

# **OCBC Bank (Hong Kong) Limited**

## **TERMS AND CONDITIONS**

**of**

## **INVESTMENT ACCOUNT**

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Registration Status : Registered Institution

CE Number : AAC083

Address : OCBC Centre, 161 Queen's Road Central, Hong Kong

Version 202408

# **Terms & Conditions of Investment Account**

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These Terms and Conditions (Terms and Conditions refer to both the General Terms and Conditions of Part A as well as the Specific Terms and Conditions of Part B) set forth the terms and conditions governing the opening and the use of Investment Account. By signing the Investment Account Mandate and all related forms and documents, the Customer agrees to be bound by the following:

## **PART A**

### **General Terms and Conditions**

#### **1. Definitions & Interpretation**

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

"Access Code"	means the Customer's login identification used in conjunction with his personal password and the Account number to gain access to the Services.
"Account"	means individually or collectively the Investment Account, the Settlement Account and the Credit Facility Account, if applicable, opened and maintained or to be opened and maintained with the Bank by the Customer.
"Agents"	means all agents, associate affiliates, information service providers, providers of EREF (including OCBC Securities Brokerage (Hong Kong) Limited or any other related company or affiliate of the Bank), and providers of other financial products.
"Authorized Person"	means the person(s) authorized by the Customer to give Instructions (together with specimen signatures) to the Bank from time to time in such manner as the Bank requires.
"Bank"	means OCBC Bank (Hong Kong) Limited, its subsidiaries and any branch of the Bank wherever situate which provide services or effect transaction, and shall include each such company's successors and assigns.
"Bank Group Company"	means any direct or indirect holding company of the Bank, any direct or indirect subsidiary of the Bank or of such holding company, or any of their related company (being a company in which an equity interest is held by any of the foregoing), and shall include each such company's successors and assigns.
"Clearing House"	means the subsidiary or division of the Hong Kong Exchanges and Clearing Limited which is responsible for clearing settlement in respect of the dealing in the Securities.
"Code"	means the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission, as may be amended, varied and replaced from time to time. All the provisions herein that relate to the obligations of the Bank under the Code shall only cover the obligations that are applicable to the Bank in the conduct of its regulated activities (under the Securities and Futures Ordinance). For the avoidance of doubt, the obligations applicable to the Bank under the Code shall not include any Code requirements that the Bank is exempt from under paragraph 15 of the Code.
"Corporate Professional Investors"	means the "Corporate Professional Investors" as defined in paragraph 15 of the Code, with regard to whom the Bank has complied with paragraphs 15.3A and 15.3B of the Code and who have given consent for the Bank to be exempt from complying with the requirements set out in paragraphs 15.4 and 15.5 of the Code.
"Credit Facility Account"	means the credit facilities including overdraft facilities, loans or other banking facilities grant or to be granted by the Bank to the Customer, if applicable.
"Customer"	means individually or collectively the following:  (1) the person(s) (2) the corporation

	(3) the sole proprietor or all the partners of the firm
	named in these Terms and Conditions who has/have applied and been accepted by the Bank to use the Services.
"Depositories"	means a company or overseas company (including but not limited to any bank, trust company or member firm of any securities Exchanges) for the safe custody of client securities and securities collateral.
"EREF"	means electronic routing and execution facility provided by the Bank or Agents which enables the Customer to give electronic Instructions through the Internet or mobile phone service or other access channel for the purpose of acquisition, subscription, exchange or otherwise disposal of and dealings in any and all kinds of Securities or any investment vehicles and information services.
"eTrading Services"	means services provided by the Bank from time to time via Phone Trading, Mobile Trading, Internet Trading, EREF or other electronic access channels.
"Exchanges"	means the limited company with the exclusive right to establish, operate and maintain a stock market or commodity exchange including but not limited to the Hong Kong Exchanges and Clearing Limited.
"Fund Manager"	means the manager, the Hong Kong representative, and/or distribution agent for the time being of the Units hereinafter defined in which the Customer wishes to invest or deal.
"HKSCC"	means the Hong Kong Securities Clearing Company Limited.
"Hong Kong Regulators"	means the Exchanges, the Securities and Futures Commission of Hong Kong and the Hong Kong Monetary Authority.
"Instruction"	means (a) verbal instruction; and/or (b) instruction through various delivery channels acceptable to the Bank; and/or (c) instruction given through eTrading Services; and/or (d) written instruction given in such form and delivered or transmitted to the Bank by such means as the Bank may from time to time prescribe or accept, in each case subject to the applicable minimum and/or maximum amount as may be prescribed by the Bank from time to time in respect of any particular type of instruction. The instructions may include acquisition, subscription, exchange or otherwise disposal of and dealings in any and all kinds of Securities or any investment vehicles to the Bank. The instructions may also include the input of electronic Initial Public Offering (eIPO) applications.
"Institutional Professional Investors"	means the "Institutional Professional Investors" as defined in paragraph 15 of the Code.
"Internet Trading"	means a part of eTrading Services offered by the Bank that enables the Customer to access to a range of trading services as specified and provided by the Bank from time to time using Internet.
"Investment Account"	means the account(s) opened and maintained with the Bank by the Customer: - <ul style="list-style-type: none"> <li>(i) for safekeeping and custody of Securities, effecting the Securities settlements arising from the purchases and sales of Securities and other dealings in Securities; and</li> <li>(ii) for effecting or implementing any orders or Instructions in relation to Transactions in Securities.</li> </ul>
"Investment Scheme"	means collective investment schemes (as defined in the Securities and Futures Ordinance) and investment plans in respect of Securities which for the time being the Bank is prepared to deal with under the terms of these Terms and Conditions.

"Mobile Trading"	means a part of eTrading Services offered by the Bank that enables the Customer to access a range of trading services as specified and provided by the Bank from time to time via electronic applications using a mobile phone (or such other telecommunication equipment) serviced by telecommunication companies designated by the Bank from time to time.
"Nominees"	wherever the context admits, means individually or collectively, OCBC Nominees Services (Hong Kong) Limited, HKSCC (Nominees) Ltd and/or other Depositories.
"Phone Trading"	means a part of eTrading Services offered by the Bank that enables the Customer to access to a range of trading services as specified and provided by the Bank from time to time using telephone calls.
"Personnel"	means the directors, officers and/or employees of a company or a body corporate.
"Securities"	means individually or collectively the following: <ul style="list-style-type: none"> <li>(1) "securities" as defined in Part 1 of Schedule 1 of the Securities and Futures Ordinance Cap.571;</li> <li>(2) Securities traded on GEM of the Stock Exchange ("GEM");</li> <li>(3) Securities under the Nasdaq-Amex Pilot Program (PP) of the Stock Exchange of Hong Kong Limited;</li> <li>(4) derivative products now being offered and other derivative products to be developed and offered by the Bank from time to time;</li> <li>(5) certificates of deposit;</li> <li>(6) Units; and</li> <li>(7) such other products as designated by the Bank from time to time for which Services will be provided.</li> </ul>
"Services"	means the services offered by the Bank as described in Clause 2.1.
"Settlement Account"	means the account(s) opened and maintained with the Bank by the Customer (whether in the nature of statement savings, savings or current account) or such other accounts(s) as from time to time specified by the Customer and accepted by the Bank for the purposes of effecting the money settlements arising from the purchases and sales and other dealings in Securities.
"Transaction"	means the carrying out of Instructions given by the Customer to the Bank in relation to the Services provided herein.
"Units"	means units or shares in the Investment Scheme herein defined which for the time being the Bank is prepared to deal with under these Terms and Conditions.

- 1.2 Reference to the plural shall include the singular and vice versa; words importing a gender shall include every gender; references to a "person" shall include any individual, firm, body, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing; references to "including" or "includes" shall mean including or includes without limitation; references to an "account" shall unless the context otherwise requires include the Account.
- 1.3 Clause headings shall be ignored in the interpretation of these Terms and Conditions and all the Schedules form integral parts of these Terms and Conditions.
- 1.4 References to Clauses and Schedules mean the Clauses of and Schedules to these Terms and Conditions.
- 1.5 The word "Customer" includes an individual, a firm, a limited company, and unincorporated association or an authority.
- 1.6 Unless the context requires otherwise, in these Terms and Conditions, reference to a statute or statutory provision includes a reference to it as amended, extended, replaced, substituted or re-enacted from time to time and shall include any subordinate legislation made under the relevant statute or statutory provision.

## 2. **Scope of Services**

2.1 The Customer may use or continue to use any one of more of the following services subject to these Terms and Conditions:

- (a) Securities trading (including trading in Units in any of the Investment Schemes);
- (b) Securities custodian service; and
- (c) any other services as agreed in writing to be provided by the Bank at its sole discretion from time to time.

2.2 Where it is explicitly agreed between the Bank and the Customer that the Bank will provide the execution only services in respect of any Securities prescribed by the Bank, the Customer understands and agrees that the Bank's services will be limited to the execution of Instructions for such Securities as specified by the Customer in accordance with the Customer's Instructions pursuant to these Terms and Conditions, and the Bank does not provide any investment advice to the Customer in relation to such Securities.

2.3 All Customers who use or continue to use one or more of the above Services shall, as the case may be, open and maintain the Accounts, which shall be subject to these Terms and Conditions and other terms and conditions as applicable to the Accounts.

2.4 The Customer may request the Services by giving Instruction to the Bank provided that the Bank shall be entitled to specify, from time to time, such Services which may be made available to the Customer by whatever means or channels the Bank may consider appropriate. For the avoidance of doubt, where these Terms and Conditions requires the Instruction of the Customer to be given, the Bank is authorized to act on the Instruction of the Authorized Person as if the Instructions were given by the Customer personally. The Customer confirms that the Bank is under no obligation to ascertain or to inquire into the purpose for which the Services is used and the Transaction is effected.

2.5 Any Instruction, once received, may not be rescinded or withdrawn without the consent of the Bank. All Instructions given, as understood and acted on by the Bank in good faith, shall be irrevocable and binding on the Customer whether given by the Customer or by any other person purporting to be the Customer. Apart from taking such practicable steps as the Bank may reasonably consider appropriate, the Bank shall be under no further duty to verify the identity or authority of the person giving any Instruction or the authenticity of such Instruction.

2.6 Any Transaction effected pursuant to or as a result of an Instruction shall be binding on the Customer in all respects.

2.7 The Bank shall be entitled (but not obliged), without prior notice to or consent from the Customer, to take or omit to take any steps or actions as it or its Agents may consider necessary or expedient to comply with:

- (a) all applicable laws (including without limitation the laws of Hong Kong) and regulations of government agencies and statutory bodies of competent jurisdiction (including without limitation the Hong Kong Regulators);
- (b) the constitution, rules, practices and customs of exchange, clearing houses or other market in any country where the Transactions are executed; and/or
- (c) banking regulations, practices and customs in any country in connection with the delivery and settlement of Securities,

and the Customer shall bear all the charges fees or levies which may be imposed and the Bank shall not be liable to the Customer for any loss or damage the Customer may suffer or sustain arising from or in connection with the taking of or omission to take any such steps or actions by the Bank (or its Agents) notwithstanding that any of the Services may be affected delayed suspended or withheld save and except any negligence or wilful misconduct of the Bank.

2.8 If the Bank solicits the sale of or recommends any financial product to the Customer, the financial product must be reasonably suitable for the Customer having regard to the Customer's financial situation, investment experience and investment objectives. No other provision of these Terms and Conditions or any other document the Bank may ask the Customer to sign and no statement the Bank may ask the Customer to make derogates from this Clause 2.8. For the purposes of this Clause 2.8, the term "financial product" means any securities, futures contracts or leveraged foreign exchange contracts as defined under the Securities and Futures Ordinance and "leveraged foreign exchange contracts" is only applicable to those traded by persons licensed for Type 3 regulated activity. For any Customer who is an Institutional Professional Investor or a Corporate Professional Investor, the Customer agrees that the aforesaid obligations of the Bank (including the non-derogation obligations) under this Clause 2.8 are not applicable thereto, and in respect of any Instruction, Transaction or investment in financial products of any kind, the Customer will independently and without reliance on the Bank make his own judgments and decisions, and that the Bank is not obliged to assess the suitability of such investment under this Clause 2.8. This Clause 2.8 shall take effect on 9 June 2017, and only apply to any solicitation and/or recommendation of any financial products the Bank makes to the Customer on or after 9 June 2017.

2.9 **(This Clause 2.9 shall only be applicable if the Customer is an Institutional Professional Investor or a Corporate Professional Investor)** The Customer agrees that he is not relying on any communication (whether written or oral) of the Bank or any of its affiliates as an investment advice or as a recommendation to make his investments through the Bank (unless otherwise agreed by the Bank in writing) and understands that any information or explanation provided by the Bank shall not (unless otherwise agreed by the Bank in writing) be considered its investment advice or recommendation. In respect of any Instruction, Transaction or investment in Securities of any kind (including financial product as mentioned in Clause 2.8 above) of the Customer through the Bank, the Customer will independently and without reliance on the Bank make his own judgments and decisions, and that the Bank is not obliged to assess the suitability of such investment.

2.10 When the Bank conducts any suitability assessment on any Securities (including financial product as mentioned in Clause 2.8 above) for the Customer, such assessment of the Customer shall be based solely on the information provided by the Customer to the Bank. The Bank shall not be obliged to take into consideration any information about the Customer that the Bank is not actually aware of. The Bank shall also not be responsible or liable for any losses that arise as a result of any false, inaccurate, misleading, incorrect, incomplete, outdated or fraudulent information provided by the Customer or misrepresentations of the Customer.

2.11 In respect of any investment transaction with or on behalf of the Customer by the Bank, the Bank is not acting as the Customer's investment or financial adviser nor acting in a fiduciary capacity to the Customer. The Customer should seek his own professional advice, as he considers appropriate. The Bank is not obliged to (i) monitor the performance of the Customer's investments held with the Bank nor (ii) provide any investment advice to the Customer nor (iii) ensure the Securities which have been solicited or recommended by the Bank remains suitable for the Customer on an on-going basis. If the circumstances relating to the Customer, the Securities, the issuer thereof, or the general market conditions change, the Securities may no longer be suitable to the Customer. Some of the information and documents provided by the Bank are for general circulation to its clients and are not meant to target specifically to the Customer, and unless specifically indicated otherwise, the preparation of such information and documents has not taken into consideration the individual personal circumstances of the Customer, and should not be relied upon as such.

### 3. **Common Terms & Conditions**

#### 3.1 **Statement of Account**

A statement of account will be sent or made available to the Customer every month or at regular intervals as determined by the Bank from time to time. No statement will, however, be sent or made available to the Customer for any of the Accounts where during the relevant period, there is no trading activity and the Account balance is zero. The Bank has the sole and absolute discretion to provide or make available to the Customer the statement in whatever form and by whatever means.

The Customer is required in respect of the Account to verify the correctness of all Transaction details contained in each statement of account received from the Bank and within 90 days after the time when they should have been received to notify the Bank in writing of any alleged omissions from or debits wrongly made to or inaccurate entries in the Account as so stated. At the end of the said 90 days, the statement of account shall be conclusive and binding upon the Customer, save and except in situations where the Customer can prove the statement of account contains (a) unauthorized transactions arising from forgery or fraud and in relation to which the Bank has failed to exercise reasonable care and skill and (b) unauthorized transactions arising from forgery or fraud or negligence of the Bank, the Bank's agents, officers or employees; however, subject always to the Bank's right to correct any errors contained therein at any time notwithstanding the aforesaid, and the Bank shall be free from all claims in respect of the Account.

#### 3.2 **Communications**

The Customer must notify the Bank in writing of any change of address or other pertinent particulars recorded with the Bank. Correspondence sent to the Customer by post or courier according to the last address registered with the Bank shall be deemed to have been duly received by the Customer on the day following that on which the correspondence is posted or sent.

#### 3.3 **Exclusion of Liability**

Unless due to the negligence or wilful default of the Bank or its Personnel and only to the extent of direct and reasonably foreseeable loss and damage (if any) arising directly and solely therefrom, to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, and subject to Clause 2.8 (if applicable), the

Bank (i) does not assume any liability or responsibility to the Customer or any third party, (ii) shall not be liable for taking or omitting to take any action and (iii) shall not be responsible for any direct or indirect losses, damages, costs and expenses suffered by the Customer or any third party arising out of or in connection with: -

- (a) access to the Services by the Customer or any other person whether or not authorized;
- (b) the operation of the Account and the Bank's provision of dealing, safekeeping and other Services pursuant to the provisions of these Terms and Conditions;
- (c) any circumstances or situations restricting or affecting the Bank's ability to account for or carry out any Transaction or provide any Services, including government restriction, imposition or change of any applicable laws or regulations, Exchange or market rulings, market disruption or fluctuation, restriction or suspension of trading, failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorized access, theft, war (whether declared or not), severe weather, earthquakes, strikes, and insolvency or liquidation or bankruptcy of any relevant financial institution, broker, Exchange, clearing house or government;
- (d) actions or omissions (including any negligence or default) of any Agents, custodian or counterparty involved in any Transactions;
- (e) any interruption, suspension, delay, loss, damage, mutilation or other failure or inaccuracy in transmission of Instructions or other information howsoever caused;
- (f) disclosure or leakage of Instruction or information relating to the Customer by any telecommunication company, equipment, device or intermediary through which the Instruction or information is communicated to or from the Bank or the Bank's Agents or any other third party;
- (g) the Bank's inability to execute any Instruction due to prevailing market conditions and the manner and timing of execution of an Instruction;
- (h) the Bank's not providing or delay in providing any of the Services, or delay in making any payment in relation to the Services;
- (i) any damage to any terminal or related facilities used by the Customer or any loss or corruption of any data in connection with the operation of eTrading Services; and/or
- (j) mechanical failure, power failure, malfunction, breakdown, interruption or inadequacy of equipment or installation in connection with the eTrading Services, Acts of God, government act, flood, fire, civil commotion, public demonstration, strike, war, terrorist activity of any kind or any other causes beyond the reasonable control of the Bank.

Where statements, Advices, advices, contract notes or other documents are made available to the Customer in electronic form, the Customer acknowledges and agrees that the Bank does not warrant the timeliness, security, secrecy or confidentiality of the same electronically transmitted through any applicable internet service provider, network system or other equivalent system in any jurisdiction.

#### 3.4 **Set-off and Lien**

- (a) In addition and without prejudice to any other security or any general lien, right of set-off or similar right to which the Bank may be entitled at law, in equity, under these Terms and Conditions or any other agreement between the Customer and the Bank, the Bank shall have a lien on all the Customer's property (including the Securities) which may now or hereafter be in the Bank's possession whether for safekeeping or otherwise, and the Bank shall also have the right and is hereby authorized (but not obliged), to the fullest extent permitted by law and without notice to the Customer or to any other person, to retain, set-off, appropriate and apply in such manner and order and in respect of such of the Customer's obligations and liabilities to the Bank as the Bank at its absolute discretion decides:
  - (i) any credit balance on any account (whether subject to notice or not and whether matured or not and in whatever currency(ies)) of the Customer or of any other person with the Bank or any other company related to or associated with the Bank to which the Customer may be beneficially entitled, and
  - (ii) any other sum due or owing by the Bank to the Customer in whatever currency(ies), and
  - (iii) any credit balance on any account opened by the Bank in its name on the Customer's behalf with any other financial institutions in Hong Kong Special Administrative Region or elsewhere,

against or on account of the Customer's obligations and liabilities to the Bank whether actual, future or contingent. For the purposes of this Clause 3.4, an account shall be deemed to have a credit balance if under and pursuant to an overdraft facility funds may be drawn out of that account (even though the account may already be overdrawn but the amount overdrawn is still less than the maximum amount available under the overdraft facility), and the amount of such credit balance shall be equal to the amount which under the overdraft facility is still available. Further, in so far as any of the Customer's liabilities are contingent or future, the Bank's liability to make payment of any sum or sums standing to the credit of any of the



Customer's accounts to the Customer shall, to the extent necessary to cover such liabilities, be suspended until the happening of the contingency or future event. This Clause 3.4 shall apply notwithstanding that any credit balance in question may have been deposited for a fixed period or may be subject to a period of notice and the fixed period or period of notice may not have expired or notice may not have been given.

