customer after such period of time as may be prescribed by the Bank from time to time may be disposed of by the Bank as it deems fit. The Customer accepts all consequences of and risks associated with the Hold Mail Service, including without limitation, risks of delay, error, fraud or forgery. The Customer hereby fully indemnifies the Bank against all claims, damages, demands, actions, costs, and losses in connection with the same, save where the same is directly and primarily caused by the Bank's negligence or wilful default.

## **20. Miscellaneous**

20.1 If any one or more of the provisions contained in these General Terms or any Specific Terms shall be invalid, unlawful or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired.

- 20.2 (a) These General Terms and any applicable Specific Terms shall benefit and be binding on the Bank and the Customer, their respective successors and subject to this clause 20.2, any permitted assignee or transferee of some or all of the Bank's rights or obligations under these General Terms and the Specific Terms.
- (b) The Customer may not assign or transfer all or any of his rights or obligations under these General Terms or any Specific Terms.
- (c) Without prejudice and in addition to the Bank's powers under clause 15.1(i) of these General Terms, the Bank may transfer all or part of the Bank's rights, benefits and obligations under these General Terms or any Specific Terms to such person(s) as it deems fit and disclose to a potential transferee or any other person proposing to enter into contractual arrangements with the Bank in relation to the same such information about the Customer as the Bank may think fit for the purposes of such contractual arrangements.
- 20.3 The Bank's failure or delay in exercising any rights, power or privilege in respect of these General Terms or any Specific Terms shall not operate as a waiver, nor shall a single or partial exercise, enforcement or waiver of any such rights, power or privilege preclude the Bank's further exercise, enforcement, or the exercise or enforcement of any other right, power or privilege hereunder.
- 20.4 The Customer hereby agrees at any time and from time to time, at his expense, to promptly execute, seal or deliver all further instruments and documents, and take all further actions that may be necessary or that the Bank may request to accomplish the purposes of these General Terms or any applicable Specific Terms.
- 20.5 In the event of any inconsistency between the English version and the Chinese version of these General Terms, any Specific Terms or any notice or other communication from the Bank, the English version shall prevail.
- 20.6 Nothing herein shall require the Bank to provide or continue any banking facilities or other accommodation or services to the Customer. These General Terms or any Specific Terms may be terminated by the Bank by giving reasonable prior notice to the Customer. Termination of any Specific Terms will not terminate these General Terms but termination of these General Terms will terminate all applicable Specific Terms.
- 20.7 If the Customer shall elect to operate any of its accounts using its chop or seal in lieu of or in addition to signature, the Customer shall assume full responsibility for all risks and losses arising therefrom. In particular, the Bank shall have no duty to ensure that the size of the chop or seal set out in an instruction is the same as the specimen kept by the Bank for the relevant account. The Customer must also report to the Bank in the event of loss of its chop or seal.
- 20.8 The Bank and the Customer will at all times keep confidential these General Terms (save where compliance with clause 15.1 of these General Terms requires the Customer to inform any Consenting Person of the Bank's powers thereunder).

Without prejudice and in addition to clause 15.1 herein, the Customer expressly agrees that the Bank may disclose any information it has concerning the Customer (including, but

without limitation, the services provided by the Bank to the Customer and the assets of the Customer) to comply with the Applicable Laws and Regulations or in order to assist with any investigation or enquiry and to the following persons:

- (a) any agent, contractor or third party service provider who provides administrative, telecommunications, ATM / Electronic Fund Transfer service, computer, payment, debt collection or securities clearing or other services to the Bank in connection with the operation of its business;
- (b) a Bank Group Company;
- (c) any other person under a duty of confidentiality to the Bank including a Bank Group Company which has undertaken to keep such information confidential;
- (d) the drawee bank providing a copy of a paid cheque (which may contain information about the payee) to the drawer;
- (e) credit reference agencies, and, in the event of default, to debt collection agencies;
- (f) any person to whom the Bank or any of its branches is under an obligation or otherwise required to make disclosure under the requirements of any law binding on or applying to the Bank or any of its branches, or any disclosure under and for the purposes of any guidelines or guidance given or issued by any legal, regulatory, governmental, tax, law enforcement or other authorities, or self-regulatory or industry bodies or associations of financial services providers with which the Bank or any of its branches are expected to comply, or any disclosure pursuant to any contractual or other commitment of the Bank or any of its branches with local or foreign legal, regulatory, governmental, tax, law enforcement or other authorities, or self-regulatory or industry bodies or associations of financial services providers, all of which may be within or outside Hong Kong and may be existing currently and in the future;
- (g) any party giving or proposing to give a guarantee or third party security to guarantee or secure the Customer's obligations;
- (h) any actual or proposed assignee of the Bank or participant or sub-participant or transferee of the Bank's rights in respect of the Customer;
- (i) third party financial institutions, insurers, credit card companies, securities and investment services providers;
- (j) third party reward, loyalty, co-branding and privileges programme providers;
- (k) co-branding partners of the Bank and any Bank Group Company (the names of such co-branding partners can be found in the application form(s) and/or advertising leaflet(s) / poster(s) for the relevant services and products, as the case may be);
- (l) charitable or non-profit making organisations; and
- (m) external service providers (including, but not limited to, mailing houses, telecommunication companies, telemarketing and direct sales agents, call centres, data processing companies and information technology companies) that the Bank engages.

- 20.9 The Bank undertakes to notify the Customer of any material change in the terms of these General Terms or any Specific Terms applicable to the facility or service which is being utilized by the Customer (including any material changes to the information, including the full name and address of the Bank, the Bank's registered status and C.E. number, the nature of services to be provided and the remuneration that is to be paid by the Customer as stated in these General Terms or any applicable Specific Terms). The Customer undertakes to notify the Bank in writing of any change or addition to the information provided by the Customer to the Bank from time to time promptly (and in any event no later than 30 days from the date of the change or addition).
- 20.10 The Customer shall be responsible for all filings, tax returns and reports on any transactions undertaken or settled pursuant to these General Terms or any Specific Terms (including any Collected Amount or any amounts paid to the Authority by the Bank with its own funds which should have been, but was not, a Collected Amount) which must be made to any relevant authority whether governmental or otherwise and for the payment of all unpaid calls, taxes, imposts, levies or duties, or any other liability or payment arising out of or in connection with services provided to the Customer under these General Terms or any Specific Terms including any stamp duty on transfer of any securities.
- 20.11 In performing the services to the Customer set out under these General Terms or any Specific Terms, the Bank shall exercise the same degree of care as it exercises in respect of its own property except as may otherwise be provided in these General Terms or any Specific Terms.
- 20.12 The Bank may destroy any original documents relating to any facility or service provided to the Customer after the same have been processed. The microfilmed, scanned or other form of record of such documents kept by the Bank shall be conclusive and binding against the Customer. The Bank may also destroy such microfilmed, scanned or other form of record of such documents after such period as the Bank may consider appropriate.
- 20.13 A person who is not a party to these General Terms or any Specific Terms has no rights under the Contracts (Rights of Third Parties) Ordinance (Cap. 623). Nothing in these General Terms and Specific Terms, whether expressed or implied, is intended to, or will, confer on any person any benefit or any right to enforce any term which such person would not have but for the aforementioned Ordinance.
- 20.14 Nothing in these General Terms, the Specific Terms or any Other Terms shall operate to remove, exclude or restrict any rights of the Customer or obligations of the Bank in respect of investment products under the law.
- 20.15 The Customer represents and warrants that:
- (a) if the Customer is a company, sole proprietor, partnership or an unincorporated association, club or society, it is duly incorporated, constituted or organised under the laws of the place of its incorporation, constitution or organization, validly existing and has full power to own its property and assets under the laws of its place of incorporation, constitution or organization and, if relevant under such laws, in good standing;
  - (b) if the Customer is an individual, the Customer is of full age and capacity;

- (c) the Customer has the capacity, power and authority to enter into these Master Terms and Conditions and the Other Terms;
- (d) all consents, licences, permits, registrations and approvals (including, but not limited to, governmental consents) that are required have been obtained by the Customer, the Customer will maintain in full force and effect all such consents, licences, permits, registrations and approvals and the Customer will obtain any consents, licences, permits, registrations and approvals that may become necessary in the future; and
- (e) the Customer will comply with all applicable laws, rules and regulations, policies, practices and (where relevant) the rules, practices and requirements of any relevant securities and futures exchanges and associations, alternative trading facilities, clearing houses and regulatory or self-regulatory organisations as such may be amended from time to time when using services or facilities provided by the Bank.

20.16 The Customer undertakes and agrees to sign any documents or take any further actions, within the time period required by the Bank, as may be reasonably requested by the Bank from time to time in order for the Bank to provide the facilities or services under these Master Terms and Conditions and any Other Terms to the Customer.

## **21. Delegation**

21.1 The Bank may, at its discretion, appoint any other person as its nominee or agent to perform any of its duties on its behalf and may delegate any of its powers under these General Terms or any Specific Terms to such person and shall not be liable for any act, omission, negligence or default of any such person provided that the Bank has exercised such care in appointing such person as it would employ for its own business.

21.2 Without prejudice and in addition to clause 15.1(f) of these General Terms, the Bank is authorized to disclose any information it has concerning the Customer or any of the facilities and services utilized by the Customer to a third party (including any member of Dah Sing Financial Holdings Limited) appointed by the Bank to provide services to the Bank provided that the disclosure of such information is required for the provision of services to the Bank by such third party.

21.3 The Customer acknowledges that the Bank may from time to time enter into outsourcing arrangements with third party service providers or any of its associated companies in respect of certain part of its operation or functions. The Bank will notify the Customer should it enter into any other material outsourcing arrangement which involves the disclosure of the Customer's information to the service provider.

## **22. Amendment**

The Bank may at any time delete, replace, add or change any term of these General Terms (including any applicable fees or charges) by giving prior notice to the Customer. The Bank may also at any time delete, replace, add or change any term of any Specific Terms (including any applicable fees or charges) by giving prior notice to the Customer if the relevant facility or service is being utilized by the Customer.

## **23. Governing Law and Jurisdiction**

- 23.1 These General Terms and any Specific Terms will be governed by and construed in accordance with the laws of the Hong Kong Special Administrative Region.
- 23.2 Each transaction or its underlying investment or instrument shall be subject to the laws of the jurisdiction where it is made or located and also the rules, regulations, guidelines, policies and directives of all relevant governmental and other regulatory bodies and agencies.
- 23.3 The Customer hereby irrevocably submits to the non exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.

**24. Licensing**

The Bank is a registered institution under the Securities and Futures Ordinance with C.E. No. AAK565 registered to carry on Type 1 (dealing in securities), Type 4 (advising on securities) and Type 9 (asset management) regulated activities, whose principal place of business is situated at 36th Floor, Everbright Centre, 108 Gloucester Road, Wanchai, Hong Kong.

## **SCHEDULE**

### **Facility or Service**

### **Specific Terms**

Savings Accounts

Specific Terms for Savings Accounts

Call and Time Deposits

Specific Terms for Call and Time Deposits

Current Accounts

Specific Terms for Current Accounts

Overdraft Protection Facility

Specific Terms for Overdraft Protection Facility

Target Savings Deposit Account

Specific Terms for Target Savings Deposit Accounts

ATM Card Service

Specific Terms for ATM Card Service

Safe Deposit Box

Specific Terms for Safe Deposit Boxes

Securities Services

Specific Terms for Securities Services

Stock Quote Service

Specific Terms for Stock Quote Service

Investment Fund Services

Specific Terms for Investment Fund Services

Asset-Linked Deposits

Specific Terms for Asset-Linked Deposits

Foreign Exchange Forward Contracts

Specific Terms for Foreign Exchange Forward Contracts

Overseas Securities Services

Specific Terms for Overseas Securities Services

Stocks Investment Savings Plan

Specific Terms for Stocks Investment Savings Plan

e-Cheque Services

Specific Terms for e-Cheque Services

### **Specific Terms for Savings Accounts**

1. The Customer may open one or more Savings Accounts each in such currency as may be acceptable to the Bank. Such Savings Accounts may be a passbook savings account or a statement savings account.
2. The initial deposit of each Savings Account shall be no less than such minimum amount as may be prescribed by the Bank from time to time. If a Savings Account is closed within such period time as the Bank may prescribe from time to time from the date of its opening, the Bank may levy a service charge in such amount as it may determine.
3. Interest at such rate as may be published by the Bank from time to time in respect of the currency of the Savings Account will accrue on the daily balance of the relevant Savings Account and be credited to the Savings Account monthly.
4. Withdrawals may not be made by means of cheques.
5. Withdrawals from a passbook savings account may be made by the Customer at any branch of the Bank upon production of the relevant passbook together with such withdrawal slip as may be prescribed by the Bank completed and signed by the Customer or such number of authorized signatories appointed by the Customer for the relevant account during the banking hours of the Bank available for such service.
6. Withdrawals from a statement savings account may be made by the Customer at any branch of the Bank by producing a written instruction or such withdrawal slip as may be prescribed by the Bank completed, in each case signed by the Customer or such number of authorized signatories appointed by the Customer for the relevant account with such signature(s) specified in the mandate of the relevant account during the banking hours of the Bank.
7. The Bank reserves the right to require the production of the identity card or other identification document of the Customer before any withdrawal may be made in respect of any Savings Account.
8. Withdrawals or deposits of cash, cheques, drafts, payment orders or other monetary instruments in foreign currency are subject to such charges as the Bank may determine.
9. The Bank shall not be obliged to accept and may, without giving any reasons and prior notice to the Customer, reject deposit of funds into any Savings Accounts (whether by remittance or otherwise) if there exist, in the opinion of the Bank, legal, regulatory or compliance concerns regarding such incoming funds.

### **Specific Terms for Call and Time Deposits**

1. The Customer may establish one or more Call Deposits or Time Deposits in such currency, with such principal amount and interest rate and, in the case of Time Deposits, with such maturity date as may be agreed between the Bank and the Customer before establishing the relevant Deposit.
2. Unless otherwise agreed between the Bank and the Customer, interest on Time Deposits will be calculated on the principal amount at the rate agreed between the Bank and the Customer



before the establishment of the deposit for the number of days from the deposit date up to the day before the maturity date but excluding the maturity date.

3. Interest on Call Deposits will be calculated on its principal amount and accrued on a daily basis at the call deposit rate as determined by the Bank from time to time. The Bank may change its call deposit rate from time to time without prior notice to the Customer.
4. Call Deposits may be withdrawn at any time upon the Customer giving to the Bank the period of withdrawal notice specified for the relevant Call Deposit.
5. No Time Deposit may be withdrawn before its maturity date except with the consent of the Bank and on such terms (including the payment of penalties and/or forfeiture of interest) as may be imposed by the Bank. If the maturity date of a Time Deposit shall fall on a day on which the Bank does not accept or execute renewal or uplift instructions (including without limitation for withdrawal and transfer of funds), such renewal or uplift instructions shall be effected on the immediately following Business Day (as defined in clause 2.13 of the General Terms) available for execution of such instructions.
6. If no instruction is received by the Bank on the withdrawal of any Time Deposit on or before its maturity date, the Bank may, but is not obliged to, renew the deposit on terms similar to the matured deposit but at the Bank's prevailing interest rate at the time of renewal. If the Bank renews a Time Deposit in such circumstances, the Bank will place the principal and interest of the matured deposit on the renewal deposit. If the Bank does not renew a Time Deposit in such circumstances, interest will accrue on the principal of the matured deposit at the Bank's call deposit rate offered for the relevant currency from time to time.

### **Specific Terms for Current Accounts**

1. The Customer may open one Current Account denominated in Hong Kong dollars. With the consent of the Bank, the Customer may also open other Current Accounts denominated in such currency (including without limitation to Renminbi) as may be acceptable to the Bank. Unless otherwise specified, terms and conditions under these Specific Terms shall apply to all Current Accounts.
2. The initial deposit of each Current Account shall be no less than such minimum amount as may be prescribed by the Bank from time to time.
3. The Bank shall send cheque books to the Customer in person, or forward it by messenger, by post or through such other means as it deems fit to the Customer's address or such other address as may be specified by the Customer at the Customer's own risk according to the Customer's instruction.
4. The Customer shall keep its cheque books safe and secure at all times. The Customer shall immediately notify the Bank on discovering loss of any signed cheque, blank cheque or cheque book. No blank cheque should be given to any other person. No cheque should be pre-signed in blank.
5. The Customer should exercise care when drawing cheques so as to avoid alteration and prevent fraud or forgery. All cheques must be written in non-erasable ink or ball-point pen in

Chinese or English. The amount both in words and figures should be inserted as close as possible to the left hand margin so that there is no space for insertion. The word “only” should be inserted after the amount stated in words.

