

**Notice of Amendments to the Master Terms and Conditions / Master Terms and Conditions for VIP Banking Services of Dah Sing Bank, Limited**

With effect from 13 January 2023 (the "**Effective Date**"), the terms and conditions of the Master Terms and Conditions / Master Terms and Conditions for VIP Banking Services of Dah Sing Bank, Limited (the "**Bank**") will be amended as follows (the new contents within the existing provisions are *in italics and underlined* while the deleted contents are marked with strikethrough lines):-

1. Clause 2.2 of the General Terms shall be amended as follows:-

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, *instructions from the Customer to close his 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. Clause 2.3 of the General Terms shall be amended as follows:-

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 electronic signature(s) acceptable to the Bank (where the use of such signature(s) is approved by the Bank in writing in advance)* or other instructions of the relevant account in original or by fax.

3. Clause 2.5 of the General Terms shall be amended as follows:-

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 or electronic signature of the Customer acceptable to the Bank (where the use of electronic signatures is approved by the Bank in writing in advance)* 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) *(i)* 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 (the mobile phone or device containing the valid SIM card of such registered mobile number hereinafter being referred as the "**Registered Mobile**") via Short Message Service (SMS); ("**SMS OTP**"); and/or (ii) input the passcode or password ("**Device Code**") generated by any device designated or approved by the Bank from time to time ("**Security Device**"); and/or (iii) apply the Customer's biometric authentication record (including but not limited to his fingerprint, face ID or facial map) stored on his designated mobile device; and/or (iv) apply his self-assigned security passcode (if he has successfully registered for and activated the security authentication service provided by the Bank), if so required by the Bank; and/or (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)(iii)(i) above will not be forwarded to any other mobile phone number even if the Customer has subscribed for SMS forwarding service provided by the Customer's telecommunication service provider.

4. Clause 2.9 of the General Terms shall be amended as follows:-

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~~ if:

- (a) there is 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) the relevant account of the Customer is blocked or frozen for the purpose of prevention of crime or compliance with the Applicable Laws and Regulations or for such other reason as the Bank (in its sole and absolute discretion) thinks fit;
- ~~(e)~~(f) the 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)~~(g) 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)~~(h) there is 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 or for such other reason as the Bank (in its sole and absolute discretion) thinks fit.

5. The heading of Clause 3 and Clause 3.1 of the General Terms shall be amended as

follows:-

**3. Use of PIN, ~~Security Device Code, SMS OTP, and Security Device~~ and Registered Mobile**

3.1 The Bank may assign one or more personal identification number (each a "PIN") and/or provide one ~~of or~~ more Security Device(s) for generating ~~Security Device Code(s) and/or send an SMS OTP~~ 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, Device Code and SMS OTP~~ 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~~ unauthorized person has access to his PIN and/or ~~Security Code Device Code and/or SMS OTP~~. 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/or the Registered Mobile (as the case may be) and forthwith notify the Bank in case of loss (whether being lost or stolen) of the Security Device and/or the Registered Mobile (as the case may be).

6. The following Clause 3.2 shall be added to the General Terms:-

3.2 Notwithstanding clause 3.1 above that the Customer shall be prohibited from disclosing the SMS OTP to any third party, the Customer acknowledges and agrees that the Bank may from time to time make use of the SMS OTP technology in receiving instruction(s) of and/or providing service(s) to the Customer and require the Customer to disclose to the authorized staff of the Bank, whether over the telephone or face-to-face, the SMS OTP sent to his Registered Mobile for the Bank's taking of such instruction(s) and/or provision of such service(s). The Customer may (but is not obliged to) check with the Bank if such staff is so authorized by the Bank to request for such SMS OTP disclosure in case of doubt and the Customer's disclosure of SMS OTP pursuant to this clause 3.2 shall not constitute a breach of clause 3.1 above and/or clause 4.2 below and/or any other security policy/notice of the Bank.

7. Clause 4.1 of the General Terms shall be amended as follows:-

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: (i) any levy, tax, embargo, moratorium, exchange restriction or other act of government or other authority; (ii)

any power failure or; any breakdown or failure of transmission or communication or in computer facilities or systems, postal or other strikes or industrial action, closure or suspension of trading on any exchange, board of trade, market or clearing house; (iii) any act of God, fire, flood, frost, typhoon storm, explosion, calamity or; natural disaster; (iv) any outbreak of life-threatening epidemic(s), pandemic(s) or contamination; (v) any war, threat of imminent war, act of terrorism, civil strife, sabotage, interruptions, riot, revolution, insurrection or act of civil disobedience; (vi) any material change in the monetary, political, financial, economic or social conditions, whether in Hong Kong or elsewhere, which adversely affects the banking and/or financial industry in Hong Kong; or (vii) any other cause, circumstance or 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.

8. Clause 4.2 of the General Terms shall be amended as follows:-

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, SMS OTP and Device 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, Registered Mobile/ SMS OTP and/or Security Device/ Device Code, 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 (i) that any unauthorized person knows the PIN and/or Security Code, SMS OTP and/or Device Code of the Customer or any of his authorized signatories or (where applicable) Delegated Person or (ii) that any unauthorized person has gained access to the Registered Mobile and/or Security Device of the Customer and/or any of his authorized signatories and/or (where applicable) Delegated Person or (iii) 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 /, Registered Mobile/ SMS OTP and/or Security Device/ Device Code of the Customer or any of his authorized signatories or (where applicable) Delegated Person.

9. The following Clause 8.7 shall be added to the General Terms:-

8.7 The Bank may at any time recover from the Customer any amount paid to the Customer by error or mistake and rectify by making any such necessary deduction or carrying out any such necessary transfer with or without notice to the Customer.

10. Clause 9.3 of the General Terms shall be amended as follows:-

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. The Bank shall cause payments or transfers of funds based on the account number(s) quoted or provided by the Customer and shall not make any prior reference to or verify the identity(ies) and in particular, the name(s) of the account holder(s) of such account number(s).

11. The heading of Clause 11 of the General Terms shall be amended as follows:-

**11. Linkage of Accounts and Change of Account Numbers, etc.**

12. The following Clause 11.4 shall be added to the General Terms:-

11.4 The Customer accepts that the Bank may at any time change the account numbers of and/or contract/agreement or product numbers relating to his accounts and/or create, delete or combine any accounts of the customer (and/or any sub-accounts of the Customer under such accounts) by giving notice to him. By utilizing any of his accounts maintained with the Bank after such change(s) of account numbers and/or related contract/agreement or product numbers and/or creation, deletion or combining of any such accounts/sub-accounts is (are) made by the Bank, the Customer will be deemed to have confirmed his agreement to such change(s) and continue to be bound by these General Terms and any Specific Terms and/or Other Terms applicable to his accounts.

13. Clause 15.1(i) of the General Terms shall be amended as follows:-

15.1(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) in handling cheques drawn by the Customer, without prior reference to or confirmation of the Customer, disclose the status or the balance of his Current Account to the payee named in the cheque (in case of an "order" cheque) or the bearer of the cheque (in case of a "bearer" cheque) upon their request if such Current Account has been closed or does not have sufficient funds to pay the cheque at the time of the request; and

(iii)(iv) 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.

14. Clause 16.1 of the General Terms shall be amended as follows:-

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. *If any joint account holder becomes mentally incapacitated:-*

(i) while the account opening documentation of the joint account may specify that each of the joint account holders may give instructions to the Bank or execute documents in respect of such account in his single name, such account shall continue to operate but the Bank shall only accept, rely on and act upon instructions given by the mentally capable account holder(s) of such account; or

(ii) while the account opening documentation of the joint account may specify that the joint account holders shall give instructions to the Bank or execute documents in respect of such account in their joint name, the Bank shall, in its sole and absolute discretion, block or freeze the operation of such account (save and except existing autopay transactions, if any) until a valid guardianship order relating to the mentally incapacitated joint account holder(s) is granted and presented to the Bank. Upon receipt of such order, the Bank shall allow the joint account to continue to operate but shall only accept, rely on and act upon instructions given by the guardian(s) and/or any authorized person(s) named in the order subject to the terms thereof; and

(iii) for the avoidance of doubt, if the Bank is instructed by a (mentally capable) joint account holder (in case of clause 16.1(i) above) or the guardian and/or authorized person(s) (in case of clause 16.1(ii) above) to close the joint account, the Bank shall issue a cashier's order of the balance or value in such account (if any) in favour of all of its joint account holders.

15. Clause 17.1 of the General Terms shall be amended as follows:-

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 prior notice will be sent by post to the Customer's address last known to the Bank and the notice is deemed to be received by the Customer within five (5) calendar days after posting but in case of return or unsuccessful delivery of the notice, the Customer agrees that the Bank may advertise the notice once on one of the English and one of the Chinese local newspapers which shall be deemed as successful delivery of the notice to the Customer. 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.

16. The following Clause 17.5 shall be added to the General Terms:-

- 17.5 Notwithstanding any other terms stated herein, the Bank may at any time without giving any notice or reason to the Customer, close any of the Customer's accounts, terminate any service to the Customer and/or hand over the credit balances of such accounts (if any) and/or the Customer's assets (if any) to any Authority upon a request made to the Bank on legal or regulatory reason(s), for the purpose of the prevention of crime or compliance with the Applicable Laws and Regulations.