- (b) Without prejudice to all other rights or remedies of the Bank and for the avoidance of doubt, all Securities held in the Customer's Investment Account shall be subject to the Bank's first lien. The Bank shall also have the power to sell such property of the Customer coming into the possession or control of the Bank for custody or for any reason and whether or not in the ordinary course of banking business (including without limitation all or any of such Securities in the Investment Account) as security, constituting the lien of the Bank, in such manner and at such price(s) as the Bank considers appropriate in light of the prevailing market conditions, and the Bank shall apply the proceeds of sale after deduction of reasonable expenses in satisfaction of any obligations and liabilities whatsoever of the Customer owed to the Bank whether present or future, actual or contingent.
- (c) In case of a joint account, the Bank may exercise the right in this Clause 3.4 and apply any credit balance on such joint account in or towards satisfaction of any indebtedness owed to the Bank by one or more of the holders of such joint account.
- (d) The Bank is authorized to carry out any currency conversion as the Bank may consider necessary to effect any right under this Clause 3.4 at an exchange rate determined by the Bank at the sole and absolute discretion, and the cost of such conversion shall be borne by the Customer and shall form part of the obligations and liabilities owed to Bank for its exercise of any of its right under this Clause 3.4.
- (e) The Customer agrees and acknowledges that the Customer's obligations and liabilities to the Bank against which the Bank is entitled to retain, set-off, appropriate and apply pursuant to this Clause 3.4 shall include (i) any time-barred obligations and liabilities (whether or not as a result of the provisions of the Limitation Ordinance) and (ii) any other obligations and liabilities which for any reason(s) are unenforceable.
- (f) Upon exercising the rights and powers of the Bank under this Clause 3.4, the Bank will use its reasonable endeavors, as soon as practicable thereafter, to notify the Customer of the same and the further performance by the Bank of any of its outstanding obligations to the Customer under these Terms and Conditions (whether for the payment of money or otherwise) shall be conditional upon the Customer having fully discharged all his obligations and liabilities to the Bank under these Terms and Conditions.

### **3.5 Joint Account**

3.5.1 When the Customer consists of more than one person, these Terms and Conditions shall be jointly and severally binding on all such persons and their liabilities and obligations hereunder shall be joint and several. The Bank shall be entitled (but not obliged) to act on any Instruction(s) given only by or otherwise deal separately with any one of such persons, without first to obtain confirmation from any other of such persons regarding such Instruction(s) or dealing.

3.5.2 The Customer agrees to authorize the Bank:

- (a) to debit the joint account or accounts (referring to any of the Account) with any payment made by the Bank upon presentation by any person with a withdrawal slip, withdrawal/delivery instruction signed by the Authorized Person to be supplied and approved by the Bank or by other means or in such manner acceptable to the Bank from time to time.
- (b) on the death of any Customer, subject to any claim, right, lien, charge, pledge, set-off or whatever right the Bank may have and subject to Clause 3.14(a), to pay or deliver to, or to the order of, the survivor of the Account holder any moneys and/or Securities now or hereafter standing to the credit of the joint Account together with anything held by the Bank for safe keeping or for collection or for any purpose relating to the joint Account.

The Customer agrees that any liability whatsoever incurred to the Bank in respect of the foregoing shall be joint and several.

3.5.3 If one of joint Account holders should die, the Account shall belong to the survivor absolutely, however, without prejudice to the Bank's rights under Clause 3.14.

### **3.6 Amendments**

It is hereby expressly agreed that the Bank shall be entitled from time to time and at such time in its sole and absolute discretion without the consent of the Customer or any third party to replace, revise, increase, add, amend and/or delete any or all of these Terms and Conditions for the time being in force and such replacement, revision, increase, addition, amendment and/or deletion shall be conclusively and absolutely binding on the Customer as from the effective day (as hereinafter defined) if 30 days' notice thereof by display in the Bank hall, advertisement, or by mailing to Customer at his last address registered with the Bank, posting on the website of the Bank or by other means as the Bank thinks fit has been given to the Customer, and such replacement, revision, increase, addition, amendment and/or deletion shall be binding on the Customer if the Customer continues to maintain the Account with the Bank after the effective date thereof. Provided Always That

- (a) such notice shall specify the day on which such replacement, revision, increase, addition, amendment and/or deletion shall take effect ("the effective day") and
- (b) the Customer shall not have closed the Account prior to the effective date so specified in such notice.

### **3.7 Change of Signature Specimen**

The Customer shall inform the Bank for any change in the specimen signature or information provided to the Bank and shall complete a change form for the record of the Bank. In the case the Customer being a corporation, a resolution for such purpose duly passed by the board of directors should be submitted to the Bank as soon as possible without delay. New specimen signature cards indicating the date from which the new signature will become effective should also be submitted. No new signature shall be used without the consent of the Bank.

### **3.8 Loss of Chop or Seal**

If a chop or seal is being used as signature by the Customer, he shall bear all the risks and losses in respect of such use. Apart from taking such practicable steps as the Bank may reasonably consider appropriate, the Bank shall not be liable for any loss or damage resulting from or in connection with the authorized or unauthorized use of the chop or seal of the Customer. In particular, in the event of loss of a seal or chop used for operating the Account, the Customer must immediately notify the Bank of the loss in writing and before actual receipt of such written notice, the Bank shall not be responsible for any payment made as a result of using the seal or chop.

### **3.9 Service Charges, Interest and Fees**

The Bank reserves the right, at its discretion, to impose service charge stated in a service charge booklet as issued by the Bank from time to time ("the Service Charge Booklet") in the case of any Account which, in the opinion of the Bank, is inactive or constantly carries a small balance, or which has a balance in the Bank's unclaimed balance account ("Unclaimed Balance Account").

The Bank shall be entitled to prescribe, from time to time, commission, fees, interest and charges payable in respect of the Services herein provided subject to the Bank's notice for a period of 30 days for any variation of such commission, fees, interest and charges, which may be given by display in the Bank hall, advertisement, mailing to Customer at his last address registered with the Bank or other means as the Bank thinks fit, and such variation shall be binding on the Customer if the Customer continues to maintain the Account with the Bank after the effective date thereof. Commission, fees, interest and charges already paid are non-refundable notwithstanding early termination of the Services, or as the case may be, closure of the Account.

The Customer agrees to pay such commissions, fees, interest and charges as the Bank may from time to time prescribe, details of which may be obtained from the Bank, in consideration of its Services herein and all expenses paid or incurred by the Bank or the Depositories with respect thereto, and the Bank may deduct any amount due to the Bank from any moneys received by it for the Customer or shall be authorized on behalf of the Customer to deduct any such due amount from any moneys standing to the credit of the Account with the Bank and further may retain the Securities by way of pledge to secure the payment of such commission, fees, interest, charges and expenses. If the Customer fails to pay such commission, fees, interest, charges and expenses within fourteen days after a demand of payment is made, the Bank is authorized from time to time, without notice to the Customer or any other person, to have all or any of the Securities registered in the name of the Bank or its Nominees appointed by it and to collect all or any of the Securities, and to sell by public or private sale all or any of the Securities upon such terms and conditions as the Bank may see fit, and to apply the proceeds of any such collection or sale, after deduction of the expenses thereof, in payment or reduction of such commission, fees, charges and expenses. The Managing Director or Manager or Secretary of the Bank for the time being is hereby irrevocably appointed the attorney of the Customer, with full powers of substitution from time to time, for each and all of the foregoing purposes of these Terms and Conditions and with power to sign and execute all documents and perform all acts in the name and on behalf of the Customer or as otherwise required in connection herewith. Commission, fees,

interest, charges and expenses already paid are non-refundable notwithstanding early termination of the Services, or as the case may be, closure of the Account.

### **3.9A Currency Conversion**

If any proceeds or amount of money from time to time received by the Bank is denominated in a currency other than the currency of any amount payable by the Customer, or if conversion of one currency into another currency is required or appropriate under these Terms and Conditions, the Bank shall be entitled (but not obliged) to convert the first mentioned currency into the appropriate currency at the prevailing rate of exchange in accordance with the Bank's usual practices without further reference to the Customer. The Customer shall be responsible for any loss arising from fluctuations in the rate of exchange between the two currencies and all costs of exchange and any other related costs, and the Bank is authorized to deduct all such loss or costs from the proceeds or amount of money received by the Bank or from the Customer's Account.

### **3.10 Document Retention**

The Bank may at its discretion destroy any Instructions or other documents relating to the Account after microfilming/imaging the same.

### **3.11 Business Hour**

The business hours of the Bank may be extended, changed or otherwise revised by the Bank in accordance with its business requirements. A poster or notice posted in the Bank hall where the Account is open or operated shall constitute written notice to the Customer of such change. All business transacted or amount paid for and on behalf of the Customer within the extended or revised business hours of the Bank shall be treated as if the same were transacted or paid during the normal business hours.

### **3.12 Collection of Amounts Due**

The Bank shall be entitled to employ outside debt collecting agency and/or institution to collect any or all sums due but unpaid by the Customer. For so doing, the Customer shall be obliged to pay the Bank a reasonable amount of costs and expenses reasonably incurred by the Bank in employing such outside debt collection agency or its nominated agent and all legal fees and disbursements reasonably incurred by the Bank in recovery thereof; however, in some situations, the same can exceed his indebtedness to the Bank.

### **3.13 Suspension and Termination of Services**

- 3.13.1 The Bank may at any time and in any manner as the Bank at its absolute discretion consider appropriate without being obliged to give any reason to the Customer and without any liability and with or without notice as the Bank determines whatsoever close the Account or suspend any of its Services. Without prejudice to the foregoing right of the Bank, if a notice of closure of the Account is sent to the Customer at his registered address, the Bank shall henceforth be released from any further obligations. The Customer shall be held solely responsible for any and all consequences resulting or arising therefrom. Any notice sent to the Customer by post or courier to his registered address shall be deemed to have been duly received by him on the day following that on which the notice is posted or sent.

The Bank may transfer any balance in the Account closed by the Bank to the Bank's Unclaimed Balance Account. Subject to payment of the service charges, the Customer may collect the balance from the Bank during the Bank's business hours.

- 3.13.2 These Terms and Conditions may be terminated at any time by written notice given by either party to these Terms and Conditions provided that these Terms and Conditions shall not be deemed to be terminated by the Customer until the Bank has advised him in writing (which notice may not be unreasonably withheld) that it accepts his termination notice on the basis that the Customer does not have outstanding balances or liabilities in the Account or other account(s) maintained with the Bank. Such notice shall not affect any transaction entered by the Bank prior to its receipt of such written notice and shall be without prejudice to any of the rights, powers or duties of the Bank or the Customer prior to such receipt.
- 3.13.3 Upon issuance of the notice pursuant to Clause 3.13.1 or 3.13.2, without prejudice to all other rights the Bank may have, the Bank may terminate the Account and convert all monies held in or for the Account into Hong Kong Dollars and realize any Securities in the Account and subject to the full payment of all money owed by him to it, the Bank shall:

- (a) credit any balance on the Account to his bank account;
- (b) send by post at the risk of the Customer to his last known address a cheque in the amount of credit balance of the Account; or
- (c) deliver to him personally or to his duly authorized agent or attorney a cheque in the amount of the credit balance of the Account and send to him all documents of title relating to the Securities in the Account.

#### 3.14 **Deceased Customer or Mentally Incapacitated Customer**

- (a) In the event of the death or mental incapacity of the Customer, the Bank shall be entitled to refuse any withdrawal of the credit balance or Securities, if any, from the Account, regardless of whether such Account is held jointly or singly or on trust, until the Bank is satisfied in its sole discretion that (i) there are no outstanding liabilities or indebtedness owed by the Customer to the Bank and the Bank Group Company; (ii) the proper disposition of the Customer's interest in the Account has been finally and validly determined and (iii) procedures or steps reflecting good practices generally applicable to the circumstances or specifically required by the Bank (including the opening of a new account in a representative capacity or a committee account, and the giving of an indemnity to the Bank) shall have been performed or taken. The Bank shall be entitled to deduct from any account (including the Account) of the Customer all costs and expenses (including legal fees) paid or incurred by the Bank with respect to or relating to any Account or its termination, or the transfer of the credit balance or Securities thereof to any person legally entitled to such balance.
- (b) In the event of the death of the Customer, the Bank shall be entitled (but not obliged) to give and/or disclose (including in case of a joint account, without consent of the surviving Customer) to any person applying for a grant of probate or letter of administration of the estate of the deceased Customer any information or documents or matters relating to the Account including, without limitation, the details and balance of the Account (and, in addition, the name of the surviving Customer, in case of a joint account), for the purposes of facilitating such application or any procedures or proceedings incidental to or arising from such application or ascertaining the property comprising the estate of the deceased Customer, without any liability to any person deriving an interest from the estate of the deceased Customer (and/or the surviving Customer, in case of a joint account).

#### 3.15 **Ultimate Beneficiary**

The Customer undertakes to provide details of the ultimate beneficiary and of the person originating the Instruction for a Transaction to the Bank within one business day or directly to the relevant authorities or bodies as may be specified by it including the Hong Kong Regulators within two business days.

In case the Customer is an individual, the Customer declares that the Customer is the sole beneficial owner of the Securities in the Account.

In case the Customer is other than an individual, the following shall apply:

If the Customer effects any Transaction for the account of another Customer, whether on a discretionary or non-discretionary basis, and whether as agent or by entering into matching Transactions as principal with that other Customer, the Customer hereby agrees that, in relation to a Transaction where the Bank has received an enquiry from the Hong Kong Regulators, the following provisions shall apply:

- (a) Subject to as provided below, the Customer shall, immediately upon request by the Bank, inform the Hong Kong Regulators of the identity, address, occupation and contact details of that other Customer for whose account the Transaction was effected and (so far as known to the Customer) of the person with the ultimate beneficial interest in the Transaction. The Customer shall also inform the Hong Kong Regulators of the identity, address, occupation and contact details of any third party (if different from that other Customer/the ultimate beneficiary) who originated the Transaction.
- (b) (i) If the Customer effected the Transaction for a collective investment scheme, discretionary account or discretionary trust, the Customer shall, immediately upon request by the Bank, inform the Hong Kong Regulators of the identity, address and contact details of the scheme, account or trust if applicable, the identity, address, occupation and contact details of the person who, on behalf of the scheme, account or trust, instructed the Customer to effect the Transaction.
- (ii) If the Customer effected the Transaction for a collective investment scheme, discretionary account or discretionary trust, the Customer shall, as soon as practicable, inform the Bank when the

discretion of the Customer to invest on behalf of the scheme, account or trust has been overridden and/or cancelled. In the case where the investment discretion of the Customer has been overridden and/or cancelled, the Customer shall, immediately upon request by the Bank, inform the Hong Kong Regulators of the identity, address, occupation and contact details of the person who has given the Instruction in relation to the Transaction.

- (c) If the Customer is aware that other Customer is acting as intermediary for its underlying client, and that other Customer does not know the identity, address, occupation and contact details of its underlying client for whom the transaction was effected, the Customer confirms that:
  - (i) The Customer has arrangements in place with that other Customer, which enable the Customer to obtain the information set out in paragraph (a) and/or (b) from that other Customer immediately upon request or procure that it be so obtained; and
  - (ii) The Customer shall, upon request from the Bank in relation to a Transaction, promptly request the information set out in paragraph (a) and/or (b) from that other Customer on whose instructions the Transaction was effected, and provide the information to the Hong Kong Regulators within two business days.

### 3.16 Representation of the Customer

3.16.1 By applying to the Bank for the provision of Services under these Terms and Conditions, the Customer (and if the Customer is more than one individual each of such individuals) hereby represents, warrants and confirms that:

- (a) he is not a citizen or resident of the United States of America;
- (b) he has not been nor does he anticipate or expect to be present in the United States for a period aggregating 183 or more days during a calendar year;
- (c) the gains from his purchase, switching or redemption transactions carried out pursuant to the Unit Trust and Nominee Services are not effectively connected or related to any US trade or business which the Customer is engaged in or plans to engage in during the calendar year;
- (d) if any of (a) to (c) above change(s) or appears likely to change, the Customer will notify the Bank in writing as soon as reasonably practicable and in any event within 30 days of such change of him becoming aware of the likelihood of such change.

3.16.2 The Customer warrants, represents and undertakes to the Bank:

- (a) unless the Customer notifies the Bank in advance, the Customer is entering into these Terms and Conditions and giving each Instruction under these Terms and Conditions as principal and is not acting on behalf of any other person, and the Customer has unencumbered and absolute beneficial title to all Securities deposited with or transferred to the Bank whether for sale, safe keeping, or any other purpose, all of which are fully paid and free of and not subject to any charge, lien, trust, hypothecation or other adverse interest or claim; and
- (b) the performance of any obligations contained in these Terms and Conditions by the Customer and any Instruction given by the Customer do not contravene any applicable law, statute ordinance, rule or regulation, codes or guidelines issued by any regulators (whether or not having the force of law), or any judgment, decree or permit to which the Customer is subject, or conflict with or result in any breach of the terms or constitute any default under any agreement or other instrument to which the Customer is a party or is subject.

### 3.17 Miscellaneous

3.17.1 Notwithstanding any provisions contained in these Terms and Conditions to the contrary, the Bank shall have an **overriding right** at any time to require the Customer's immediate repayment **on demand** of all his indebtedness, liabilities and outstanding amounts whether actual or contingent (together with interest and default interest, if any) owing to the Bank, and/or to require cash collateralization of all or any sums actually owing or contingently owing to the Bank and the Customer shall immediately deposit such monies, Securities or otherwise and maintain such Securities with the Bank to the Bank's satisfaction. The Customer further acknowledges that the Bank may at any time require him to deposit sufficient cleared funds in the Account before carrying out any Transaction in respect of any Securities on his behalf.

3.17.2 The Bank may prescribe such limits in connection with the use of the eTrading Services as the Bank may from time to time consider appropriate. Such limits may include, without limitation, the maximum number of enquiries and/or orders which may be made each day, the number of different Securities which may be dealt

with in each enquiry, the minimum transaction amount of each order and the quantity of Securities which may be the subject of each order and the range of prices available.

The Bank reserves the right at any time, at its discretion, to impose service charge for enquiries and/or orders made through the eTrading Services.