6. Any alteration on a cheque will not be accepted unless it is confirmed by the signature of the drawer near such alteration.
7. The Customer understands that a “bearer” cheque is payable to the bearer of the cheque while an “order” cheque is payable to the payee named in the cheque only. Further, “crossed” cheque may only be paid through bank accounts. Accordingly, when sending cheques through mail or otherwise, the words “or bearer” on the cheques should be deleted and the cheques should be crossed with two parallel transverse lines.
8. The Bank shall be entitled to return any cheque which is incorrectly completed, altered without authorization or which bears a date subsequent to or more than 6 months prior to the date of presentation.
9. Any request or instruction to stop payment of cheques should be given in accordance with clause 2.1 of the General Terms before the cheque has been paid with such particulars as may be required by the Bank, such as cheque number, amount, payee and date of issue. The Bank may impose such handling charge as it may determine in respect of each request or instruction to stop payment.
10. Unless otherwise determined by the Bank, interest will not be payable on a Current Account.
11. Cheques provided by the Bank will remain the property of the Bank.
12. Cheques drawn by the Customer which have been paid may, after having been recorded in electronic form, be retained by the collecting bank or Hong Kong Interbank Clearing Limited for such period as is stated in the rules relating to the operation of the Clearing House and after this, they may be destroyed. The Bank is authorised to contract with collecting banks, Hong Kong Interbank Clearing Limited and other persons in accordance with the aforesaid.
13. The Bank may impose handling fee, if applicable to a particular Currency Account, calculated on such basis as from time to time determined by the Bank on the aggregate payments of such Current Account which exceeds the daily limit as imposed by the relevant authorities.
14. The Customer acknowledges that the operation of the clearing and settlement system for a particular currency maintained in a Current Account, if applicable, will be subject to the clearing house rules and the operating procedures of all relevant governmental and other regulatory bodies and agencies in respect of such currency (as may be modified from time to time).
15. The Customer agrees that the Hong Kong Monetary Authority shall not be liable to any person in respect of any claim, loss, damage or expense (including without limitation, loss of business, loss of business opportunity, loss of profit, special, indirect or consequential loss) (even if the Hong Kong Monetary Authority knew or ought reasonably to have known of their possible existence) of any kind or nature whatsoever arising in whatever manner directly or indirectly from or as a result of anything done or omitted to be done by the Hong Kong Monetary Authority bona fide or by the settlement institution, the Hong Kong Interbank Clearing Limited or any participating member, or any other person in the management,

operation or use (including without limitation, the termination and/or suspension of the settlement institution, the clearing facilities for a currency or any member) of the clearing house or the clearing facilities of a currency or any part of any of them.

16. The Customer agrees that, without prejudice to clause 15 of these Specific Terms, the Hong Kong Monetary Authority shall not owe any duty or incur any liability to the Customer or other persons in respect of any claim, loss, damage or expense (including without limitation, loss of business, loss of business opportunity, loss of profit, special, indirect or consequential loss) (even if the Hong Kong Monetary Authority knew or ought reasonably to have known of their possible existence) of any kind or nature whatsoever arising in whatever manner directly or indirectly by the giving of any consent, notice, advice or approval in relation to or pursuant to the clearing house rules and the operating procedures of all relevant governmental and other regulatory bodies and agencies in respect of a currency (as may be modified from time to time).
17. The Bank shall not be obliged to accept and may, without giving any reasons and prior notice to the Customer, reject deposit of funds into any Current Accounts (whether by remittance or otherwise) if there exist, in the opinion of the Bank, legal, regulatory or compliance concerns regarding such incoming funds.

#### **Specific Terms for Overdraft Protection Facility**

1. The Bank may make available on overdraft protection facility to the Customer through such of the Current Account of the Customer as the Bank may advise the Customer. The overdraft protection facility shall have such facility limit and carry interest at such rate as the Bank may determine and notify the Customer.
2. The Bank may terminate the overdraft protection facility or require immediate repayment of all amounts outstanding under the overdraft protection facility at any time by giving notice to the Customer.
3. Interest on the outstanding amount under the overdraft protection facility shall accrue on a daily basis and be debited from the relevant Current Account at monthly intervals.
4. The Bank may decline to honour any cheque if the payment may result in the facility limit being exceeded. The Bank shall not be liable for any losses or damages arising as a result.

#### **Specific Terms for Target Savings Deposit Accounts**

1. In these Specific Terms, the following words and expressions shall have the following meaning:-
  - (a) “**Account**” means a Target Savings Deposit Account denominated in Hong Kong dollars.
  - (b) “**Contract Rate**” means the interest rate quoted on the account confirmation issued by the Bank upon opening an Account.

- (c) **“Deposit Day”** means:-
- (i) in respect of Monthly Deposit, the agreed day in each month on which the Monthly Deposit is payable by the Customer or if such day is a day on which clearing of funds does not take place, the immediately following Business Day (as defined in clause 2.13 of the General Terms) in the same month available for clearing of funds or the immediately preceding Business Day in the same month available for clearing of funds in the case of the immediately following Business Day falling on a day in the next month. If such day does not exist in a particular month, the last Business Day of that month on which clearing of funds takes place shall be the Monthly Deposit Day. The account opening date shall be the first Deposit Day of the relevant Account; or
  - (ii) in respect of Weekly Deposit, the agreed day in each week on which the Weekly Deposit is payable by the Customer or if such day is a day on which clearing of funds does not take place, the immediately following Business Day (as defined in clause 2.13 of the the General Terms). The account opening date shall be the first Deposit Day of the relevant Account.
- (d) **“Deposit Term”** means the agreed period for the operation of the Account.
- (e) **“Increment Amount”** has the meaning given to it in clause 7 of these Specific Terms.
- (f) **“Maturity Amount”** means:-
- (i) in respect of the Monthly Deposit, the total amount of all Monthly Deposits together with simple interest accrued on each Monthly Deposit calculated on daily basis at the Contract Rate from the Deposit Day of the relevant Monthly Deposit up to but excluding Maturity Date; or
  - (ii) in respect of Weekly Deposit, the total amount of all Weekly Deposits together with simple interest accrued on each Weekly Deposit calculated on daily basis at the Contract Rate from the Deposit Day of the relevant Weekly Deposit up to but excluding Maturity Date.
- (g) **“Maturity Date”** means the maturity date as set out in the account confirmation issued by the Bank upon opening an Account.
- (h) **“Monthly Deposit”** means the fixed amount of monthly payment or the amount of monthly payment agreed between the Customer and the Bank under the Top-up Arrangement (as the case may be) to be made by the Customer on each Deposit Day.
- (i) **“Payment Holiday Arrangement”** has the meaning given to it in clause 8 of these Specific Terms.
- (j) **“Top-up Arrangement”** has the meaning given to it in clause 7 of these Specific Terms.

- (k) “**Weekly Deposit**” means the fixed amount of weekly payment or the amount of weekly payment agreed between the Customer and the Bank under the Top-up Arrangement (as the case may be) to be made by the Customer on each Deposit Day.
2. The Customer may open one or more Accounts each with such Contract Rate, Deposit Term, Maturity Date, Monthly Deposit or Weekly Deposit (as the case may be) and Deposit Day as may be agreed between the Bank and the Customer before opening the same.
  3. Each Account is opened subject to the payment of the first Monthly Deposit or Weekly Deposit (as the case may be).
  4. Subject to the Payment Holiday Arrangement set out in clause 8 of these Specific Terms, the Customer shall make the Monthly Deposit or Weekly Deposit (as the case may be) on each Deposit Day before the Maturity Date to be entitled to the Maturity Amount on the Maturity Date. Otherwise, the Bank may refuse to pay any interest on the Account and (but is not obliged to) forthwith terminate the Account without prior notice to the Customer. The Bank is hereby authorized to debit the Monthly Deposit or Weekly Deposit (as the case may be) from such Account of the Customer as may be designated by the Customer.
  5. No withdrawal may be made from the Account before its Maturity Date except with the prior consent of the Bank and on such terms (including payment of penalties) as may be imposed by the Bank. If the Maturity Date shall fall on a day on which the Bank does not accept or execute uplift instructions (including without limitation for withdrawal and transfer of funds), such uplift instructions shall be effected on the immediately following Business Day (as defined in the General Terms) available for execution of such instructions.
  6. If no instruction is received by the Bank on the withdrawal of the credit balance of an Account on or before its Maturity Date, the total amount of the Monthly Deposits received by the Bank shall carry interest from the Maturity Date at Call Deposit denominated in Hong Kong quoted by the Bank from time to time up to but excluding the withdrawal date.
  7. Subject to the Bank’s prior agreement, the Customer may agree with the Bank upon opening of an Account, that after the first Deposit Day (with the first Monthly Deposit or Weekly Deposit (as the case may be) being made), a fixed sum shall be added (“**Increment Amount**”) to each and every of the subsequent Monthly Deposits or Weekly Deposits (as the case may be) on each and every of the subsequent Deposit Days on an accumulative basis during the Deposit Term (“**Top-up Arrangement**”). For the purpose of illustration, where the Customer made a first Monthly Deposit in the amount of HK\$X, and agreed with the Bank for subsequent Monthly Deposits to increase by HK\$Y (i.e. the Increment Amount) on an accumulative basis, the amount of the second Monthly Deposit shall be HK\$(X + Y), and the amount of the third Monthly Deposit shall be HK\$(X + Y + Y) and so on.
  8. The Customer shall be entitled (but shall not be obliged) to skip instalment payment for Monthly Deposit or Weekly Deposit (as the case may be) once every 12 months during the Deposit Term (“**Payment Holiday Arrangement**”), the arrangement of which shall automatically be invoked when the Customer skips such instalment payment for Monthly Deposit or Weekly Deposit (as the case may be). For the avoidance of doubt, when the Payment Holiday Arrangement is being invoked, the next instalment of Monthly Deposit or Weekly Deposit (as the case may be) shall be in the same amount as the Monthly Deposit or Weekly Deposit (as the case may be) the Customer should have paid in the last skipped

instalment (including, if applicable, the relevant Increment Amount thereof). For the purpose of illustration, where under the Top-up Arrangement, the Customer made a first Monthly Deposit in the amount of HK\$X, and agreed with the Bank for each of the subsequent Monthly Deposits to increase by HK\$Y (i.e. the Increment Amount) on an accumulative basis, the amount of the second Monthly Deposit shall be HK\$(X + Y), and the amount of the third Monthly Deposit shall be HK\$(X + Y + Y) and so on. Where the Customer exercises his rights under the Payment Holiday Arrangement and skips instalment payment for the second Monthly Deposit, the amount of the next instalment of Monthly Deposit (the “**New Third Monthly Deposit**”) shall be HK\$(X + Y), whereas the amount of the Monthly Deposit after the New Third Monthly Deposit shall be HK\$(X + Y + Y) and so on.

### **Specific Terms for ATM Card Service**

1. In these Specific Terms, the following words and expressions shall have the following meaning:-
  - (a) “**ATM**” means an automated teller machine installed by the Bank or by other institutions through which a banking transaction may be effected.
  - (b) “**Card**” means an ATM card.
  - (c) “**CDM**” means a Cash Deposit Machine installed by the Bank through which a cash deposit transaction may be effected.
  - (d) “**PCD**” means a Personal Cash Depository installed by the Bank through which a cash deposit transaction may be effected.
  - (e) “**PIN**” means the Personal Identification Number required to gain access to an ATM, CDM, EFTPOS or PCD.
  - (f) “**EFTPOS**” means the Electronic Fund Transfer Point of Sale Terminal for effecting payment or transfer of funds by electronic means.
2. The Customer may from time to time apply for a Card.
3. The Card is and shall at all times remain the property of the Bank and issued at the Bank’s discretion and shall be surrendered to the Bank immediately on demand and without any reason being given.
4. The Card shall only be used by the Customer and is not transferable. The Card may be used on the ATM, CDM, EFTPOS or PCD or other terminals designated by the Bank.
5. The Card and the related PIN will be issued and made available for the Customer’s collection at such of the branch of the Bank as the Bank may advise the Customer or otherwise sent by post to the Customer at his address last lodged with the Bank at his own risk. The Customer shall at no time and in no circumstances disclose to any person whomsoever his PIN.
6. Cash deposited with CDM or PCD or cash and/or cheques deposited with the ATM of the Bank by the use of the Card will only be credited to the Customer’s account after verification by the Bank. Customer advice issued by the CDM, PCD or ATM at the time of deposit shall

serve as a mere record and shall not be binding on the Bank until after verification. Deposit in coins will not be accepted.

7. The Customer hereby irrevocably authorizes the Bank to debit his account(s) the amount of any withdrawal, transfer and/or transaction involving the use of the Card in whatever circumstances and whether or not made with his knowledge or by his authority, and to pay such debited amount on demand and the Bank's record shall be binding and conclusive in the absence of manifest error. Payment shall be in selected currency and where any foreign currency conversion is required, the Bank may adopt such exchange rate as it deems fit.
8. The Customer shall immediately notify the Bank in writing of the loss or theft of the Card or if the PIN is disclosed to any unauthorized person and shall be fully responsible for all transactions involving the use of the Card by any person whomsoever whether or not authorized by the Customer prior to the Bank's actual receipt of such written notice. Replacement Card is issued at a charge.
9. Application by the Customer through ATM for cheque book shall have the same effect as the submission by the Customer to the Bank of the Bank's Cheque Application Form duly completed and signed. Cheque book so requested will be sent by post to the Customer at his address last lodged with the Bank at his own risk. Any related service charges will be debited from the Customer's account.
10. The Bank shall not be responsible for any suspension or refusal of service or malfunctioning of the ATM, CDM, EFTPOS or PCD due to circumstances beyond its control or for any and all losses or damages claims or injuries directly or indirectly arising out of the use of the Card however caused.
11. Use of the Card may be suspended without prior notice.
12. In using the EFTPOS, 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 shall not be responsible in any way for the goods and/or services supplied to the Customer by the merchant.

### **Specific Terms for Safe Deposit Boxes**

1. The Customer shall lease from the Bank such safe deposit box (the "**Box**") at such rent as may be agreed between the Bank and the Customer.
2. To secure the payment of the rental for the Box, the Customer shall pay to and maintain with the Bank a deposit of such amount as may be advised by the Bank from time to time. The Bank may at any time apply such deposit towards payment of any outstanding rental and other amount payable to the Bank in connection with the Box and the Customer shall immediately upon the Bank's demand pay such further amount to the Bank so as to maintain the deposit required by the Bank.
3. The Bank shall supply the Customer with such number of keys to the Box as may be determined by the Bank. The Customer shall not make any duplicate copy of such keys. In case of loss of any of such keys, the Customer shall give immediate notice to the Bank

whereupon the Bank may supply the Customer with replacement keys or change the lock of the Box, in each case at the expense of the Customer.

4. The Bank may, at its discretion and at the Customer's risk, permit access to the Box by the Customer (or any person comprising the Customer) or any other person authorized by the Customer in writing in such manner as may be prescribed by the Bank upon production of such proof of identity as may be required by the Bank. The Bank may at its discretion refuse to allow access to the Box by any person who fails to provide proof of identity satisfactory to the Bank or if his signature does not in the opinion of the Bank correspond with the specimen signature kept by the Bank.
5. Access to the Box may only be made during such hours as may be prescribed by the Bank from time to time.
6. The Box may only be used to keep securities, jewellery and valuable papers and may not be used to keep any hazardous or illegal items. The Customer shall indemnify the Bank and any other person for any losses, expenses and damages suffered or incurred arising out of or in connection with the Customer's breach of this clause.
7. The opening of the Box and the removal or storage of any item from or into the Box shall be the responsibility of the Customer and the Bank shall not be responsible for any losses or damages arising out of the use of the Box, including any deterioration in or the losses or damages to the contents of the Box arising out of whatever reason, including the outbreak of fire, save where the same arises out of the negligence or wilful misconduct of the Bank.
8. Upon giving not less than two (2) months' prior notice to the Customer, the Bank may remove the Box from the Bank's vault and install the Box in another vault in any premises of the Bank. The Bank shall not be liable for any losses, expenses or damages incurred by the Customer arising out of such removal, save where the same arises out of the negligence or wilful misconduct of the Bank.
9. Either the Bank or the Customer may by giving not less than one (1) month's notice to the other party terminate the lease of the Box. Upon termination of the lease, the Customer shall immediately pay all arrears of rental up to the expiration of the notice period and other amount due to the Bank and vacate and surrender the Box and the keys thereto whereupon the balance of the deposit will be returned to the Customer without interest. If the Customer shall fail to vacate and surrender the Box and the keys as aforesaid, the Bank may, upon giving not less than two (2) months' prior notice to the Customer, without incurring any liability to the Customer and at the cost of the Customer, remove the contents of the Box to any other location and hold the same for the Customer's risk and account. The Customer further authorises the Bank, upon giving not less than fourteen (14) days' prior notice to the Customer, to destroy any of the contents so removed and held or dispose of the same, whether by private sale or public auction with or without valuation, in such manner as the Bank may determine. Any proceeds arising out of such sale may be applied by the Bank towards settling any outstanding rental and other amounts due to the Bank in connection with the lease of the Box, and the balance shall be held by the Bank for the Customer's account but without interest for a period of one (1) year. If the Customer shall fail to claim for such balance within such one (1) year's period, the Customer shall be deemed to have waived all his rights therein.



10. The Bank is not under any duty or obligation to insure the contents of the Box against any risks. It is in the Customer's interest to fully insure the contents in the Box.

### **Specific Terms for Securities Services**

#### **1. Interpretation**

In these Specific Terms, the following words and expressions shall have the meaning ascribed to them below:-

“**Business Day**” means a day (other than Saturday, Sunday or public holiday in Hong Kong) on which the Bank is open for business and comprises such hours determined by the Bank from time to time for the particular type of transaction or service.

“**Custodial Agent**” means such agents, correspondents, sub custodians or nominees in Hong Kong or elsewhere employed by the Bank as it thinks fit to hold securities or other assets, to pay for and receive or to deliver or exchange or to make collections with respect to securities or other assets or otherwise to perform any of the Bank's duties as custodian under these Master Terms and Conditions and shall include (for the avoidance of doubt) depositories and clearing systems.