17. The following Clause 18.5 shall be added to the General Terms:-

- 18.5 The Customer agrees that the Bank may sign any statements, confirmations, notices or communications to him by giving an electronic signature.

18. Clause 24 of the General Terms shall be amended as follows:-

24. 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 ~~36<sup>th</sup> Floor, Everbright Centre, 108 Gloucester Road,~~ 26<sup>th</sup> Floor, Dah Sing Financial Centre, No. 248 Queen's Road East, Wan Chai, Hong Kong.

19. The following Clause 10 shall be added to the Specific Terms for Savings Accounts:-

10. The Customer agrees that the Bank may at any time convert a passbook savings account of the Customer to a statement savings account by giving 30 days' prior written notice to the Customer.

20. Clause 1 of the Specific Terms for Current Accounts shall be amended as follows:-

1. The Customer may open one or more Current Account(s) denominated in Hong Kong dollars and/or any other currency(ies) as may be acceptable to the Bank from time to time. ~~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 such Current Account(s).

21. Clause 3 of the Specific Terms for Current Accounts shall be amended as follows:-

3. Regarding the Bank's issue of cheque books:-

(a) Applications for a new cheque book may be made by presenting the duly completed and signed cheque book application form contained therein to the Bank. The Bank may, at its sole and absolute discretion, refuse the issue of a cheque book.

(b) The Bank shall, upon receipt of a duly completed and signed cheque book application form, 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.

(c) Upon receipt of a cheque book, the Customer should count the number of cheques carefully and examine the serial number, account number and name of the Customer printed thereon to avoid any discrepancy. Any irregularities should be promptly notified to the Bank.

22. Clause 5 of the Specific Terms for Current Accounts shall be amended as follows:-

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. Only Arabic numerals should be used for figures.

23. Clause 7 of the Specific Terms for Current Accounts shall be amended as follows:-

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, which may offer additional protection. 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.

24. Clause 8 of the Specific Terms for Current Accounts shall be amended as follows:-

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 or (without prejudice to clause 2.9 of the General Terms) is drawn on a Current Account with insufficient funds, and impose a service charge.

25. Clause 13 of the Specific Terms for Current Accounts shall be amended as follows:-



13. The Bank may impose handling fee, if applicable to a particular Current 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.
26. The following Clauses 18, 19 and 20 shall be added to the Specific Terms for Current Accounts:-
18. Without prejudice to clause 2.9 of the General Terms, the Bank may refuse to pay any cheques pending verification and confirmation of the drawer's signature with the drawer/Customer and the Customer shall in such circumstances have no claim whatsoever against the Bank whether on the ground of wrongful dishonour or otherwise.
19. The usual time required for settlement of a cheque deposited at the Bank's branch counter is as follows:-
- (a) 2 Business Days (as defined in clause 2.13 of the General Terms) for cheques deposited during Monday to Thursday; and
- (b) 3 Business Days for cheques deposited on Friday since Saturday is not a clearing day.
- For the avoidance of doubt, cheques received on Saturday will be deemed to be deposited on the following Business Day.
20. Whereas the Customer is a non-Hong Kong company, it agrees that it shall, at its own cost and expenses, procure compliance with the applicable rules and requirements under the Non-Hong Kong Companies (Disclosure of Company Name, Place of Incorporation and Members' Limited Liability) Regulation (Cap 622M). The Bank shall not be regarded as having permitted and shall have no duty or liability in respect of any non-compliance with the aforementioned Regulation relating to the Customer's cheques.
27. The following Clause 7.11 shall be added to the Specific Terms for Foreign Exchange Forward Contracts:-
- 7.11 Pursuant to the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules (Cap. 571AL) ("**Reporting Rules**"), the Bank is required to report information about all OTC derivative transactions as specified under the Securities and Futures Ordinance (Cap. 571) ("**Relevant Transactions**") to the trade repository operated by the Hong Kong Monetary Authority. The information that must be submitted in respect of each Relevant Transaction is set out in Schedule 1 to the Reporting Rules ("**Relevant Information**"). The Customer agrees to the Bank's reporting of Relevant Information in relation to Relevant Transactions entered into between the Customer and the Bank in accordance with the Reporting Rules. The Customer also acknowledges that the Bank, being a financial institution, is required to comply with certain reporting requirements imposed by regulatory or government authorities of various jurisdictions and the Customer consents to any disclosures of his information (including (but without limitation) the Relevant Information of the Relevant Transactions) made by the Bank in compliance with such reporting requirements.

28. The first paragraph of the Specific Terms for Overseas Securities Services shall be amended as follows:-

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~~ all Overseas Securities Accounts opened with the Bank on or before 24<sup>th</sup> November 2020 (and for the avoidance of doubt, all Overseas Securities Accounts opened with the Bank after 24<sup>th</sup> November 2020 shall be subject to the Addendum for 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.

29. The following Specific Terms for Banking Facilities shall be incorporated into and form part of the Master Terms and Conditions / Master Terms and Conditions for VIP Banking Services:-

#### **Specific Terms for Banking Facilities**

Unless otherwise specifically excluded in the Facility Letter (defined below), the following compliance related terms are applicable to any banking facilities granted to the Customer (the "**Facility**") and are deemed incorporated into and form part of the relevant facility letter or facility agreement (as may be amended or supplemented from time to time) between the Customer and the Bank (the "**Facility Letter**"):-

1. The Customer hereby undertakes (and shall procure its guarantor(s)/security provider(s) under the Facility Letter) to inform the Bank as soon as there is any change in the proprietorship or partnership or directorship or shareholders of the Customer (or his guarantor(s)/security provider(s), as the case may be).
2. The Bank may record any telephone conversation between the Bank and the Customer or any of the Customer's authorized signatories or (where applicable) person(s) to whom the Customer has appointed to deal with the Bank in the course of its business.
3. From time to time, the Customer may (on the Bank's request) provide to the Bank personal data as defined in the Personal Data (Privacy) Ordinance and any other information. The Bank is hereby authorized to use that data or information for the purposes referred to in the Bank's Notice to Customers relating to Customers' Data ("**Notice**") given to the Customer from time to time and to disclose such data or information to the persons referred to in that Notice for the purposes referred to in that Notice.
4. In consideration of the Customer application for the Facility referred to in the Facility Letter, the Bank may obtain and consider credit report(s) on the Customer and/or the surety(ies) provided by TransUnion Limited / Dun & Bradstreet (HK) Ltd. Should the Customer and/or the surety(ies) wish to contact TransUnion Limited / Dun & Bradstreet (HK) Ltd. for the purpose of making a data access request or data correction request under the Personal Data (Privacy) Ordinance, the Customer and/or the surety(ies) may do so by contacting TransUnion Limited / Dun & Bradstreet (HK) Ltd. directly:

For individual borrower/ guarantor / collateral provider:- For company borrower /guarantor / collateral provider:-

**TransUnion Limited**

Consumer Relations Department  
8th Floor, Tower 5, The Gateway,  
15 Canton Road, Tsim Sha Tsui, Kowloon  
Telephone Hotline : (852) 2577-1816  
Fax : (852) 2578-4425

**Dun & Bradstreet (HK) Ltd.**

Credit Bureau Solutions  
Unit 1308-1315, 13/F., BEA Tower, Millennium City 5,  
418 Kwun Tong Road, Kwun Tong, Kowloon, H.K.  
CCRA Hotline : (852) 2516-1100  
CCRA Fax : (852) 2960-4721  
Email : ccra\_enquiry@dnb.com

If TransUnion Limited / Dun & Bradstreet (HK) Ltd. agrees to comply with a data correction request made by the Customer and/or the surety(ies), the Bank will, if the Customer and/or the surety(ies) so request, use a new credit report obtained from TransUnion Limited / Dun & Bradstreet (HK) Ltd. including the corrected data as a basis for reconsideration of the Customer's application.