- 3.17.3 All information on Securities prices and Hang Sang stock indexes provided pursuant to the eTrading Services are for the Customer's reference only and it is the Customer's responsibility to confirm such information at the time of any Transaction.
- 3.17.4 The Bank will notify the Customer of any material change to its full name and address (including its registration status and the CE number as shown on the cover of these Terms and Conditions) or the Services provided by the Bank.
- 3.17.5 The Bank's rights in relation to these Terms and Conditions (whether arising under these Terms and Conditions or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing. Any failure to exercise or any delay in exercising any of such rights shall not preclude any other or further exercise of that or any other such right.
- 3.17.6 Each of the rights, powers and remedies given to the Bank under these Terms and Conditions shall be cumulative with and without prejudice and in addition to all other rights, powers and remedies given to the Bank under or by virtue of any other agreement between the Bank and the Customer, statute or rule of law or equity.
- 3.17.7 The Customer's rights and obligations in respect of the Account and the Securities and/or monies therein shall not without the Bank's prior written consent be assigned or subject to any third party's rights or encumbrances, other than as created under these Terms and Conditions. The Bank may by written notice assign any of its rights and obligations in respect of the Account and the Securities and/or monies therein to any person, and may disclose to its professional advisers and any actual or potential assignee any information in connection with the Account and the Securities and/or monies therein.
- 3.17.8 The Customer shall, immediately upon the Bank's request and at the Customer's expense, execute any further documents and take any other action which the Bank may require for the purpose of protecting or securing the Bank's rights in respect of or under these Terms and Conditions.
- 3.17.9 In the event of any conflict between any provision of the English version of these Terms and Conditions and the corresponding provision of the Chinese version of these Terms and Conditions, the English version shall prevail.
- 3.17.10 The Account shall, in addition to these Terms and Conditions, be governed by the Terms and Conditions for all Accounts and Related Services of the Bank (including their amendments, revisions, supplements, addenda and replacements from time to time), and in case of inconsistency between the former and the latter, the latter shall prevail.
- 3.17.11 The books and records of the Bank shall be final and conclusive evidence concerning the amount due from the Customer to the Bank under these Terms and Conditions at any time, save for manifest error.

### **3.18 Supply and Disclosure of Information**

- 3.18.1 The Customer confirms that the information provided in the Account's mandate and all related documents and forms where applicable is true, complete and accurate. The Customer also represents and warrants that the information provided by the Customer to the Bank for the purpose of Clause 2.8 is true, accurate, correct, complete, and up-to-date. The Customer will forthwith inform the Bank of any changes to that information. The Bank is authorized to conduct credit enquiries on the Customer to verify the information provided.
- 3.18.2 (A) Where the Customer or any one of them is a body corporate, in respect of such person, the Customer hereby represents and warrants that:
  - (a) it is a corporation duly incorporated and is validly existing under the laws of the country of its incorporation;
  - (b) these Terms and Conditions has been validly authorized by the appropriate corporate action of the Customer and when executed and delivered shall constitute valid and binding obligations of the Customer in accordance with the terms herein;

- (c) all consents and approvals required by the Customer to enter into these Terms and Conditions have been obtained;
  - (d) the certified true copies of the Customer's certificate of incorporation or registration, charter, statute or memorandum and articles or other instruments constituting or defining its constitution and the board resolutions of the Customer delivered to the Bank are true and accurate and still in force;
  - (e) no steps have been taken or are being taken to appoint a receiver and/or manager or liquidator over the assets of, or to wind up, the Customer; and
  - (f) these Terms and Conditions are a continuing agreement and shall continue to be valid and binding for all purposes upon the corporation's successors and permitted assigns and any liquidator of such corporation.
- (B) Where the Customer or any one of them is an individual, the Customer hereby represents and warrants that:
- (a) the Customer is legally capable of validly entering into and performing these Terms and Conditions and that he or she has attained the age of 18 years and is of sound mind;
  - (b) all consents and approval required by the Customer to enter into these Terms and Conditions have been obtained;
  - (c) no steps have been taken or are being taken to appoint a receiver and/or manager over the assets of, or to petition for the Bankruptcy of, the Customer; and
  - (d) these Terms and Conditions are a continuing agreement and shall continue to be valid and binding for all purposes upon such individual's personal representatives and permitted assigns and any trustee in bankruptcy of such individual.
- (C) Where the Customer constitutes two or more persons, the Customer and each person comprising the Customer agrees, represents and warrants that:
- (a) the liabilities and obligations of each such person hereunder shall be joint and several;
  - (b) notwithstanding any Instructions to the contrary (whether given before or after the date of these Terms and Conditions), any one of such persons shall have the full authority to singly give any Instruction and receive communication or delivery of deposited Securities from the Bank hereunder, and there is no need for the Bank to obtain confirmation of Instruction from other such persons, provided that the Bank may insist that each such person to give Instruction to the Bank; and
  - (c) the Bank shall be entitled (but not obliged) to give and/or disclose to each one of such persons any document (including bank statements, advices, confirmations, contract notes and all correspondences) or matter relating to these Terms and Conditions or any Account of the Customer, and notification by the Bank of any matter to any one of such persons shall be deemed to be notification to each other person constituting the Customer.
- (D) Where the Customer is a partnership and business is carried on under a firm's name, the Customer hereby represents, warrants and agrees that these Terms and Conditions are a continuing agreement and shall continue to be valid and binding for all purposes notwithstanding any change in the partnership or constitution of the firm by the introduction of a new partner or by the death, insanity, bankruptcy, or retirement of any partner for the time being carrying on the business of or constituting the firm or otherwise.
- (E) The Customer understands that the Bank and/or Agents may not be able to provide Services to him if he fails to provide any information requested by it and/or Agents.

The Customer hereby authorizes the Bank and any recipient of his personal and the Account information or records from the Bank to disclose to any (a) Agent; (b) financial institutions, service providers, credit reference agencies, collection agencies, agents, contractors; and (c) other person who have established or propose to establish any business relationship with the Bank, and any such person or entity may utilize such information in the course of any business carried on by him or it.

- (a) For individuals, sole proprietorships and partnerships:

The Customer agrees that all personal data relating to the Customer collected by the Bank from time to time may be used and disclosed for such purposes and to such persons (whether in or outside Hong Kong) as may be in accordance with the Bank's policies on use and disclosure of personal data set out in statements, circulars, terms and conditions or notices made available by the Bank to its Customers from time to time and such data may be (i) used in connection with matching procedures (as defined in the Personal Data (Privacy) Ordinance), and (ii) disclosed (by way of credit references or otherwise) to any financial institution with which the Customer has or proposes to have dealings to enable such

financial institution to conduct credit checks on the Customer.

(b) For companies:

The Customer authorizes the Bank to disclose any information regarding the Customer and its account relationship with the Bank to all or any of (i) any financial institution with which the Customer has or proposes to have dealings; (ii) any actual or proposed participant or sub-participant in, or assignee, novatee or transferee of any of the Bank's rights in relation to the Account; (iii) any agent, contractor or third party service provider who provides administrative, telecommunications, computer, payment, securities clearing, credit reference or checking, debt collection or other services or facilities to the Bank in connection with the operation of its business; and (iv) any other person under a duty of confidentiality to the Bank, including any Bank Group Company.

Any termination of the Account by the Customer or the Bank shall not affect or terminate the Customer's authorization to disclose information given above in relation to information in the possession of the Bank at termination.

### 3.19 Indemnity

- 3.19.1 In consideration of the Bank's agreeing to act under these Terms and Conditions, the Customer undertakes to keep the Bank indemnified at all times against, and to save the Bank harmless from, all actions, proceedings, claims, loss, damage, costs and expenses (including but not limited to legal costs and expenses, reasonable amount of debt collection agent charges and other expenses on a full indemnity basis) which may be brought against the Bank or suffered or incurred by the Bank which shall have arisen either directly or indirectly out of or in connection with the Bank's accepting Instruction given in electronic, verbal, facsimile, telex or whatsoever as permitted by the Bank from time to time and acting thereon, to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, and subject to Clause 2.8 (if applicable). The Customer shall assume all risks and particularly those arising from error in transmission or in comprehension resulting from placing order by telephone, telex, facsimile or electronic means.
- 3.19.2 The Customer hereby agrees to indemnify and hold harmless, to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, and subject to Clause 2.8 (if applicable), the Bank for itself and as trustee for Nominees and its respective Personnel against all losses, damages, costs, interests and expenses which may be imposed on, asserted against or incurred or suffered by the Bank, Nominees or its Personnel arising out of, or in connection with, at any time or from any cause whatsoever including (a) the purchase, holding of Securities including switching and redemption of Units, (b) the operation of the Account, (c) the enforcement of these Terms and Conditions, (d) taxes, imposts, levies, duties, withholdings or other liabilities imposed or assessed against, and any other claims against, the Bank, each of its Nominees or Agents by any governmental authority with respect to any payment, collection or other transaction effected under the Account, or of any reclaim or refund of taxes, imposts, levies, duties, withholdings or other liabilities effected by the Bank or any of its Nominees or Agents, (e) the exercise of any right of the Bank under these Terms and Conditions or otherwise, and/or (f) the Customer's breach of any provision under these Terms and Conditions (including without limitation Clause 3.18.1), save and except where such losses, damages, costs, interests and expenses have been incurred by the Bank, Nominees and/or its Personnel as a result of its respective negligence or wilful breach of duty.
- 3.19.3 Neither the Bank nor Nominees nor their respective Personnel shall, in the absence of negligence or wilful breach of duty and to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, and subject to Clause 2.8 (if applicable), be liable to the Customer for any action or omission or delay to take any action in the course of or in connection with the Services rendered by them under these Terms and Conditions and/or for any losses or damages which the Customer may suffer or sustain as a result or in the course of discharging by the Bank and/or Nominees and/or their respective Personnel of their duties under or pursuant to these Terms and Conditions or exercising any rights or enforcing any powers of the Bank and/or Nominees and/or their respective Personnel under or pursuant to these Terms and Conditions or otherwise.
- 3.19.4 Neither the Bank nor Nominees shall be liable to the Customer for or in respect of any losses or damages suffered by any party arising out of or in connection with any failure to comply or delay in complying with its obligations under these Terms and Conditions which is caused directly or indirectly by force majeure, Act of God, war, terrorism, industrial disputes, natural disaster, adverse weather conditions, failure of communication



systems or any other cause, event or circumstance beyond the Bank's or Nominees' reasonable control.

3.19.5 Neither the Bank nor Nominees shall be required to take any legal action unless it is fully indemnified by the Customer on a full indemnity basis (as a prerequisite to taking such action) against all its costs and liabilities.

3.19.6 Each indemnity given by the Customer in these Terms and Conditions (whether or not under this Clause 3.19) shall be an obligation of the Customer independent of and in addition to its other obligations to the Bank.

### 3.20 **Clauses Severable**

If at any time any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the other remaining provisions hereof nor the legality, validity or enforceability of such provisions under the laws of any other jurisdiction shall in any way be affected or impaired thereby.

### 3.21 **Governing Law & Jurisdiction**

(a) These Terms and Conditions shall be governed by and construed in accordance with the laws of Hong Kong SAR and the Customer hereby irrevocably submits to the non-exclusive jurisdiction of Hong Kong SAR courts.

(b) Nothing shall limit the right of the Bank to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdiction preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

### 3.22 **Anti-Money Laundering and Sanctions**

3.22.1 The Customer agrees that the Bank may delay, block or refuse to process any Transaction without incurring any liability if the Bank suspects that:

- (a) the Transaction may breach any laws or regulations in Hong Kong or any other country;
- (b) the Transaction involves any person (natural, corporate or governmental) that is itself sanctioned or is connected, directly or indirectly, to any person that is sanctioned under economic and trade sanctions imposed by the United Nations, the United States, the European Union or any country; or
- (c) the Transaction may directly or indirectly involve the proceeds of, or be applied for the purposes of, conduct which is unlawful in Hong Kong or any other country.

3.22.2 The Customer declares and undertakes to the Bank that the processing of any Transaction by the Bank in accordance with the Customer's Instructions will not breach any laws or regulations in Hong Kong or any other country.

3.22.3 The Bank may take and instruct any delegate to take any action which it in its sole discretion considers appropriate so as to comply with any applicable law, regulation, request of a public or regulatory authority or any policy of the Bank which relates to the prevention of fraud, money laundering, terrorism or other criminal activities or the provision of financial and other services to sanctioned persons or entities. Such action may include but is not limited to the interception and investigation of transactions on accounts (particularly those involving the international transfer of funds) including the source of the intended recipient of fund paid into or out of accounts. In certain circumstances, such action may delay or prevent the processing of Instructions, the settlement of Transactions over the Accounts or the Bank's performance of its obligations under these Terms and Conditions. The Bank needs not notify the Customer until a reasonable time after it is permitted to do so under such law, regulation or policy of the Bank, or by such public or regulatory authority. Neither the Bank nor any Agent of the Bank will be liable for any loss (whether direct or consequential and including, without limitation, loss of profit or interest) caused in whole or in part by any actions which are taken by the Bank or any delegate of the Bank pursuant to this Clause 3.22.

## **PART B**

### **Specific Terms and Conditions**

The General Terms and Conditions set out in Part A above shall be incorporated as an integral part of this Part B, as if the General Terms and Conditions are written in full herein. Without prejudice to Clause 2.8 (if applicable) and Clause 3.17.6, in case of conflict between the General Terms and Conditions as set out in Part A and the Specific Terms and Conditions as set out in this Part B, the latter shall prevail.

### **Schedule I**

#### **Section I: Trading in Securities in general**

##### **4. The Account**

- 4.1 The Customer understands, acknowledges and agrees that the Bank (a) may report and provide any information and documents relating to the Account and/or Transactions of the Customer to the Hong Kong Regulators, overseas regulatory bodies and any exchanges or clearing houses to comply with their requirements or the applicable laws, regulations, codes and rules (whether or not having the force of law) and (b) may also provide such information and documents in compliance with the lawful requests from Agents. The Customer agrees that the Bank shall not be liable to the Customer in any way for so doing.
- 4.2 The Customer acknowledges that the Bank will NOT provide him with any legal, tax or accounting advice. The Customer also acknowledges that the Bank's Personnel are not authorized to give any such advice and agrees that the Customer shall not solicit or rely on any such advice from the Bank or any of its Personnel of the Bank. The Customer agrees that he will make his own judgments and decisions with respect to each Instruction/Transaction or investment, and if the Customer is an Institutional Professional Investor or a Corporate Professional Investor, he agrees that such judgments and decisions are made independently and without reliance on the Bank. The Customer assumes full responsibility for Transactions in or for the Account and for his investment decisions. To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, and subject to Clause 2.8 (if applicable), the Customer acknowledges and agrees that the Bank shall be under no liabilities whatsoever in respect of any information, advice and suggestion rendered by any of its Personnel or Agents irrespective of whether or not such advice and suggestion are given at the Customer's request. The Customer should seek independent professional advice if necessary.
- 4.3 The Customer requests the Bank to contact him concerning trading and investment opportunities that may come to the Bank's attention from time to time and that the Bank believes may be of interest to him. In respect of any investment transaction with or on behalf of the Customer by the Bank, the Bank is not acting as the Customer's investment or financial adviser nor acting in a fiduciary capacity to the Customer. The Customer should seek his own professional advice, as he considers appropriate. The Bank is not obliged to monitor the performance of the Customer's investments held with the Bank nor provide any investment advice to the Customer on an on-going basis. Some of the information and documents provided by the Bank are for general circulation to its clients and are not meant to target specifically to the Customer, and unless specifically indicated otherwise, the preparation of such information and documents has not taken into consideration the individual personal circumstances of the Customer, and should not be relied upon as such. The Customer fully understands and agrees that:
- (i) unless specifically indicated otherwise all publication provided by the Bank and prepared by third parties including but not limited to the prospectuses, explanatory memoranda, semi-annual and annual reports and accounts, analysis, other promotional and advertising literature and statistical information in relation to the relevant investment are for reference only and that to the extent not inconsistent with the obligations applicable to the Bank under the Code, the Bank is under no obligation to make any such information available to the Customer or to provide the Customer with any financial, market or investment information;
  - (ii) if the Bank so acts, the Bank is not providing such information or suggestion or documents as a required service, as an investment or financial advisor, and the provision of such information or suggestion or documents shall not itself make the Bank become an investment or financial advisor and the Customer shall not rely on such information or suggestion or documents as such;
  - (iii) the investment is made upon the Customer's own judgment and analysis and at the Customer's discretion, and if the Customer is an Institutional Professional Investor or a Corporate Professional Investor, he agrees that the investment is made solely upon his own judgment and independent analysis and at his discretion

notwithstanding any such information, suggestion or documents the Bank may have provided to the Customer;

- (iv) to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, subject to Clause 2.8 (if applicable), the Bank assumes no responsibility for the accuracy and completeness of any information or documents provided by any third party, whether via the Bank or not, (including but not limited to the information of the investment as stated in (i) above); and
- (v) to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, subject to Clause 2.8 (if applicable), the Bank assumes no responsibility for the performance or outcome of any Transaction or investment made by the Customer after receipt of such information or documents or for the performance of the Customer's portfolio in part or in whole.

The Customer acknowledges and agrees that the Customer should seek independent professional advice if necessary.

- 4.4 The Bank's records shall, in the absence of manifest error, be conclusive and binding on the Customer as to the amount standing to the debit or credit of the Account.

- 4.5 The Bank shall not be under any obligations or shall not assume any duties (including any fiduciary duties) to or towards the Customer other than those for which express provisions are made in these Terms and Conditions. Notwithstanding any other provisions contained in these Terms and Conditions, the Customer agrees and acknowledges that no provision in these Terms and Conditions shall incorporate into these Terms and Conditions any part or provision of any code, guideline, guidance note, circular or any other communication from time to time issued by any regulator (including, without limitation, the Hong Kong Regulators) which does not have the force of law (including, without limitation, the Code (which for the purpose of this Clause, includes all provisions of the Code (including those provisions which the Bank is exempt from compliance))).

## **5. Transactions**

- 5.1 Unless otherwise agreed by the Bank, the Bank will act as the Customer's agent only in executing Transaction but not otherwise. The Bank may act as principal if it is so indicated in the contract note or other document for the relevant Transaction.
- 5.2 The Customer understands and agrees that sufficient cash shall be deposited into the Account before placing a buy order. The Customer further understands and agrees that if he deposits cheques into the Settlement Account, he can place his buy order only if his cheques have been cleared.
- 5.3 The Customer understands and agrees that sufficient Securities shall be ready in the Account before placing a sell order. The Customer understands and agrees that he will not place any sell order related to the Securities which he does not own, i.e. no short selling. The Customer undertakes to promptly inform the Bank when a sell order is, in respect of Securities which the Customer does not own, a short sell order. Failing such information from the Customer, the Bank shall assume that it is not a short sell order. In the event of a short sell order, if the Customer does not promptly supply the Bank with Securities to be sold on the Customer's order, the Bank is entitled to request the Customer to pay or deposit and maintain with the Bank such money securities and/or collateral in such amount and in such form and within such time as may be required from time to time for such short sell order and/or may at its option (and is authorized by the Customer to) borrow or purchase the Securities required for such short sell order and the Customer shall reimburse the Bank for all loss, damage, cost or expense suffered or incurred by the Bank through such borrowing or purchase or the Bank's subsequent failure to make delivery of such Securities PROVIDED ALWAYS THAT notwithstanding the aforesaid, the Bank shall be entitled to refuse to accept or give effect to such short sell order at any time without any liability to the Customer. On the other hand, in the event that the Bank has to purchase Securities on the Customer's behalf in the open market following the failure of the selling broker to deliver on the settlement date, the Bank will not be responsible for any difference in price and all incidental expenses in connection with such open market purchase all of which shall be borne by the Customer absolutely.
- 5.4 On all the Transactions, the Customer pays the Bank's prescribed commissions, fees and charges, as notified to him, as well as applicable levies imposed by the Exchanges, and all applicable stamp duties. The Bank may deduct such commissions, fees, charges or other levies and duties from the Account and the Bank is hereby authorized to make such deduction and pay over the same to it. The Customer acknowledges that, in some circumstances, the Bank may receive rebates in respect of commission on Transactions. The Customer agrees that the Bank is entitled to keep any such rebates received.