“**Customer's Securities**” means any securities from time to time held for the account of the Customer by or on behalf of the Bank.

“**Group Company**” means the Bank and any other company which is or at any time becomes a holding company or subsidiary of the Bank or a subsidiary of a holding company of the Bank.

“**Securities**” means any shares, stocks, debentures, loan stocks, bonds, notes, capital markets instruments or money market instruments of, or issued by, any body, whether incorporated or unincorporated, or of any government or local government authority, any instruments commonly known as securities, and any other financial instruments acceptable by the Bank at its sole discretion and includes any right, option or interest in or over any of the foregoing as well as certificates of interest or participation in, or temporary or interim certificates for, receipts for, or warrants to subscribe to or purchase, any of the foregoing.

“**Securities Account**” means any account recording such of the Customer's Securities as the Bank may deem fit opened by the Bank in its books in the name of the Customer.

“**Settlement Account**” means a Hong Kong Dollar Savings Account or a Hong Kong Dollar Current Account with the Bank or such other type of account with the Bank as may be acceptable to the Bank opened by the Bank in its books in the name of the Customer.

#### **2. Services**

2.1 The Bank is appointed to provide the following services:-

- (a) to act as custodian of securities received by and acceptable to the Bank from time to time for the account of the Customer;

- (b) to purchase, sell, subscribe, redeem, convert or otherwise dispose of securities or other assets acceptable to the Bank and to deal with the proceeds, in each case in accordance with the instruction of the Customer;
- (c) to enter into any agreement or instrument on behalf of the Customer in connection with any Customer's Securities in accordance with the instructions of the Customer;
- (d) to deal with all administrative actions in relation to securities including the settlement of transactions effected by the Bank, the collection of income and the delivery of documents of title and any other instruments relating to any Customer's Securities to the Customer or to the order of the Customer in accordance with the instructions of the Customer;
- (e) to borrow or otherwise deal in securities or other assets on behalf of the Customer in accordance with the instructions of the Customer; and
- (f) to provide such other services as the Bank and the Customer may from time to time agree.

2.2 In providing the services to the Customer the Bank shall act as agent of the Customer and shall not, unless the Bank indicates (in the contract note, confirmation or advice for the relevant transaction or otherwise) that the Bank is acting as principal, act as principal in relation to any transaction effected by it for and on behalf of the Customer.

### **3. Account**

The Bank shall open and maintain in the name of the Customer:-

- (a) one or more Securities Accounts recording any Customer's Securities; and
- (b) one or more Settlement Accounts to which will be credited all cash/funds in any currency received by the Bank or a Custodial Agent for the account of the Customer, including any income and proceeds derived from Customer's Securities, and from which will be debited cash/funds for settlement of transactions and as set out in this section.

### **4. Terms of Custody**

4.1 The Customer will at the Customer's risk and expense deliver securities to the Bank or a Custodial Agent as the Bank may direct, accompanied by such documents as the Bank may require.

4.2 The Bank in its sole discretion and in accordance with the laws governing the same may at the cost and risk of and as agent for the Customer:-

- (a) engage any brokers, dealers, Custodial Agents or other agents on any terms and conditions and subject to such exemptions as the Bank may in its sole discretion determine;
- (b) register Customer's Securities (not being bearer securities) in the name of the Customer or a Custodial Agent;

- (c) deposit bearer Customer's Securities in a designated account with any branch of the Bank in Hong Kong or, as permitted by law, with any other institution which provides facilities for the safe custody of documents as Custodial Agent;
- (d) where Customer's Securities are in uncertified form or are otherwise transferable by book entry transfer, to use the services of any depository as Custodial Agent;
- (e) hold any Customer's Securities directly or indirectly through one or more Custodial Agents and change such Custodial Agents from time to time.

4.3 The Customer must give reasonable prior written notice to the Bank to withdraw any or all of the Customer's Securities provided always that:-

- (a) such Customer's Securities may not be withdrawn when they are being processed for transfer to and registration in the name of the Bank or a Custodial Agent;
- (b) withdrawal of any class of Customer's Securities shall be in multiples of its lowest denomination (whether in board lots or otherwise) and shall be effected at such place as the Bank may direct;
- (c) the Customer is not indebted to the Bank;
- (d) the Bank's obligation to re deliver the scrips and/or documents upon withdrawal of the relevant Customer's Securities shall be subject to the Bank's receipt of such scrips and/or documents from the relevant Custodial Agent or person with whom the Bank has deposited the relevant Customer's Securities; and
- (e) the Customer shall not be entitled to withdraw such Customer's Securities which he has agreed not to do so.

4.4 In the absence of contrary instructions from the Customer, the Bank is authorized at its sole discretion and at the cost and expense of the Customer:-

- (a) to request payment of and receive all interest, dividends, bonuses and other payments or distributions (whether of a capital or income nature) in respect of Customer's Securities;
- (b) to surrender Customer's Securities against receipt of the moneys payable at maturity or on redemption of the securities if called prior to maturity;
- (c) to exchange any documents relating to any of the Customer's Securities, where such documents have been issued, in interim or temporary form for definitive form;
- (d) to complete and deliver on behalf of the Customer as owner any ownership certificates in connection with the securities which may be required to obtain income from the Customer's Securities or to facilitate their sale;
- (e) where fractional shares are received, to retain the same for the sole benefit of the Bank.

4.5 If sufficient copies are received by the Bank or a Custodial Agent, as the case may be, in time for despatch to the Customer and other customers of the Bank, the Bank shall as soon as

reasonably practicable, transmit to the Customer all such documents addressed to the registered holder of Customer's Securities which is actually received by the Bank or a Custodial Agent relating to Customer's Securities which the Bank determines in its sole discretion that the Customer's attention ought to be drawn. However, the Bank shall be under no duty or responsibility in respect of any documents received by it or by a Custodial Agent relating to the Customer's Securities to send any such documents or to give any notice of the receipt of such documents to the Customer.

4.6 The Bank is authorized in accordance with the instructions of the Customer:-

- (a) to take up any rights;
- (b) to exercise any conversion rights or subscription rights;
- (c) to deal with takeovers, mergers or other offers or capital re-organisations; and
- (d) to exercise voting rights

but any obligation of the Bank so to do is conditional upon the Bank receiving instructions from the Customer and funds in reasonable time to enable the Bank to take the necessary action and shall be subject to any agreement between the Bank and the Customer to the contrary.

In the absence of instructions from the Customer, the Bank reserves the right to act as it sees fit or to take no action and shall incur no liabilities to the Customer in acting or in taking no action.

Without limiting the generality of the foregoing, the Bank shall be under no duty to take affirmative action concerning proxies received, attendance at meetings and voting except in accordance with instructions and any obligation to exercise voting rights shall be conditional upon the Bank receiving instructions in a reasonable time for the Bank to take any necessary action.

4.7 The Bank may mingle Customer's Securities with the securities of other customers. In particular:-

- (a) Customer's Securities (not being bearer securities) may be registered in the name of a Custodial Agent together with securities held for other customers;
- (b) bearer Customer's Securities may be physically held by the Bank or a Custodial Agent together with securities held for other customers; and
- (c) Customer's Securities in uncertified form or otherwise transferable by book entry transfer may be held in such an account in a book entry system in the name of a Custodial Agent together with securities held for other customers.

4.8 The Bank shall be entitled at its sole discretion at any time without giving any reason or notice therefor not to accept any assets for deposit or to return Customer's Securities from time to time to the Customer and the Customer shall accept delivery of the same forthwith.

4.9 The Customer shall only be entitled to be returned and shall accept delivery of securities of the same company, class and denomination (or in the event of any change in class and/or

denomination, securities of such equivalent class and/or denomination) as the securities originally deposited and the Bank shall not be liable and/or responsible to return to the Customer securities bearing serial and/or scrip numbers identical and/or traceable to the securities originally deposited.

- 4.10 Any and all Customer's Securities required to be delivered and/or returned to the Customer shall be returned by registered post or by courier at the sole risk and expense of the Customer or may by prior arrangement with the Bank be collected by the Customer. Customer's Securities if sent to the Customer by registered post or by courier to his address last known to the Bank shall be conclusively deemed to have been received by the Customer 3 days from their despatch and the Bank shall not be obliged to make any enquiry as to the receipt thereof.

## **5. Execution of Instruction**

- 5.1 The Bank may not be able to perform instructions of the Customer relating to the sale or purchase of securities in full. In case an instruction to sell or purchase securities has been performed by the Bank partially, the Bank shall have the sole discretion to determine the quantity of contracts so concluded to be allocated to the Customer on a fair basis and the instruction in relation to the remaining securities shall lapse at such time as designated by the Bank from time to time. Instructions, if not performed at all, shall continue until satisfied or cancelled by the Customer or his authorized signatory or lapse pursuant to the provisions herein. Although the Bank shall use reasonable endeavours to perform instructions of the Customer to sell or purchase securities, any such instructions shall, however, lapse if not performed at all at such time as designated by the Bank from time to time. In the event the securities are dealt with on both an exchange in Hong Kong as well as an overseas exchange, the Bank will unless otherwise agreed with the Customer only perform or attempt to perform the instructions on an exchange in Hong Kong. In the event the Bank agrees with the Customer to perform or attempt to perform the instructions both on an exchange in Hong Kong and on an exchange overseas, the instructions shall lapse if not performed by such time as may be agreed before the Bank has agreed to act upon the instructions.
- 5.2 The Bank may decline to act upon any instructions of the Customer if in the sole discretion of the Bank such instructions are contrary to rules, market practice or any applicable laws or regulatory requirements, or if such instructions would be contrary to any provision of these Master Terms and Conditions. The Bank may also decline to act on any instructions if this might cause it to incur on its own behalf or on behalf of the Customer any liability which cannot be discharged out of the Customer's Securities and/or funds in the Settlement Account(s), and in particular, if in relation to instructions for the purchase of securities, there are not available in the Settlement Account(s) cleared funds of an amount which is, in the opinion of the Bank, sufficient to satisfy the relevant purchase price together with the relevant stamp duty and other charges payable in connection with such purchase; and if in relation to instructions for the sale of securities, if such securities are not registered in the name of a Custodial Agent or if documents of title are not held by the Bank or a Custodial Agent on behalf of the Customer. The Customer agrees that commencing from the giving of an instruction to purchase securities until the Bank is satisfied that the relevant amount is no longer required for discharging any money liable to be paid by the Customer in connection with such instruction, he shall not withdraw or cause to be withdrawn any amount from the Settlement Account(s) such that the relevant amount is not available in the Settlement Account(s). Without prejudice to the aforesaid, in case the securities sold pursuant to an

instruction or any part thereof are not registered in the name of a Custodial Agent or if documents of title thereof are not held by the Bank or a Custodial Agent, the Customer undertakes to deliver the outstanding securities or documents of title in respect thereof to the Bank before the due date for delivery required by rules, market practice or any applicable laws or regulatory requirements.

- 5.3 The Bank may without liability on its part act in what it believes in good faith the instructions of the Customer to be (in the case of any ambiguity or incompleteness) or decline to act until the ambiguity or incompleteness is resolved, and may rely on any purported instructions if believed in good faith by the Bank to be genuine even though they may not be genuine, and may decline to act on any instructions if the Bank in good faith believes it not to be genuine or if in the Bank's opinion there are other reasonable grounds for declining to act.
- 5.4 The Customer agrees to be bound by all instructions given in accordance with the Master Terms and Conditions, whether or not such instructions were duly authorized in accordance with the Customer's own procedures and regardless of the nature of the transaction or arrangement or the value, type and quantity of the securities involved and notwithstanding any error or misunderstanding or lack of clarity in the terms of such instructions.

## **6. Dealing in Securities**

- 6.1 In accordance with instructions of the Customer and subject to the other terms of the General Terms and these Specific Terms and in particular clause 5.3 of these Specific Terms, the Bank shall purchase or subscribe for securities and sell or otherwise dispose of securities on behalf of the Customer.
- 6.2 In connection with the purchase and sale of securities on behalf of the Customer, the Bank is authorized either to execute such instructions itself or to instruct, as agent for the Customer, such brokers, dealers or other agents (who may be a Group Company) as it deems fit and in the absence of fraud or manifest error, the Bank shall not be liable for any act or omission or the solvency of any such broker, dealer or other agent to whom it gives any instruction. The Customer acknowledges that the Bank may not be able to trade at the prices quoted at any specific time or "at best" or "at market" and confirms that the Bank is not liable for any loss arising by reason of its failing, or being unable, to comply with any terms of an instruction of the Customer. If an instruction cannot be executed in whole or in part, the Bank shall be under no obligation to notify the Customer immediately. Accordingly, if the Customer requires confirmation as to whether any transaction has been effected the Customer should contact the Bank subsequently. Where the Bank is unable to perform any instruction in full, it is entitled to effect partial performance only without prior reference to or confirmation of the Customer. Unexecuted orders to purchase or sell securities will lapse in accordance with clause 5.1 of these Specific Terms.
- 6.3 The Customer recognises that the Bank or any of its dealers or brokers or agents referred to in clause 6.2 of these Specific Terms may aggregate the Customer's order with the Bank's own orders or orders of Group Companies or other persons connected with the Bank or orders of other customers. Aggregation of the Customer's orders in such manner may result in the Customer obtaining on some occasions, a more favourable price, and on others, a less favourable price, than if the Customer's order had been executed separately. If as a result of such aggregation of orders, some securities are obtained by the Bank which do not belong or

cannot be identified with any particular customer, such securities shall be retained by the Bank for its sole benefit.

Nothing herein contained shall be deemed to prohibit or inhibit the Bank from acting in any capacity for any other person, from buying, holding or dealing in any securities for its own account notwithstanding that similar securities may be comprised in the Customer's Securities, or from purchasing for the Customer securities held by the Bank or for the Bank's own account or held by other customers of the Bank or from purchasing for the Bank's own account or for the account of other customers of the Bank securities (provided that in no case the terms of the purchase are less favourable to the Customer than they would have been had the transactions been entered into with a party other than the Bank or one of its customer(s)) and the Customer acknowledges that the Bank may so act, buy, hold, deal in or sell and that the Bank shall not be liable to the Customer for any claims against the Bank in relation to any such transaction.

The Bank may take the opposite position to an order of the Customer whether it is on the Bank's own account or on behalf of other customers of the Bank.

- 6.4 All amounts payable in any currency by the Customer to the Bank and vice versa will be settled on net basis in each currency.
- 6.5 Without limiting the Bank's discretion under clause 5.2 of these Specific Terms, in the event the Bank does act on any instruction of the Customer, the Bank's obligation to settle any transaction, whether the Bank is acting as principal or as agent for the Customer or any other person, is conditional upon receipt by the Bank on or before the due date for settlement (or satisfactory confirmation of such receipt by the Bank's settlement agents) of all necessary documents or funds due to be delivered by the Customer or on his behalf on such due date. In addition, whether any transaction is effected by the Bank or agent, delivery or payment (as the case may be) by the other party to the transaction should be at the Customer's entire risk, and the Bank's obligation to deliver securities to the Customer or to account for the proceeds of sale of Customer's Securities is conditional upon receipt by the Bank of deliverable documents or sale proceeds (as the case may be) from the other party(s) to a transaction.
- 6.6 All instructions of the Customer and in particular, all transactions in respect of the purchase and sale of securities shall be carried out subject to the rules and customs of any particular stock exchange or market. The Customer represents and warrants to the Bank that the Customer has good and unencumbered title to all securities which the Customer instructs the Bank to sell under these Master Terms and Conditions and to all Customer's Securities.
- 6.7 The Customer acknowledges and agrees that: (a) "uncovered" or "naked" short selling of securities effected at or through The Stock Exchange of Hong Kong Limited is a criminal offence; and (b) Hong Kong laws impose restrictions on the short selling of securities at or through The Stock Exchange of Hong Kong Limited. In respect of an order to sell securities at or through The Stock Exchange of Hong Kong Limited, the Customer represents and warrants that: (i) it has a presently exercisable and unconditional right to vest the securities in the purchaser of the securities; and (ii) such order is not a "short selling order" as defined under the Securities and Futures Ordinance (Cap. 571). The Customer undertakes to give the Bank such information and/or assurances in relation to the ownership of securities as the Bank may require before the selling order is placed. If the Bank inadvertently accepts or

executes any sale order in which the Customer does not have a presently exercisable and unconditional right to vest the securities in the purchaser of the securities, or any short selling order, the Bank may in its sole discretion cancel the transaction or obtain the relevant securities from the market or otherwise for delivery, as applicable. In either case, the Customer shall fully indemnify the Bank against any and all losses and liabilities incurred in connection therewith.

- 6.8 The Bank is authorized to keep any broker's or dealer's or any other rebates.
- 6.9 The Customer will be responsible for any notification or other requirement of any jurisdiction relating to the Customer's beneficial ownership of securities. The Bank assumes no liability for non-compliance.
- 6.10 None of the Bank or any of its Custodial Agents shall have any responsibility for any losses incurred by the Customer or any other persons as a result of the receipt or acceptance of fraudulent, forged or invalid securities or securities which cannot be freely transferred for delivery or deliverable without encumbrance in any relevant market.
- 6.11 The Customer hereby authorizes the Bank to dispose of the Customer's Securities for the purpose of settling any liability owed by the Customer to the Bank or any of its associated entities (as defined in the Securities and Futures Ordinance).