**Notwithstanding the above, no credit report will be obtained on the Customer and/or the surety(ies) which is/are listed company(ies), and the aforesaid regarding the obtaining of credit report shall be inapplicable to such listed company(ies).**

5. Subject to sub-paragraph (g) below, the Customer, by accepting the Facility Letter, agrees to and acknowledges the following:-
- (a) The Customer acknowledges and agrees that, subject to sub-paragraph (b) below, any information with respect to the Customer which is provided by the Customer at the request of the Bank or collected in the course of dealings between the Customer and the Bank may be disclosed to, or used and retained by, any credit reference agency or similar service provider for the purpose of verifying such information or enabling them to provide such information to other institutions (1) in order that they may carry out credit and other status checks in respect of the Customer in its capacity as applicant for, or guarantor of, credit facilities; (2) for the purposes of reasonable monitoring of any indebtedness while there is a current default by the Customer as borrower or guarantor; and/or (3) to assist them in collecting debts.
- (b) For a Customer which is a limited company :-
- (i) The Customer may by giving the Bank ninety (90) days' notice in writing (which will take effect from the date of receipt by the Bank) revoke the consent contained in sub-paragraph (a) above.
- (ii) If the Customer gives notice to revoke the consent given pursuant to sub-paragraph (a) in accordance with sub-paragraph (b)(i) :-
- I. subject to VI and VII below, the Bank may continue to disclose information pursuant to sub-paragraph (a) until the notice of revocation given pursuant to sub-paragraph (b)(i) expires;
  - II. the Bank may notify all persons to whom the Bank is permitted to disclose information pursuant to sub-paragraph (a) of the fact that a notice of revocation has been given pursuant to sub-paragraph (b)(i);
  - III. the Bank may regard the notice of revocation served on the Bank as also applying to the consent the Customer has previously given in respect of all other credit facilities (including hire purchase or leasing loans) granted to the Customer by the Bank;
  - IV. the Bank may terminate the Facility and any other facilities provided to the Customer with effect from the date to be advised by the Bank, subject to the terms and conditions by which the relevant facilities are governed;
  - V. the credit reference agency or similar service provider may continue to retain information provided to it by the Bank in its internal archive for its internal use but not for provision of such information to other institutions when they seek credit reports;

- VI. the Bank may continue to provide information relating to hire purchase and leasing transactions and loans to wholesalers and retailers to finance the acquisition of stock in trade to the credit reference agency or similar service provider notwithstanding revocation of the consent referred to in paragraph (b)(i) above; and
- VII. the credit reference agency or similar service provider may continue to provide information relating to hire purchase and leasing transactions and loans to wholesalers and retailers to finance the acquisition of stock in trade and information which is a matter of public record notwithstanding the revocation of the consent referred to in paragraph (b)(i) above.
- (c) (For a Customer which is a limited company) Subject to sub-paragraph (b), this consent shall remain in effect:
- (i) as long as the Customer maintains an account relationship with the Bank and for a period of five (5) years thereafter; or
- (ii) if later, for the period of five (5) years after the date of settlement following a payment default of more than sixty (60) days.
- (d) For a Customer which is a sole proprietorship or partnership or an individual, the Customer may, upon termination of an account by full repayment without any refinancing from the Bank, instruct the Bank to make a request to the credit reference agency or similar service provider to delete relevant account data from its database, so long as the instruction is given within five (5) years after account termination and at no time did the account have a default in payment for a period in excess of sixty (60) days within five (5) years immediately before account termination.
- (e) This consent is given by the Customer (as borrower), or if there are more than one borrower under the Facility Letter ("**Borrowers**" and each a "**Borrower**"), by each of the Borrowers severally.
- (f) This consent is in addition to and does not affect any agreement or consent contained in any account rules, terms and conditions or other contracts and agreements or documents governing any Customer's account and/ or borrowing relationship with the Bank.
- (g) **Sub-paragraphs (a) to (f) above shall NOT BE APPLICABLE to a Borrower which is a listed company (regardless of its annual turnover) or a limited company with an annual turnover exceeding HK\$100 million ("Requirements"), save for any Borrower who had not met any of the Requirements previously and had therefore given (and had not revoked) such consent to us, sub-paragraphs (a) to (f) shall continue to be applicable to such Borrower.**
6. In respect of the **Code of Banking Practice**, by accepting the Facility Letter, the Customer has given the Bank consent to their providing, from time to time, relevant information or documents in respect of the Facility or any subsequent amendment/renewal thereof including but not limited to loan outstanding, statement of account, copy of contract evidencing the obligation guaranteed and copy of formal demand for overdue payments to the guarantor(s) or securities providers of the Facility.
7. The Borrower undertakes to advise the Bank whether:-
- (i) the Borrower is a relative or spouse of any director, former director (within past 12 months), controller (as defined below) or employee of any member of the Bank Group (as defined below) or a trustee of such director, former director, controller, employee or his immediate family member ("**Trustee**");
- (ii) the Bank or any of its directors or controllers or any relative of such directors or controllers is interested as a director, partner, manager or agent of the Borrower;

- (iii) any of the directors or controllers of the Bank or any relative of such directors or controllers is a guarantor of the Borrower in respect of any banking facilities the Bank has granted to the Borrower; or
- (iv) any director, former director (within past twelve (12) months), chief executive or controller of any member of the Bank Group, any relative of such director, former director, chief executive or controller and/or the Trustee (individually or together) is/are holding, directly or indirectly, 30% or more of the issued shares of the Borrower or any of its subsidiaries,

(Collectively, the "**Related Person**").

In the absence of such advice, the Bank will assume that the Borrower is not so related. The Borrower is also requested to advise the Bank in writing should the Borrower become so related subsequent to acknowledging the Facility Letter.

For the purpose of the Facility Letter, "controller", in relation to a company, refers to (i) any person, who either alone or with any associate(s), directly or indirectly holding 10% or more of the issued shares of the company or of another company of which the company is a subsidiary; or (ii) any person in accordance with whose directions or instructions the directors of the company or of another company of which it is a subsidiary are accustomed to act (but excluding any advisor and manager appointed pursuant to sections 52(1)(B) and 52(1)(C) of the Banking Ordinance respectively and any person in accordance with whose directions or instructions those directors are accustomed to act by reason only that they act on advice given by him in his professional capacity); "Bank Group" refers to Dah Sing Banking Group Limited, its subsidiaries, fellow subsidiaries and other entities (including special purpose entities) over which Dah Sing Banking Group Limited is able to exert control; and "fellow subsidiaries" refers to any entity in which a controller of Dah Sing Banking Group Limited (including but not limited to Dah Sing Financial Holdings Limited) is able to exert control. A firm, partnership or non-listed company ("controlled entity") is treated as being controlled by a person if (i) the person owns more than 50% of the voting rights in the controlled entity; (ii) the person has control of a majority of the voting rights in the controlled entity under an agreement with other shareholders (or similar holders of voting rights); (iii) the person has the right to appoint or remove a majority of the members of the controlled entity's board of directors (or a similar governing body); (iv) a majority of the members of the controlled entity's board of directors (or a similar governing body) have been appointed solely as a result of the person exercising his or her voting rights; or (v) the person has the power, under a contract or otherwise, to exercise a controlling influence over the management or policies of the controlled entity.

30. The Addendum for Overseas Securities Services annexed hereto as Appendix shall be incorporated into and form part of the Master Terms and Conditions / Master Terms and Conditions for VIP Banking Services.

The purposes of the above amendments are to:-

- (i) clarify the provisions regarding the definition of "Instructions", Customer's use of electronic signature, the requirements on Customer in giving instructions or making applications, reasons for which an Instruction or an application may be refused, Customer's use of and confidentiality obligations relating to PIN, Device Code, SMS OTP, Security Device and Registered Mobile, limitation of the Bank's liability, payment or

- transfer of funds, termination or suspension of Customer's account(s) or service, opening of current accounts, issue of cheque books and handling of cheques;
- (ii) include the terms and conditions for the following matters relating to the Bank: recovery and rectification of mis-transferred funds, change of account numbers and/or related contract/agreement and/or product numbers, disclosure of information when handling cheques drawn by Customer, handling of joint accounts in case of mentally incapacitated joint account holder, termination of Customer's accounts and/or handing over of Customer's credit balances/assets to the relevant authority(ies) for the prevention of crime or compliance with the applicable laws and regulations, use of electronic signature, conversion of passbook savings accounts to statement savings accounts, and reporting of information related to OTC derivative transactions; and
  - (iii) incorporate the Specific Terms for Banking Facilities and the Addendum for Overseas Securities Services into the Master Terms and Conditions / Master Terms and Conditions for VIP Banking Services.

Please note that you may refuse to accept the above amendments by giving notice to the Bank to terminate all of your account(s). Otherwise, the amendments shall be binding on you if you continue to maintain any of your account(s) and/or use the relevant services of the Bank on or after the Effective Date. Please also note that the Bank may not be able to continue to provide you with the account or relevant services if you do not accept the amendments. If you have any queries, please feel free to contact the branch staff of the Bank during office hours or call our Customer Service Hotlines:

2828 8000 (Personal Banking Customers)	2828 8009 (Cash Card Customers)
2828 8008 (328 Business Banking Customers)	2828 7028 (Securities Customers)
2507 8122 (Corporate Banking Customers)	

\*For Private Banking Customers, please contact your designated Private Banking Relationship Managers.

1 November 2022  
Dah Sing Bank, Limited

**Note:**

In the event of any inconsistency between the English and Chinese versions of this document, the English version shall prevail.

## Appendix

### Addendum for Overseas Securities Services

This Addendum (together with applicable provisions of the Master Terms and Conditions / Master Terms and Conditions for VIP Banking Services of Dah Sing Bank, Limited (the "**Bank**") (the "**Master Terms and Conditions**") including but not limited to the Specific Terms for Securities Services of the Master Terms and Conditions) applies to the provision by the Bank of Overseas Securities Services (as defined below). This Addendum supplements, is incorporated into and forms part of the Master Terms and Conditions, as the same may be amended, supplemented and reinstated from time to time. The provisions of the Master Terms and Conditions shall apply to the Overseas Securities Services to the extent that they are relevant and not inconsistent with the provisions of this Addendum. In particular, this Addendum should be read in conjunction with the Specific Terms for Securities Services of the Master Terms and Conditions. Where any conflict arises between the Master Terms and Conditions and the provisions of this Addendum, the provisions of the latter shall prevail in respect of Overseas Securities Services and the activities and transactions conducted in connection therewith to the extent of any such conflict.