- 5.5 The Customer will be responsible to the Bank for any losses and expenses resulting from his failure to settle any Transaction.
- 5.6 The Customer agrees to pay interest on all overdue balance, if any, (including interest at the rate arising after a judgment debt is obtained against him) at such rates and on such other terms as the Bank may notify him from time to time.
- 5.7 In the case of a purchase Transaction, if the selling broker fails to deliver on the settlement date and after communicating with the Customer and upon the Customer's Instruction and confirmation, the Bank has to purchase Securities to settle the Transaction, the Customer will be responsible to the Bank for the costs and expenses of such purchase.

#### **5A. Renminbi Securities**

- 5A.1 Without prejudice to this Clause 5A, other provisions in these Terms and Conditions shall apply to such Securities denominated in Renminbi ("RMB Securities").
- 5A.2 The Customer understands and agrees that all subscriptions, purchases, acquisitions or otherwise of the RMB Securities are required to be settled in Renminbi ("RMB"). All payments of RMB payable by Customer shall be made solely through the Settlement Account subject to the applicable laws and regulations and the applicable terms and conditions of the Settlement Account. The Bank will not accept any payments of RMB by any other means.
- 5A.3 Before the Customer gives any Instruction to trade the RMB Securities in the Exchange or otherwise, the Customer must ensure that there are sufficient funds in RMB in the Settlement Account at the material time for completion of such Transaction.
- 5A.4 If the Customer fails to provide sufficient RMB funds as required at the material time, the Bank shall be entitled not to accept or give effect to any Instructions (or any part thereof) of the Customer and the Bank shall not be liable for any claims, costs, losses, damages or liabilities whatsoever, which the Customer may suffer, sustain or incur, directly or indirectly, as a result of or in connection with the Bank's failure to accept or give effect to any such Instructions (or any part thereof).
- 5A.5 The Customer understands and agrees that in the event of any corporate action requiring the exercise of any right attaching to or in respect of the RMB Securities held by the Bank on the Customer's behalf, the Customer shall give the Bank all necessary Instructions which must be received by the Bank within the time prescribed by the Bank from time to time as the case may be, and shall provide sufficient funds in RMB in the Settlement Account at the material time so as to allow the Bank to give effect to such Instructions. If the Customer fails to do so, the Bank shall, in addition to Clause 5A.4 above, not be liable for any claims, costs, losses, damages or liabilities whatsoever, which the Customer may suffer, sustain or incur, directly or indirectly, as a result of or in connection with (a) the Bank's failure to accept or give effect to any Instruction; and/or (b) the Customer's failure to participate in and/or benefit from the relevant corporate action.
- 5A.6 The Customer understands and agrees that an extra amount of money (in such amount and in such currency as specified by the Bank from time to time) will be held for each Instruction of subscription or purchase or acquisition or otherwise of RMB Securities for the purpose of settling the shortfall of various trading related fees (including stamp duty, levies, tariff, etc.) payable by the Customer in Hong Kong dollars after converting such fees by using the relevant exchange rate determined by the Hong Kong Monetary Authority, subject to the Bank's absolute discretion.
- 5A.7 In the event that any sum of RMB in relation to the RMB Securities is receivable by the Customer, the Customer authorizes the Bank to receive that sum on behalf of the Customer, but the Bank shall not be obliged to make available to the Customer that sum until it has been able to establish that it has received that sum. In the event that that sum is received by the Bank in other currency, the Bank will make available to the Customer that amount of currency as actually received by the Bank. The Bank shall not be liable to the Customer for any losses, damages, interests, costs or expenses which the Customer may suffer or incur or sustain, directly or indirectly, arising from or in connection with the fact that any sum of RMB payable to the Customer is not actually received by the Bank or any sum of RMB is paid in any other currency.
- 5A.8 The scope and eligibility requirements of the Services in relation to RMB Securities are subject to the applicable laws, regulations, codes, guidelines and the like (whether or not having the force of law) as issued or promulgated by the relevant governmental and regulatory authorities in Hong Kong and Mainland China from time to time, the

Bank's respective agreements from time to time signed with HKSCC or the Exchange or the clearing bank or other parties in relation to the provision of Services regarding the RMB Securities, and all the terms and conditions from time to time issued by the Bank applicable to such Services and/or RMB Securities. The Customer agrees to comply with all of the above, if applicable. Provided that nothing in any of the said regulations, codes, guidelines and the like shall impose upon the Bank any obligation or duty that the Bank would not otherwise have under these Terms and Conditions, notwithstanding any other provision of these Terms and Conditions.

5A.9 Notwithstanding anything in these Terms and Conditions to the contrary, the Bank shall, at its sole and absolute discretion at any time and from time to time, without liability to the Customer, have the rights, with or without prior notice as the Bank determines, (a) to refuse, terminate, suspend, withdraw, modify, cancel or vary the provision of any Services (or any part thereof) to the Customer; and/or (b) not to accept or carry out or give effect to any Instructions (or any part thereof) of the Customer; and/or (c) to amend, revise, add, vary, supplement or otherwise change these Terms and Conditions; and/or (d) to freeze, suspend, close, cancel the Account.

5A.10 To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, and subject to Clause 2.8 (if applicable), the Customer shall indemnify and keep the Bank on a full indemnity basis from and against any and all claims, demands, actions, proceedings, losses, liabilities (actual or contingent), damages, risks, charges, costs (including legal costs reasonably incurred), expenses of whatsoever nature which may be incurred or sustained by the Bank arising out of or in connection with (a) any breach or non-performance by the Customer of any of this Clause 5A; (b) any representations, warranties, information or documents provided to the Bank from time to time by or on behalf of the Customer being found or reasonably suspected to be untrue or incorrect or misleading or deceptive; (c) any misuse or improper use of the Account; (d) the Bank's provision of or refusal to provide any Services to the Customer in accordance with these Terms and Conditions; (e) any acts or omission to act by the Bank in accordance with these Terms and Conditions; and/or (f) the exercise or preservation of the Bank's powers, rights and remedies; save and except to the extent directly due to the negligence, fraud or wilful misconduct of the Bank.

## **6. Instruction**

6.1 The Bank is hereby authorized to accept and execute Instructions of any nature believed by the Bank to be genuine and purporting to be signed, given or issued by the Customer or by an Authorized Person, whether or not it is in fact genuine or authorized. Upon the Customer's request, a Branch may relay Instructions to another Branch on behalf of the Customer and is only acting as the Customer's agent in doing so.

6.2 Where the Customer requests the Bank to accept facsimile Instructions ("Facsimile Instruction"), telex Instructions ("Telex Instruction") or verbal Instructions ("Verbal Instruction"), the following conditions shall apply:

- (a) the Bank may at its sole and absolute discretion require from the person giving the Instructions certain particulars such as the person's personal identification particulars and/or account number so as to establish the identity of such person.
- (b) after taking such practicable steps as the Bank may reasonably consider appropriate, the Bank shall be entitled (but not bound) to accept as genuine and act upon any Verbal Instruction believed by the Bank in good faith to have been given by the Customer or Authorized Person, whether or not it is in fact genuine or authorized. Further, the Bank shall be entitled to accept as genuine and act upon any signature which in the Bank's reasonable opinion appears to be the signature of the Customer or Authorized Person on a Facsimile Instruction or a Telex Instruction, whether or not it is in fact the signature of the Customer or Authorized Person. Thus, the Bank shall not be under any obligations to enquire into the genuineness of any Verbal Instruction, Telex Instruction or Facsimile Instruction nor into the good faith of the person giving any Verbal Instruction, Telex Instruction or Facsimile Instruction and such Facsimile Instruction, Telex Instruction or Verbal Instruction shall be binding on the Customer.
- (c) the Customer acknowledges that the Customer has considered fully the risks inherent in the giving of a Facsimile Instruction and in particular that non-original signatures on the facsimile may be forged and Facsimile Instructions may be transmitted to wrong numbers, may never reach the Bank and may therefore become known to third parties thereby losing their confidential nature.
- (d) the Customer shall be fully responsible for all losses and damages reasonably involved in or caused by the operation of the Account by means of Verbal Instruction, Telex Instruction or Facsimile Instruction in lieu of the receipt by the Bank of original signed documents. The Bank shall, however, be at liberty to require receipt by it of an original written confirmation of a Facsimile Instruction, Telex Instruction or Verbal Instruction from the Customer or Authorized Person prior to executing any instructions contained in such Facsimile Instruction, Telex Instruction or Verbal Instruction.

- (e) the Customer shall be liable for all orders placed through telephone, telex or facsimile if his/her name is quoted and the Customer hereby expressly agrees to be conclusively bound by and liable for all orders made by any person or persons purporting to be the Customer whether with or without his/her authority, knowledge or consent. The Customer agrees to be bound unconditionally by the evidence of the Bank's own records.
  - (f) in case of Verbal Instruction by way of telephone, such Instruction will become valid after the Customer has given Instruction to the Bank over the phone. In case of Telex Instruction or Facsimile Instruction, such Instruction will only become valid until the Bank confirms the instructions with the Customer over the phone.
  - (g) (i) in case of Instruction given in lieu of the receipt by the Bank of original signed documents, an advice ("Advice") in writing will be sent or made available by the Bank to the Customer and if such advice shall not be received by the Customer or shall not be available to the Customer within two business days after the date of the instruction relating to the transaction concerned, the Customer shall give to the Bank a notice ("Notice of Non-receipt") in writing thereof immediately, duly signed, for the same to be actually received by the Bank within seven business days after the date of the Customer's instruction.  
 (ii) if an Advice is received by or available to the Customer as provided in Clause (g) (i) above, the Customer shall have a duty to examine and verify the correctness of all entries on the Advice and notify the Bank immediately in writing if any entry is wrongful, irregular and/or unauthorized ("Notice of Irregularity") duly signed, for the same to be actually received by the Bank within ninety days of the date of the Advice.  
 (iii) unless the Bank shall have actually received (a) the Notice of Non-receipt within the aforesaid seven business days and/or (b) the Notice of Irregularity within the aforesaid ninety days of the date of the Advice and/or (c) notwithstanding that the period specified for the giving of the Notice of Non-receipt or Notice of Irregularity has not expired, if the Customer makes any withdrawal, delivery and/or dealing howsoever of the proceeds of a Transaction effected pursuant to Verbal Instruction, Facsimile Instruction or Telex Instruction and/or the securities purchased/sold pursuant to his instructions, the transaction shall be deemed to have been conclusively confirmed and accepted by the Customer and the Customer shall be stopped from raising any subsequent claim or dispute whether on impropriety, lack of authority, irregularity, omission and/or any other ground whatsoever.
  - (h) immediately upon receipt of a confirmation from the Bank or its broker/agent that the order for purchase pursuant to the Transaction concerned has been effected, the Bank shall be entitled to withhold the entire amount payable for the purchase (including but not limited to all expenses, fees, commissions, stamp duty, tax or levy incurred) from the Customer's account specified for such payment.
  - (i) in the event if the Transaction is for the sale of Securities held by the Bank for the Customer, the Bank shall be entitled to withdraw and apply such Securities for the completion of sale without further notice from the Bank to the Customer.
- 6.3 Instructions or Transactions initiated by the Customer shall remain valid until the earlier of execution and the end of trading day. If an Instruction or order is taken but not executed within the same day as it was received, the Instruction or order shall be erased/void.
- 6.4 The Customer authorizes the Bank to record any Verbal Instructions (whether by way of telephone or not) between the Bank and him by any means not limited to tape recording, with or without an audible tone warning devices, and this record will be a conclusive evidence and is binding on the Customer.
- 6.5 The Customer agrees that the Bank is authorized to deposit such quantity of the Securities purchased from time to time in the Account. The Customer undertakes and agrees to pay all prescribed or agreed fees, commission and charges payable to and/or which is chargeable by the Bank in respect of all Transaction and the maintenance of the Account.
- 6.6 The net proceeds of sale after deducting all brokerage, commission, stamp duty, Exchange levies, other fees and expenses incurred in selling the relevant Securities as instructed shall first be applied towards payment and discharge (whether in full or in part) of all indebtedness (if any) due and owing to the Bank under these Terms and Conditions and the surplus (if any) shall be credited into the Account.
- 6.6A The Customer shall be aware that there is always a risk of fraud, forgery, lack of authority, lack of clarity, error in transmission and duplication in relation to Instructions, directions or orders transmitted by or placed through telex, facsimile or telephone to the Bank, and the Customer hereby expressly agrees and acknowledges that, other than taking reasonably practicable steps as the Bank may consider appropriate, the Bank shall have no further duty or obligation to enquire verify or confirm the identity and authority of the person giving such Instructions, directions or orders so as to ascertain the same to be the Customer or the Authorized Person to give such Instructions, directions or orders on behalf of the Customer. The Bank shall be entitled (but not bound) to accept as genuine and act upon any such Instructions, directions or orders believed by the Bank in good faith to have been given by the Customer or the Authorized Person.

- 6.7 The Bank is hereby authorized (but not obliged) to accept any Instructions given by eTrading Services through the use of Access Codes which it and/or Agents may provide, without any inquiry by the Bank or Agents as to the Authority or identity of the person making or purporting to give such Instructions or their authenticity unless due to error, fraud or forgery of the Bank or Agents.
- 6.8 The Customer understands and acknowledges that the eTrading Services enable him to send electronic Instructions and/or receive information services.
- 6.9 The Customer agrees that the Bank may use the internet, mobile phone or other access channel(s) in the eTrading Services as the media to communicate with or transmit data or documentation to him.
- 6.10 The Customer agrees to use the eTrading Services only in accordance with these Terms and Conditions. Any additional services relating to the eTrading Services offered by the Bank in future shall only be used by him in accordance with these Terms and Conditions and any additional terms and conditions as the Bank thinks fit.
- 6.11 The Customer understands and acknowledges, that, except by using the Access Codes in the eTrading Services, the Bank shall not accept any Instruction for dealing in the Account made by the Customer through e-mail sent by him to the e-mail address of the Bank's Personnel or Agent, if any.
- 6.12 The Customer understands and acknowledges that fraudulent or other unauthorized Instructions may be transmitted via the eTrading Services.
- 6.13 The Bank shall provide the Customer with the eTrading Services in order that the Customer may give electronic Instructions through Internet, mobile phone service or other access channel(s) for the purpose of acquisition, subscription, exchange or otherwise disposal of and dealings in any and all kinds of Securities or any investment vehicles.
- 6.13.1 The Bank or Agents shall issue the Access Codes to the Customer. The Bank or its Agents shall individually authenticate the Access Codes. All messages sent out via the Internet from it or Agents shall be well encrypted.
- 6.13.2 The Bank may from time to time set or change the daily cut-off time without notice or responsibility to the Customer, if giving of notice is impracticable for reason beyond its control. Any Transaction done through eTrading Services after such set or change of cut-off time shall be treated as a Transaction valued at next trading day.
- 6.13.3 Any electronic Transaction confirmation generated by the eTrading Services should be construed as indicative only. The Bank shall send an official contract note and/or account statement to the Customer by postal mail for final confirmation of Transactions.
- 6.13.4 The Customer shall be the only authorized user of the eTrading Services under the Account. The Customer shall be responsible for the confidentiality and use of the Access Codes. The Customer acknowledges and agrees that he shall be solely responsible for all Instructions entered through the eTrading Services using the Access Codes and neither the Bank nor its Personnel or Agents shall have any liability to the Customer, or to any other person whose claim may arise through him, for any claims with respect to the handling, mishandling or loss of any Instructions unless the handling, mishandling or loss of any Instructions is due to negligence, wilful default or fraud of the Bank or its Personnel or Agents.
- 6.13.5 Without prejudice to the Bank's rights under Clauses 6.7, 6.13.4 and 6.13.6, the Customer:
- (a) undertakes to inform the Bank as soon as reasonably practicable if the Customer knows, has reason to believe or suspect that any other person knows the Account number and/or the Access Codes, or that unauthorized or fraudulent Transactions will be or have been taken place, and if the Customer fails to do so, he shall be liable for any unauthorized or fraudulent Transactions made; and
  - (b) shall in any event be liable for all his losses and damages if he acts fraudulently or with negligence including failing to properly safeguard the Account number/Access Codes.
- 6.13.6 The Customer shall indemnify the Bank against all losses, damages, claims, demands, proceedings, costs (on a full indemnity basis) and expenses which it may suffer as a result of the use of the Access Codes whether by him or by any other person once the Access Codes have been used for the eTrading Services.
- 6.13.7 The Customer acknowledges that the eTrading Services is proprietary to the Bank. The Customer warrants and undertakes that he shall not, and shall not attempt to, tamper with, modify, decompile, reverse engineer or otherwise alter, add or erase in any way any part of the eTrading Services. The Customer shall not, and shall

not attempt to, gain unauthorized access to the eTrading Services.

- 6.13.8 The Customer acknowledges and agrees that, as a condition of using the eTrading Services to give Instructions, the Customer shall forthwith notify the Bank if:
- (a) an Instruction has been placed through the eTrading Services but the Customer has not received an accurate acknowledgement of the Instruction or of its execution (whether by hard copy, electronic or verbal means); or
  - (b) the Customer has received acknowledgment (whether by hard copy, electronic or verbal means) of a Transaction but which did not tally with his Instructions or was in conflict with his Instructions.

The Customer agrees that if he fails to notify the Bank forthwith when any of the above situations occurs, neither the Bank nor its Personnel or Agents shall have any liability to him, or to any other person whose claim may arise through him, for any claims with respect to the handling, mishandling or loss of any Instruction unless the handling, mishandling or loss of any Instruction is due to negligence, wilful default or fraud of the Bank or its Personnel or Agents.

Any communications or notices required to be given by the Bank or Nominees on the Bank's behalf to the Customer may be given in writing and sent by mail (postage prepaid) or facsimile addressed to the Customer at the last mailing address or facsimile number on record with the bank. Any such communication or notice shall be deemed to have been received if sent by letter: next day after posting; and if sent by facsimile: when dispatched provided that the transmission report reveals no error or break in transmission; and if sent by eTrading Services: simultaneously as sent out by the Bank without any failure report.

- 6.13.9 In addition to eTrading Services or if the eTrading Services is unable to operate, whether it is or is not caused by the Bank or its Agent, the Customer shall seek alternative forms of communication such as telephone, in person, etc. in order to give Instruction to the Bank. The Customer shall also inform the Bank of the difficulty he is experiencing.
- 6.13.10 Each representation, condition or warranty not expressly contained in these Terms and Conditions is excluded unless it is unlawful to do so or inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions.
- 6.13.11 The Customer understands that each participating securities Exchange or association asserts a proprietary interest in all the market data it furnishes to the parties who disseminate such data. The Customer understands that no party guarantees the timeliness, sequence, accuracy or completeness of market data or any other market information. None of the Bank, its Agents or any disseminating party shall be liable in any way to the Customer or any third party for any loss or damages arising from or caused by any inaccuracy, error or delay in or omission from any such data, information or message, or transmission or delivery of the same, or non-performance or interruption of such data, message or information or any force majeure events or any other cause beyond their respective reasonable control.
- 6.13.12 The Customer acknowledges and agrees that it is not usually possible for the Bank to cancel an Instruction after the Instruction has been given to the Bank, especially via eTrading Services. As stated in Clause 6.13.9, if the eTrading Services is unable to operate, whether it is or is not caused by the eTrading Services, the Customer shall seek alternative forms of communication such as telephone, in person, etc. in order to give Instruction to the Bank.
- 6.13.13 The Customer authorizes the Bank at any time and in its sole discretion for the purpose of obtaining a better execution price and/or reducing the volume of Instructions to consolidate and/or disaggregate Instructions to purchase and/or sell Securities on his behalf with similar Instructions received from other clients, provided that such consolidation or disaggregation shall not result in the execution of his Instructions at a price less favorable than could have been achieved had his Instruction been executed individually, and provided further that, in the event of there being insufficient Securities available to satisfy purchase orders so consolidated, the number of Securities actually purchased shall be divided proportionally between the individual Instructions which were consolidated. The Customer acknowledges and agrees that Bank and/or Agents may at any time prioritize Instructions for best execution pricing.
- 6.13.14 The Customer acknowledges that real-time quote service available at the eTrading Services is provided by a third party provider appointed by the Bank from time to time. The Customer acknowledges and agrees that the Bank shall not be liable to him for any losses, costs, expenses, damages or claims which the Customer may suffer as a result of or in connection with any aspect of the real-time quote service including his reliance on such service.