## **7. Reports, information and confidentiality**

- 7.1 The Bank shall deliver such reports and information relating to the Customer's Securities and the Settlement Accounts as the Customer may from time to time reasonably require and at such intervals as agreed between them from time to time.
- 7.2 The Bank shall be under no duty to disclose to the Customer any fact or thing which comes to the notice of the Bank or its officers or employees in the course of acting in any capacity for any other person.
- 7.3 The Bank is authorized to disclose any information it has concerning the Customer, the services provided by the Bank under these Master Terms and Conditions and the assets of the Customer to any other person (including any Custodial Agent) appointed by the Bank in connection with the provision of the services under these Master Terms and Conditions, any regulatory body or, in respect of any Customer's Securities, the listed company to which such Customer's Securities relate.
- 7.4 The Customer warrants that all the information provided in the account opening documentation or otherwise provided to the Bank for the purpose of opening the Securities Account is true, complete and up-to-date.
- 7.5 The Customer represents and warrants that unless the Bank has been notified otherwise by the Customer in writing, he is the person ultimately responsible for originating instructions in relation to the Securities Account and is the person who stands to gain the commercial and economic benefit and bear the commercial and economic risks of the transaction effected under the Securities Account. The Customer undertakes that if he is not such a person in relation to any transaction, he will not give any instruction to the Bank to effect such a transaction unless he has provided the full name, address and contact details of the relevant person to the Bank.



7.6 The provisions in clause 7.5 of these Specific Terms shall continue in effect notwithstanding the termination of any account relationship between the Customer and the Bank.

## **8. Tax**

8.1 The Bank may at its sole discretion deduct or withhold any sum on account of any tax in respect of the Customer's Securities or any dividend or any proceeds of sale hereof or in respect of the Settlement Account which is required to be so deducted or withheld by law or practice of any relevant revenue authority of any jurisdiction or for which it is liable or accountable.

8.2 (Applicable to individual Customers only) To the extent and for the purpose of claiming the benefits of portfolio interest exemption under U.S. Internal Revenue Code (the "Code") Section 871(h), the Customer certifies that he or she is the beneficial owner of the relevant interest payment(s) received through the Bank and has met all the exemption requirements under the Code.

(Applicable to corporate Customers only) To the extent and for the purpose of claiming the benefits of portfolio interest exemption under U.S. Internal Revenue Code (the "Code") Section 881(c), the Customer certifies that it is the beneficial owner of the relevant interest payment(s) received through the Bank and has met all the exemption requirements under the Code, including but not limited to the following requirement. In the case of interest other than that paid on an obligation of the U.S., the interest is not received on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of the Customer's trade of business.

## **9. Settlement Account and Funding**

9.1 The Customer shall at all times maintain the Settlement Account(s).

9.2 The Bank is authorized (but is under no obligation) to arrange from time to time financial accommodation and credit facilities for the Customer on instructions and on such terms and conditions as the Customer shall agree with the Bank.

## **10. Exclusion of Liability and Indemnity**

10.1 The Bank has no duty to:-

- (a) verify the validity of ownership to any securities;
- (b) ascertain the nationality of the Customer or to warn the Customer of any restrictions as to ownership of any Customer's Securities or any securities the Bank is instructed to purchase on behalf of the Customer;
- (c) advise the Customer of any regulatory or reporting requirement in respect of the holding of any securities.

10.2 The Bank is not acting as a trustee in respect of the services provided by it under these Specific Terms. The Bank shall have no obligations to the Customer except as set out in these Master Terms and Conditions and any Other Terms as applicable. The Customer is responsible for making his own appraisal of the securities with which the Customer intends to deal and for seeking independent professional advice on tax, legal and other issues in

connection with these Master Terms and Conditions or any transaction contemplated under these Master Terms and Conditions which may affect the Customer under all applicable laws.

**11. Risk Disclosure Statements**

The Customer confirms that he has read and fully understands the risk disclosure statements in relation to securities provided by the Bank to the Customer.

**12. Language Version**

The Customer hereby confirms that the Bank has explained to him and he has received and read the English and Chinese versions of these Specific Terms and that the Customer understands and accepts their terms. In the event of discrepancy between the Chinese version and the English version, the version elected by the Customer as advised to the Bank in writing as the governing version shall prevail. In case the Customer has not made any election, the English version shall prevail.

**Specific Terms for Stock Quote Service**

- 1 The Bank, Hong Kong Exchanges and Clearing Limited (HKEx) and any company or organization from which information in relation to the Stock Quote Service is sourced will endeavour to ensure the accuracy and reliability of the information provided but will not guarantee its accuracy and accepts no liability (whether in tort, contract or otherwise) for any loss or damage arising from any inaccuracies or omission.
- 2 The Customer will not, without the prior written approval of the Bank, disseminate any information obtained through use of the Stock Quote Service to any other person.
- 3 The Customer will not use or permit the use of any information obtained through use of the Stock Quote Service for any illegal purpose.
- 4 The Customer will not use any information obtained through use of the Stock Quote Service other than in the ordinary course of his own business (which shall not include dissemination to third parties).
- 5 The Customer will not use any information obtained through use of the Stock Quote Service to establish, maintain or provide or to assist in establishing, maintaining or providing a trading floor or dealing service where trading of securities listed on HKEx or any other securities relating thereto is being undertaken otherwise than at or through HKEx.
- 6 Without prejudice to any other agreement as to the use of the personal data of the Customer, the Customer hereby further agrees to the disclosure of his personal data to HKEx Information Services Limited and any company or organization from which information in relation to the Stock Quote Service is sourced for purposes in connection with the use of the Stock Quote Service.
7. The Bank will not be responsible for any losses or damages arising out of the use of the Stock Quote Service by the Customer including losses or damages arising out of the inaccuracy, non-availability or delay in transmission of any information provided through the Stock Quote Service, save to the extent resulting from the Bank's negligence or wilful default.

## **Specific Terms for Investment Fund Services**

### **1. Interpretation**

In these Specific Terms, the following words and expressions shall have the meaning ascribed to them below:-

“**Business Day**” means a day (other than Saturday, Sunday or public holiday in Hong Kong) on which the Bank is open for business and comprises such hours determined by the Bank from time to time for the particular type of transaction or service.

“**Custodial Agent**” means an agent, correspondent, sub-custodian or nominee in Hong Kong or elsewhere nominated by the Bank as it thinks fit, including Dah Sing Nominees Limited, to hold Funds, to pay for and receive or to deliver or exchange or to make collections with respect to Funds or otherwise to perform any of the Bank’s duties as custodian under these Specific Terms.

“**Fund**” means a unit trust, mutual fund or other type of collective investment scheme in respect of which the Bank is prepared to deal with on behalf of the Customer from time to time under these Specific Terms.

“**Settlement Account**” means such of the bank account of the Customer maintained with the Bank designated by the Customer and acceptable to the Bank from time to time.

### **2. Accounts**

The Bank shall open and maintain in the name of the Customer:-

- (a) one or more Investment Fund Accounts recording any of the Customer’s transactions in respect of Funds; and
- (b) one or more Settlement Accounts to which will be credited all cash/funds in any currency received by the Bank or the Custodial Agent for the account of the Customer, including any income and proceeds derived from the Customer’s Funds, and from which will be debited cash/funds for settlement of transactions as set out herein.

### **3. Services**

3.1 The Bank is appointed to provide the following services in accordance with these Specific Terms:-

- (a) to act as custodian of Funds received by and acceptable to the Bank from time to time for the account of the Customer;
- (b) to subscribe for, redeem, convert, switch, purchase, sell or otherwise dispose of Funds or other assets acceptable to the Bank;
- (c) to enter into any agreement or instrument on behalf of the Customer in connection with any of the Customer’s Funds in accordance with instructions of the Customer;

- (d) to deal with all administrative actions in relation to Funds including the settlement of transactions effected by the Bank, the collection of income and the delivery of documents of title and any other instruments relating to any of the Customer's Funds to the Customer or to the order of the Customer in accordance with instructions of the Customer;
  - (e) to borrow or otherwise deal in Funds or other assets on behalf of the Customer in accordance with instructions of the Customer; and
  - (f) to provide such other services as the Bank and the Customer may from time to time agree.
- 3.2 In providing the services to the Customer the Bank shall, unless the Bank indicates (in the contract note, confirmation or advice for the relevant transaction or otherwise) that the Bank is acting as principal, act as agent of the Customer in relation to any transaction effected by it for and on behalf of the Customer.
- 3.3 Any instruction for subscription, redemption, conversion, switching, purchase, sale or other disposition shall be in such quantity and value as may be acceptable to the Bank. Such instruction will be passed to the management company or distribution agent of the relevant Fund and shall be subject to the final confirmation of such management company or distribution agent. The Customer acknowledges that the Bank has no authority to effect issuance, conversion, switching or redemption of Funds on behalf of the relevant management company or distribution agent.
- 3.4 Any subscription, redemption, conversion or switching of Funds will be effected subject to the offering document, prospectus and constitutional documents of the relevant Fund. The Customer is deemed to have read and understand such offering documents, prospectuses and constitutional documents before giving any instruction to the Bank in relation thereto.
- 3.5 Where the Customer will be entitled to fractional shares or units in any Fund under any transaction effected pursuant to an instruction of the Customer, whether arising out of the aggregation of the instructions by the Bank of different customers or other reasons, the Bank shall be entitled, notwithstanding the offering document, prospectus or constitutional document of the relevant Fund, to round up or down the Customer's entitlement in such manner as it deems fit and retain any remaining balance for its own benefit.

#### **4. Investment Fund Savings Plan**

- 4.1 The Customer may apply to establish one or more plans (the "**Investment Fund Savings Plans**") with the Bank for such Funds and with such monthly contribution, subscription day and debit account with the Bank as may be acceptable to the Bank.
- 4.2 The Bank will on each subscription day of an Investment Fund Savings Plan pass to the management company or distribution agent of the relevant Fund an instruction for subscription of such Funds with a value of the relevant monthly contribution. If the subscription day is not a dealing day of the relevant Fund, such instruction will be passed to the management company or distribution agent on the immediately following dealing day of the relevant Fund.

- 4.3 The relevant monthly contribution together with the charges and expenses in relation thereto will be debited from the relevant debit account five Business Days before the subscription day. The Customer should ensure that there are sufficient cleared funds in the debit account on or before such day.
- 4.4 The Customer may request to change the amount of the monthly contribution, or suspend or reinstate his monthly contribution of any Investment Fund Savings Plan by giving a prior notice in writing to the Bank not less than 7 days prior to the end of the relevant calendar month. Such a request shall be subject to the acceptance of the Bank and, if accepted, shall be subject to such conditions as may be imposed by the Bank and will take effect from the date on which the next monthly contribution is to be effected.
- 4.5 If the Bank shall fail to receive the monthly contribution from the Customer for three consecutive months, the Bank may terminate the relevant Investment Fund Savings Plan and may, but is not obliged to, redeem all the Funds held under such Investment Fund Savings Plan at such price as it deems fit.
- 4.6 Any request for conversion, switching or redemption will only be accepted if the remaining holding of Funds under the relevant Investment Fund Savings Plan shall meet such minimum balance as may be acceptable to the Bank.
- 4.7 The Customer may terminate his Investment Fund Savings Plan at any time by giving prior notice in writing to the Bank. Upon termination of any Investment Fund Savings Plan, the Bank may, but is not obliged to, redeem all the Funds held under such Investment Fund Savings Plan.

## **5. Payment**

- 5.1 The Bank may refuse to accept or process any instruction for the subscription or purchase of Funds unless there is available in the Settlement Account sufficient cleared funds which, in the opinion of the Bank, are sufficient to pay for the subscription or purchase price for the relevant Funds together with all the relevant fees, charges and expenses in connection with such subscription or purchase.
- 5.2 The Customer undertakes that he will not withdraw the funds referred to in Clause 5.1 after he has given the instruction for subscription or purchase of Funds.
- 5.3 The Bank is authorized to debit the Settlement Account or any other account of the Customer maintained with the Bank the amount required to settle the subscription or purchase amount together with the relevant charges and expenses liable to be incurred in connection with any subscription or purchase transaction and any other amount from time to time payable by the Customer in connection with his Funds on the date on which the relevant instruction is received by the Bank notwithstanding that the subscription or purchase price is only payable by the Bank subsequently.
- 5.4 Subject to the applicable terms in the constitutional documents of the relevant Funds, all interest, income, accretions, gains and proceeds of sales on the Customer's Funds shall be credited to the Settlement Account.
- 5.5 All payments made by the Customer shall be made free and clear of and without deduction of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings.

## **6. Terms of Custody**

- 6.1 The Customer may at the Customer's risk and expense deliver to the Bank or a Custodial Agent as the Bank may direct Funds acceptable to the Bank, accompanied by such documents as the Bank may require for custody. Any such Funds delivered to the Bank and other Funds subscribed for, purchased or acquired by the Bank for the account of the Customer shall be registered in the name of a Custodial Agent together with Funds held for other customers and accordingly be mingled with the Funds of other customers of the Bank.
- 6.2 The Customer must give not less than two Business Days' prior written notice to the Bank to withdraw any or all of the Customer's Funds provided always that:-
- (a) such Customer's Funds may not be withdrawn when they are being processed for transfer to and registration in the name of a Custodial Agent;
  - (b) the Customer is not indebted to the Bank; and
  - (c) the Bank's obligation to re-deliver the scrips and/or documents upon withdrawal of the relevant Customer's Funds shall be subject to the Bank's receipt of such scrips and/or documents from the relevant Custodial Agent or person with whom the Bank has deposited the relevant Customer's Funds.
- 6.3 The Bank shall be entitled at its discretion at any time without giving any reason or notice therefor not to accept any Funds for deposit or to return the Customer's Funds from time to time to the Customer and the Customer shall accept delivery of the same forthwith.
- 6.4 The Customer shall only be entitled to be returned and shall accept delivery of Funds of the same scheme, class and denomination (or in the event of any change in class and/or denomination, Funds of such equivalent class and/or denomination) as the Funds originally deposited and the Bank shall not be liable and/or responsible to return to the Customer Funds bearing serial and/or scrip numbers identical and/or traceable to the Funds originally deposited.
- 6.5 Any and all of the Customer's Funds required to be delivered and/or returned to the Customer shall be returned by registered post or by courier at the sole risk and expense of the Customer or may by prior arrangement with the Bank be collected by the Customer. The Customer's Funds if sent to the Customer by registered post or by courier to its address last known to the Bank shall be conclusively deemed to have been received by the Customer 3 days from their despatch and the Bank shall not be obliged to make any enquiry as to the receipt thereof.
- 6.6 The Bank or the Custodial Agent shall not be obliged to forward any notices, proxies, prospectuses, offering memoranda, annual reports, or other documents or communications in respect of the Customer's Funds to the Customer. Notwithstanding the aforesaid, if the Bank or the Custodial Agent at its discretion determines that any action is required in respect of such Funds and the Customer cannot be contacted or fails to give the Bank punctual or adequate instructions for such action, the Customer hereby authorizes the Bank or the Custodial Agent to act on his behalf at its absolute discretion as it thinks fit, including without limitation, exercising any voting rights in respect of the Customer's Funds and the Bank and the Custodial Agent shall not be liable, in the absence of fraud or wilful default, for such action it may take. The Customer undertakes to indemnify the Bank and the Custodial Agent

against all costs, charges and expenses that may be incurred by them in respect of the Custodial Agent Funds held by them for safe-keeping on the Customer's behalf.

- 6.7 Where dividends, distributions or benefits accrue in respect of the Customer's Funds, the Settlement Account shall be credited with the proportion of such dividends, distributions or benefits equal to the proportion of the total number or amount of Funds which shall comprise Funds held on the Customer's behalf rounded up or down in such manner as the Bank deems fit and the Bank shall be authorized to apply the same towards subscribing for further units of the relevant Funds at such price as it deems fit.
- 6.8 The Bank shall be authorized to redeem any Funds in the Customer's Investment Fund Account on behalf of the Customer at such price as it deems fit if the balance thereof shall fall below such minimum balance requirement as may be prescribed by the Bank from time to time.

## **7. Representations, Warranties and Undertakings**

- 7.1 The Customer hereby warrants and represents and undertakes to the Bank in the following terms:
- (a) he is acting as principal and is not trading on behalf of any other person unless the Bank is notified otherwise in writing;
  - (b) he has obtained and will maintain in full force and effect any necessary consents, licences and authorities;
  - (c) the information contained in the account opening documentation is true and complete at the date hereof and the Customer will notify the Bank forthwith upon any material changes in the information provided therein. Until the Customer has given such notification to the Bank, the Bank shall be entitled to rely on the information contained in the account opening documentation. The Bank is hereby authorized to conduct a credit enquiry or check on the Customer for the purpose of ascertaining his financial situation and investment objectives as set out in the account opening documentation or otherwise;
  - (d) these Specific Terms and their performance and the obligations contained herein do not and will not:
    - (i) contravene any existing applicable law, statute, ordinance, rule or regulation or any judgement, decree or permit to which the Customer is subject or any provisions of the Customer's memorandum and articles of association or bye-laws (if applicable); and/or
    - (ii) conflict with or result in any breach of the terms of or constitute any default under any agreement or other instrument to which the Customer is a party or is subject or by which any of the Customer's property is bound;
  - (e) the Customer is, except as previously disclosed in writing to the Bank, not an officer, agent or employee of a person registered with the Securities and Futures Commission or an exempt dealer;

- (f) the Customer is and will remain the beneficial owner of the Funds free from any lien, charge, equity or encumbrance and will not charge, pledge or allow to subsist any charge or pledge over the Funds deposited with the Bank or grant or purport to grant an option over any such Funds without the prior written consent of the Bank;
- (g) the Customer is the person ultimately responsible for originating the instructions in relation to and the ultimate beneficial owner of the Customer's Funds (except where such other persons or entity has been disclosed to the Bank in the account opening documentation or other written notices to the Bank) deposited with the Bank; and
- (h) the Customer is permitted in his place of residence without restrictions, whether under any securities or tax laws or any other legislation, to subscribe for, redeem, convert, switch, purchase, sell or otherwise dispose of Funds and other assets acceptable to the Bank and the Customer shall notify the Bank immediately if the Customer shall become or be deemed to be subject to any restrictions.