Reference to the "**Addendum**" shall refer to this Addendum as amended, supplemented and reinstated from time to time, and include each of its Annexures.

#### 1. Interpretation

1.1 In this Addendum, the following words and expressions shall have the meaning ascribed to them below:

"**Applicable Laws and Regulations**" has the meaning given to it in clause 15.1(a)(iii) of the General Terms of the Master Terms and Conditions.

"**Overseas Securities**" means any securities (as defined in the Specific Terms for Securities Services of the Master Terms and Conditions) that are listed or traded in any jurisdiction outside Hong Kong, and where the context so requires, includes structured products or derivative products whose underlying or reference assets are Overseas Securities. The types and scope of products on which the Bank would classify as "Overseas Securities" for which it provides its services is subject to the Bank's approval and changes as determined by the Bank at its sole and absolute discretion from time to time. 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 shall be read to include "**Overseas Securities**" unless the context requires otherwise.

"**Overseas Securities Account**" means any account(s) and sub account(s) of the Customer which is(are) opened and maintained with the Bank for the provision of Overseas Securities Services, 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 shall be read to include the "**Overseas Securities Account**" unless the context requires otherwise.

**"Overseas Securities Services"** means the services offered or made available by the Bank on Overseas Securities, including those set out in clause 2.1 of the Specific Terms for Securities Services of the Master Terms and Conditions. The types and scope of Overseas Securities Services on which the Bank makes available and offers is subject to the Bank's approval and changes as determined by the Bank at its sole and absolute discretion from time to time.

**"Overseas Settlement Account"** means a Multi-Currency Savings Account or such other type of account(s) of the Customer which is(are) opened and maintained with the Bank for settlement of transactions in connection with the Overseas Securities Services. 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 shall be read to include the **"Overseas Settlement Account"** unless the context requires otherwise.

**"Service Provider"** means any broker, dealer, custodians, depository and Custodial Agents, clearing or settlement agent or any other person appointed or engaged by the Bank in Hong Kong or elsewhere in connection with the provision of Overseas Securities Services, and includes their appointees and delegates.

**"U.S." or "United States"** means the United States of America.

1.2 Unless the context otherwise requires, capitalized 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 Overseas Securities Services for the Customer.

## **3. Account**

3.1 Subject to agreement by the Bank, the Bank will open and maintain in the name of the Customer:

(a) one or more Overseas Securities Accounts under which the Customer's Overseas Securities will be recorded, and deposited or withdrawn in connection with the transactions and activities regarding the Overseas Securities Services; and

(b) one or more Overseas Settlement Accounts under which the Customer's money will be recorded and debited or credited in connection with the transactions and activities regarding the Overseas Securities Services.

## **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, this Addendum or any request by the Bank to deliver to the Bank any Overseas Securities or documents of title in respect thereof, the Customer shall at the Customer's risk and expense deliver such Overseas Securities and documents of title in respect thereof to the Bank or such other persons as the Bank may direct, in such manner,



within such time and accompanied by such information and documents as the Bank may require at its sole and absolute discretion.

The Customer hereby expressly authorizes the Bank to deposit any Overseas Securities or related assets with any Service Provider in a collective custody account or otherwise in the Bank's name for the account and at the risk of the Customer. The Customer also authorizes the Bank to open and maintain one or more consolidated accounts with Service Providers through which transactions will be executed and cleared and where assets will be maintained for the Customer and other customers of the Bank. The Bank may as it considers appropriate establish sub account(s) with Service Providers to facilitate the booking and recording of customer assets and transactions for different customers of the Bank. 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.

- 4.2 Any Customer's Overseas Securities and assets received or held outside Hong Kong shall be subject to the Applicable Laws and Regulations of the relevant overseas jurisdiction(s) which may be different from the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) and the rules made thereunder including the Securities and Futures (Client Money) Rules (Chapter 571I of the Laws of Hong Kong) and the Securities and Futures (Client Securities) Rules (Chapter 571H of the Laws of Hong Kong). The Customer understands that such assets may not enjoy the same protection as that conferred on client assets received or held in Hong Kong, and the Hong Kong regulators (including the Securities and Futures Commission) may not be able to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where the Customer's transactions have been effected. The Customer acknowledges the risks involved and will seek independent professional advice as he considers appropriate.
- 4.3 The Customer acknowledges that the Bank and the Service Providers are not bound to redeliver to the Customer the identical Overseas Securities received from or for the Customer. The Customer agrees that they may redeliver to the Customer Overseas Securities of like quantity, type and description.
- 4.4 The Customer agrees that any Customer assets held with the Bank or any Service Providers may be applied to: (i) meet obligations to the relevant clearing house and/or (ii) pay commission, brokerage, levies and other charges for transactions conducted for the Customer. The Customer acknowledges that such Customer assets may also be applied in or towards meeting obligations of the Bank or any Service Providers to others where such obligations arise in connection with or incidental to transactions done for the Customer. The Customer agrees that interest on the Customer money may be retained by the Bank or any Service Providers.

## **5. Execution of Instruction**

- 5.1 The Bank is authorized but not obliged to act on an instruction given or purported to be given by the Customer. Instructions may only be given by the Customer during such time or times as notified 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 at its sole and absolute discretion. The Customer

acknowledges that it may not be possible to cancel or modify an instruction and the Customer is responsible for executions notwithstanding a cancellation or modification request.

- 5.2 In particular, the Bank may establish cut-off times for transactions in Overseas Securities. Any trade instruction regarding any Overseas Securities for execution on the date of instruction must be received by the Bank before the relevant cut-off time as notified by the Bank from time to time. The Bank reserves its rights to revise the cut-off times at its sole and absolute discretion from time to time. If an instruction is given by the Customer on a holiday or non-trading day or after the trading session on a trading day of the relevant exchange or market, the Bank may but is not obliged to execute the instruction on the first trading day in the relevant exchange or market thereafter provided that it is also a business day in Hong Kong.
- 5.3 Without any prejudice to the above, unless otherwise agreed by the Bank, the Bank will not accept any instructions to change or cancel any orders in respect of structured products outside the business hours of the Bank in Hong Kong, and the Customer understands and agrees to accept the risks arising therefrom. In addition, without prejudice to the generality of the foregoing and clauses 1.4 and 2.9 of the General Terms of the Master Terms and Conditions, the Bank shall be entitled to refuse to accept, rely on or act on any instruction given or purported to be given by the Customer at any time without giving any reason to the Customer.
- 5.4 The trades in Overseas Securities for the Customer may be executed through Service Providers and they may act as agent or principal in the transactions. The Customer authorizes the Bank to provide and disclose information on the Customer orders to others including the Service Providers and their affiliates and brokers to disseminate quotes and to facilitate the execution of such orders.
- 5.5 The Service Providers may execute proprietary trades or hold positions for themselves and their affiliates in respect of the same products as those under the Customer's instructions which have been executed or are yet to be executed. The Service Providers, their affiliates and their respective directors and employees may also trade in Overseas Securities on their own accounts and may take opposite positions to the Customer's order whether for their own accounts or for the account of their other clients. Subject to Applicable Laws and Regulations, the Customer specifically authorizes the Bank, the Service Providers, their affiliates or brokers to act as buyers with respect of orders given by the Customer to sell for the Customer's account, or as sellers with respect to orders given by the Customer to buy for the Customer's account.
- 5.6 The Bank shall not be responsible or liable for any delay or failure of the Service Providers and their systems beyond the control of the Bank.

## **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 and Regulations and the

applicable terms of business or agreement with any Service Provider, as amended from time to time. All actions taken by the Bank in accordance with such laws, rules, regulations, by-laws, directions, customs and usages and terms of business or agreement 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 at its sole and absolute 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 Provider 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 Provider and, subject to Applicable Laws and Regulations, receive cash rebates or other remuneration from such Service Provider. 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, regardless of whether the Bank is acting as principal or as agent for the Customer or any other person, is conditional upon receipt by the Bank or its settlement agents on or before such date as determined by the Bank of funds (in the case of a purchase) or Overseas Securities (in the case of a sale) together with all necessary documents and information due to be delivered by the Customer or on his behalf.
- 6.5 The Customer agrees that prior to the start of the last trading day before expiration of any options or other rights position, the Bank (whether by itself or through the Service Providers) may liquidate (i.e., close out) any option position or other rights position that the Overseas Securities Account has insufficient equity or may have insufficient equity at expiration to exercise or be assigned on such position and to then carry the resulting underlying position. The Customer acknowledges that approaching expiration with long or short options for which the Overseas Securities Account does not or may not have sufficient equity to hold the underlying position creates serious risk (including the risk of market movements in the underlying product between expiration and the next opening of the market in the product). If the Bank has not closed out a long or short option or other rights position prior to the start of the last trading day before expiration and if the Bank at its sole and absolute discretion determines that the Overseas Securities Account has or may have insufficient equity to hold the underlying position upon expiration, the Bank has the right at its sole and absolute discretion to do any of the following whether by itself or through the Service Providers: (i)

liquidation of some or all of the options or rights position prior to expiration, (ii) lapsing some or all of the options (i.e., instructing that they are not to be exercised), even if in-the-money at expiration, and/or (iii) allowing some or all of the options to be exercised or assigned and then liquidation of some or all of the resulting position. The Customer shall have no claim for damages or lost profits resulting therefrom.