- 6.14 Without prejudice to any other rights of the Bank under these Terms and Conditions and notwithstanding anything in these Terms and Conditions to the contrary, if the Bank believes, in its sole discretion, that any Instruction issued by or on behalf of or purporting to be issued by or on behalf of the Customer may not have been authorized by the Customer or, even if issued or authorized by the Customer, may expose the Bank to any claims, suits, losses, expenses, liabilities or damage whether directly or indirectly, the Bank may decline to act on the Instruction or may only act on the Instruction after the Bank has received such confirmation and/or indemnity as required by the Bank in its absolute discretion. Without prejudice to the generality of Clause 3.13, the Bank may also, without giving any reason to the Customer and with or without notice as the Bank determines, regard any mandate it holds as being suspended and may suspend the operation of all or any Account until such time as the Bank in its absolute discretion considers appropriate and shall not be liable therefor, except in respect of reasonably foreseeable and direct loss or damage caused directly and solely by the negligence or wilful default of the Bank.

## **7. Settlement Services**

- 7.1 Before trading in Securities, the Customer agrees to open and maintain a Settlement Account and an Investment Account with the Bank for the purposes of effecting the money settlements arising from the purchases and sales of Securities and other dealings in Securities. The Customer also agrees to open and maintain an Investment Account with the Bank for the purposes of trading and safekeeping of Securities and effecting the Securities settlements arising from the purchases and sales of Securities and other dealings in Securities.
- 7.2 The Customer understands and acknowledges that the Bank shall earmark or hold the full value of the purchase and related charges and expenses against the available balance in his Settlement Account upon the receipt of an order or Instruction from the Customer for buying Securities on his behalf. If there are insufficient funds or monies in his Settlement Account to meet any purchase payments or the Instructions are impossible to execute, the Bank shall not be obliged to execute the said Instructions partially or at all, without any liability to the Customer.
- 7.3 The Customer authorizes the Bank, upon settlement due date, to debit the entire amount payable for such purchase and related charges and expenses from his Settlement Account to enable the Bank to complete the Transaction.
- 7.4 The Customer authorizes the Bank to hold Securities from the Investment Account upon receipt of a request from the Customer for the sale of Securities on his behalf. If there is insufficient stock in his Investment Account to meet any sale orders or the Instructions are impossible to execute, the Bank shall not be obliged to execute the said Instructions partially or at all, without any liability to the Customer.
- 7.5 The Customer also authorizes the Bank, upon the settlement due date, to appropriate, withdraw and/or apply the appropriate quantity of the relevant Securities from his Investment Account and deliver or transfer the same to the Bank to enable it to complete the Transaction.
- 7.6 All Securities which are held by the Bank for safekeeping may be delivered to the Bank for deposit to the Customer's Investment Account and the Bank may, if it thinks fit, transfer to and register such Securities in the name of the Bank as nominee or of the Nominees. If the Customer has not maintained an Investment Account at the material time, the Bank is authorized to open an Investment Account on his behalf in his name and the Customer shall pay all expenses for opening and maintaining such Investment Account.
- 7.7 If the Customer fails to pay the Bank in cleared funds or deliver to it Securities in deliverable form by the settlement due date, without prejudice to all rights the Bank may have, the Bank may
- (a) in the case of a purchase Transaction, sell the purchased Securities and
  - (b) in the case of a sale Transaction, borrow and/or purchase Securities in order to settle the Transaction.

## **8. Bank's Role, Responsibility and Liability**

- 8.1 The Bank is authorized to employ Agents to perform all or part of its duties under these Terms and Conditions. The Bank may purchase and/or sell Securities on the Customer's behalf by placing instructions with itself or any other company or client associated with it whether acting as underwriters, licensed deposit takers, brokers, dealers or otherwise, or with any other brokers or licensed deposit takers, dealers or otherwise as it in its sole discretion decides.
- 8.2 The Bank may delegate the performance of its functions or duties to any Agent, broker, Nominees, custodian, counterpart or any other parties at the Customer's cost.
- 8.3 The Bank is authorized to disclose any information it has concerning the Customer, any of his Account and the

Services to any such Agent, broker, Nominees, custodian, counterpart or any other parties employed by it or to whom the functions or duties are delegated in connection with the performance of all or part of its functions or duties under these Terms and Conditions.

- 8.4 The Bank shall not be liable for any act, omission, negligence or default of any such Agent, broker, Nominees, custodian, counterpart or any other parties provided that the Bank has exercised such care in employing or delegating to the same as it would employ for its own business.

## 9. **Credit Facility**

- 9.1 Subject to availability, the Bank may make available to the Customer's credit facilities including overdraft facilities, loans or other banking facilities which may be subject to such additional terms as may be advised to him.

- 9.2 The Bank may lend to the Customer any amount in such currency as it may from time to time fix (the "Limit") which shall immediately be repaid by him **upon demand** by the Bank. The Limit shall be determined by the Bank on a daily basis by reference to the value of the Securities in his Investment Account.

- 9.3 The Bank may terminate such facilities without prior notice the Customer and the Customer agrees to immediately repay his liability (together with charges and/or interests accrued) under such facility upon its **demand**. The Customer also agrees to fully indemnify the Bank against all costs, expenses, liabilities and obligations incurred by it in connection with the provision of any such credit facilities.

## 10. **Employees, agents, associates and connected persons**

- 10.1 The Customer represents and warrants to the Bank that he is not associated with any of the Bank's Personnel or Agents or any Personnel or Agents of any member of its related companies including as a spouse or as a child under 18 years of such Personnel or Agents, and agrees that if he is or becomes associated with any of such Personnel or Agents, he shall promptly notify the Bank of the existence and nature of such association and acknowledges that the Bank may, upon receipt of such notice, at its absolute discretion, choose to terminate the Account without any liability to the Customer.

- 10.2 The Customer further represents and warrants to the Bank that he is not a connected person (as defined in the Listing Rules or other relevant applicable laws and regulations) of the company the Securities of which he shall place orders or Instructions with the Bank for the purchase or disposal of or otherwise dealings in the company's Securities, unless he specifically notifies the Bank to the contrary prior to the placing of such orders or Instructions.

- 10.3 The Customer further agrees to indemnify the Bank **on demand** for any losses, costs, damages, claims or demands the Bank may reasonably suffer in respect of its reliance on or the breach by the Customer of Clauses 10.1 or 10.2.

- 10.4 The Customer agrees to indemnify the Bank and its Personnel and Agents **on demand** for any loss, cost, claim, liability or expense arising out of or in connection with any breach by him of the obligations in this Clause 10 including any reasonable costs reasonably incurred by the Bank in collecting any debts due to it or in connection with the closure of the Account.

## 11. **Conflict of Interest**

- 11.1 The Bank and its Personnel may trade on its own account or on the account of any of its Bank Group Companies.

- 11.2 The Bank may buy, sell, hold or deal in any Securities or take the opposite position to the Customer's order whether on its own account or on behalf of its other client(s).

- 11.3 The Bank may match his orders with those of other client(s) or Customer(s).

- 11.4 The Bank may effect Transactions in Securities where the Bank or any of its Bank Group Companies has a position in the Securities or is involved with those Securities as underwriter, sponsor or otherwise.

- 11.5 In any of abovementioned events the Bank shall not be obliged to account for any profits or benefits obtained.

## 12. **Power of Attorney**

The Customer agrees to and hereby irrevocably and by way of security appoints the Bank with full power as his true and lawful attorney in fact, to the fullest extent permitted by law, to take any action and execute any

instrument which the Bank deems necessary or advisable (whose opinion shall be conclusive and binding on the Customer) for the purpose of carrying out the provisions of these Terms and Conditions or for giving to the Bank the full benefit of all or any of the provisions in these Terms and Conditions. The Customer covenants that he will ratify and confirm all that the Bank shall lawfully do or cause to be done by virtue of these presents.

**13. The Deposits of Securities**

The Customer may from time to time deposit with the Bank Securities to the Account for safekeeping and custody. The Bank may in its absolute discretion refuse to accept such Securities for deposit into the Account, and return the Securities from time to time deposited with the Account to the Customer and the Customer shall accept delivery of the same forthwith.

**14. Nomination**

The Bank shall be authorized to register all the Securities in its own name or in the name of its Nominee(s) and to hold them on behalf of the Customer or to deposit them for the account of the Customer with such Nominee(s) including the OCBC Nominees Services (Hong Kong) Limited, the HKSCC (Nominees) Ltd and the Depositories as the Bank may from time to time appoint. The Depositories shall be deemed in all respects to be the Nominees of the Bank and all Securities held by or registered in their names shall be deemed to be held by or deposited with the Bank direct. All such Securities may also be transferred to or held in any account with any clearing system for the account of the Bank or its Nominees or Agents. The Customer shall sign and execute all instruments of transfer and documents required therefor. The Bank shall under no circumstance be liable to the Customer for any loss and cost which may be suffered or incurred by the Customer as a result of any act neglected by the Depositories and the Customer shall fully indemnify the Bank for any charges and expenses for depositing the Securities with the Depositories.

**15. Pooling**

The Bank shall be entitled to treat the Securities as fungible and to pool the Securities with such other securities held by the Bank for other customers, and any allocation by the Bank of specific securities of the same class or type as the Securities into the Account shall be binding on the Customer. The Bank shall not be liable to return to the Customer such of the Securities bearing serial and/or scrip numbers identical to those of the Securities originally deposited. If for any reason all or part of the Securities of a particular class, company or denomination deposited by the Customer with the Bank and pooled by the Bank together with other Securities of other customers of the Banks are lost or become unavailable for deliver for any other reason, the reduction in the quantity or amount of such Securities will be shared on a pro-rata basis by the Customer and all of the Bank's other relevant customers.

**16. Customer Authorization**

16.1 The Bank is authorized, in the absence of Instruction from the Customer to the contrary:

- (a) to part with possession and/or control of, transfer, lend, pledge, re-pledge or otherwise deal with all or any of the Customer's Securities or deposit them with certain third parties in accordance with the Securities and Futures (Client Securities) Rules and the Securities and Futures Ordinance (Cap.571) under a written authorization signed by the Customer and its subsequent renewals;
- (b) in its discretion, to accept and pay for any or all of the right issue of the Securities and debit such payment to the Account with the Bank or to renounce or sell any or all of the right issue of the Securities and credit the proceeds of such sale to the Account with the Bank;
- (c) to request payment of and receive all interest, dividends and other payments or distributions in respect of the Securities;
- (d) to surrender the Securities against receipt of the moneys payable at maturity or on redemption if called prior to maturity, provided that where the Securities are called for redemption prior to maturity the Bank shall have no duty or responsibility to present the Securities for redemption unless, after the call is made, the Customer requests the Bank in writing so to do;
- (e) where moneys are payable in respect of the Securities in more than one currency, to collect them in such currency as may be permissible by law and the Bank may collect the moneys in whatever currency permissible by law as the Bank may in its discretion determine;
- (f) to complete and deliver on behalf of the Customer as owner any ownership certificates in connection with the Securities which may be required by law;
- (g) in its discretion, to comply with the provisions of any law, regulation or order now or hereafter in force which purport to impose on a holder of any of the Securities a duty to take or refrain from taking any action in

connection with any of the Securities or payments or distributions or moneys payable in respect of any of the Securities;

- (h) to exchange any of the Securities in interim or temporary form for securities in definitive form; and
- (i) unless otherwise requested by the Customer, to dispose of moneys collected as aforesaid or received as proceeds of sales of any of the Securities or otherwise by the Bank by payment thereof to the credit of the Account of the Customer with it. An acknowledgment of the receipt of any such moneys by the Bank shall be sufficient discharge of any obligation of it therefor.

- 16.2 The Bank shall have no duty or responsibility but shall not be precluded from acting in its discretion as regards attendance at meetings or voting in respect of any of the Securities or as regards any subscription, conversion or other rights in respect thereof or as regards any merger, consolidation, reorganization, receivership, bankruptcy or insolvency proceedings, compromise or arrangement or the deposit of any of the Securities in connection therewith or otherwise (except that the Bank shall have no discretion concerning any action relating to Securities which may give rise to any obligation to disclose interest on the part of the Bank or its Nominee in compliance with any law), nor shall the Bank be under any duty to investigate or participate therein or take any affirmative action in connection therewith except in accordance with written instructions from the Customer and upon such conditions and indemnity and provision for expenses as the Bank may require.
- 16.3 To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, the Bank shall not be obliged to monitor any shareholder communications in respect of any of the Securities or to inform the Customer of any shareholder communications that it has received.
- 16.4 The Customer shall promptly pay calls or other payments due in respect of any of the Securities and in default of his so doing, the Bank (or its Agent) is authorized, but not obliged to, make such payments on the Customer's behalf. The Customer shall repay the Bank (or its Agent) **on demand** any sum so paid. The Bank (or its Agent) shall not be liable for failing to present any interest coupon, bond or stock which may be due or called for repayment or redemption or to pay any call or instalment or to accept any offer relating to the Securities or otherwise for failing to act or refrain from acting in relation to the Securities or to notify the Customer of any of such matters to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions.
- 16.5 The Customer whose correspondence address is shown on the Bank's record as situated outside **Mainland China, Hong Kong SAR, or Macau SAR** as at the record date of the relevant issuer ("Overseas Shareholder") shall, notwithstanding anything contained in the circular, prospectus or any other documents of the relevant issuer to the contrary, NOT be entitled
- (i) to exercise any option to elect to receive any scrip dividend in lieu of cash in case of a scrip dividend scheme declared by the relevant issuer, so that only cash will be paid to the Overseas Shareholder for the dividend declared, and/or
  - (ii) to take up or acquire any rights shares or new shares in case of a rights issue or new issue declared by the relevant issuer and the Bank will not entertain any requests of the Overseas Shareholder for taking up or acquiring the rights shares or new shares, so that the Overseas Shareholder has the responsibility to decide whether such right to rights shares or new shares should be allowed to lapse or should be sold (if there is a market) subject to the relevant laws and regulations applicable to the Overseas Shareholder.

The Bank shall not be liable for all losses or damages the Overseas Shareholder may suffer or sustain arising out of or in connection with this Clause 16.5. Customers whose correspondence addresses are situated in **Mainland China, Hong Kong SAR, or Macau SAR** will not be affected.

## 17. **Indemnity for custody**

- 17.1 To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, the Bank (or its Agents and correspondents) shall not be liable for any loss of or damage to or diminution in value of any of the Securities however arising while the same are in possession, custody or control of the Bank (or its Agents and correspondents) and the Customer agrees to indemnify the Bank and its Agents and correspondents against and hold them harmless from and against all expenses, liabilities, claims and demands and all consequences which arise or result therefrom and shall immediately reimburse the Bank (or its Agents and correspondents) **upon demand** for any payment, loss or damage which the Bank (or its Agents and correspondents) may make, suffer or sustain by reason or on account thereof or otherwise in relation to or in connection with the Securities or anything lawfully done by the Bank (or its Agents and correspondents).

**18. Obligation and liability**

- 18.1 The Customer shall upon request perform such acts and sign and execute all such agreements, proxies, authorities, receipts or documents whatsoever as may be required by the Bank for the purpose of the Investment Account and the holding or dealing with the Securities as provided in these Terms and Conditions.
- 18.2 The obligations of the Customer, if more than one Customer, are joint and several and these Terms and Conditions shall be binding on the Customer's legal personal representatives, successors and assigns.
- 18.3 In respect of the indemnities stipulated in Clauses 3.19.1, 6.13.6, 9.3, 10.3, 10.4, 14 and 17.1, all losses, damages, liabilities, obligations, costs and expenses which may be incurred or suffered by the Bank and which shall be so indemnified as stipulated in the aforesaid Clauses shall mean such losses, damages, obligations, costs and expenses as may be reasonably incurred or suffered by the Bank save and except the same are caused directly and solely by the negligence or wilful default of the Bank.

**18A. No Deposit Protection**

The Customer acknowledges and understands that: notwithstanding anything to the contrary which may be contained herein or in any other related documents or forms,

- (i) any deposit (including, without limitation, Certificate of Deposit) mentioned herein or in any other related documents or forms; or
- (ii) any other terms used herein or in any other related documents or forms which may be commonly or legally referred to as deposits (including, without limitation, any principal, proceeds, cash, fund, money, amount, sum or credit balance in any account) for settlement of Securities Transactions, the service charges for trading whether or not on margin and payment to a third party,

is/are not protected deposit(s) as defined in the Deposit Protection Scheme Ordinance as amended from time to time ("DPS Ordinance") and is/are not protected by the Deposit Protection Scheme established under the DPS Ordinance. The Customer understands and confirms that the foregoing is not and shall not, in any way, affect any of the Bank's rights and the Customer's obligations hereunder or under any other related documents or forms or at law. Deposit includes any part and any kind of it.

## Section II: Trading in Units

This Section II contains some specific terms and conditions governing Transactions of trading in Units ("STCSII"). Without prejudice to Clause 2.8 (if applicable) and Clause 3.17.6, in case of conflict between STCSII and General Terms and Conditions of Part A and other provisions in Specific Terms and Conditions of Part B, this STCSII shall prevail.

### 19. Unit Trust and nominee Services

The Customer may from time to time request the Bank to purchase Units on his behalf.

### 20. Unit Trust Transactions

- 20.1 (a) The Customer may from time to time request the Bank to purchase Units in any of the Investment Schemes by instructing the Bank, subject to Clause 4.3 and authorizing the Bank on his behalf, and as his agent to place a purchase order ("the Purchase Order") for such Units with the appropriate Fund Manager of the relevant Investment Scheme(s). Any such Purchase Order shall specify that any Units allotted are to be held in the name of the Bank or Nominees as nominee for the Customer;
- (b) The Bank will apply for the proposed Units as agent for and on behalf of the Customer. The Customer acknowledges that in placing the Purchase Order the Bank may, if it has received purchase orders from other Customers for investments in the same Investment Scheme(s), aggregate the Customer's Purchase Order with such other purchase orders and place an aggregate purchase order; and
- (c) The Customer hereby authorizes the Bank, upon receipt from the Customer of Instructions as described aforesaid, and without further Instructions from the Customer, to debit the Customer's Settlement Account with an amount equal to the subscription moneys and other charges, costs and expenses (if any) required to be paid for or in connection with the acquisition of the Units.

For the avoidance of doubt, the Customer hereby expressly acknowledges and agrees that any Fund Manager who receives a Purchase Order from the Bank will not be obliged to accept such Purchase Order in whole or in part and neither the Bank nor Nominees shall have any responsibility or liability for ensuring that the relevant Fund Manager allots the Units to the Customer or for any losses including any loss of investment opportunity which the Customer may suffer or incur as a result of any refusal to accept or delay in accepting such Purchase Order by any such Fund Manager.