7.2 The above representations and warranties shall be deemed to be repeated immediately before each instruction is given or executed.

## **8. Indemnity**

8.1 The Customer agrees to indemnify and hold harmless the Bank for itself and as trustee for the Custodial Agents and their respective personnel against all losses which may be imposed on, asserted against or suffered by the Bank, the Custodial Agents or its/their personnel arising out of, or in connection with, these Master Terms and Conditions at any time or from any cause whatsoever including, without limitation, in the subscription, purchase, holding, conversion, switching and redemption of Funds, the operation of the Settlement Account and the enforcement of these Master Terms and Conditions save and except where such losses have been incurred by the Bank, the Custodial Agents and/or its/their personnel as a result of its/their respective negligence or wilful default.

8.2 Neither the Bank, the Custodial Agents nor their personnel shall, in the absence of negligence or wilful default be liable to the Customer for any action or omission in the course of or in connection with the services rendered by them under these Master Terms and Conditions or for any loss or damage which the Customer may suffer or sustain as a result or in the course of discharge by the Bank and/or the Custodial Agents and/or its/their respective personnel of its/their duties under or pursuant to these Master Terms and Conditions.

8.3 Neither the Bank nor the Custodial Agents shall, in the absence of negligence or wilful default, be liable to the Customer in respect of any losses or failure to comply or delay in complying with its/their obligations under these Master Terms and Conditions for whatever reason.

8.4 Neither the Bank nor the Custodial Agents shall be required to take any legal action unless fully indemnified to its/their reasonable satisfaction (as a prerequisite to taking such action) for all costs and liabilities by the Customer.

## **9. Language Version**

The Customer hereby confirms that the Bank has explained to him and he has received and read the English and Chinese versions of these Specific Terms and that the Customer



understands and accepts their terms. In the event of discrepancy between the Chinese version and the English version, the version elected by the Customer as advised to the Bank in writing as the governing version shall prevail. In case the Customer has not made any election, the English version shall prevail.

## **Specific Terms for Asset-Linked Deposits**

### **1. Interpretation**

1.1 In these Specific Terms, the following words and expressions shall have the following meaning:-

- (a) “**Business Day**” means a day (other than Saturday, Sunday or public holiday in Hong Kong) on which the Bank is open for business and comprises such hours determined by the Bank from time to time for the particular type of transaction or service.
- (b) “**Confirmation**” in respect of an asset-linked deposit, means a confirmation relating to that asset-linked deposit which confirms the terms of that asset-linked deposit, as amended from time to time in accordance with these Specific Terms.
- (c) “**Currency Linked Deposit**” means an asset-linked deposit made under these Specific Terms where the Underlying is a currency or currencies.
- (d) “**Delivery Amount**” means
  - (i) in relation to an Equity Linked Deposit, the number of shares specified as such in the relevant Confirmation;
  - (ii) in relation to a Currency Linked Deposit, the amount of currency specified as such in the relevant Confirmation;
  - (iii) in relation to an Index Linked Deposit, the amount of currency specified as such in the relevant Confirmation; and
  - (iv) in relation to an Interest Rate Linked Deposit, the amount of currency specified as such in the relevant Confirmation.
- (e) “**Deposit Amount**” in respect of an asset-linked deposit, means the amount specified as such in the Confirmation relating to that asset-linked deposit.
- (f) “**Deposit Date**” in respect of an asset-linked deposit, means the date specified as such in the Confirmation relating to that asset-linked deposit.
- (g) “**Equity Linked Deposit**” means an asset-linked deposit made under these Specific Terms where the Underlying is a share or shares.
- (h) “**Exchange Business Day**” means a day on which the Relevant Exchange is open for business.
- (i) “**Fixing Date**” in respect of an asset-linked deposit, means the date specified as such in the Confirmation relating to that asset-linked deposit.

- (j) “**Index Linked Deposit**” means an asset-linked deposit made under these Specific Terms where the Underlying is an index or indices.
- (k) “**Interest Rate Linked Deposit**” means an asset-linked deposit made under these Specific Terms where the Underlying is an interest rate or interest rates.
- (l) “**Maturity Date**” in respect of an asset-linked deposit, means the date specified as such in the Confirmation relating to that asset-linked deposit.
- (m) “**Relevant Exchange**” in relation to an Equity Linked Deposit, means an exchange on which the Underlying is traded, and in relation to an Index Linked Deposit, means the exchange on which all the constituent components of the Underlying is traded.
- (n) “**Trade Date**” in relation to any asset-linked deposit means the date on which the terms of any asset-linked deposit are agreed between the Bank and the Customer.
- (o) “**Underlying**” in respect of an asset-linked deposit, means the share or shares, currency or currencies, index or indices, interest rate or interest rates or such other asset or thing specified as such in the Confirmation relating to that asset-linked deposit.

1.2 In these Specific Terms, a reference to:

- (a) a clause or schedule, unless the context otherwise requires, is a reference to a clause of or schedule to these Specific Terms;
- (b) any document is a reference to that document as modified from time to time; and
- (c) where the Underlying consist of two or more shares, two or more currencies, two or more indices or two or more interest rates, unless the context otherwise requires, references to the Underlying shall mean any one of those shares, currencies, indices or interest rates, as the case may be.

1.3 The headings in these Specific Terms do not affect its interpretation.

## **2. General**

2.1 The Customer may from time to time request the Bank to accept an asset-linked deposit from the Customer by giving an instruction to the Bank to such effect. The Bank may, but is not obliged to accept any such request from the Customer on such terms as may be agreed between the Bank and the Customer and set out in a Confirmation.

2.2 The General Terms, these Specific Terms and all Confirmations form a single agreement between the Bank and the Customer and the General Terms and these Specific Terms should be read in conjunction with all the relevant Confirmations. The terms and conditions of a particular asset-linked deposit are set out in these Specific Terms and the Confirmation relating to that asset-linked deposit. Where there is an inconsistency between these Specific Terms and a Confirmation, the Confirmation will prevail for the purposes of the relevant asset-linked deposit.

2.3 Where there is an inconsistency between the provisions of these Specific Terms and the terms of any account to which an asset-linked deposit has been booked, these Specific Terms will prevail for the purposes of that asset-linked deposit.

### **3. Linked Deposits**

3.1 For each asset-linked deposit entered between the Bank and the Customer, the Customer shall maintain an amount at least equal to the Deposit Amount in an account with the Bank from the Trade Date to the Deposit Date.

3.2 On the Deposit Date in respect of an asset-linked deposit, the Customer shall pay to the Bank the Deposit Amount relating to that asset-linked deposit. Such payment shall be effected automatically by the Bank by debiting the account of the Customer where the amount for that asset-linked deposit is maintained.

3.3 If the Customer is obliged to pay an amount of cash in any currency or deliver any asset under these Specific Terms and all Confirmations, the Customer hereby authorises the Bank to make such payment or delivery from currencies or asset credited to accounts of the Customer held at the Bank or its affiliates in satisfaction of such obligations.

3.4 On the Maturity Date in respect of an asset-linked deposit a party shall pay or deliver to the other party the cash, securities or other property specified as payable or deliverable in the Confirmation relating to that asset-linked deposit. Other than expressly stated in the Confirmation in respect of an asset-linked deposit, neither the Bank nor the Customer is under any obligation to pay or deliver any other assets to the other party in respect of that asset-linked deposit.

### **4. Adjustments**

4.1 The Bank may (in good faith and in a commercially reasonable manner) make adjustments to any terms of any asset-linked deposit upon the occurrence of one or more of the events listed in clause 4.2 of these Specific Terms or, provided that such adjustment is considered by the Bank not to be materially prejudicial to the holders of similar asset-linked deposits generally (without considering the circumstances of any individual customer or the tax or other consequences of such adjustment in respect of any individual customer), where an event or events occur which the Bank believes, in its absolute discretion, makes such adjustment necessary. The Bank will notify the Customer of any such adjustments as soon as it has determined them.

4.2 Without limitation to the Bank's right under clause 4.1 of these Specific Terms, the Bank may make adjustments to the terms of any asset-linked deposit in the circumstances listed in paragraph (a) to (c) below. These events are listed by way of illustration only and are not exhaustive.

(a) In relation to an Equity Linked Deposit, one of the following events occurs:

(i) The Issuer of the Underlying (the "**Issuer**") offers by way of rights a new issue of shares to existing shareholders.

(ii) The Issuer makes an issue of bonus shares to existing shareholders.

- (iii) The Issuer subdivides the Underlying into a greater number of shares or consolidates the shares into a smaller number of shares.
  - (iv) It is announced that the Issuer will or may merge or consolidate with or into another company or sell or transfer all or substantially all of its assets.
  - (v) The amount of the Underlying to be delivered to the Customer does not equal a trading board lot of the Underlying or a multiple of a trading board lot of the Underlying.
- (b) In relation to a Currency Linked Deposit, one of the following events occurs:
- (i) There is a revaluation of the Underlying.
  - (ii) The Underlying is replaced by another currency as the lawful currency of the relevant jurisdiction.
- (c) In relation to an Index Linked Deposit, one of the following events occurs:
- (i) There is a material change in the formula or method of calculation of the Underlying or any other material modification to the Underlying (other than modifications prescribed in the formula or method of calculation of the Underlying).
  - (ii) The compiler of the Underlying fails to calculate or publish it.

## **5. Valuation and Price Source Disruption**

5.1 The Bank may refer to such external source of information as it believes to be appropriate in order to determine the value or rate of the Underlying in respect of an asset-linked deposit, including:

- (a) In relation to an Equity Linked Deposit, an exchange on which the Underlying is listed or any futures or options contract relating to the Underlying is listed.
- (b) In relation to a Currency Linked Deposit and an Interest Rate Linked Deposit, a screen page such as a Reuters screen or a Telerate page, reference dealers in the Underlying or any official government rate.
- (c) In relation to an Index Linked Deposit, the compiler of the Underlying, an exchange on which any futures or options contract relating to the Underlying is listed or publications which periodically publish the value of the Underlying.

5.2 Where the Bank believes that it is impossible or impractical to determine the value or rate of the Underlying in respect of an asset-linked deposit from an external source on a Fixing Date, whether because of the occurrence of a market disruption event the suspension of trading of the Underlying on any stock exchange on which it is listed or otherwise,

- (a) the Bank may (in good faith and in a commercially reasonable manner) determine such value or rate from information which the Bank believes to be relevant for this purpose and the Bank shall notify the Customer of this determination as soon as practical after it has been determined; or

- (b) notwithstanding the date specified as the Fixing Date in the relevant Confirmation, the Bank may postpone the Fixing Date to a date on which the Bank believes that it is possible and practical to make such valuation or obtain such rate from an external source.

## **6. Early Repayment**

6.1 Unless otherwise specified in the relevant Confirmation, the Bank may, at the request of the Customer, but is not obliged to, allow an early termination of an asset-linked deposit before the Maturity Date, in which case the Bank:

- (a) shall not be required to pay the Delivery Amount on such asset-linked deposit;
- (b) shall be entitled, in its absolute discretion, to determine the amount to be paid to the Customer as repayment of the Deposit Amount, which amount may be less than the Deposit Amount if the Bank thinks fit;
- (c) may deduct from the amount referred to in Clause 6.1(b):
  - (i) any administration or handling fee charged by the Bank for such early repayment;
  - (ii) any additional cost (if any) for obtaining funds in the financial market for the remaining period of such asset-linked deposit; and
  - (iii) an amount equal to any sums already paid to the Customer by way of interest or to the tax authorities by way of taxation (if applicable).

## **7. Termination and Close-out**

7.1 The following events are “**Events of Default**” under these Specific Terms:

- (a) The Customer fails to satisfy any obligation under the General Terms or these Specific Terms.
- (b) A bankruptcy or winding-up petition or other similar process is presented, or a resolution is passed to effect the same, in relation to the Customer;
- (c) A receiver, liquidator or trustee or other analogous officer is appointed over all or a material part of the Customer’s assets.
- (d) An assignment or charge on or any dealing in respect of the Customer’s right and/or obligations under these Specific Terms has been effected (except in favour of the Bank).
- (e) The Bank reasonably determines in good faith that there has been a material adverse change in the Customer’s circumstance, business, financial conditions, legal status or capacity.

7.2 Upon the occurrence of an Event of Default, the Bank may terminate these Specific Terms and any or all asset-linked deposits. The Bank shall notify the Customer as soon as practicable after any decision is made to terminate these Specific Terms and any or all asset-linked deposits.

7.3 If the Bank elects to terminate these Specific Terms, the Bank shall reasonably and in good faith calculate the monetary value of all obligations owed by the Bank and the Customer under the terminated asset-linked deposits (taking into account, among other things, the current market value of those asset-linked deposits) as at the day the Event of Default occurred or such later date as the Bank considers appropriate. These amounts will be set-off against each other, resulting in a net sum (calculated by the Bank reasonably and in good faith) owing by one party to the other. This net sum shall be payable immediately upon its calculation.

## **8. Assignment**

8.1 The Customer may not assign, transfer or encumber or purport to assign, transfer or encumber any part of an asset-linked deposit or any right or obligation under these Specific Terms.

8.2 The Bank may at any time assign or transfer any or all of its rights and obligations under these Specific Terms to any person without the Customer's agreement provided that these Specific Terms (and the parties' obligations under these Specific Terms) shall continue in full force and effect and not be affected.

## **9. Corporate Customers**

If the Customer is a company, on each Deposit Date, the Customer represents and warrants that:

- (a) It is duly incorporated under the laws of the place of its incorporation and is validly existing and in good standing.
- (b) It has the capacity, power and authority to enter into these Specific Terms.
- (c) It has obtained all consents, authorizations and licences required to have been obtained by it with respect to these Specific Terms and any asset-linked deposit.
- (d) It is not insolvent or unable to pay its debts as they become due, it has not been adjudged as insolvent by any court and no proceedings for winding-up, voluntary arrangement or other similar proceedings have been instituted in respect of it, either by itself or by any other person.
- (e) Its obligations under these Master Terms and Conditions and all Confirmations constitute legal, valid, binding and enforceable obligations of the Customer in accordance with its terms of these Specific Terms and Confirmations.

## **10. Miscellaneous**

10.1 The Bank shall not be liable for any failure or delay to meet any obligation under these Specific Terms and Confirmations upon the occurrence of an event or events which renders performance by the Bank illegal or impossible, or if performance will cause the Bank to incur an unreasonable expense which would not have been incurred prior to the relevant event or events. Events which may cause this clause to operate include the closure of the exchange or market on which the Underlying is traded or the closure of any related clearance or settlement system, an act of state or an act of God.

- 10.2 The Customer confirms that he is acting as principal in relation to all asset-linked deposits and is the person ultimately responsible for originating instruction in relation to all asset-linked deposits and is the person who stands to gain the commercial and economic risks of all asset-linked deposits.
- 10.3 Subject to clause 10.4, where the Deposit Date, or the Fixing Date in respect of an asset-linked deposit falls on a day that is not a Business Day, that date shall, unless otherwise provided in the relevant Confirmation, fall on the next Business Day.
- 10.4 Where the Fixing Date for an Equity Linked Deposit or an Index Linked Deposit falls on a day that is not a Business Day and an Exchange Business Day, that date shall fall on the immediately following day which is both Business Day and an Exchange Business Day.
- 10.5 Where the Maturity Date in respect of an asset-linked deposit falls on a day that is not a Business Day and, where the asset-linked deposit is an Equity Linked Deposit or an Index Linked Deposit, an Exchange Business Day, that date may, at the option of the Bank, fall on the immediately following day which is a Business Day and, where the asset-linked deposit is an Equity Linked Deposit or an Index Linked Deposit, an Exchange Business Day, except when such extension exceeds the maximum period for deposits acceptable to the Bank or as regulated from time to time, in which case that date shall fall on the immediately preceding day which is a Business Day and, where appropriate, an Exchange Business Day.
- 10.6 The Customer acknowledges and agrees that the Bank may from time to time deal in the Underlying in respect of any asset-linked deposit entered into with the Customer or enter into asset-linked deposits or derivative transactions related to such Underlying with other persons (including any affiliates of the Bank). The Customer understands and agrees that the obligations owed by the Bank under these Specific Terms and all Confirmations is not in any way connected with or related to those other transactions.
- 10.7 The Bank may from time to time provide to the Customer financial and other information, including forecasts on the fluctuation of exchange rates, indices and prices of stocks and other securities (each being “**Customer Information**”). Where the Customer Information (in whole or in part) consist of information or data which has been extracted from publicly available sources or other third party sources the Bank accepts responsibility as to the correct reproduction of such information and /or data of such sources, but the Bank cannot guarantee the accuracy or completeness of such information or data.
- 10.8 The Customer hereby confirms that the Bank has explained to him and he has received and read the English and Chinese versions of these Specific Terms and that the Customer understands and accepts their terms.