- 6.6 The Customer hereby undertakes to comply with all Applicable Laws and Regulations applicable to dealings in and holding Overseas Securities. The Customer will be solely responsible for any notification, filing, 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 all such Applicable Laws and Regulations. In no event will the Bank be liable for any non-compliance by the Customer with the same. The Customer further agrees that to the maximum extent permitted under Applicable Laws and Regulations, the Bank shall not be obliged to monitor positions of the Customer, or determine, advise or assist the Customer in any way in respect of any such filings, notifications, returns, reports or disclosure obligations applicable to the Customer under any Applicable Laws and Regulations. The Customer shall be responsible for compliance with all applicable limitations, restrictions or qualifications with regards to the Customer's investment or holding in any Overseas Securities.
- 6.7 The Customer undertakes to provide the Bank timely, correct and accurate information relating to any restrictions and limitations on the purchase, sale, disposal or otherwise transfer and holding of any Overseas Securities. In respect of any instructions to sell, dispose of or otherwise transfer Overseas Securities, the Customer shall upon request provide the Bank with any necessary information and documents to the satisfaction of the Bank to satisfy any and all legal transfer requirements under the Applicable Laws and Regulations, and the requirements of the relevant exchange or market and its clearing house (if any), and Service Providers. 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 in connection therewith.
- 6.8 The Customer agrees that the Bank may establish position limits on the Overseas Securities Account and may limit the number of open positions that the Customer may execute, clear and/or carry with or acquire through the Bank. The Customer agrees (i) not to enter into any transaction that would have the effect of exceeding such position limits, (ii) that the Bank may at any time reduce open positions by issuing closeout or offsetting trades or require the Customer to reduce open positions carried with the Bank, and (iii) that the Bank may refuse for any reason to accept orders to establish new positions. The Bank may impose and enforce such limits, reduction or refusal whether or not the same are required by Applicable Laws and Regulations.
- 6.9 The Customer shall comply with all position limits established by any regulatory or self-regulatory organization or by any exchange. The Customer agrees to notify the Bank promptly if he is required to file position reports with any regulatory or self-regulatory organization or with any exchange and agrees to promptly provide the Bank with copies of any such position

reports. The Bank expressly disclaims any liability for any losses incurred by the Customer relating to the Customer approaching or exceeding any position limits established by the Bank, its Service Providers or by any regulatory or self-regulatory organization or by any exchange. The Customer understands that the Bank shall not have any obligation and is in no way agreeing, to monitor on behalf of the Customer any of the trading activities of the Customer and/or compliance by the Customer with any position limits established by the Bank, its Service Providers or by any regulatory or self-regulatory organization or by any exchange.

- 6.10 The Customer understands and acknowledges the risk in relation to foreign currency-denominated transactions and the profit or loss in transactions in foreign currency-denominated contracts will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency. 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 at its sole and absolute discretion determine with reference to the then prevailing market conditions, and any loss arising as a result of fluctuations in the exchange rate of the relevant currencies shall be borne by 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 at its sole and absolute discretion determine. The Customer authorizes the Bank to debit the Customer's account(s) for any costs and expenses incurred in effecting the currency conversion. Notwithstanding the foregoing, the Bank reserves the right at any time to refuse to accept or proceed with any instructions from the Customer in relation to any currency conversion.
- 6.11 Without prejudice to any other rights of the Bank, the Customer hereby authorizes the Bank, its agents or Service Providers, to the fullest extent permitted by Applicable Laws and Regulations:
- (a) at any time and without prior notice, to dispose of the Customer's Overseas 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);
  - (b) to place any of the Overseas Securities and any income deriving therefrom held for the Customer with another financial institution or intermediary for the purpose of financial accommodation provided to the Bank or its Service Providers or agents;
  - (c) to place any of the Overseas Securities and any income deriving therefrom held for the Customer with another financial institution or intermediary as collateral for the discharge and satisfaction of settlement obligations and liabilities of the Bank or its Service Providers or agents; and
  - (d) to receive, hold, apply and deal with any of the Overseas Securities and any income deriving therefrom held for the Customer according to the terms of business or agreement between the Bank and any Service Provider.

6.12 In the event the Bank exercises its rights or authority under the Master Terms and Conditions and/or this Addendum to close any or all contracts between the Bank and the Customer and/or sell or dispose of any Overseas Securities, the Customer agrees that the Bank may effect currency exchange transaction in respect of the proceeds of such sale or disposal as the Bank sees fit (and at such exchange rate as the Bank shall determine at the relevant time) to satisfy any outstanding actual or contingent liabilities owed by the Customer to the Bank.

## **7. Confirmations and Contract Notes**

7.1 The Bank will provide confirmations and contract notes to the Customer in respect of transactions in Overseas Securities at such time and in such manner as determined by the Bank subject to Applicable Laws and Regulations.

7.2 The Customer understands and acknowledges that the information to be provided by the Bank in the confirmations and contract notes and the timing at which the Bank provides such confirmations and contract notes would be depending on and subject to what and when the Bank receives such information from the Service Providers. In particular, the Customer understands that due to the time difference between Hong Kong and the relevant overseas market or exchange, there could be delays and trade confirmations may not be provided to the Customer within the same day as the day on which such trades are executed.

7.3 The Customer acknowledges that confirmations of executions or cancellations may be delayed or may be erroneous (including due to error and delays caused by the Service Providers) and may be cancelled or adjusted by an exchange or a Service Provider. If the trades are confirmed by the Bank or the Service Providers as executed and they are later cancelled by an exchange, trading network or regulatory authority, the confirmed trade will be deemed to be cancelled. The Customer is bound by the actual order execution if consistent with the Customer's order.

7.4 The Customer agrees to notify the Bank immediately regarding any incorrect or inaccurate information contained in any confirmation or contract note it receives. If the Customer fails or delays to report, the Customer shall bear and the Bank shall not be liable for any loss and consequence in connection therewith.

7.5 The Customer acknowledges that the Bank may adjust the Overseas Securities Account and Overseas Settlement Account of the Customer to correct any error and the Customer agrees to promptly return to the Bank any assets erroneously distributed to the Customer.

## **8. Margin and Risk Management; Liquidation of Positions and Offsetting Transactions**

8.1 Margin transactions are subject to initial and maintenance margin requirements of exchanges, clearing houses and regulators and also any additional margin requirements imposed by the Bank or any Service Provider (the "**Margin Requirements**"). The Margin Requirements may be modified by the Bank or any Service Provider at any time, and the Customer shall ensure that at all times his Overseas Securities Account and Overseas Settlement Account contain sufficient assets to meet the Margin Requirements. The Bank has the right to reject any order if the Customer has insufficient assets to meet the Margin Requirements. The processing of any order from the Customer may be delayed while the margin status of the Customer is

determined. The Bank and the Service Providers may also impose risk management limits and requirements ("**Risk Management Requirements**") on the Customer's accounts.

8.2 Unless otherwise required under Applicable Laws and Regulations, the Bank has no obligation to notify the Customer of any failure to meet Margin Requirements or Risk Management Requirements prior to the Bank or its Service Provider exercising their rights and remedies. The Customer understands and agrees that the Bank or its Service Provider is authorized to liquidate positions or add risk reducing positions in the accounts of the Customer at any time, in any market and in any manner in order to satisfy Margin Requirements or Risk Management Requirements without prior notice to the Customer. The Customer shall be liable and will promptly pay the Bank for any deficiencies in his account that arise from any such liquidation or remain after such liquidation. The Customer shall reimburse and hold the Bank and the Service Providers harmless for all actions, omissions, costs, expenses, fees, losses, claims, penalties, or liabilities associated with any such transaction undertaken. The Bank and the Service Providers shall not be liable for any loss sustained by the Customer in connection with any such liquidation and failures or delays in such liquidations even if the Customer re-establishes his position at a worse or less favourable price.

8.3 Notwithstanding the aforesaid, if the Bank or the Service Providers execute an order for the Customer which he did not have sufficient funds or assets for delivery, the Bank and the Service Providers have the right to liquidate the trade without prior notice and the Customer shall be responsible for any loss as a result of such liquidation including any costs and the Customer shall not be entitled to any profit that results from such liquidation.

## **9. Market Data and Quotation**

9.1 The Customer agrees to enter into any market data subscription agreement as required for any market data to be provided to the Customer and the Bank is authorized to provide executed market data agreements to the Service Providers.