- 20.2 If, having purchased Units by means of the Services provided by the Bank, the Customer decides to switch Units between Investment Schemes, the Customer shall instruct the Bank accordingly and the provision of Clause 20.1 shall apply as if all references therein to the "Purchase Order" and other purchase orders were references to an application to switch Units.
- 20.3 The Customer acknowledges and agrees that any contract notes issued in respect of Units applied for in accordance with Clause 20.1 or switched in accordance with Clause 20.2 will be delivered directly to Nominees, and such Units will be held by Nominees and, where relevant, registered in the name of Nominees, as Nominees for and on behalf of the Customer. The Customer agrees that, in respect of those Units where an applicant may elect to hold such Units by one or more means, the Bank or Nominees shall be authorized under these Terms and Conditions to make such election for and on behalf of and as agent for the Customer as the Bank or Nominees shall deem fit.
- 20.4 If the Bank has placed an aggregated purchase order in accordance with Clause 20.1(b) above, then the Bank will procure that Nominees will, upon issuance of the relevant Units, allocate in what the Bank determines in its absolute discretion to be the most appropriate manner the Unit between the various purchasing clients including the Customer.
- 20.5 If, at any time, the Customer wishes to redeem all or any of the Units acquired pursuant to these Terms and Conditions, the Customer shall instruct the Bank to apply or procure that an application is made to the appropriate representative of the relevant Investment Scheme(s) for the redemption of the Units in accordance with the operative redemption provisions of such Investment Scheme(s) and the Bank will, or will procure that Nominees will, make the necessary application.
- 20.6 Upon any redemption of Units pursuant to these Terms and Conditions, the Bank will, or will procure that Nominees will, credit to the Account such moneys (net of any fees, charges or expenses incurred in connection with the redemption) as may be received in consideration of the redemption of the Units. Neither the Bank nor Nominees will be under any duty to ascertain or have any responsibility for the adequacy of the consideration

received.

- 20.7 Subject to Clause 20.6 in the case of redemption, if at any time the Customer wishes to transfer, or sell or otherwise dispose of any of the Units acquired pursuant to these Terms and Conditions, the Customer shall terminate its use of the Services in accordance with Clause 3.13.2, and upon such termination, the provisions of Clause 3.13.3 shall apply, unless otherwise agreed by the Bank.
- 20.8 The Bank will not be obliged under any circumstances to take any action at any time which occurs outside normal banking business hours in Hong Kong. Subject as aforesaid, the Bank and the Customer agrees that:
- (a) provided the Customer instructs the Bank so that the Bank receives any such Instructions at least one hour before the latest specific cut-off time for the receipt by the relevant Investment Scheme(s) of any Purchase Order or application for switching or redemption, the Bank will use all reasonable endeavors to send by facsimile or deliver any Purchase Order or application for switching or redemption to the appropriate recipient in respect of the relevant Investment Scheme(s) on the same "Dealing Day" for such Investment Scheme(s) (being a day on which dealings take place in Units of such investment Scheme(s)) as the date upon which the Bank receives the relevant Instructions from the Customer; and
  - (b) if the Customer instructs the Bank so that the Bank receives any such Instructions later than the time specified in (a) above, the Bank will use reasonable endeavors to send by facsimile or deliver any Purchase Order or application for switching or redemption to the appropriate recipient in respect of the relevant Investment Scheme(s) on the next Dealing Day for such Investment Scheme(s) following the date upon which the Bank received the Instructions.

PROVIDED ALWAYS that in each case (i) any necessary subscription or other moneys required to be paid by or on behalf of the Customer in respect of the proposed Transaction are available in freely available cleared funds in the Customer's Settlement Account; and (ii) the Bank shall not be liable to the Customer for any losses which the Customer may incur as a result of the Bank's failure to send or deliver any Purchase Order or applications unless such failure results directly from the negligence or wilful default of the Bank or its servants or Agents.

For the purposes of this Clause 20.8 information in respect of the Investment Schemes' "Dealing Days" and specified cut-off times for the receipt of Purchase Orders and the other applications referred to above will be provided by the Bank to the Customer upon request.

- 20.9 If, at any time, for any reason representatives of any Investment Scheme instruct Nominees, as registered holder of any Units, to divest itself, transfer or otherwise dispose of any such Units in accordance with the terms and conditions governing the operation of such Investment Scheme, the Bank shall promptly seek the Customer's Instruction as to how (subject to these Terms and Conditions) the Customer wishes to proceed and if no Instructions are received within the time allotted for receipt of the same and/or satisfactory course of action cannot be agreed with the relevant representative of the Investment Scheme within any time period specified for this purpose, the Bank shall procure Nominees to redeem the relevant Units and credit the proceeds to the Account.

## **21. Receipt and Disbursement of Moneys**

- 21.1 The Bank shall, subject to the provisions of these Terms and Conditions, hold in the Customer's Settlement Account:
- (a) all cash received by the Bank from or for the account of the Customer for the purpose of acquiring Units;
  - (b) all cash received by the Bank and/or Nominees for the account of the Customer from the disposal or redemption of such Units; and
  - (c) all income, dividends and other payments received in respect of the Units held pursuant to these Terms and Conditions on behalf of the Customer.

The Bank shall make arrangements for the collection and receipt of, and shall procure that Nominees remits into the Customer's Settlement Account, all income and other payment received with respect to the Units held pursuant to these Terms and Conditions.

- 21.2 Subject always to the provisions of Clause 21.3, the Bank shall make payments from the Customer's Settlement Account without further Instructions from the Customer, and the Customer hereby authorizes the Bank to make such payments, only:-
- (a) upon the purchase of Units for the account of the Customer and for payments in connection with the registration of such Units in the name of Nominees;

- (b) for the payment by the Customer, whether to the Bank, Nominees or otherwise, of all taxes, fees, disbursements, charges, expenses and other amounts properly payable by the Customer pursuant to these Terms and Conditions or in respect of the acquisition, holding or disposal of Units; and
- (c) for any payment in connection with the switching or redemption on Units held on behalf of the Customer.

The Bank may make other payments from the Customer's Settlement Account in accordance with the Customer's Instructions.

21.3 The Customer agrees at all times to maintain sufficient funds in the Customer's Settlement Account for the purpose of effecting any purchases of Units on the Customer's Instructions and/or for paying any fees, costs, expenses or other amounts which the Customer is liable to pay under these Terms and Conditions. The Customer acknowledges and agrees that if at any time there are in the reasonable opinion of the Bank (having regard to other payments debited or due to be debited) insufficient funds in the Customer's Settlement Account for these purposes the Bank may, without prejudice to other rights of the Bank under these Terms and Conditions: -

- (a) decline to place a Purchase Order on the Customer's behalf with any Investment Scheme;
- (b) (in the Bank's sole discretion and without any obligation to do so on the part of the Bank) transfer funds as necessary from any other bank accounts maintained by the Customer with the Bank without further Instruction or sanction from the Customer and if the Bank advances funds to the Customer, in accordance with (c) below, such that a debit balance occurs or any existing debit balance is increased on the Customer's Settlement Account the Bank may in addition to the provisions of (c) below set-off such debit balance or the increase in the debit balance (as the case may be) on the Customer's Settlement Account against any credit balance or balances which the Customer may have in any other bank accounts with the Bank without further Instruction or sanction from the Customer; and/or
- (c) advance, at the sole discretion of the Bank, the necessary funds to the Customer for the purpose of fulfilling a Purchase Order or paying any such costs, fees, expenses or other amounts ("the Advance") and debit the Customer's Settlement Account with the amount of such Advance and in this event the Customer shall pay interest on the Advance at the rate prescribed by the Bank from time to time. In addition, the Customer shall forthwith **upon demand** by the Bank discharge the debit balance on the Customer's Settlement Account to the extent that such debit balance arises by reason of the Advance and after demand pending such discharge the Bank shall be entitled to charge (after as well as before judgment) default interest at the rate prescribed by the Bank from time to time calculated on the amount which is the subject of such demand. If the Customer fails to discharge the debit balance attributable to the Advance in accordance with this Clause 21.3, the Bank shall be entitled in addition to the remedy in (b) above to procure that Nominees redeems, sells or otherwise liquidates (upon such terms and conditions as shall seem reasonable to the Bank in all circumstances) such number of the Customer's Units held by Nominees as is necessary to discharge the debit balance attributable to the Advance and any other outstanding Advances made pursuant to this Clause 21.3 and that Nominees remits the proceeds to the Customer's Settlement Account.

## 22. Custody of Investments

- 22.1 The Bank shall procure that Nominees shall, hold all Units received and held by it from time to time for the account of the Customer and shall arrange for all Units to be held in safe-custody in such manner as the Bank may in its absolute discretion determine.
- 22.2 The Bank shall be entitled, and shall be entitled to authorize Nominees, to appoint, without further consent of the Customer, any bank, trust company or member firm of any securities Exchange to act as (a) a sub-custodian of any of the Units held by the Bank and/or Nominees pursuant to the agreement evidenced by these Terms and Conditions and (b) as an administrator to assist in the performance of obligations pursuant to these Terms and Conditions (a "Sub-Custodian") on such terms as the Bank may, in its absolute discretion, consider appropriate provided that if the Bank and/or Nominees has exercised reasonable care and skill in the selection of any such Sub-Custodian, the Bank shall not be liable or responsible for any act or omission of any such Sub-Custodian or any of its Personnel or agents in connection with the Units in its custody.
- 22.3 Unless and until the Bank received an Instruction to the contrary, the Bank shall, and shall procure that Nominees and/or where relevant any Sub-Custodian appointed pursuant to Clause 22.2 shall:
  - (a) (to the extent that the Bank or Nominees has actual notice of the relevant event) present for payment the Units which are called, redeemed or retired or otherwise become payable and all coupons and other income items held pursuant to these Terms and Conditions for the account of the Customer which call for payment upon presentation and hold the cash received upon such payment for the account of the Customer;
  - (b) hold for the account of the Customer all stock dividends, rights and similar securities issued with respect to



- any Units held pursuant to these Terms and Conditions;
- (c) receive and collect all interest, dividends and other payments or distributions of incomes in respect of the Units;
- (d) exchange interim receipts or temporary securities for definitive securities;
- (e) where monies are payable in respect of any of the Units in more than one currency, collect them in such currency as may be permissible by law as the Bank and/or Nominees may in its/their discretion determine;
- (f) complete and deliver on behalf of the Customer as beneficial owner any ownership certificates in connection with the Units as may be required by law; and
- (g) dispose of moneys collected as aforesaid or received as proceeds of redemption of any of the Units or otherwise in accordance with Clause 21.

22.4 If at any time it is, in the opinion of the Bank and/or Nominees, necessary in order to protect the interests of the Customer, to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, even if without Instructions, the Bank may (but shall not be obliged to) act or procure Nominees to act as if it were the absolute beneficial owner of the Units and in this connection the Bank may advance moneys to the Customer in accordance with Clause 21.3(c) and the Bank and/or Nominees may subscribe or otherwise deal with any money, securities or other rights offered in respect of the Units.

### 23. **Information on Investment Schemes**

The Bank shall use reasonable efforts to make available to the Customer on request all annual and bi-annual reports and accounts produced by the Investment Schemes in respect of which Units are held on behalf of the Customer pursuant to these Terms and Conditions and shall procure that all notices or circulars issued by such Investment Schemes and received by Nominees in relation to the Customer's Units are delivered by Nominees to the Customer.

### 24. **No Voting**

24.1 The Bank shall procure that Nominees will not vote in relation to any of the Units held for the account of the Customer except in accordance with Instructions received from the Customer in accordance with Clause 6 and upon such conditions and indemnity and provision for expenses as the Bank may require. The Bank shall, if required in accordance with such Instructions, use reasonable efforts to procure the delivery by Nominees, or the execution in blank and delivery by Nominees, to the Customer of all notices, proxies, and proxy soliciting materials in relation to the Units held pursuant to these Terms and Conditions.

24.2 Upon being fully indemnified to the Bank's reasonable satisfaction for costs and liabilities by the Customer and upon production by the Customer to the Bank of such evidence as may be required by the Bank, the Bank shall execute, or shall procure the execution by Nominees and/or any Sub-Custodian of, such ownership and other certificates and affidavits as may be reasonably requested by the Customer for fiscal or tax purposes in connection with the Units held pursuant to these Terms and Conditions and shall make or procure the making of such applications and reports as may be required under the laws of any jurisdiction in order to apply for or secure any tax privileges to which the Customer is or may otherwise be entitled in connection with such Units.

### Section III: Unit Trust Express Switching

This Section III contains some specific terms and conditions governing Transactions of Unit Trust Express Switching (“T&C-UTES”). Without prejudice to Clause 2.8 (if applicable) and Clause 3.17.6, in case of conflict between this T&C-UTES and General Terms and Conditions of Part A and other provisions in Specific Terms and Conditions of Part B, this T&C-UTES shall prevail.

#### 24A. Unit Trust Express Switching service

The Unit Trust Express Switching service is provided by the Bank. Customers applying for the Unit Trust Express Switching and submitting an Order pursuant thereto are in effect instructing the Bank to apply for fund redemption and subscription (with an Advance provided by the Bank) simultaneously.

#### 24B. Definitions and Interpretation

Unless the context otherwise requires, all capitalized terms herein shall have the meanings specified in these Terms and Conditions. In addition, the terms and expressions used in this T&C-UTES shall bear the following meanings:

“**Advance**” means an advance made by the Bank to the Customer under Unit Trust Express Switching subject to this T&C-UTES.

“**Applicable Exchange Rate**” means the exchange rate offered by the Bank and accepted by the Customer to convert one currency into another currency on the date of the Order.

“**Application**” means the application of the Customer to the Bank for Unit Trust Express Switching to be provided by the Bank pursuant to the application form as prescribed by the Bank and subject to this T&C-UTES, and the term “Application Form” shall be construed accordingly.

“**Discount Ratio**” means a discount rate as designated by the Bank from time to time to be applied for the calculation of Maximum Subscription Amount, which varies with different funds and is subject to be changed by the Bank at its sole and absolute discretion.

“**Maximum Subscription Amount**” means an amount equal to the maximum amount of the Advance the Bank may, at its absolute discretion and subject to this T&C-UTES, grant to the Customer to subscribe the Switch-in Fund, or such other amount as the Bank may at its absolute discretion consider appropriate. Without prejudice to the Bank’s right to exercise its absolute discretion, it is estimated based on the latest available unit price, on the date of the Order, of the Switch-out Fund, times the number of Units to be redeemed, and calculated at a Discount Ratio; and if the Switch-in Fund and the Switch-out Fund are denominated in different currencies, the Applicable Exchange Rate will be applied for conversion.

“**Order**” means the Customer’s instruction to the Bank to place a redemption order for the Switch-out Fund and a subscription order for the Switch-in Fund simultaneously and the Customer’s application for the Advance by using the service of Unit Trust Express Switching, either in the form prescribed by the Bank or by phone order, and the term “Order Form” shall be construed accordingly.

“**Outstanding Indebtedness**” means all amounts in any currency owing by the Customer to the Bank at any time and from time to time, actually or contingently, including but not limited to the Advance and all other outstanding indebtedness, interests, default interests, overdraft interests (whether on authorized or unauthorized overdraft), fees, charges, commissions, costs, expenses (including any recovery costs, enforcement costs and legal costs and expenses reasonably incurred by the Bank), all applicable exchange control premiums, penalties or expenditure, and all other amounts payable by the Customer in connection with the Advance and/or this T&C-UTES in any capacity, alone or jointly with any other person, incurred or to be incurred by the Bank directly or indirectly, on a full indemnity basis.

“**Overdraft Interest Rate**” means the overdraft interest (which, for the avoidance of doubt, excludes the handling charge) applicable to the unauthorized overdraft of the Service Charge Booklet of the Bank in force from time to time (including its amendments, revisions,

supplements, addenda and replacements from time to time issued) or otherwise determined by the Bank from time to time at its absolute discretion.

**“Secured Assets”** means any and all moneys, assets, Securities and other properties of the Customer from time to time standing to the credit of, or deposited with or come into the Bank’s possession or control in the Investment Account and the Settlement Account of the Customer and other bank accounts maintained by the Customer with the Bank, together with all rights and benefits attached or accruing thereto and the proceeds thereof (and, in the case of Securities, means any Securities at any time and from time to time and for any reason held by, deposited with, received by, transferred to or registered in the name of the Bank, the Nominees, any nominee or agent of the Bank for or on account of the Investment Account, together with all dividends, interests, distributions, allotments, rights and benefits accruing thereto), including but not limited to (i) the redemption proceeds of the Switch-out Fund and the Switch-in Fund, (ii) all rights, titles, interests and benefits in the Units of the Switch-in Fund and the Units of the Switch-out Fund, together with all dividends, interests, distributions and other moneys derived therefrom and accruing or arising in respect thereof.

**“Secured Moneys”** means all monies, obligations and liabilities now or at any time hereafter due, owing or incurred to the Bank by the Customer, whether on any banking or other account or otherwise in whatever manner and whether actual or contingent and in whatever currency and whether solely or jointly in whatever name, style or form and whether as principal debtor or surety, and whether principal, interests, charges, fees, costs, expenses, commissions, all other moneys or otherwise, including but not limited to the Outstanding Indebtedness, or other debts incurred to any other person the benefit of which is subsequently assigned or otherwise transferred to the Bank, and all interests, charges, commissions, costs, expenses, legal costs and other fees, on a full indemnity basis.

**“Settlement Date”** means (i) the date when the redemption proceeds of the Switch-out Fund are made available from the Fund Manager to the Bank and are readily available to the Bank; (ii) the date when the Bank is notified of the failure to redeem the Switch-out Fund by the Fund Manager; or (iii) such other date as the Bank may determine at its sole and absolute discretion.

**“Switch-in Fund”** means the fund which the Customer irrevocably authorizes and instructs the Bank to apply on his behalf to subscribe through Unit Trust Express Switching pursuant to Clause 24C.2 below.

**“Switch-out Fund”** means the fund which the Customer irrevocably authorizes and instructs the Bank to apply on his behalf to redeem through Unit Trust Express Switching pursuant to Clause 24C.2 below.

**“Unit”** shall have the meaning specified in these Terms and Conditions. Without prejudice to the foregoing and for the avoidance of doubt, “Unit” includes unit in the Switch-in Fund and unit in the Switch-out Fund.

## **24C. Unit Trust Express Switching Instructions**

24C.1 Unit Trust Express Switching is a Unit Trust switching service provided by the Bank to Customers to switch Units between Investment Schemes offered by different Fund Managers with the provision of the Advance by the Bank. To apply for the service of Unit Trust Express Switching, a Customer shall first submit an Application to the Bank. An Order may only be accepted by the Bank after the Bank has accepted the Application. Notwithstanding the above, whether or not the Bank accepts the Application or the Order is entirely at the Bank’s sole and absolute discretion without giving any notice or reasons.

24C.2 By submitting the Order, the Customer hereby irrevocably instructs and authorizes the Bank, as agent for and on behalf of the Customer, to place a redemption order for the Switch-out Fund and a subscription order for the Switch-in Fund (with the Advance provided by the Bank) simultaneously in accordance with the Order. The Customer shall ratify and accept all actions taken by the Bank and indemnify the Bank against any loss and damage the Bank may suffer or incur arising from or in connection with the Application, the Order and the provision of the Advance.