### **Specific Terms for Foreign Exchange Forward Contracts**

Unless otherwise notified by the Bank to the Customer in respect of a Contract (defined below) or certain Contracts, these Specific Terms shall apply where the Bank enters into a Contract with the Customer.

#### **1. Interpretation**

In these Specific Terms, the following words and expressions shall have the meanings ascribed to them below:-

“**Close Out Events**” means (a) any petition, application, step or otherwise for any bankruptcy, insolvency, reorganization, arrangement, composition of debt, dissolution, liquidation or any similar relief relating to the Customer being commenced under any applicable law; or (b) if the Customer is an individual or consists of individuals, an act of bankruptcy being committed or deemed to have been committed by all or any of the members of the Customer; or (c) a receiver, trustee, custodian or similar official being appointed or an encumbrancer having taken possession of the Customer or the whole or any substantial part of his property.

“**Confirmation**” means a confirmation from time to time issued by the Bank to the Customer setting out, among other things, details of Contracts (including the offsetting Contracts referred to in clause 4.1 of these Specific Terms) entered into between the Bank and the Customer on the day stated thereon.

“**Contract**” means a forward contract for the sale and purchase of Currencies of such type and amount, at such exchange rate, with such value date and on such other terms as may be agreed between the Bank and the Customer.

“**Currency**” means the lawful currency of a country or jurisdiction which shall be valued using the exchange rate of such currency with such other currency as may be selected by the Bank in relation thereto.

## **2. Forward Contracts**

2.1 The Bank may from time to time at the Customer’s request enter into one or more Contracts with the Customer. However, nothing in these Specific Terms shall oblige the Bank to enter into any Contract with the Customer.

2.2 The Bank shall not be liable for any losses, damages, costs or claims of any nature whatsoever and however arising under or in connection with these Specific Terms, or resulting from failure or delay in the execution of any instruction (including standing instruction), breakdown or failure of any communication system or any cause beyond the control or anticipation of the Bank.

## **3. Single and Continuous Agreement**

The General Terms, these Specific Terms and all Confirmations form a single agreement between the Bank and the Customer in respect of all Contracts entered into by the Customer. The terms and conditions of a particular Contract are set out in these Specific Terms and the Confirmation relating to that Contract. Where there is an inconsistency between these Specific Terms and a Confirmation, the Confirmation will prevail for the purposes of the relevant Contract. At all times, the General Terms, these Specific Terms together with all Confirmations shall constitute the single and only agreement between the Bank and the Customer with respect to the subject matter of these Specific Terms.

## **4. Netting**



4.1 If after the Customer has entered into a Contract (the “**existing Contract**”), the Customer shall enter into another Contract with the same value date and for the exchange of the same Currencies (the “**offsetting Contract**”) and under which:-

- (a) one party agrees to deliver an amount to the other which is in the same Currency and is equal to the amount to be delivered by the other under the existing Contract, then the existing Contract and the offsetting Contract shall be automatically cancelled and replaced by a single payment obligation by the party that would otherwise have been due to deliver the larger amount of the other Currency under the existing Contract or the offsetting Contract to deliver the difference between the respective amounts to be delivered by the Customer or the Bank to the other under the existing Contract and the offsetting Contract.
- (b) one party agrees to deliver an amount to the other which is in the same Currency but with a different amount than that to be delivered by the other under the existing Contract then:
  - (i) both the existing Contract and the offsetting Contract shall be automatically cancelled and replaced by a new Contract (the “**new Contract**”);
  - (ii) the new Contract will have the same value date as the existing Contract;
  - (iii) the new Contract will be for the exchange of the same Currencies as the existing Contract and with respect to each type of Currency under the new Contract, the amount of such Currency that would have been deliverable by each party under the existing Contract and the offsetting Contract shall be compared and the Customer and the Bank with a greater obligation to deliver such Currency shall have a new obligation to deliver an amount equal to the difference thereof to the other.

4.2 The Bank will issue to the Customer a Confirmation setting out, among other things, the details of the delivery and payment terms of the single payment obligation arriving at pursuant to clause 4.1(a) of these Specific Terms and of the new Contract arriving at pursuant to clause 4.1(b) of these Specific Terms on or before the relevant value date.

4.3 The Bank hereby reserves the right to require the Customer to perform his obligations under the existing Contract and the offsetting Contract separately notwithstanding the provision of clause 4.1 of these Specific Terms.

## **5. Payment, Delivery and Other Charges**

5.1 Each Contract shall constitute a binding obligation on each of the Bank and the Customer to make or take delivery of the Currency upon the terms hereof and such terms as may be agreed in that Contract.

5.2 Unless otherwise agreed by the Bank, all deliveries of Currencies pursuant to any Contract shall be made in such Currency as may be selected by the Bank from time to time only but not the Currencies agreed to be delivered under the Contract or any other Currencies. The exchange rate for converting any Currency into the Currency selected by the Bank shall be the rate for the relevant Currency quoted by the Bank at the relevant date.

- 5.3 The payment obligations of each of the Bank and the Customer payable pursuant to any Contracts on any single day shall be settled on a net basis so that such of either party's payment obligations shall be satisfied and discharged by the payment by the party having a greater payment obligation against the other of the net aggregate amounts payable by each of the parties to the other on that day.
- 5.4 The provisions of clauses 4 and 5 of these Specific Terms shall apply even though the Bank or the Customer may fail to record the obligations in their respective books or the Bank may fail to show the status of any Contract in any Confirmation or monthly statement of account or other documents in accordance therewith.

## **6. Closing-Out**

- 6.1 All Contracts shall be deemed to have been terminated and cancelled automatically prior to the occurrence of any of the Close-Out Events. Upon the termination of all Contracts, the Bank shall be entitled without further notice or demand to forthwith:-
- (a) cancel all the Customer's outstanding orders in respect of Contracts placed with the Bank;
  - (b) close out and liquidate all, but not some (save and except such of the Contracts which may not under the applicable laws be closed out and liquidated), outstanding Contracts in the following manner:-
    - (i) The various amounts which would have been deliverable by either party on the value date of each outstanding Contract shall be notionally converted into a common Currency selected by the Bank at the spot rate of exchange quoted by the Bank for the relevant Currency at the time of conversion;
    - (ii) Each amount calculated in accordance with clause 6.1(b) (i) of these Specific Terms shall, to the extent permitted by applicable law, be adjusted to present value by discounting the same from the relevant value date to the close out date using the relevant discount rate, or such other rate as may be prescribed by the applicable law;
    - (iii) Each of the amounts calculated as aforesaid which is payable by and to the Bank shall be aggregated so that all amounts payable by and to the Bank respectively shall be netted into a single liquidated net amount in the common Currency;
    - (iv) The difference between the aggregate net amount payable to the Bank and by the Bank calculated in accordance with clause 6.1(b) (iii) of these Specific Terms shall be the "**Close-Out Amount**". If the Close-Out Amount shall be positive, the same shall be payable by the Customer and if the Close-Out Amount shall be negative, the same shall be payable by the Bank;
    - (v) The Close-Out Amount shall be adjusted to the extent permitted by the applicable law to reflect any payment made by the Bank or the Customer to the other after the close out date;

- (vi) A certificate signed by any of the Bank's authorized officers setting out the Close-Out Amount and the manner in which it is calculated shall be conclusive and binding on the Customer;
- (vii) Each of the Customer and the Bank agrees that the Close-Out Amount calculated as aforesaid reflects a reasonable pre-estimate of loss and not a penalty. Such Close-Out Amount is payable for the loss of bargain and the loss of protection against future risks and, except as otherwise provided in this agreement, neither of the Bank nor the Customer will be entitled to recover any additional damages as a consequence of such losses; and
- (viii) The Close-Out Amount shall be deemed to be payable on the close out date notwithstanding that the Close-Out Amount may only be available thereafter.

6.2 In addition, if

- (a) the Customer shall fail to perform any of his obligations (including payment obligations) under these Specific Terms or the General Terms or any other agreement with the Bank;
- (b) legal proceedings of any nature have been commenced against the Customer;
- (c) the financial conditions of the Customer have in the opinion of the Bank materially and adversely changed since the date hereof;
- (d) the Customer shall die or become mentally incapable;
- (e) the continued performance of any of the Contracts or these Specific Terms or the General Terms becomes illegal or is claimed by any government authority to be illegal; or
- (f) these Specific Terms shall be terminated for whatever reason

the Bank may by notice to the Customer declare any or all Contracts be terminated as of the date specified in such notice (whether or not I am/we are still in default on such date) whereupon the Bank will be entitled to liquidate, set off and dispose of the relevant Contract in such manner as the Bank deems fit without prior notice to the Customer.

6.3 The Bank is hereby authorized to apply the proceeds received by the Bank (after deducting any expenses incurred) pursuant to the exercise of the powers referred to in clause 6.1 or 6.2 of these Specific Terms towards repaying any outstanding amount due to the Bank in such manner as the Bank deems fit and the Customer covenants to pay the Bank forthwith upon the Bank's demand any shortfall thereof.

## **7. Miscellaneous**

7.1 Any amount payable under these Specific Terms (including the Close-Out Amount referred to in clause 6.1 of these Specific Terms) shall bear interest payable upon demand. Such interest shall be calculated from the due date for such payment until actual payment (as well after as before judgment) at the prevailing interest rate for unauthorized debit balance determined from time to time at the Bank's discretion.

- 7.2 Time shall in every respect be of the essence under these Specific Terms.
- 7.3 The Customer hereby warrants that he is entering into the agreement contained in these Specific Terms as principal and not as trustee or agent for any other person.
- 7.4 Neither the Bank nor the Customer shall be liable for any loss sustained by the other party, directly or indirectly, as a result of: (a) any act of any government or authority; (b) suspension of trading of any relevant exchange, clearing house or market; (c) war, hostilities, invasion, act of foreign enemies, revolution, civil commotion or disorder; (d) communication breakdown; or (e) any cause or circumstance beyond their reasonable control.
- 7.5 Unless otherwise agreed with the Bank, the Customer is trading Contracts on the Customer's own behalf.
- 7.6 None of the Bank's employees or representatives will accept any appointment by the Customer as agent to give orders on the Customer's behalf to enter into any Contract unless a separate agreement is entered into with the Bank for such purpose.
- 7.7 The Bank and any of its employees or representatives transacting on their own may take the opposite position to a Customer's order in respect of a Contract.
- 7.8 The Bank's employees or representatives may be permitted to trade Contracts on their own account, and in such event, the Bank will have a written policy communicated to its employees or representatives for compliance.
- 7.9 All telephone conversations between the Customer and the Bank made in the course of the business of dealing in Contracts will be recorded on a centralized tape recording system operated by the Bank.
- 7.10 The Customer may be affected by any curtailment of, or restrictions on the capacity of the Bank to deal in respect of open positions as a result of action taken by the Hong Kong Monetary Authority, the Securities and Futures Commission or other applicable authorities or regulators or for other reasons, and that in such circumstances, the Customer may be required to reduce or close-out its open positions with the Bank.

### **Specific Terms for Overseas Securities Services**

These Specific Terms (together with the Specific Terms for Securities Services of the Master Terms and Conditions) apply to the provision by the Bank of overseas securities services and these Specific Terms should be read in conjunction with the Specific Terms for Securities Services of the Master Terms and Conditions. Where any conflict arises between the Specific Terms for Securities Services of the Master Terms and Conditions and the provisions of these Specific Terms, the provisions of the latter shall prevail to the extent of the conflict.

#### **1. Interpretation**

- 1.1 In these Specific Terms, the following words and expressions shall have the meaning ascribed to them below:-

“**overseas securities**” means any securities (as defined in the Specific Terms for Securities Services of the Master Terms and Conditions) that are overseas securities and acceptable to the Bank in its sole and absolute discretion, and for the avoidance of doubt, any reference to

the term “**securities**” in the Specific Terms for Securities Services of the Master Terms and Conditions when read in the context of overseas securities services offered by the Bank shall be read to include “**overseas securities**” unless the context requires otherwise.

“**Overseas Securities Account**” means any account recording such of the Customer’s Securities as the Bank may deem fit opened by the Bank in its books in the name of the Customer, and for the avoidance of doubt, any reference to the term “**Securities Account**” in the Specific Terms for Securities Services of the Master Terms and Conditions when read in the context of overseas securities services offered by the Bank shall be read to include the “**Overseas Securities Account**” unless the context requires otherwise.

“**Overseas Settlement Account**” means a Multi-Currency Savings Account with the Bank or such other type of account with the Bank as may be acceptable to the Bank opened by the Bank in its books in the name of the Customer, and for the avoidance of doubt, any reference to the term “**Settlement Account**” in the Specific Terms for Securities Services of the Master Terms and Conditions when read in the context of overseas securities services offered by the Bank shall be read to include the “**Overseas Settlement Account**” unless the context requires otherwise.

“**Service Provider**” means any broker, dealer, clearing or settlement agent or any other person appointed or engaged by the Bank in connection with the provision of services under the Master Terms and Conditions, including any Custodial Agent.

“**U.S.**” or “**United States**” means the United States of America.

“**U.S. Person**” means (a) anyone defined in Section 7701(a)(30) and the regulations thereunder of the United States Internal Revenue Code of 1986 (as amended) or who is defined as a United States person under for Rule 902(k) of Regulation S of the United States Securities Law, or (b) any United States owned foreign entity, as defined in Sections 1471(d)(3) and 1473(2) and the regulations thereunder of the United States Internal Revenue Code of 1986 (as amended). This includes: (i) An individual who is: (1) a U.S. citizen; or (2) an income tax resident of the U.S., including but not limited to (A) green card holders; (B) people who spend 183 days year in the U.S. based upon a rolling average (the “so called substantial presence test”); or, (C) someone who has elected to be a U.S. income tax resident; or (3) someone who for tax purposes is not a U.S. income tax resident but is physically residing in the U.S. (such as a someone on a student visa); (ii) a U.S. trust, being a trust in respect of which: (1) a court within the U.S. is able to exercise primary supervision over its administration (meaning that a U.S. court can be asked to resolve disputes between a trustee and beneficiary); and (2) one or more U.S. persons have the authority to control all substantial decisions (e.g., a co-trustee or, in some cases, a protector); (iii) a U.S. corporation, being one that is organized under the laws of a state within the U.S or the District of Columbia; (iv) a U.S. partnership, being a partnership organized under the laws of a state within the U.S. or the District of Columbia; (v) a U.S. owned foreign entity, being a foreign entity with one or more substantial U.S. owners. A substantial U.S. owner is (1) with respect to any corporation, any specified U.S. person which owns, directly or indirectly, more than 10 percent of the stock of such corporation (by vote or value); (2) with respect to any partnership, any specified U.S. person which owns, directly or indirectly, more than 10 percent of the profits interests or capital interests in such partnership; and (3) in the case of a trust, any specified U.S. person treated as an owner of any portion of such trust under subpart E of part I of subchapter J of

chapter 1 of the United States Internal Revenue Code of 1986 (as amended). A specified U.S. person is any U.S. person other than: (1) any corporation the stock of which is regularly traded on an established securities market; (2) any corporation which is a member of the same expanded affiliated group as a corporation described above; (3) any organization exempt from taxation under section 501(a) or an individual retirement plan; (4) the United States or any wholly owned agency or instrumentality thereof; (5) any State, the District of Columbia, any possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing; (6) any bank (as defined in section 581); (7) any real estate investment trust (as defined in section 856); (8) any regulated investment company (as defined in section 851); (9) any common trust fund (as defined in section 584(a)), and (10) any trust which is exempt from tax under section 664(c) or is described in section 4947(a)(1).

1.2 Capitalised terms not defined herein shall bear the same meanings as in the Specific Terms for Securities Services of the Master Terms and Conditions.

## **2. Services**

2.1 The Bank is appointed to provide the services set out in Clause 2.1 of the Specific Terms for Securities Services of the Master Terms and Conditions with respect to overseas securities.

## **3. Account**

The Bank shall open and maintain in the name of the Customer:-

- (a) one or more Overseas Securities Accounts recording any Customer's Securities; and
- (b) one or more Overseas Settlement Accounts to which will be credited all cash/funds in any currency received by the Bank or a Custodial Agent for the account of the Customer, including any income and proceeds derived from Customer's Securities, and from which will be debited cash/funds for settlement of transactions and as set out in this section.

## **4. Terms of Custody**

4.1 Whenever the Customer delivers, or is required by the Specific Terms of Securities Services of the Master Terms and Conditions or these Specific Terms for whatever reason to deliver, securities or documents of title in respect thereof to Bank, the Customer shall at the Customer's risk and expense deliver such securities or documents of title in respect thereof to the Bank or a Custodial Agent as the Bank may direct, in such manner, within such time (if specified) and accompanied by such documents as the Bank may require in its sole discretion.

4.2 The Customer hereby expressly authorises the Bank to deposit any overseas securities or related assets with any Custodial Agent, Service Provider, sub-custodian or depository employed or appointed by the Bank in a collective custody account or otherwise in the Bank's name but for the account and at the risk of the Customer. Unless otherwise agreed between the Bank and the Customer, any such overseas securities and related assets shall be held in the relevant overseas jurisdiction(s) and any transfer or delivery of such overseas securities and assets from one jurisdiction to another shall be at the expense and risk of the Customer.

4.3 Any Customer's Securities received or held outside Hong Kong shall be subject to the applicable laws of the relevant overseas jurisdiction(s) which may be different from the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) and the rules made thereunder. The Customer understands that such assets may not enjoy the same protection as that conferred on client assets received or held in Hong Kong.