9.2 The Customer acknowledges that the Bank may or may not provide, for the Customer's information purpose, price quotation and data regarding the Overseas Securities provided or produced by third parties. If the Bank provides such services, owing to market volatility, possible delays in the data transmission process, time zone differences and other factors beyond the control of the Bank, such quotes and data may not be real-time. The Customer understands that the Bank has not independently verified and does not represent or warrant on the accuracy, timeliness or completeness of the information provided by third parties.

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

10.1 The Customer hereby represents, warrants and undertakes to the Bank that:

- (a) the Customer has the legal capacity and authority to enter into and perform this Addendum;
- (b) the Customer has full power and authority to perform the obligations and grant the authorizations under the provisions in this Addendum and if the Customer is a

corporate Customer, the Customer has taken all necessary action or corporate action to authorize the performance of such obligations and the grant of such authorizations;

- (c) the Customer has obtained and is in compliance with all necessary and appropriate consents, approvals and authorizations for the purposes of its entry into and performance of this Addendum;
- (d) information supplied by the Customer is correct, accurate, complete and up to date. The Customer will notify the Bank promptly in the event of any material change of information provided;
- (e) the Customer has sufficient knowledge and experience to understand the nature and risks of Overseas Securities;
- (f) no one, other than the Customer, has an interest in his Overseas Securities Account and Overseas Settlement Account;
- (g) the Customer's entry into and performance of this Addendum will not violate any Applicable Laws and Regulations;
- (h) there is no claim or encumbrance over the assets held in the Overseas Securities Account and the Overseas Settlement Account other than those given in favour of the Bank; and
- (i) the Customer is not domiciled or resident and is not located in a country where there is any restriction or limitation on the Customer's purchase, sale, disposal or otherwise transfer and holding of any Overseas Securities. If the Customer becomes subject to any restrictions or limitations (whether by reason of a change of domicile, residence or otherwise), the Customer shall inform the Bank immediately.

10.2 The Customer further represents and warrants the following:

- (a) the Customer does not reside in and is not domiciled in and was not formed or organized in, and is not a citizen of: Afghanistan, Angola, Belarus, Central African Republic, Cote d'Ivoire (Ivory Coast), Cuba, Democratic People's Republic of Korea (North Korea), Democratic Republic of the Congo, Iran, Iraq, Libya, Nauru, Nigeria, Sierra Leone, Somalia, South Sudan, Sudan, Syria, Crimea region of Ukraine, Zimbabwe or a country or region that has been sanctioned by the Hong Kong government or an agent thereof;
- (b) the Customer is not a senior political figure of a non-Hong Kong or non-Chinese government unless otherwise informed to the Bank;
- (c) the Customer is not on the sanction lists issued by a Financial Action Task Force country, including but not limited to the Specially Designated Nationals And Blocked Persons List issued by the U.S. Department of Treasury's Office of Foreign Assets Control and the Consolidated Sanction List issued by the United Nations Security Council;



- (d) the Customer is trading solely on his own behalf and not on behalf of another person whether as a nominee, trustee, fiduciary or otherwise (unless permitted under Applicable Laws and notified to the Bank); and
  - (e) the source of funds and source of wealth of the Customer and any transfers and transactions through the Overseas Securities Account and Overseas Settlement Account are for legitimate purposes.
- 10.3 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.
- 10.4 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.
- 10.5 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, at its sole and absolute 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, its agents or Service Providers 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 and/or execute any act, deed or document which the Bank may require in connection therewith.
- 10.6 The Customer shall fully indemnify the Bank (for itself or as trustee for its affiliates, directors, employees or agents, "**Indemnified Persons**") against all claims, actions, liabilities (whether actual or contingent) and proceedings against any of the Indemnified Persons 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.

## **11. Information and Confidentiality**

- 11.1 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.

- 11.2 The Bank is expressly authorized to disclose any information it has concerning the Customer (including his beneficial owners and authorized persons), the services provided by the Bank under the Master Terms and Conditions, the Overseas Securities Account, the Overseas Settlement Account and the Overseas Securities, money or other assets held in the Overseas Securities Account and/or the Overseas Settlement Account and the transactions for the Customer: (a) to any Service Provider and their affiliates, (b) upon request, to any government, legal or regulatory authority, exchange, clearing house or self-regulated body (whether within or outside Hong Kong), and (c) in compliance with any Applicable Laws and 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, beneficial owner identity, position and transactions with the Bank) and the Customer's Overseas Securities to the issuers of the relevant Customer's Overseas Securities or counterparties in the transactions. The Customer agrees and consents for the Service Providers of the Bank to provide any such information to the relevant exchange, clearing house, government, regulator, self-regulated body or other necessary party including their affiliates and brokers (whether within or outside Hong Kong).
- 11.3 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 Service Providers to comply with Applicable Laws and Regulations or to respond to requests from any government, legal or regulatory authority, exchange or self-regulated body. The Customer will also comply in a timely manner with the Bank's requests for information, documents or other materials to the extent the Bank considers necessary to ensure compliance with its internal policies and procedures.

## **12. Taxes and other Payments**

- 12.1 The Customer agrees that he is responsible for discharging his own tax reporting and filing obligations. 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 the 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.
- 12.2 In the event that the Customer changes his tax residence, he shall notify the Bank with 15 days advance written notice. The Bank will have the sole and absolute discretion to determine whether or not to continue to provide the Overseas Securities Services to the Customer in view of his change of tax residence. The Customer understands and acknowledges that the Bank will require 5 business days or such longer processing time as the Bank may reasonably require after receiving all such information and documents that the Bank may require, for updating the Customer's tax residence status on the Bank's records.

### **13. Indemnity**

- 13.1 The Customer agrees to indemnify and hold harmless the Bank, its affiliates 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, its affiliates 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.
- 13.2 Neither the Bank, its affiliates, 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, its affiliates, the Service Providers and/or their respective officers and employees of its/their duties under or pursuant to the Master Terms and Conditions.
- 13.3 Neither the Bank, its affiliates, 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.
- 13.4 None of the Bank, its affiliates 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.

### **14. Additional Risk Disclosure Statements**

- 14.1 The Customer agrees that he shall bear all risks and expenses associated with investing in Overseas Securities or holding cash denominated in any currency. The Customer acknowledges that the Bank will not be liable for country specific risks of loss or value or other restrictions resulting from country risk including the risk of investing and holding Overseas Securities and cash of or in a particular country or market such as, but not limited to, risks arising from (i) any act of war, terrorism, riot or civil commotion, (ii) investment, repatriation or exchange control restriction or nationalization, expropriation or other actions by any governmental authority, (iii) devaluation or revaluation of any currency, (iv) changes in Applicable Laws and Regulations, and (v) a country's financial infrastructure and practices including market rules and conditions.

- 14.2 The Customer acknowledges that trading in Overseas Securities is speculative and involves high risk. The Customer may receive varying levels and types of protection in relation to transactions in foreign markets and exchanges compared to Hong Kong exchanges. There are also special risks of trading outside ordinary market hours, including risk of lower liquidity, higher volatility, changing prices, unlinked markets, news announcements affecting prices and wider spreads. The Customer represents that he is knowledgeable and able to assume these risks. Before the Customer trades, the Customer should be familiar with any rules relating to his transactions in the relevant jurisdictions. The Customer should seek independent professional advice as he considers appropriate including the details on the types of redress available in both his home jurisdiction and other relevant jurisdictions.
- 14.3 All currency exchange risks in respect of any transactions, settlement actions or steps taken by the Bank hereunder shall be borne by the Customer.
- 14.4 The Customer confirms that he has read and fully understands the risk disclosure statements provided by the Bank to the Customer.

## **15. Language Version**

- 15.1 The Customer hereby confirms that the Bank has explained to him and he has received and read this Addendum 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.

## **Annexure 1**

### **U.S.**

This Annexure applies in respect of Overseas Securities Services in respect of Overseas Securities listed or traded in the U.S. (and where the context so requires, includes structured products or derivative products whose underlying or reference assets are Overseas Securities listed or traded in the U.S.) ("**U.S. Products**"). This Annexure is supplemental to the Addendum for Overseas Securities Services.

In the event that there is any inconsistency between the Addendum for Overseas Securities Services and this Annexure, the provisions in this Annexure shall prevail in respect of Overseas Securities Services on U.S. Products.

Unless otherwise defined in this Annexure, terms defined in the Addendum for Overseas Securities Services shall have the same meaning when used in this Annexure.

### **1. Definitions**

- 1.1 In this Annexure, the following terms shall have the following meanings:

"**ADRs**" mean American Depository Receipts.

"**CEA**" means the U.S. Commodity Exchange Act, as amended.

"**CFTC**" means the U.S. Commodity Futures Trading Commission.

"**CFTC-related Instrument**" means an "over-the-counter" financial instrument regulated under the CFTC Swaps regulations.

"**Dodd-Frank**" means the Dodd-Frank Wall Street Reform and Consumer Protection Act.

"**FINRA**" means the U.S. Financial Industry Regulatory Authority.