24C.3 The Bank is only responsible for applying on the Customer's behalf to redeem the Switch-out Fund and subscribe for the Switch-in Fund. The Customer acknowledges and agrees that such redemption order and subscription order are subject to the final acceptance of the respective Fund Managers. The Bank disclaims any obligations and liabilities relating to the duration required in completing the redemption of the Switch-out Fund and the subscription of the Switch-in Fund. Further, the Bank makes no warranty, representation or undertaking that both the redemption and subscription orders of the Order can be executed successfully. If only one order is executed (i.e. either the redemption or the subscription order), the order which has been executed is still a valid transaction and is irrevocable.

24C.4 The Bank shall not be liable to the Customer for any loss which the Customer may incur as a result of the Bank's failure to send or deliver the instructions unless such failure results directly from the negligence or wilful default of the Bank, its employees or agents.

**24D. The Advance**

24D.1 The Advance is an advance granted by the Bank to the Customer for the sole purpose of paying the subscription amount and fees for the subscription of the Switch-in Fund and is denominated in the currency of the Switch-out Fund. Whether or not the Bank decides to make the Advance is at its sole and absolute discretion.

24D.2 The amount of the Advance is capped at the amount of the Maximum Subscription Amount.

24D.3 If the Switch-in Fund and Switch-out Fund are denominated in different currencies, the Bank will convert the amount of the Advance to the currency of the Switch-in Fund at the Applicable Exchange Rate for the payments in connection with the Switch-in Fund. The Customer shall bear the foreign exchange rate risks involved.

24D.4 Notwithstanding anything contained in this T&C-UTES to the contrary, the Advance is subject to the Bank's usual review and overriding right to require the Customer's immediate repayment of all Outstanding Indebtedness on demand at any time.

**24E. Settlement**

24E.1 The Bank is entitled to apply the amount of the Advance (after conversion with the Applicable Exchange Rate, if necessary), without further instruction from the Customer, and pay directly to the Fund Manager in or towards payment and settlement of the acquisition of the Units of the Switch-in Fund.

24E.2 On the Settlement Date, the Bank shall be entitled to, or procure that Nominees to, apply the redemption proceeds of the Switch-out Fund in or towards repayment and settlement in full of the Outstanding Indebtedness, and shall then credit the remaining balance (if any) to the Customer's Settlement Account.

24E.3 On the Settlement Date, if the actual redemption proceeds of the Switch-out Fund are insufficient, or simply not available to the Bank due to the failure to redeem the Switch-out Fund for whatever reasons, to repay and settle in full the Outstanding Indebtedness, without prejudice to all other rights or remedies of the Bank, the Bank may, but shall not be obliged to, debit the shortfall from the following accounts in the following order, and shall not be required to credit any of the Units of the Switch-in Fund to the Customer's Investment Account until the shortfall is fully paid:

(a) the Customer's Settlement Account(s);

(b) any other bank accounts maintained by the Customer with the Bank.

Without prejudice to any other rights the Bank may have, the Bank shall be entitled, but not obliged, to exercise its rights under Clause 24I below to sell, redeem or otherwise dispose of any of the Units of the Switch-in Fund.

24E.4 The Customer acknowledges and agrees that if at any time when the Bank debits the Customer's Settlement Account or any other bank accounts maintained by the Customer with the Bank pursuant to this T&C-UTES, and if there are insufficient funds on the relevant accounts to repay

and settle in full the Outstanding Indebtedness, without prejudice to all other rights or remedies of the Bank, the Bank is entitled at its sole and absolute discretion, but not obliged, to apply the following arrangements:

- (a) if an overdraft facility is currently maintained and is sufficient to repay and settle the Outstanding Indebtedness in full, the Outstanding Indebtedness shall forthwith become or form part of the overdraft facility subject to the applicable provisions in the Terms and Conditions for all Accounts and Related Services of the Bank (including their amendments, revisions, supplements, addenda and replacements from time to time);
- (b) if an overdraft facility is currently maintained but is insufficient to repay and settle the Outstanding Indebtedness in full or if no overdraft facility is currently maintained, any part of the Outstanding Indebtedness not covered by the unused overdraft facility or not covered by any overdraft facility shall forthwith constitute an unauthorized overdraft facility and the Customer shall pay interest in accordance with Clause 24F.3 below.

24E.5 In the event the subscription order for the Switch-in Fund succeeds but the redemption order for the Switch-out Fund fails, the Customer will be in a position of concurrently holding and investing in both the Switch-out Fund and the Switch-in Fund, and shall bear all the investment risks associated with such a position, including but not limited to the relevant fund price fluctuations. In addition, the Customer shall repay and settle the Outstanding Indebtedness in full immediately or within the time agreed by the Bank. Otherwise, sub-Clause 24E.3 and 24E.4 above shall apply without prejudice to all other rights the Bank may have and the Bank shall not be required to credit any of the Units of the Switch-in Fund to the Customer's Investment Account until all Outstanding Indebtedness is fully repaid and settled.

24E.6 In the event the subscription order for the Switch-in Fund fails but the redemption order for the Switch-out Fund succeeds, the Bank shall obtain the refund of the Switch-in Fund from the relevant Fund Manager on the Customer's behalf. The Bank shall be entitled to use the redemption proceeds from the Switch-out Fund and the refund from the Switch-in Fund to repay and settle the Outstanding Indebtedness, and shall credit any remaining balance thereof to the Customer's Settlement Account. The Customer is liable to pay all fees, charges or expenses incurred in connection with the redemption and the refund and, if unpaid, they shall form part of the Secured Moneys.

24E.7 The Order once placed is irrevocable and the Customer shall not revise, cancel or prepay the Advance except with the prior written consent of the Bank and, if the Bank agrees to do so, the Customer shall in any event indemnify the Bank against any loss the Bank may suffer or incur in connection with such revision, cancellation or prepayment.

#### **24F. Interest, Fees and Charges**

24F.1 No interest will be payable by the Customer in respect of the Advance before the Settlement Date.

24F.2 The Customer shall pay the subscription fee and redemption fee (if any) to the respective Fund Managers as applicable to the Investment Schemes and all other fees and charges chargeable by the Bank. Notwithstanding any provisions contained in this T&C-UTES to the contrary, the Bank is entitled to deduct any fees and charges payable by the Customer to the Bank from the amount of the Advance to be advanced by the Bank. For the avoidance of doubt, if a deduction is so made, the amount owing by the Customer shall not be reduced by the amount so deducted.

24F.3 In cases where the Outstanding Indebtedness or any part thereof does not form part of an authorised overdraft facility, the Customer shall pay interest on a daily basis thereon from the Settlement Date up to the date of actual repayment of all the Outstanding Indebtedness at the Overdraft Interest Rate or at such other rate or rates as the Bank may from time to time determine at its sole and absolute discretion. Such interests will be compounded at such intervals as the Bank may determine.

**24G. Customer's Warranties and Undertakings**

**24G.1** The Customer undertakes to:

- (a) immediately repay the Bank **on demand** notwithstanding anything contained in this T&C-UTES to the contrary all Outstanding Indebtedness; and
- (b) inform the Bank as soon as practicable of any difficulty in repaying the Outstanding Indebtedness (or any part thereof) or in meeting any payment to the Bank arising from the Advance or otherwise pursuant to this T&C-UTES.

**24G.2** The Customer shall, at the request of the Bank, execute such documents and perform such acts as the Bank may consider expedient for the purposes of providing the Advance, or in connection with the Switch-out Fund and the Switch-in Fund, or in relation to the Bank's exercise of its powers and rights under this T&C-UTES.

**24G.3** The Customer is the sole and beneficial owner of the Secured Assets free from all charges, encumbrances and rights of third parties except pursuant to the charge created in this T&C-UTES.

**24G.4** The Customer irrevocably and by way of security appoint the Bank to be the Customer's attorney, with full power of substitution, and in the Customer's name or otherwise on the Customer's behalf and as the Customer's act and deed to sign, seal, execute, deliver, perfect and do all deeds, instruments, acts and things which may be required or which the Bank may think fit for carrying out any of the Customer's obligations under this T&C-UTES or for effecting any redemption, realization, transfer, sale or disposal of the Secured Assets or for giving to the Bank the full benefit of the security granted under this T&C-UTES. The Customer hereby ratify and confirm and agree to ratify and confirm any deed, instrument, act and thing which such attorney may lawfully execute or do.

**24H. Joint Account**

(Applicable to any one of the holder of a joint account signing the Order Form / placing the Order via phone) If the Customer to the Application is more than one person, the Customer hereby authorizes any one of the applicants (i.e. any one of the joint account holders of the relevant Investment Account) to sign and submit the Order Form / place the Order via phone on the Customer's behalf and to confirm the charge created in Clause 24I below, and the Customer represents and warrants to the Bank that all the provisions in this T&C-UTES shall be binding on the Customer, being all the holder(s) of the relevant joint account, in all respects notwithstanding that any of the joint account holder(s) has/have not signed the Order Form / placed the Order via phone.

**24I. Charge**

In consideration of the Bank accepting the Application, including agreeing to make the Advance to the Customer pursuant to the Order from time to time, without prejudice to all other rights or remedies of the Bank, the Customer as beneficial owner charges by way of security, assign and release to the Bank all of the Customer's rights, titles, benefits and interests in and to the Secured Assets, until all the Secured Moneys shall have been fully paid or discharged. The Bank shall have the right to sell, realize, redeem or otherwise dispose of any Secured Assets in such manner and for such consideration as the Bank may at its sole and absolute discretion think fit, without prior notice or demand or legal process, and to deduct any fees and expenses (including without limited to legal costs and expenses) from the proceeds of sale, realization, redemption or disposition, if the Customer fails to pay or settle any Secured Moneys when due or if the Customer is in default of any provisions of this T&C-UTES.

**24J. Set-off and Lien**

**24J.1** Without prejudice to all other rights or remedies of the Bank, the Bank is authorized to:

- (a) set off, appropriate and apply any credit balance (whether or not then due) in any currency which is at any time held by the Bank in the name of the Customer (whether alone or jointly) against all or any of the obligations and liabilities in whatever currency

which may now or at any time in the future be due owing or incurred by the Customer to the Bank (whether actual or contingent and whether alone, severally or jointly as principal, guarantor, surety or otherwise), including without limitation the Outstanding Indebtedness, until all actual and contingent obligations and liabilities of the Customer shall have been fully discharged and satisfied; and

- (b) combine or consolidate all or any of the Customer's accounts (whether current, savings, investment, securities, custodial, time, fixed or call deposit accounts and whether subject to notice or not) with the Bank whatsoever, wheresoever situate, for the purpose of setting off or transferring any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the Customer's liabilities to the Bank on any other account or in any other respect whether such liabilities be present, future, actual, contingent, primary, collateral, joint or several (including without limitation the Outstanding Indebtedness).

24J.2 The Bank may retain any money of the Customer as it may consider necessary to meet such obligations or liabilities of the Customer.

24K. **Currency Conversion**

The Bank shall be entitled, but not obliged, to convert any amounts or proceeds from time to time received and/or any amounts in any accounts of the Customer maintained with the Bank into the currency of the Outstanding Indebtedness and vice versa at a rate or rates and in such a manner at the Bank's sole and absolute discretion for the purpose of settling the Outstanding Indebtedness. The Customer shall be responsible for any loss arising from fluctuation in the rate of exchange between the two currencies and all costs of exchanges and other related costs and expenses, and the Bank is authorized to deduct all such loss, costs and expenses from any accounts of the Customer.

24L. **Provision of Information**

In the case where a third party security has been or is presently issued in the Bank's favor in respect of any or all of the Customer's liabilities owed to the Bank, the Bank may from time to time provide the third party security provider with any data, details or information (including any of the Customer's personal data) relating to any loan/banking/credit facilities (including without limitation the Advance) extended by the Bank to the Customer for the purpose of notifying the third party security provider of the liabilities under the third party security.





## **Schedule II**

This Schedule II contains some specific terms and conditions governing Transactions of trading in derivative products ("STCD"). Without prejudice to Clause 2.8 (if applicable) and Clause 3.17.6, in case of conflict between STCD and General Terms and Conditions of Part A and other provisions in Specific Terms and Conditions of Part B, this STCD shall prevail.

### **Derivative Products**

25. The Customer may trade in derivative products as specifically defined by the Bank subject to the terms and conditions as stipulated by the Bank and/or issuer of the derivative products, copy of which and product specifications and any prospectus or other offering document covering such derivative products may be obtained from the Bank and/or issuer through the Bank on request.
26. The Customer understands and agrees that the derivative products is also subject to the terms and conditions as set out in the term sheet to be executed by the Customer.
27. The Customer authorizes the Bank to debit from the Settlement Account the required amount being the settlement amount and all other expenses, commissions, service charges and fees payable to complete the Transaction of the derivative products on the settlement date.
28. To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, subject to Clause 2.8 (if applicable), the Customer agrees that the Bank shall not be liable if the Customer incurs any loss in the investment.
29. The Customer understands that the derivative products is/is not a capital guaranteed investment and the choice of the repayment option at maturity is made at the sole discretion of the relevant issuer.
30. The Customer also understands that early redemption will be subject to the agreement of the derivative products issuer and will be subject to such terms and conditions as the relevant issuer shall conclusively determine.
31. The Customer understands and accepts that if he sustains losses in excess of his initial margin funds, the Customer may be called upon at short notice to deposit additional margin funds. If the required funds are not provided within the prescribed time, the Customer's position may be liquidated. The Customer remains liable for any resulting deficit in the Account.

## **Schedule III**

### **Risk Disclosure Statement**

**IMPORTANT NOTICE TO CUSTOMERS: PLEASE READ THIS RISK DISCLOSURE STATEMENT CAREFULLY. THIS STATEMENT FORMS AN INTEGRAL PART OF THE BANK'S ACCOUNT MANDATE AND THE TERMS AND CONDITIONS GOVERNING THE ACCOUNT.**

**BY EXECUTING THE ACCOUNT MANDATE, I/WE, THE CUSTOMER, ACKNOWLEDGE THAT I/WE HAVE READ THIS RISK DISCLOSURE STATEMENT AND UNDERSTAND THE RISKS APPLICABLE TO THE BANK'S SERVICES.**

The risk of loss in Securities dealing, including equity linked notes, options in or derivatives of any of them or in other trading or investment transactions, can be substantial. I/We, the Customer should therefore carefully consider whether such trading or investment whether directly by me/us or through you, the Bank, on a discretionary managed basis is suitable for me/us in light of my/our financial condition, my/our tolerance to risks and my/our investment experience. This statement cannot, of course, disclose all the risks and other significant aspects of the securities or debt instrument markets, or of other markets in which I/we may elect to trade or deal with in other arrangements with the Bank from time to time. Further detailed explanatory Risk Disclosure Statement and product specifications or prospectus or other offering document are readily available from the Bank at my/our request. I/We should therefore carefully study securities, and/or any relevant trading arrangements before I/we trade.

In considering whether to trade or invest, I/we should understand and be aware of the risks generally, and in particular should note the following:

#### **32. Risk Disclosure Statement (Securities Trading)**

- 32.1 I/We acknowledge that the price of Securities can and does fluctuate, and any individual Security may experience upwards or downwards movements, and may even become valueless. There is an inherent risk that losses may be incurred rather than profit made as a result of buying and selling Securities. I/We also acknowledge that there may be risks in leaving Securities in the Bank's safekeeping. For example, if the Bank is holding my/our Securities and it becomes insolvent, I/we may experience significant delay in recovering the Securities. These are risks that I/we am/are prepared to accept.
- 32.2 I/We acknowledge that the Internet, mobile phone or other access channel, due to unpredictable traffic congestion and other reasons, is an inherently unreliable medium of communication and that such unreliability is beyond the control of the Bank. I/We further acknowledge that, as a result of such unreliability, there may be time lag or delays in the transmission of data and receipt of Instructions and other information and that this may result in delays in the execution of Instruction and/or execution of Instruction at prices different from those prevailing at the time of the Instruction and after it has been given.

#### **33. Risk Disclosure Statement (GEM)**

- 33.1 I/We acknowledge that the price of Securities traded on GEM of the Stock Exchange ("GEM") can and does fluctuate, and any individual Security may experience upwards or downwards movements, and may even become valueless. There is an inherent risk that losses may be incurred rather than profit made as a result of buying and selling Securities traded on GEM. I/ We also acknowledge that there may be risks in leaving Securities in the Bank's safekeeping. For example, if the Bank are holding my/our Securities and it becomes insolvent, I/we may experience significant delay in recovering the Securities. These are risks that I/we am/are prepared to accept.
- 33.2 I/We understand that GEM has been established as a market designed to accommodate companies to which a high investment risk may be attached. In particular, I/we understand that companies may list on GEM with neither a track record of profitability nor any obligation to forecast future profitability. I/We appreciate that there may be risks arising out of the emerging nature of companies listed on GEM and the business sectors or countries in which the companies operate.
- 33.3 I/We am/are aware of the potential risks of investing in such companies and understand that I/we should make the decision to invest only after due and careful consideration. I/We understand the greater risk profile and other characteristics of GEM mean that it is a market more suitable for professional and other sophisticated investors.
- 33.4 Given the emerging nature of companies listed on GEM, I/we understand there is a risk that Securities traded in GEM may be susceptible to higher market volatility compared to Securities traded on the Main Board and no

assurance is given that there will be a liquid market in the Securities traded on GEM.

- 33.5 I/We further understand that the principal means of information dissemination on GEM is publication on the Internet website operated by the Stock Exchange. Companies listed on GEM are not generally required to issue paid announcements in gazetted newspapers. Accordingly, I/we acknowledge that I/we need to have access to up-to-date information on GEM-listed companies as published on the GEM website.
- 33.6 I/We acknowledge that this risk disclosure statement does not purport to disclose all the risks and other significant aspects of GEM. I/We understand that I/we should undertake my/our own research and study on the trading of Securities on GEM before commencing any trading activities.
- 33.7 I/We understand that I/we should seek independent professional advice if I/we am/are uncertain of or have not understood any aspect of this Risk Disclosure Statement or the nature and risks involved in trading of Securities on GEM.
- 33.8 I/We understand that the signing of this Risk Disclosure Statement is mandatory under the Rules of the Stock Exchange. I/We understand that the Bank will not be able to effect my/our Instructions to deal in Securities on GEM if this statement is not signed and acknowledged by me/us.

34. **Risk Disclosure Statement (NASDAQ-AMEX Securities at The Stock Exchange of Hong Kong Limited)**

The Securities under the Nasdaq-Amex Pilot Program (PP) are aimed at sophisticated investors. I/We should consult my/our dealer and become familiarized with the PP before trading in the PP Securities. I/We should be aware that the PP securities are not regulated as a primary or secondary listing on the Main Board or GEM of The Stock Exchange of Hong Kong Limited.

35. **Risk Disclosure Statement (Unit Trust and Nominees Services)**

- 35.1 I/We acknowledge that the price of Units in any Investment Schemes may go down as well as up and under certain conditions it can become difficult or impossible to redeem the Unit and the Unit may even become valueless. There is an inherent risk that losses may be incurred rather than profit made as a result of buying and selling Units in any Investment Schemes. I/We also acknowledge that there may be risks in leaving Units in the Bank's safekeeping. For example, if the Bank is holding my/our Units and it becomes insolvent, I/we may experience significant delay in recovering the Units. These are risks that I/we am/are prepared to accept.
- 35.2 I/We acknowledge that the Internet, mobile phone or other access channel, due to unpredictable traffic congestion and other reasons, is an inherently unreliable medium of communication and that such reliability is beyond the control of the Bank. I/We further acknowledge that, as a result of such unreliability, there may be time lag or delays in the transmission of data and receipt of Instructions and other information and that this may result in delays in the execution of Instructions and/or execution of Instructions at prices different from those prevailing at the time of the Instruction and after it has been given.