## **5. Execution of Instruction**

5.1 Instructions may only be given by the Customer during such time or times as advised by the Bank to the Customer from time to time, and the Bank reserves the right to amend, vary or restrict the time at any time in its sole and absolute discretion.

5.2 In particular, the Bank may establish cut-off times for transactions to be executed on the relevant exchanges and markets. Any instruction for the sale or purchase of any overseas securities for execution on the date of instruction must be received by the Bank before the relevant cut-off time as advised by the Bank from time to time. If an instruction is given by the Customer on a holiday or after the trading session of the relevant exchange or market, the Bank will execute the instruction on the first working day thereafter that is not a holiday in either Hong Kong or the relevant overseas jurisdiction.

## **6. Dealing in Overseas Securities**

6.1 All instructions of the Customer and in particular, all transactions in respect of the purchase and sale of overseas securities, shall be carried out subject to the constitution, rules, regulations, bye-laws, directions, customs and usages of the relevant exchange or market and its clearing house (if any) and in accordance with the applicable laws, rules and regulations of the relevant government, legal and regulatory authorities and self-regulated bodies, as amended from time to time. All actions taken by the Bank in accordance with such laws, rules, regulations, bye-laws, directions, customs and usages shall be binding on the Customer.

6.2 Notwithstanding anything to the contrary that may be contained in the Master Terms and Conditions, the Customer shall not place any sale order in relation to overseas securities that the Customer does not own (i.e., where it involves short selling). The Customer acknowledges and agrees that no short selling orders will be accepted by the Bank, and the Customer undertakes to give the Bank such information and/or assurances in relation to the ownership of the overseas securities as the Bank may require before the selling order is placed. If the Bank inadvertently accepts or executes any short selling order, the Bank may in its sole discretion cancel the transaction or obtain the relevant overseas securities from the market or otherwise for delivery. In either case, the Customer shall fully indemnify the Bank against any and all losses and liabilities incurred in connection therewith.

6.3 The Customer acknowledges and agrees that the Bank shall have full power and express authority to appoint, replace and/or terminate the appointment of any Service Providers of its choice (including any Service Provider who is a member of the Group Company) and the Bank may effect the Customer's orders through such Service Providers and, subject to Applicable Laws and Regulations, receive cash rebates or other remuneration from such Service Providers. The Customer hereby consents to the retention by the Bank of such rebates and remuneration and confirms that the Bank shall not be liable to account to the Customer in respect of such rebates and remuneration.

- 6.4 In the event the Bank does act on any instruction of the Customer, the Bank's obligation to settle any transaction, whether the Bank is acting as principal or as agent for the Customer or any other person, is conditional upon receipt by the Bank on or before such date as determined by the Bank (or satisfactory confirmation of such receipt by the Bank's settlement agents) of all necessary documents or funds due to be delivered by the Customer or on his behalf.
- 6.5 The Customer hereby undertakes to comply with all the laws, rules and regulations applicable to dealings in overseas securities. The Customer will be solely responsible for any notification or other requirement of any jurisdiction relating to the overseas securities or other assets in the Overseas Securities Account or transactions concerning such overseas securities or other assets. The Customer agrees to take such actions as the Bank may require to ensure compliance with any such laws, rules, regulations or requirements. In no event will the Bank be liable for any non-compliance by the Customer with the same.
- 6.6 The Customer undertakes to provide the Bank timely and accurate information relating to any restrictions on the sale or transfer of any overseas securities held in the Overseas Securities Account. In respect of any instructions to sell or transfer overseas securities, the Customer shall upon request provide the Bank with any necessary documents to the satisfaction of the Bank to satisfy any and all legal transfer requirements under the applicable laws and regulations. The Customer shall be responsible for and shall reimburse the Bank for any delays, expenses, losses and damages incurred by the Bank that are associated with compliance or failure to comply with any of the relevant requirements concerning such sale or transfer.
- 6.7 The Customer acknowledges and agrees that all currency exchange risks in respect of any transactions under the Master Terms and Conditions shall be borne by the Customer. In the event that any foreign exchange or currency conversion is required to effect any transaction in overseas securities, the Bank may convert funds at the Customer's expense into and from such currency in such manner and at such rate of exchange as the Bank shall in its sole discretion determine with reference to the then prevailing market conditions, and any profit or loss arising as a result of fluctuations in the exchange rate of the relevant currencies will be for the account of the Customer solely. Any such currency conversion will be effected by the Bank in such manner (including on a principal basis) and at such time as it may in its absolute discretion determine. The Customer authorizes the Bank to debit the Customer's account(s) for any expenses incurred in effecting the currency conversion. Notwithstanding the foregoing provisions, the Bank reserves the right at any time to refuse to accept any instructions from the Customer in relation to currency conversion.
- 6.8 The Customer hereby authorizes the Bank or its agents (including the Custodial Agents), to the fullest extent permitted by law, at any time and without prior notice, to dispose of the Customer's Securities for the purpose of settling any liability owed by the Customer to the Bank or any of its associated entities (as defined in the Securities and Futures Ordinance).

## **7. Representations, Warranties and Undertakings**

- 7.1 The Customer hereby represents, warrants, represents and undertakes to the Bank that:-
- (a) The Customer is not a U.S. person and he is not acting for, or on behalf of, any U.S. person.



- (b) The Customer is not a director, 10% beneficial shareholder or policy-making officer of any company publicly traded in the United States.
- (c) The Customer is not at the time the Overseas Securities Account is opened and will not at any time during the continuance of the Overseas Securities Account, hold in such account or effect transactions through such account, securities of any company with securities traded in the United States in which he is:
  - (i) direct or indirect owner or beneficial owner (which would include the power to vote shares pursuant to trust or other instrument) of 10% or more than 10% of any class of voting securities of the company;
  - (ii) in a direct or indirect management or other decision-making position in the company;
  - (iii) closely-related to (spouse, parent, sibling, in-law), financially dependent on, or the primary financial support for, any person who owns directly or indirectly outright or through beneficial ownership 10% or in excess of 10% of any class of voting securities in such company and holds a management or other decision-making position in such company; or
  - (iv) a member of a formal or informal group that acting together will control 10% or more than 10% of any class of voting securities of such company.
- (d) The Customer is not domiciled or resident in a country where there is any restriction on the Customer's purchase or holding of any overseas securities, and that the Customer is not subject to, and is not acting on behalf of any person who is subject to, any prohibition against the purchase or dealing in any overseas securities. If the Customer becomes subject to any restrictions (whether by reason of a change of the Customer's domicile, residence or otherwise), the Customer shall inform the Bank immediately.

7.2 The above representations and warranties shall be deemed to be repeated immediately before each transaction or dealing is carried out for or any service is provided to the Customer or on the Customer's behalf.

7.3 If the Customer is aware that any of the above representations and warranties will or may become incorrect, the Customer must give prior notice to the Bank immediately upon the Customer becoming aware of the same, and before such representations and warranties become incorrect. The Customer must also notify the Bank immediately if any of the above representations and warranties has become incorrect.

7.4 Without limitation to any provisions in the Master Terms and Conditions, upon the Bank receiving notice from the Customer that any of the above representations and warranties may become incorrect, or if any of the above representations and warranties has become incorrect:-

- (a) the Bank shall be entitled, in its sole discretion, to dispose of all overseas securities and other assets held by the Customer, suspend the services provided hereunder and/or charge the Customer all fees, charges, costs and expenses incurred or to be incurred by Bank from time to time to ensure compliance by the Bank or its agents

with all applicable laws and regulations arising from or in connection with the above (including, without limitation, all fees, charges, costs and expenses incurred to make all the necessary filings with the relevant authorities); and

- (b) the Customer shall immediately upon request by the Bank withdraw all overseas securities and other assets from the Overseas Securities Account, and do/or execute any act, deed, document which the Bank may require in connection therewith.

7.5 The Customer shall fully indemnify the Bank (for itself or as trustee for its affiliates, directors, employees or agents – “Indemnified Person”) against all claims, actions, liabilities (whether actual or contingent) and proceedings against any of the Indemnified Person and bear any losses, costs, charges or expenses (including legal fees) which the Indemnified Persons may suffer or incur arising from or in connection with or resulting from any breach by the Customer of any of the above representations and warranties.

## **8. Information and confidentiality**

8.1 The Customer agrees that his data may be transferred to any place outside Hong Kong, whether for the processing, holding or use of such data outside Hong Kong, and to any Service Provider (whether within or outside Hong Kong) in connection with the services provided under the Master Terms and Conditions.

8.2 The Bank is expressly authorized to disclose any information it has concerning the Customer, the services provided by the Bank under the Master Terms and Conditions, the Overseas Securities Account and the overseas securities or other assets held in the Overseas Securities Account: (a) to any Service Provider; (b) upon request, to any government, legal or regulatory authority, exchange or self-regulated body (whether within or outside Hong Kong); and (c) in compliance with any applicable laws, rules or regulations or pursuant to any order, judgment or direction of any court, tribunal or other authority. The Bank is also authorized to disclose any information it has concerning the Customer (including the Customer’s name, address and position) and the Customer’s Securities to the issuers of the relevant Customer’s Securities.

8.3 The Customer undertakes to provide such information as the Bank may request from time to time in order for the Bank and/or the Service Providers to provide the services hereunder, or for the Bank and/or the Services Providers to comply with applicable laws, rules and regulations or to respond to requests from any government, legal or regulatory authority, exchange or self-regulated body.

## **9. Taxes and other Payments**

9.1 The Customer agrees to pay or reimburse the Bank for any taxes, duties, levies, impositions, charges or other liabilities or payments payable in connection with Overseas Securities Account or any transactions relating to overseas securities, and authorizes the Bank and its agents to deduct or withhold such payments on the Customer’s behalf.

## **10. Indemnity**

10.1 The Customer agrees to indemnify and hold harmless the Bank and the Service Providers (and their respective officers and employees) against all claims, liabilities, damages, losses and reasonable costs and expenses of any kind which may be incurred by any of them and all

actions or proceedings which may be brought by or against any of them in connection with the provision of services under the Master Terms and Conditions and/or as a result of any default by the Customer in the performance of the Master Terms and Conditions (including without limitation to the generality of the foregoing, any costs reasonably incurred or actions or proceedings brought as a result of the Customer failing to maintain sufficient funds in the Overseas Settlement Account or securities in the Overseas Securities Account) and/or the enforcement of the Master Terms and Conditions, unless due to the negligence or wilful default of the Bank or the Service Providers (or their respective officers and employees) and this indemnity shall continue in effect notwithstanding the termination of any account relationship between the Customer and the Bank.

- 10.2 Neither the Bank, the Service Providers nor any of their respective officers and employees shall, in the absence of negligence or wilful default, be liable to the Customer for any action or omission in the course of or in connection with the provision of services under the Master Terms and Conditions or for any loss or damage which the Customer may suffer or sustain as a result or in the course of discharge by the Bank, the Service Providers and/or their respective officers and employees of its/their duties under or pursuant to the Master Terms and Conditions.
- 10.3 Neither the Bank, the Service Providers nor any of their respective officers and employees shall, in the absence of negligence or wilful default, be liable to the Customer in respect of any losses or failure to comply or delay in complying with its/their obligations under the Master Terms and Conditions for whatever reason.
- 10.4 Neither the Bank nor any Service Provider shall be required to take any legal action unless fully indemnified to its/their reasonable satisfaction (as a prerequisite to taking such action) for all costs and liabilities by the Customer.

## **11. Additional Risk Disclosure Statements**

The Customer confirms that he has read and fully understands the risk disclosure statements provided by the Bank to the Customer in respect of overseas securities.

## **12. Language Version**

The Customer hereby confirms that the Bank has explained to him and he has received and read these Specific Terms in a language of his choice (English or Chinese) and that the Customer understands and accepts their terms. In the event of discrepancy between the Chinese version and the English version, the English version shall prevail.

### **Specific Terms for Stocks Investment Savings Plan**

#### **1. Interpretation**

- 1.1 In these Specific Terms, the following words and expressions shall have the meaning ascribed to them below:-

“**Debit Account**” means, in respect of each participation of the Customer in the Plan, such account of the Customer maintained with the Bank as may be specified by the Customer and

acceptable to the Bank from time to time from which the Monthly Investment Amount of the relevant participation of the Customer in the Plan shall be debited.

“**Debit Date**” means the day on which the exact amount for the Stock purchased is pursuant to the Plan. It is the fourth trading day of HKEx after the Hold Fund Date.

“**Form(s)**” means the Stocks Investment Savings Plan Application Form, as prescribed by the Bank from time to time.

“**Hold Fund Date**” means such day of each month, as may be determined by the Bank from time to time upon prior notice to the Customer, on which the Monthly Investment Amount for the Stock to be purchased under the Plan shall be held by the Bank from the Debit Account. If the Hold Fund Date falls on a day other than a Business Day, the Hold Fund Date shall fall on the next Business Day.

“**Monthly Investment Amount**” means, in respect of each participation of the Customer in the Plan, the amount specified by the Customer and acceptable to the Bank from time to time as the amount to be paid by the Customer in each month for such participation for the purpose of purchase of Stock agreed between the Bank and the Customer in respect of the relevant participation in the Plan pursuant to clause 4.1 of these Specific Terms.

“**Plan**” means the Stocks Investment Savings Plan offered by the Bank in accordance with these Specific Terms from time to time.

“**Purchase Date**” means the day on which the Stock purchase is actually made under the Plan. It is the second trading day of HKEx after the Hold Fund Date. If the Purchase Date falls on a day other than a trading day of HKEx, the Purchase Date shall fall on the next trading day of HKEx.

“**Purchase Period**” means such regular time or period of time as the Bank may from time to time specify as the time or period when it may place orders for purchase of the Stock in the market during trading hours of HKEx on the Purchase Date to fulfill the Customer’s purchase orders in accordance with and pursuant to clause 5 of these Specific Terms.

“**Securities Account**” means the account with the Bank designated by the Customer for the purpose of depositing all Stock purchased under the Plan.

“**Stock**” means the stock made available by the Bank for selection by the Customer from time to time for the purpose of the Plan. The list of Stock that is available for the Customer to select may be varied by the Bank at its sole and absolute discretion from time to time. The Bank reserves the right to remove any stock from the list which the Customer has given instruction to purchase by giving him prior written notice. Upon expiration of such notice, the instruction to purchase such Stock will be cancelled and the Plan related to such Stock will be terminated.

“**HKEx**” means Hong Kong Exchanges and Clearing Limited.

- 1.2 Unless otherwise defined in these Specific Terms, terms defined in the Specific Terms for Securities Services shall have the same meaning when used here.

- 1.3 These Specific Terms are supplemental to the General Terms and the Specific Terms for Securities Services in the Master Terms and Conditions of the Bank. In the event of any inconsistency between the Specific Terms for Securities Services and the Specific Terms for Stocks Investment Savings Plan, the Specific Terms for Stocks Investment Savings Plan shall, to the extent as they relate to the Stocks Investment Savings Plan, prevail.

## **2. Application Procedure**

- 2.1 The Customer may apply to participate in the Plan by delivering such Forms as may be required by the Bank duly completed or giving instruction to the Bank in such manner as may be acceptable to the Bank provided that the Customer has maintained a Securities Account with the Bank as may be acceptable to the Bank.
- 2.2 The Customer may participate in more than one Plan by selecting different Stock made available by the Bank from time to time but shall not have more than one participation in the Plan in respect of one particular Stock at any time.
- 2.3 The Bank may take 5 Business Days to process an application and the effective date of any successful application to the Plan will be determined and prescribed by the Bank.
- 2.4 The Customer may change the Debit Account and/or the Monthly Investment Amount by completing and delivering to the Bank such alteration form and complying with such other requirements or procedures as may be prescribed by the Bank from time to time at least 5 Business Days before the proposed change takes effect or any shorter prior notice as acceptable to the Bank.
- 2.5 The Bank reserves the right to reject any of the Customer's application to participate in the Plan or change made to the Plan on any ground whatsoever without giving any reason by giving prior notice to the Customer.
- 2.6 The Customer agrees to provide the Bank with such information about the Customer (including his personal particulars and personal identification documentation and copies thereof) as the Bank may require.

## **3. Monthly Investment Amount**

- 3.1 The Customer agrees to pay to the Bank in respect of each of his participation in the Plan at such times and in such manner as the Bank may require from time to time, and in Hong Kong dollar, the relevant Monthly Investment Amount. The Customer shall ensure that, in respect of each of his participation in the Plan, there will be sufficient cleared funds or unutilized credit limit (as the case may be) for payment of the relevant Monthly Investment Amount in the Debit Account at all times from the relevant Hold Fund Date up to the relevant Debit Date. No monthly reminder will be sent to the Customer before to the Hold Fund Date.
- 3.2 The minimum Monthly Investment Amount for each Plan will be such amount as specified by the Bank from time to time which shall be inclusive of brokerage, fees and other charges payable under the Plan. The Customer may choose to specify a Monthly Investment Amount larger than the minimum Monthly Investment Amount with such incremental amount as specified by the Bank from time to time.