"**Guarantee**" means an arrangement pursuant to which one party to a Swap has rights of recourse against a guarantor, with respect to its counterparty's obligations under the Swap. For these purposes, a party to a Swap has rights of recourse against a guarantor if the party has a conditional or unconditional legally enforceable right to receive or otherwise collect, in whole or in part, payments from the guarantor with respect to its counterparty's obligations under the Swap. In addition, in the case of any arrangement pursuant to which the guarantor has a conditional or unconditional legally enforceable right to receive or otherwise collect, in whole or in part, payments from any other guarantor with respect to the counterparty's obligations under the Swap, such arrangement will be deemed a guarantee of the counterparty's obligations under the Swap by the other guarantor.

"**NFA**" means the U.S. National Futures Association.

"**OTC Traded Stock**" means a stock or other financial instrument traded "over-the-counter".

"**SEC**" means the U.S. Securities and Exchange Commission.

"**Significant Risk Subsidiary**" means any non-U.S. subsidiary of an ultimate U.S. parent entity where the ultimate U.S. parent entity has more than \$50 billion in global consolidated assets, as determined in accordance with U.S. GAAP at the end of the most recently completed fiscal year, but excluding non-U.S. subsidiaries that:

- (a) are subject to consolidated supervision and regulation by the Board of Governors of the U.S. Federal Reserve System as a subsidiary of a U.S. bank holding company or an intermediate holding company;
- (b) are subject to capital standards and oversight by the subsidiary's home country supervisor that are consistent with the Basel Committee on Banking Supervision's "International Regulatory Framework for Banks" and subject to margin requirements for uncleared Swaps in a jurisdiction that the CFTC has found comparable pursuant to a published comparability determination with respect to uncleared Swap margin requirements; or
- (c) meet any of the following conditions:
  - (i) the three year rolling average of the subsidiary's equity capital is equal to or greater than five percent of the three year rolling average of the ultimate U.S. parent entity's consolidated equity capital, as determined in accordance with U.S. GAAP as of the end of the most recently completed fiscal year;

- (ii) the three year rolling average of the subsidiary's total revenue is equal to or greater than ten percent of the three year rolling average of the ultimate U.S. parent entity's total consolidated revenue, as determined in accordance with U.S. GAAP as of the end of the most recently completed fiscal year; or
- (iii) the three year rolling average of the subsidiary's total assets is equal to or greater than ten percent of the three year rolling average of the ultimate U.S. parent entity's total consolidated assets, as determined in accordance with U.S. GAAP as of the end of the most recently completed fiscal year.

"**Swap**" means a "**swap**" as defined in the Section 1a(47) of the CEA and CFTC Regulation 1.3(xxx).

"**U.S. Broker**" means a broker trading in the U.S..

"**U.S. GAAP**" means U.S. Generally Accepted Accounting Principles.

"**U.S. Person**" means:

- (a) a citizen or resident of the United States;
- (b) a corporation, partnership or other entity created or organized in or under the laws of the United States or any political subdivision thereof;
- (c) an entity created or organized in or under the laws of any other jurisdiction if treated as a domestic corporation pursuant to the United States federal income tax laws;
- (d) any estate or trust that is subject to the United States federal income taxation regardless of the source of its income;
- (e) any corporation, partnership, trust, estate or other entity in which one or more individuals or entities described in (a), (b), (c) or (d) acting singly or as a group has or have a controlling beneficial interest whether directly or indirectly and, in the case of a corporation or partnership, which is formed principally for the purpose of investing in securities not registered under the United States federal securities laws;
- (f) a trust if a court within the United States is able to exercise primary supervision over its administration and one or more United States Persons have the authority to control all the substantial decisions of such trust;
- (g) a trust in existence on 20 August 1996 and treated as a domestic trust (as defined in the relevant treasury regulations in the United States) prior to such date and that has elected to continue to be treated as a domestic trust;
- (h) any corporation, partnership or other entity, regardless of citizenship, domiciles, situs or residence, if under the federal income tax laws of the United States ten percent (10%) or more of the ownership of any mutual fund would be attributed

through such entity to any U.S. Person;

- (i) any person fitting the definition of U.S. Person under Regulation S<sup>1</sup>, promulgated under the Securities Act of 1933; or
- (j) any person causing the Bank to use U.S. interstate commerce in the process of effecting securities transactions.

**"U.S. Swaps Dealer"** means a Swaps dealer trading in the U.S..

**"W-8 Form"** means Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP or W-8IMY and such other forms as prescribed by the U.S. Inland Revenue Service, as applicable to the Customer.

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

2.1 The Customer provides the following warranties, representations and undertakings to the Bank which shall be supplemental to clause 10.1 of the Addendum for Overseas Securities Services:

- (a) unless otherwise specifically declared by the Customer, the Customer is not a U.S. Person and the Customer is not acting for, or on behalf of a U.S. Person;
- (b) the Customer is not a U.S. Person under any of the "CFTC U.S. Person" categories set forth below:
  - (i) any natural person who is a resident of the United States;
  - (ii) partnership, corporation, trust, investment vehicle, or other legal person organized, incorporated, or established under the laws of the United States or having its principal place of business in the United States. For purposes of this section, principal place of business means the location from which the officers, partners, or managers of the legal person primarily direct, control, and coordinate the activities of the legal person. With respect to an externally managed investment vehicle, this location is the office from which the manager of the vehicle primarily directs, controls, and coordinates the investment activities of the vehicle;
  - (iii) an account (whether discretionary or non-discretionary) of a U.S. Person; or
  - (iv) an estate of a decedent who was a resident of the United States at the time of death;

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<sup>1</sup> This includes any (1) trust of which any trustee is a U.S. Person (2) agency or branch of a foreign entity located in the U.S. (3) non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a U.S. Person (4) discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized or incorporated, or (if an individual) resident in the U.S.; and (5) partnership, corporation or other entity (other than a trust) if organized or incorporated under the laws of any non-U.S. jurisdiction and formed by a U.S. person principally for the purpose of investing in securities not registered under the Securities Act of 1933.

- (c) the Customer would not be classified as a Significant Risk Subsidiary;
- (d) unless notified by the Customer to the contrary in a timely manner in writing prior to entering into any Swap transactions, the Customer's obligations to the Bank or any counterparty in connection with the relevant Swap, are not subject to a Guarantee by a U.S. Person, except when (i) the Customer is registered with the CFTC as a Swap dealer, (ii) the Customer's Swaps are subject to a Guarantee by a U.S. Person that is a non-financial entity, or (iii) the Customer is itself below the Swap dealer de minimis threshold under CFTC regulations, and is affiliated with a CFTC-registered Swap dealer;
- (e) the Customer is not a director, 10% beneficial shareholder or policy-making officer or otherwise an affiliate of any company publicly traded in the United States;
- (f) 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 Overseas Securities Account or effect transactions through such Overseas Securities Account, securities of any company with securities traded in the U.S. in which he is:
  - (i) a 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 more than 10% of any class of voting securities of such company and holds a direct or indirect 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;
- (g) the Customer is not an employee of or affiliated with any U.S. securities exchange or member firm of any exchange, the FINRA or any securities firm, bank, trust company or insurance company in the U.S.;
- (h) the Customer understands that the Bank does not provide tax or legal advice, nor does it provide advice with regard to corporate actions and the Customer may not rely on any information that the Bank may provide in connection therewith;
- (i) should the Customer issue instructions to purchase an OTC Traded Stock or a CFTC-regulated Instrument, he acknowledges such OTC Traded Stocks and CFTC-regulated Instruments are generally conducted directly with market makers, Swap



dealers or other counterparties and are not under the supervision of any exchange. The Customer specifically acknowledges that OTC Traded Stocks and CFTC-regulated Instruments can lead to significant risks including the risk that the counterparty will not perform its part as obligated by the transaction. The Customer acknowledges that offsetting such risk is not always possible and specifically attests and warrants that he will bear such risk alone. The Customer hereby warrants that he will not hold the Bank responsible for any such counterparty or other risk associated with OTC Traded Stocks and CFTC-regulated Instruments;

- (j) should the Customer issue instructions to purchase an OTC Traded Stock or an CFTC-regulated Instrument, he will comply with the requirements of the executing broker or Swap dealer, respectively, and supply any needed information to establish the Customer's ability to purchase such OTC Traded Stock or CFTC-regulated Instrument;
- (k) trading in U.S. Products will be executed through one or more local brokers in the U.S.. The Customer acknowledges that U.S. Brokers are subject to rules promulgated by various regulators including the state securities regulators in the 50 states, the SEC, and the FINRA. The Customer acknowledges that such obligations may require the Bank to provide the U.S. Brokers with information about the Customer, the Overseas Settlement Account and the Overseas Securities Account, including but not limited to, confidential information. The Customer warrants that it will not hold the Bank liable for any effect of providing such information to any U.S. Broker, any state securities regulator, the SEC or FINRA;
- (l) trading in CFTC-regulated Instrument may be conducted through one or more local Swaps dealers in the U.S.. The Customer acknowledges that U.S. Swap Dealers are subject to rules promulgated by various regulators including the CFTC and the NFA. The Customer acknowledges that such obligations may require the Bank to provide the U.S. Swap Dealers with information about the Customer, the Overseas Settlement Account and the Overseas Securities Account, including but not limited to, confidential information. The Customer warrants that it will not hold the Bank liable for any effect of providing such information to any U.S. Swap Dealer, the CFTC or the NFA;
- (m) the Customer understands that the Bank will seek to effect orders at the Customer's instruction. The Bank or a U.S. Broker may act as an agent or principal (not at risk) for both buyer and seller in a transaction in U.S. Products, and may charge a commission or other fees to both parties. The foreign exchange rate selected, financing fee and the conversion fee set by the U.S. Broker may not be the best or most favourable rates or fees available to the Customer. The Customer acknowledges that the U.S. Broker and/or the Bank may earn revenue on some or all of these fees including the spreads on transactions in U.S. Products traded on a net basis. Costs associated with instructions can also include local market and other fees; and
- (n) for ADRs:

- (i) costs charged with instructions may include ADR conversion costs. For ADR conversions, the actions or inaction of any entity facilitating the interchange of ADRs and the underlying ordinary shares and the U.S. Broker executing on the local market are those of such entity and not the Bank. The Bank has no liability for such actions or inactions;
- (ii) when the Customer issues instructions involving an ADR it specifically also authorizes the Bank to facilitate to swapping of such ADR with ordinary shares. The Customer understands this is a final instruction and cannot be reversed; and
- (iii) it is the Customer's sole responsibility to determine if an ADR conversion, if conducted during a corporate action could result in a participating bank, U.S. Broker or the Bank closing its books to conversion or otherwise resulting in a claimable event, and the Bank will not advise or assist the Customer in this determination or be liable for its outcome in any way. The Customer agrees the Bank is not liable, and that it shall promptly pay directly or reimburse the Bank for any claims which may arise before, during or after, any corporate action relating to the ordinary shares regardless of reason or validity of such claims.

### **3. Tax**

3.1 With respect to any taxes, duties, levies, impositions, charges or other liabilities or payments payable in connection with the Overseas Securities Account or any transactions relating to Overseas Securities for which the Bank or its agents have deducted or withheld on the Customer's behalf pursuant to clause 12.1 of the Addendum for Overseas Securities Services, the Customer acknowledges and agrees that the Bank will apply the least favourable tax treaty rate applicable to the Customer if:

- (a) the Customer's declared tax treaty country on his W-8 Form is inconsistent with his principal address stated in the Bank's records; or
- (b) the Customer's W-8 Form has expired.

### **4. Additional Risk Disclosure Statements**

4.1 The Customer should note the following risks associated with investing in U.S. Products:

#### **(a) Legislative and regulatory risk**

With the passage of Dodd-Frank in the United States, there has been extensive rulemaking and regulatory changes that have affected and will continue to affect participants in the securities and derivatives markets. Under Dodd-Frank, the SEC has mandated additional reporting requirements and is expected to mandate new recordkeeping requirements. Until the U.S. federal regulators implement all of the new requirements of Dodd-Frank, it is unknown how burdensome such requirements will be. Dodd-Frank will affect a broad range of market participants,

including commercial banks, investment banks, other non-bank financial institutions, rating agencies, mortgage brokers, credit unions, insurance companies and broker-dealers. It may take years to understand the impact of Dodd-Frank on the financial industry as a whole, and therefore, such continued uncertainty may make markets more volatile. Moreover, recent legislation has been proposed that would make numerous changes to Dodd-Frank. As a result, there is substantial uncertainty surrounding the regulatory environment for the financial industry in the United States.

In the U.S., certain derivatives must be executed on a regulated market and a substantial portion of over-the-counter derivatives must be submitted for clearing to regulated clearing houses. Over-the-counter trades submitted for clearing will be subject to minimum initial and variation margin requirements set by the relevant clearing house, as well as possible mandatory margin requirements. The regulators also have broad discretion to impose margin requirements on non-cleared over-the-counter derivatives. Over-the-counter derivatives dealers have also become subject to new business conduct standards, disclosure requirements, reporting and recordkeeping requirements, transparency requirements, position limits, limitations on conflicts of interest, and other regulatory burdens. Margin and regulatory requirements will increase the overall costs for over-the-counter derivatives dealers. Dealers can be expected to try to pass those increased costs along, at least partially, to market participants such as the Customer in the form of higher fees or less advantageous dealer marks. The overall impact of the Dodd-Frank Act and corresponding global regulation on the derivatives market is highly uncertain and it is unclear how the over-the-counter derivatives markets will adapt to this regulatory regime.

**(b) Regulation of underlying markets**

Markets in equity securities are extensively regulated. Such regulation may include: (i) reporting requirements relating to the acquisition of beneficial ownership of equity securities, changes in ownership, and arrangements that have the purpose or effect of changing or influencing control of an issuer, (ii) prohibitions on transacting on the basis of material non-public information and on manipulative trading, (iii) disgorgement of "short-swing" profits earned in connection with certain transactions in or related to an issuer's shares by "insiders" or significant beneficial owners of the issuer, (iv) procedural, disclosure and substantive requirements with respect to distributions or repurchases of securities by or on behalf of an issuer or affiliate and the commencement of tender offers, (v) limits on the size of positions that may be maintained in options or other instruments, and (vi) limitations on extending or obtaining credit for the purpose of purchasing or carrying equity securities.

**5. Margin Disclosure Statement (where applicable)**

- 5.1 When considering a margin loan, the Customer should determine how the use of margin fits his own investment philosophy. It is important that the Customer fully understands the risks, rules, and requirements involved in trading securities on margin.

5.2 The following paragraphs highlight some of the critical aspects of margin trading:

- (a) **Margin trading increases the level of market risk.** Margin trading increases the Customer's buying power, allowing the Customer to purchase a greater amount of securities with the Customer's investing dollar. Therefore, the Customer's exposure to market volatility increases—a declining market could result in even greater losses. *A decline in the value of the Customer's securities that the Customer purchases on margin may require the Customer to provide additional funds to the Bank in order to avoid the forced sale of those securities or other securities in the Customer's account.*
- (b) **Downside is not limited to the collateral value in the Customer's margin account.** When the Customer buys securities on margin, the Customer is borrowing money from the Bank for part of the Customer's transactions. Securities and other assets in the Customer's account(s) are pledged as collateral to secure this loan. These margin transactions are riskier and involve the possibility of greater loss than transactions where the Customer is not borrowing money. If the securities in the Customer's account decline in value, so does the value of the collateral supporting the Customer's loan. When the value of the collateral falls below the maintenance margin requirements, or the Bank's higher "house" requirements, the Bank can move to protect its position. In order to cover margin deficiencies, the Bank may issue a margin call to the Customer—a request for additional cash—or sell securities from the Customer's account. If a sale does not cover the deficiency, the Customer will be responsible for any shortfall.
- (c) **The Bank may initiate the sale of any securities in the Customer's account, without contacting the Customer, to meet a margin call.** The Bank may, but is not obligated to, attempt to involve the Customer in the case of margin deficiency; however, market conditions may require the Bank to quickly sell any of the Customer's securities without the Customer's consent. Because the securities are collateral for the margin loan, the Bank has the right to decide which security to sell in order to protect its interests. Even if the Bank has contacted the Customer and provided a specific date by which the Customer can meet a margin call, the Bank can still take necessary steps to protect its financial interests, including immediately selling the securities without prior notice to the Customer.
- (d) The Bank's "house" initial and maintenance margin requirements may exceed those established by the Federal Reserve Board and/or the FINRA.
- (e) The Bank may change its initial margin requirements at any time and without prior notice. The Bank may also impose anytime and without prior notice more stringent requirements on positions that at the Bank's sole and absolute discretion involve higher levels of risk; for example, higher limits may apply for thinly traded, speculative or volatile securities, or concentrated positions of securities.
- (f) **The Bank may increase its "house" maintenance margin requirements at any time and is not required to provide the Customer with advance written notice.** Changes in the Bank's policy regarding "house" maintenance margin requirements often take

effect immediately and may result in the issuance of a maintenance margin call. The Customer's failure to satisfy the call may cause the Bank to liquidate or sell securities in the Customer's account.

- (g) The Bank retains absolute discretion to determine whether, when and in what amounts the Bank will require additional collateral. For example, the Bank may require additional collateral if an account contains only one security or a large concentration of one or more securities; or low-priced, thinly traded or volatile securities; or if some of the Customer's collateral is or becomes restricted or non-negotiable or non-marginable. The Bank may also consider market conditions, the Customer's financial resources, or other factors deemed by the Bank to be relevant given the circumstances at the time.
- (h) **The Customer is not entitled to an extension of time on a margin call.** While an extension of time to meet margin requirements may be available to the Customer under certain conditions, the Customer does not have a right to the extension.
- (i) Some accounts that carry a margin loan balance and hold dividend-paying securities may receive a "substitute income payment in lieu of a dividend" ("PIL"). This payment may be taxable as ordinary income. Taxable accounts that receive a PIL instead of a qualified dividend may also receive a supplemental credit from the Bank.