- 3.3 In the event that the Customer participates in more than one Plan, and if the credit balance or credit limit available in the Debit Account on a Hold Fund Date is less than the aggregate Monthly Investment Amounts payable by the Customer on the relevant Hold Fund Date, the Bank may at its discretion apply the available fund/limit towards purchase any Stock under the Plans participated in by the Customer as it deems fit.
- 3.4 The Customer agrees to pay to the Bank such brokerage, fees and charges, as specified by the Bank from time to time, which will be deducted from his Monthly Investment Amount. The balance of the Monthly Investment Amount after deducting the brokerage, fees, charges, stamp duty, levies and other fees payable in connection with the relevant purchase of the Stock will be applied towards purchasing the Stock under the Plan.
- 3.5 No interest shall be payable to the Customer in respect of any Monthly Investment Amount after the Debit Date.
- 3.6 Subject to the clause 2.4 of these Specific Terms, the Customer may change the Monthly Investment Amount in respect of any of his participation in the Plan to such amount subject to the minimum amount and incremental amount as specified by the Bank from time to time by giving at least 5 Business Days prior notice to the Bank or any shorter prior notice acceptable by the Bank.

#### **4. Authority to Purchase Stock**

- 4.1 In respect of each of the Customer's participation in the Plan, the Customer hereby irrevocably authorizes and instructs the Bank and the Bank will, subject to the relevant Monthly Investment Amount being made available to and received by the Bank pursuant to clause 3 of these Specific Terms, use its reasonable endeavors to purchase during each Purchase Period as agent of the Customer the Stock agreed between the Bank and the Customer in respect of the relevant participation in the Plan with an aggregate purchase price not exceeding the Monthly Investment Amount (after deducting the brokerage and charges payable by the Customer) of the relevant participation.
- 4.2 If trading of the Stock which is the subject matter of the Customer's participation in the Plan is suspended on any of its proposed Purchase Date, the Customer's instruction to purchase such Stock under the Plan for that Purchase Period will be cancelled, and the corresponding Monthly Investment Amount for the purchase of such Stock may be withdrawn by the Customer from the Debit Account after the proposed Purchase Date.
- 4.3 The Bank shall have no liability to the Customer or to any third party for any loss, damage, claim or expense arising from the performance of its duties under these Specific Terms, save to the extent resulting from the Bank's negligence or wilful default, or, without prejudice to the generality of this clause:
- (a) from any failure by the Bank to purchase the Stock or any specific quantity of the Stock during any Purchase Period on behalf of the Customer; or
  - (b) from any purchase of Stock by the Bank for the account of the Customer, including, without limitation, relating to the price at which the purchase of Stock is acquired for the account of the Customer or on account of the purchase of Stock being acquired on a cum or ex distribution basis.

## **5. Purchase and Settlement of Stock**

- 5.1 The Bank may aggregate all or any part of the orders for the purchase of the same Stock from the Customer and its other customers (but not of itself) who participate in the Plan.
- 5.2 During each Purchase Period, the Bank will at its discretion determine the terms of the aggregate order(s) referred to in clause 5.1 of these Specific Terms. Such terms include the quantity of Stock to be purchased and the bidding price for each order placed by the Bank and the number of orders placed during the Purchase Period. The Bank may at its discretion change the terms of such order(s) at any time during the relevant Purchase Period before its/their execution.
- 5.3 The total number the Stock purchased by the Bank pursuant to orders placed in accordance with clause 5.2 of these Specific Terms shall be allocated to each of the customers involved (including the Customer) in proportion to the number of Stock which each of such customers has authorized and instructed the Bank to purchase for him under the Plan on such Purchase Date (rounded down to the nearest integral number). The Customer acknowledges that the number of Stock allocated to him may be less than the number he authorized and instructed the Bank to purchase under the Plan if the total number of the Stock purchased over the Purchase Period for all customers of the Bank concerned cannot fully satisfy the instruction of all such customers. The purchase price for the Stock purchased by the Bank for the account of the Customer shall be the total purchase price payable for all the Stock purchased on the Purchase Date pursuant to orders placed in accordance with clause 5.2 of these Specific Terms divided by the number of Stock so purchased rounded up to the third decimal place and multiplied by the number of Stock allocated to the Customer according to this clause 5.3.
- 5.4 In making allocation pursuant to clause 5.3 of these Specific Terms, the Bank shall not be obliged to take into consideration the date on which the Customer joined the Plan or other factors not stated in the said clause.
- 5.5 Although the Bank will use all reasonable endeavours to execute the Customer's purchase instruction with under the Plan in which he participates in, there may be surplus fund left if the purchase price for the Stock purchased by the Bank for the account of the Customer in accordance with clause 5.3 of these Specific Terms together with the brokerage, charges, stamp duty, levies and other fees payable in connection with the relevant purchase in less than the Monthly Investment Amount. If there is any such surplus fund, the amount to be debited on the Debit Date will be the difference between his Monthly Investment Amount and the surplus fund.
- 5.6 All purchased Stock will be deposited into the Customer's Securities Account maintained with the Bank and such purchased Stocks, once deposited, will be held and may be sold or otherwise dealt with in accordance with the terms of the Bank applicable to the Securities Account.

## **6. Sale of Stock**

The Customer may place order with the Bank to sell any Stock purchased by him pursuant to the Plan in the same manner as other securities in the Securities Account subject to the terms of the Bank governing the Securities Account from time to time.

## **7. Confirmation**

A contract note issued by the Bank confirming the number of Stock purchased for the account of the Customer pursuant to clause 5 of these Specific Terms, the purchase price therefor and other information will be sent to the Customer and be final and conclusive and binding on the Customer.

## **8. Termination and Suspension**

8.1 The Customer may terminate any or all of his participation in the Plan by giving prior notice in writing in prescribed form and such notice must be received by the Bank at least 5 Business Days before a Hold Fund Date in order to take effect on such Hold Fund Date.

8.2 The Bank may terminate any participation of the Customer in the Plan:

- (a) without prior notice if the Customer fails to make available the Monthly Investment Amount in cleared funds in the Debit Account on the relevant Hold Fund Date for five (5) consecutive months;
- (b) by giving immediate notice to the Customer if the Customer is, in the opinion of the Bank, in breach of any of these Specific Terms and Conditions or shall fail to maintain the Securities Account or the Debit Account in respect of such participation in the Plan;
- (c) by giving not less than 30 days' prior notice to the Customer to terminate a Plan without giving any reason.

8.3 The Bank may suspend any participation of Customer in the Plan when the Customer's Securities Account is suspended for whatever reason.

8.4 Notwithstanding any of the terms stated herein, if the Bank, in its discretion and without having to give any reason, believes that any instructions from the Customer may expose or lead the Bank to any actions, claims, proceedings, losses, damages, costs, expenses or liabilities of whatever nature, whether directly or indirectly, the Bank has the right to suspend the operation of any of the Customer's participation in the Plan without being liable to the Customer for any direct or indirect loss or consequence.

## **9. Delegation**

The Bank may delegate any of its powers under these Specific Terms to such person as it deems fit and shall not be liable for any act, omission, negligence or default of any such person provided that the Bank has exercised such care in appointing such person as it would employ for its own business.

### **Specific Terms for e-Cheque Services**

#### **1. e-Cheques Services provisions - applicability and definitions**

- (a) The provisions of the General Terms and other Specific Terms ("**Existing Terms**") which apply to paper cheques or generally to the Bank's services continue to apply to



e-Cheques and the e-Cheques Services to the extent that they are relevant and not inconsistent with the provisions in these Specific Terms. The provisions herein prevail if there is any inconsistency between them and the provisions of the Existing Terms with respect to the e-Cheques Services.

(b) For the purpose of the e-Cheques 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 Hong Kong Interbank Clearing Limited 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-certificate”** means a certificate recognized by the Clearing House from time to time for the purpose of issuing e-Cheques that is issued by a certification authority acceptable to the Bank.

**“e-Cheque”** means a cheque (including a cashier’s order), issued in the form of an electronic record (as such term is defined in the Electronic Transactions Ordinance (Cap. 553) with an image of the front and back of the e-Cheque or e-cashier’s order (as the case may be). e-Cheques may be issued in Hong Kong dollars, US dollars and Renminbi.

**“e-Cheque Drop Box”** or **“e-Cheque Drop Box Service”** means an electronic drop box provided by the Clearing House that accepts presentment of e-Cheques in respect of which an e-Cheque Drop Box user must register an e-Cheque Drop Box Account with the Clearing House before presenting e-Cheques to a Payee Bank Account, as this term may be amended from time to time in accordance with the e-Cheque Drop Box Terms.

**“e-Cheque Drop Box Account”** means a user account for the e-Cheque Drop Box Service, and for which each user must register with the Clearing House before using the e-Cheque Drop Box for presenting e-Cheques for deposit into a Payee Bank Account, as this term may be amended from time to time in accordance with 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.

**“e-Cheques Issuance Services”** and **“e-Cheques Deposit Services”** mean the services offered by the Bank to customers from time to time for issuing e-Cheques (including any services relating to e-certificates) and depositing e-Cheques respectively, and **“e-Cheques Services”** means collectively the e-Cheques Issuance Services and the e-Cheques Deposit Services.

**“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”** means the bank which digitally signed an e-Cheque created by its customer.

**“Customer”** means each customer to whom the Bank provides e-Cheques Services and, where the context permits, includes any person authorized by the customer to sign e-Cheques on behalf of the customer from time to time.

## **2. Nature and scope of e-Cheques Services**

- (a) The Bank may provide e-Cheques Services (whether in whole or in part) at the Bank’s discretion. If the Bank provides e-Cheques Services to the Customer, the Customer may issue e-Cheques and/or deposit e-Cheques. In order to use the e-Cheques 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.
- (b) e-Cheques Issuance Services allow the Customer to issue e-Cheques drawn on the Bank, in accordance with Clause 3 below.
- (c) 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 4 below.
- (d) The Bank may provide e-Cheques 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.
- (e) The Bank has the right to set or vary from time to time the conditions for using the e-Cheques Services. These conditions may include (but without limitation) the following (or any of them) by giving prior notice to the Customer:
  - (i) the service hours of the e-Cheques Services (including cut-off times for issuing, countermanding or presenting e-Cheques);
  - (ii) any maximum total amount or total number of e-Cheques which the Customer may issue in any specified period; and
  - (iii) any fees and charges payable by the Customer for the e-Cheques Services.

## **3. e-Cheques Issuance Services**

- (a) Format of and steps for issuing an e-Cheque
  - (i) The Customer is required to issue an e-Cheque in the format with such layout specifications and following the steps and inputting the details prescribed by

the Bank from time to time. The Customer is not allowed to add to, remove from or modify the contents, format, layout or image of an e-Cheque.

- (ii) Each e-Cheque must be signed by the Customer (as payer) and by the Bank (as Payer Bank) with the Bank's respective digital signatures in the sequence set by the Bank, except that the payer's digital signature may not be required for an e-Cheque that is a cashier's order.
- (iii) Where the Customer draws an e-Cheque on a joint account, the Customer is solely responsible for ensuring that the e-Cheque is signed by such person(s) following such signing arrangement as authorized by the joint account holders for signing e-Cheques from time to time.
- (iv) Where the Customer is a corporation or any other entity, the Customer is solely responsible for ensuring that each e-Cheque is signed on the Customer's behalf by such person(s) following such signing arrangement as authorized by the Customer for signing e-Cheques from time to time.

(b) e-certificate

- (i) The Customer's digital signature on an e-Cheque must be produced by an e-certificate that is valid (and not expired or revoked) at the time of producing that digital signature.
- (ii) The Customer's digital signature on an e-Cheque may be produced by either a general purpose e-certificate or a specific usage e-certificate.
- (iii) If the Customer chooses to produce the Customer's digital signatures by a general purpose e-certificate, the Customer is required to maintain a valid general purpose e-certificate on an on-going basis in compliance with Clause 3(b)(i) above.
- (iv) The Bank may provide services relating to the specific usage e-certificate at the Bank's discretion. The Bank's services may include applying for, holding, maintaining, renewing, revoking and managing (or any of the above) a specific usage e-certificate on the Customer's behalf. If the Bank provides such services and the Customer chooses to produce the Customer's digital signatures by a specific usage e-certificate, the Customer directs and authorizes the Bank to:
  - (1) provide such services in the scope and manner set by the Bank from time to time, which may include holding the specific usage e-certificate and the corresponding key and/or password for the Customer, and effect and produce the Customer's digital signatures on e-Cheques on the Customer's behalf as instructed by the Customer from time to time; and
  - (2) take all necessary steps (including providing all necessary information and personal data to the certification authority issuing the specific usage e-certificate) for the purposes relating to the specific usage e-certificate.

- (v) In applying for a specific usage e-certificate for the Customer, the Bank is entitled to rely on the information provided by the Customer. The Customer is solely responsible for providing the Bank with correct and up-to-date information. If the Bank obtains a specific usage e-certificate based on incorrect or outdated information provided by the Customer, the Customer is still bound by any e-Cheque signed by digital signatures produced by that e-certificate.
  - (vi) An e-certificate is issued by the relevant certification authority. The Bank is bound by the terms and conditions specified by that certification authority in relation to the Customer's e-certificate. The Customer is solely responsible for performing the Customer's obligations under those terms and conditions.
- (c) Sending e-Cheques to payees
- (i) Once the Customer confirms to issue an e-Cheque, the Bank will generate the e-Cheque file. The Customer may download the e-Cheque file for the Customer's delivery to the payee. Alternatively, the Bank may send the e-Cheque file to the payee by electronic means on the Customer's behalf, if the Bank offers this service.
  - (ii) The Customer should not issue an e-Cheque (or instruct the Bank to issue an e-Cheque on the Customer's behalf) to a payee unless the payee agrees to accept e-Cheques. The Customer is solely responsible for:
    - (1) before issuing an e-Cheque (or instructing the Bank to issue an e-Cheque on the Customer's behalf) to a payee, informing the payee that he may agree or decline to accept the e-Cheque;
    - (2) using secured electronic means and taking appropriate email encryption and other security measures in sending the e-Cheque file; and
    - (3) providing the Bank with correct and up-to-date contact information of a payee to enable the Bank to send the e-Cheque file to the payee by electronic means on the Customer's behalf, if the Bank offers this service.
  - (iii) The e-Cheque file will be regarded as having been delivered to the payee upon the Bank's sending it to the payee by electronic means using the payee's contact information provided by the Customer. The Bank does not have any duty to verify whether the payee has actually received the e-Cheque file. The Customer shall be obliged to check with the payee whether he has actually received the e-Cheque file, whether it is sent by the Customer or by the Bank.
- (d) Waiver of presentment requirements

Each e-Cheque is only required to be presented by sending it in the form of an electronic record in accordance with the Industry Rules and Procedures. The Bank is entitled to pay each e-Cheque against presentation of its electronic record in that

manner without requesting any other form of presentation. Without reducing the effect of Clause 3(a)(i) above and Clauses 5(a) and 5(b) below, the Customer expressly accepts the waiver of presentment requirements set out on an e-Cheque from time to time.

#### **4. e-Cheques Deposit Services**

- (a) 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.
- (b) e-Cheque Drop Box Service
  - (i) 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 the Customer's use of the e-Cheque Drop Box Service. The Customer is solely responsible for performing the Customer's obligations under the e-Cheque Drop Box Terms.
  - (ii) 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 the Customer's same-name account or an account other than the Customer's same-name account. The Customer is responsible for the presentment of all e-Cheques by the Customer or any other person using the Customer's e-Cheque Drop Box Account (including presentment of any e-Cheques to a Payee Bank Account other than the Customer's same-name account).
  - (iii) 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.
  - (iv) 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.
- (c) The Bank's 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.

## **5. Handling of e-Cheques, associated risks and the Bank's liabilities**

### **(a) 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 drawn by the Customer or payable to the Customer. Accordingly, the Bank is entitled to pay and collect e-Cheques for the Customer in the following manner 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:

- (i) pay any e-Cheque drawn by the Customer on the Bank upon presentment of that e-Cheque to the Bank in accordance with the Industry Rules and Procedures; and
- (ii) 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.

### **(b) Restriction of the Bank's liability**

Without reducing the effect of the provisions of the Existing Terms:

- (i) 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 Services or the handling, processing, presentment, payment, collection, clearance or settlement of e-Cheques issued by the Customer or 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 the Bank's officers, employees or agents;
- (ii) 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):
  - (1) use of the e-Cheque Drop Box Service by the Customer or any other person, or the e-Cheque Drop Box Terms;
  - (2) the Customer's failure to comply with the Customer's obligations relating to the e-Cheques Services, including the Customer's obligation to safeguard against issuance of e-Cheques by unauthorized persons;

- (3) presentment of any e-Cheque issued by the Customer or payable to the Customer in accordance with the Industry Rules and Procedures despite the provisions of the Bills of Exchange Ordinance; and
    - (4) any failure or delay in providing the e-Cheques Services, or any error or disruption relating to the e-Cheques Services, caused by or attributed to any circumstance beyond the Bank's reasonable control; and
  - (iii) 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.
- (c) The Customer's confirmation and indemnity
  - (i) The Customer accepts the restriction of liabilities and disclaimers imposed by the Bank and the Clearing House in relation to the e-Cheques Services and the services provided by the Clearing House respectively. The Customer accepts and agree to bear the risks and the liabilities for issuing and depositing e-Cheques.
  - (ii) Without reducing the effect of any indemnity given by the Customer under the Existing Terms or any other rights or remedies that the Bank may have, the Customer will indemnify the Bank and the Bank's 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 Services or the Customer's use of the e-Cheques Services.
  - (iii) 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 the Bank's officers, employees or agents.
  - (iv) The above indemnity shall continue to have effect after the termination of the e-Cheques Services.