36. **Risk Disclosure Statement (Exchange Traded Derivative Products and/or Structured Products)**

**A. General risks of Derivative Products and/or Structured Products traded in Exchange**

**Issuer default risk:** In the event a structured product issuer becomes insolvent and defaults on its listed securities, I/we will be considered as unsecured creditors and will have no preferential claims to any assets held by the issuer. I/We should therefore pay close attention to the financial strength and credit worthiness of structured product issuers.

**Uncollateralised product risk:** Uncollateralised structured products are not asset backed. In the event of issuer becomes insolvent or bankrupt, I/we can lose my/our entire investment. I/We should read the listing documents to determine if a product is uncollateralised.

**Gearing risk:** Structured products such as derivative warrants and callable bull/bear contracts are leveraged and can change in value rapidly according to the gearing ratio relative to the underlying assets. I/We should be aware that the value of a structured product may fall to zero resulting in a total loss of the initial investment.

**Expiry considerations:** Structured products have an expiry date after which the issue may become worthless. I/We should be aware of the expiry time horizon and choose a product with an appropriate lifespan for my/our trading strategy.

**Extraordinary price movements:** The price of a structured product may not match its theoretical price due to outside influences such as market supply and demand factors. As a result, actual traded prices can be higher or lower than the theoretical price.

**Foreign exchange risk:** I/We trading structured products with underlying assets not denominated in Hong Kong dollars are also exposed to exchange rate risk. Currency rate fluctuations can adversely affect the underlying asset value, also affecting the structured product price.

**Liquidity risk:** The Exchange requires all structured product issuers to appoint a liquidity provider for each individual issue. The role of liquidity providers is to provide two way quotes to facilitate trading of their products. In the event that a liquidity provider defaults or ceases to fulfill its role, I/we may not be able to buy or sell the product until a new liquidity provider has been assigned.

## **B. Additional risks of Derivative Products and/or Structured Products traded in Exchange**

### **B(1) Equity derivatives traded in the Exchange**

#### **Derivative Warrants**

Exchange traded derivative warrants fall under the category of derivative investment instruments or structured products. They have a life of six months to five years. The underlying assets of derivative warrants include ordinary shares, market indices, currencies and baskets of shares. Derivative warrants are issued by a third party, generally an investment bank, independent of the issuer of the underlying assets. The issuer of derivative warrants may not be the issuer of the underlying assets but should hold or have a right to hold the underlying assets.

Exchange traded derivative warrants can be linked to a single security or a basket of securities, stock indices, currencies, commodities or futures contracts (like crude oil futures). Almost all derivative warrants currently traded in Hong Kong are cash-settled. Warrants linked to a basket of securities, stock indices or securities listed in other jurisdictions will always be settled by cash. Similar to other securities, I/we can buy or sell derivative warrants anytime during the securities market's trading hours.

When a physically settled call derivative warrant on a single stock is exercised, the warrant holder will receive the underlying stock from the issuer. Unlike equity warrants, no new shares will be issued.

#### **Risks involved in trading Derivative Warrants**

**Issuer Risk:** Derivative Warrant holders are unsecured creditors of the issuer and have no preferential claim to any assets an issuer may hold.

**Gearing Risk:** Although derivative warrants often cost less than the price of the underlying assets, a derivative warrant may change in value to a much greater extent than the underlying assets. Although potential return on derivative warrants may be higher than that on the underlying assets, it should be noted that in the worst case the value of derivative warrants may fall to zero and holders may lose their entire investment amount.

**Limited Life:** Unlike stocks, derivative warrants have an expiry date and therefore a limited life. Unless the derivative warrants are in-the-money, they become worthless at expiration.

**Time Decay:** So long as other factors remain unchanged, the value of derivative warrants will decrease over time. Therefore, derivative warrants should never be viewed as products that are bought and held as long term investments.

**Market Forces:** In addition to the basic factors that determine the theoretical price of a derivative warrant, derivative warrant prices are also affected by the demand for and supply of the derivative warrants. This is particularly the case when a derivative warrant issue is almost sold out and when there are further issues of an existing derivative warrant.

**Turnover:** High turnover should not be regarded as an indication that a derivative warrant's price will go up. The price of a derivative warrant is affected by a number of factors in addition to market forces, such as the price of the underlying assets and its volatility, the time remaining to expiry, interest rates and the expected dividend on the underlying assets.

**Volatility:** Prices of derivative warrants can increase or decrease in line with the implied volatility of underlying

asset price. I/We should be aware of the underlying asset volatility.

**Obligation of liquidity providers:** The listing document lists the exact obligations of the liquidity provider. In normal circumstances, liquidity providers should provide liquidity for derivative warrant issues through continuous quotes or in response to quote requests from five minutes after the market opens until the market closes. The liquidity provider should provide liquidity for at least a certain number of board lots of the derivative warrant. An issuer must specify the maximum spread between the bid and offer prices for its derivative warrants in the listing document. Under the quote request system, I/we may request a quote from the liquidity provider. In the event that a liquidity provider defaults or ceases to fulfill its role, I/we may not be able to buy or sell the product until a new liquidity provider has been assigned.

### **Callable Bull/Bear Contracts (“CBBC”)**

Exchange traded CBBC are a type of structured product that tracks the performance of an underlying asset without requiring me/us to pay the full price required to own the actual asset. They are issued either as Bull or Bear contracts with a fixed expiry date, allowing me/us to take bullish or bearish positions on the underlying asset. CBBC are issued by a third party, usually an investment bank, independent of Exchange and of the underlying asset. Similar to other securities, I/we can buy or sell CBBC anytime during the securities market’s trading hours.

Exchange traded CBBC are issued with the condition that during their lifespan they will be called by the issuers when the price of the underlying asset reaches a level (known as the “Call Price”) specified in the listing document. If the Call Price is reached before expiry, the CBBC will expire early and the trading of that CBBC will be terminated immediately. The specified expiry date from the listing document will no longer be valid.

For Bull contracts, the Call Price must be either equal to or above the Strike Price. For Bear contracts, the Call Price must be equal to or below the Strike Price. If the underlying asset’s price reaches the Call Price at any time prior to expiry, the CBBC will expire early. The issuer must call the CBBC and trading of the CBBC will be terminated immediately. Such an event is referred to as a Mandatory Call Event (MCE).

CBBC may be issued with a lifespan of 3 months to 5 years and are settled in cash only. There are two categories of CBBC, namely Category N CBBC and Category R CBBC.

i) A Category N CBBC refers to a CBBC where its Call Price is equal to its Strike Price, and the CBBC holder will not receive any cash payment once the price of the underlying asset reaches or goes beyond the Call Price.

ii) A Category R CBBC refers to a CBBC where its Call Price is different from its Strike Price, and the CBBC holder may receive a small amount of cash payment (called “Residual Value”) upon the occurrence of an MCE but in the worst case, no residual value will be paid.

### **Risk involved in trading CBBC**

**Mandatory call:** CBBC are not suitable for all types of investors and I/we should consider my/our risk appetite prior to trading. In any case, I/we should not trade in CBBC unless I/we understand the nature of the product and am/are prepared to lose the total amount invested since a CBBC will be called by the issuer when the price of the underlying asset hits the Call Price and trading in that CBBC will expire early. Payoff for Category N CBBC will be zero when they expire early. When Category R CBBC expire early the holder may receive a small amount of Residual Value payment, but there may be no Residual Value payment in adverse situations. The Bank may charge its customers a service fee for the collection of the Residual Value payment from the respective issuers.

In general, the larger the buffer between the Call Price and the Spot Price of the underlying asset, the lower the probability of the CBBC being called since the underlying asset of that CBBC would have to experience a larger movement in the price before the CBBC will be called. However at the same time, the larger the buffer, the lower the leverage effect will be. Once the CBBC is called, even though the underlying asset may bounce back in the right direction, the CBBC which has been called will not be revived and I/we will not be able to profit from the bounce-back.

Besides, the MCE of a CBBC with overseas assets as underlying may be triggered outside the Exchange’s trading hours.

**Gearing effects:** Since a CBBC is a leveraged product, the percentage change in the price of a CBBC is greater compared with that of the underlying asset. I/We may suffer higher losses in percentage terms if I/we expect the price of the underlying asset to move one way but it moves in the opposite direction.

**Limited life:** A CBBC has a limited life, as denoted by the fixed expiry date, with a lifespan of 3 months to 5 years. The life of a CBBC may be shorter if called before the fixed expiry date. The price of a CBBC fluctuates with the changes in the price of the underlying asset from time to time and may become worthless after expiry and in certain cases, even before the normal expiry if the CBBC has been called early.

**Movement with underlying asset's price:** Although the price of a CBBC tends to follow closely the price of its underlying asset, in some situations it may not (i.e. delta may not always be close to one). Prices of CBBC are affected by a number of factors, including its own demand and supply, funding costs and time to expiry. Moreover, the delta for a particular CBBC may not always be close to one, in particular when the price of the underlying asset is close to the Call Price.

**Liquidity:** Although CBBC have liquidity providers, there is no guarantee that I/we will be able to buy/sell CBBC at my/our target prices any time I/we wish. In the event that a liquidity provider defaults or ceases to fulfill its role, I/we may not be able to buy or sell the product until a new liquidity provider has been assigned.

**Funding costs:** The issue price of a CBBC includes funding cost and issuers are required to specify the formula for calculating the funding costs of their CBBC at launch in the listing documents. The funding cost of a CBBC includes the issuer's financing/stock borrowing costs after adjustment for expected ordinary dividends of the shares (if the underlying assets are dividend-paying shares) and the issuer's profit margin. These items fluctuate from time to time, therefore the funding costs are not fixed throughout the tenure of the contracts. In general, the longer the duration of the CBBC, the higher the funding costs. The funding costs decline over time as the CBBC moves towards expiry. I/We am/are advised to compare the funding costs of different issuers of CBBC with similar underlying assets and features.

When a CBBC is called, the CBBC holders (investors- e.g. I/we) will lose the funding cost for the full period since the funding cost is built into the CBBC price upfront at launch even though with the MCE, the actual period of funding for the CBBC turns out to be shorter.

In any case, I/we should note that the funding costs of a CBBC after launch may vary during its life and the Liquidity Provider is not obliged to provide a quote for the CBBC based on the theoretical calculation of the funding costs for that CBBC at launch.

**Trading of CBBC close to Call Price:** When the underlying asset is trading close to the Call Price, the price of a CBBC may be more volatile with wider spreads and uncertain liquidity. CBBC may be called at any time and trading will terminate as a result.

However, the trade inputted by me/us may still be executed and confirmed by me/us after the MCE since there may be some time lapse between the MCE time and suspension of the CBBC trading. Any trades executed after the MCE (i.e. Post MCE Trades) will not be recognized and will be cancelled. Therefore, I/we should be aware of the risk and ought to apply special caution when the CBBC is trading close to the Call Price.

Issuers will announce the exact call time within 1 hour after the trigger of MCE, and the Exchange will also send the list of Post MCE Trades to the Bank, and the Bank will inform the customers accordingly.

**CBBC with overseas underlying asset:** I/We trading CBBC with overseas underlying assets am/are exposed to an exchange rate risk as the price and cash settlement amount of the CBBC are converted from a foreign currency into Hong Kong dollars. Exchange rates between currencies are determined by forces of supply and demand in the foreign exchange markets which are affected by various factors.

Besides, CBBC issued on overseas underlying assets may be called outside the Exchange's trading hours. In such case, the CBBC will be terminated from trading on Exchange in the next trading session or soon after the issuer has notified Exchange about the occurrence of the MCE. There will be no automatic suspension of the CBBC trading.

## **B(2) Exchange Traded Funds("ETFs") and Future-based ETFs traded in the Exchange**

ETFs are passively managed and open-ended funds. All listed ETFs on the Exchange securities market are authorized by the Securities and Futures Commission as collective investment schemes.

Similar to other securities, I/we can buy or sell ETFs anytime during the securities market's trading hours.

ETFs can be broadly grouped into three types:

### **Physical ETFs (i.e. traditional or in-specie ETFs)**

Many of these ETFs directly buy all the assets needed to replicate the composition and weighting of their benchmark (e.g. constituents of a stock index). However, some only buy a portion of the assets needed to replicate the benchmark or assets which have a high degree of correlation with the underlying benchmark but are not part of it.

Some physical ETFs with underlying equity-based indices may also invest partially in futures and options contracts. Lending the shares they own is another strategy used by some physical ETFs. I/We should read the ETF prospectus carefully to ensure I/we understand how the fund operates.

### **Synthetic ETFs**

These ETFs do not buy the assets in their benchmark. Instead, they typically invest in financial derivative instruments to replicate the benchmark's performance. The ETFs are required to have collateral when investing in derivatives (details of the net and gross counterparty exposure and types and composition of the collateral are published on the ETF's website). An ETF's net risk exposure to any single counterparty (i.e. net of the value of any collateral provided) cannot be more than 10 per cent of its Net Asset Value ("NAV"). I/We should read the ETF prospectus carefully to ensure I/we understand how the fund operates.

### **Futures-based ETFs**

Futures-based ETFs are passively-managed index funds traded on an exchange which aim to replicate the performance of an underlying index by investing in futures contracts.

#### **Excess return index and total return index**

A futures-based ETF may track a spot market index or a futures index. Typically, a futures index tracked by a futures-based ETF is either an excess return index or a total return index.

- An excess return index measures the changes in the prices of the underlying futures contracts during the period that they are held by the ETF as adjusted by, the gain or loss incurred from rolling the futures contracts as they approach maturity.
- A total return index measures the changes in prices of the futures contracts and the gain or loss incurred from rolling the futures contracts, as well as the notional interest earnings from the ETF's cash holding and margin deposits based on various assumptions.

### **Benefits and risks of investing in futures-based ETFs**

As one of the different types of ETFs, futures-based ETFs have the key benefits of a typical ETF, such as easy to trade, diversified, transparent and cost-effective. At the same time, it also benefits from the use of futures contracts in gaining exposure to a wide range of underlying assets including commodities (such as precious metals and other physical commodities), fixed income securities and equities. However, investing in futures-based ETFs is subject to common risks of ETFs as well as relevant risks involved in futures funds.

### **Risk involved in trading ETFs**

**Market risk:** ETFs are typically designed to track the performance of certain indices, market sectors, or groups of assets such as stocks, bonds, or commodities. ETF managers may use different strategies to achieve this goal, but in general they do not have the discretion to take defensive positions in declining markets. I/We must be prepared to bear the risk of loss and volatility associated with the underlying index/assets.

**Tracking errors:** Tracking errors refer to the disparity in performance between an ETF and its underlying index/assets. Tracking errors can arise due to factors such as the impact of transaction fees and expenses incurred to the ETF, changes in composition of the underlying index/assets, and the ETF manager's replication strategy. (The common replication strategies include full replication/representative sampling and synthetic replication which are discussed in more details below.)

**Trading at discount or premium:** An ETF may be traded at a discount or premium to its NAV. This price discrepancy is caused by supply and demand factors, and may be particularly likely to emerge during periods of high market volatility and uncertainty. This phenomenon may also be observed for ETFs tracking specific

markets or sectors that are subject to direct investment restrictions.

**Foreign exchange risk:** I/We trading ETFs with underlying assets not denominated in Hong Kong dollars am/are also exposed to exchange rate risk. Currency rate fluctuations can adversely affect the underlying asset value, also affecting the ETF price.

**Liquidity risk:** Securities Market Makers (“SMMs”) are Exchange Participants that provide liquidity to facilitate trading in ETFs. Although most ETFs are supported by one or more SMMs, there is no assurance that active trading will be maintained. In the event that the SMMs default or cease to fulfill their role, I/we may not be able to buy or sell the product.

### **Specific risk involved in trading Futures-based ETFs**

**(I) Risk of rolling futures contracts:** Futures contracts are binding agreements that are made through futures exchanges to buy or sell the underlying assets at a specified time in the future. “Rollover” occurs when an existing futures contract is about to expire and is replaced with another futures contract representing the same underlying but with a later expiration date. When rolling futures contracts forward (ie. selling near-term futures contracts and then buying longer-term futures contracts) in a situation where the prices of the longer-term futures contract are higher than that of the expiring current-month futures contract, a loss from rolling (ie. a negative roll yield) may occur. Under such circumstances, the proceeds from selling the near-term futures contracts will not be sufficient to purchase the same number of futures contracts with a later expiration date which has a higher price. This may adversely affect the NAV of the futures-based ETF.

**(II) Risk of statutory restrictions on number of futures contracts being held:** There is a statutory position limit restricting the holding of futures contracts traded on the recognized exchange company to no more than a specific number of such futures contracts. If the holding of such futures contracts of a futures-based ETF grows to the limit, this may prevent the creation of units of the ETF due to the inability to acquire further futures contracts. This may lead to differences between the trading price and the NAV of the ETF units listed on the exchange.

### **(III) Key Risks involved in futures and options funds:**

#### **(a) Futures contracts/options risk**

**Basis risk:** The prices of futures contracts/options may not always go in line with/be perfectly correlated to the value of the underlying assets in the spot markets. For example, an increase in the spot price of the underlying asset may not cause the NAV of the futures and options fund to rise by the same magnitude. In fact, the NAV of the futures and options fund may not change at all or may even fall.

**Volatility risk:** With substantial investment in futures contracts and options, the funds’ prices may be subject to the risk of very volatile price movements of futures contracts and options. Futures contracts/options price movements may be caused by other factors such as changes in government policies, supply and demand, changes in interest rates and economic conditions. Futures contracts/options’ prices are highly volatile, and so are prices of the futures and options funds. Furthermore, many futures and options funds may invest in futures contracts/options with underlying asset classes such as commodities and foreign currencies which are generally more volatile. Besides, some futures exchanges may impose limits on daily futures price movement. In this case, even if a futures and options fund tries to close out its futures position to limit loss, the orders may not be executed due to such limits.

**Margin risk & liquidity risk:** If the market moves against the futures position, the futures and options funds may be required to pay additional margins, to maintain the trading positions on short notice. The fund may need to liquidate its assets at unfavorable prices in order to meet these margin calls and suffer substantial losses. Some futures and options funds can only be redeemed at limited intervals (e.g. monthly). If you invest in such a fund, you may not be able to cash in on your investment at your desired price or when you are in need of cash.

#### **(b) Leverage risk:**



Trading of futures contracts and options may carry a high degree of risk. The amount of initial margin/premium for entering into futures contracts/options is small relative to the value of futures contracts/options so that transactions are leveraged. In this way, a small change in contracts prices may result in magnified profit or loss, depending on the extent of leverage employed by the funds. A futures and options fund may or may not be leveraged. Although a futures and options fund may not invest all of its assets in futures contracts/options, where a futures and options fund is leveraged, the fund may lose all of its assets in its entirety due to the leverage effect of futures contracts/options. You should pay attention to the leverage level of a futures and options fund in which you invest, as well as the attendant risks.

**(c) Model risk**

The performance of futures and options fund depends mainly on success of its investment strategy, which is generally model-based. However, the use of model does not guarantee positive performance and any unexpected changes in market could hurt the model's performance. Moreover, it is not guaranteed that the model can be fully executed in an accurate and timely fashion.

**(d) Performance fee risk**

The manager of a futures and options fund may charge a performance fee, which is payable to the manager annually if a pre-determined net appreciation of the fund's NAV is achieved. As the performance fee usually accrues on a daily basis and if payable, is deducted from the fund's net assets value on a daily basis, this gives rise to the risk that an investor redeeming his/her units may still need to bear a performance fee in respect of those units, even though a loss in the investment capital has been suffered by such redeeming investor.

**(e) Counterparty risk**

When a futures and options fund invests in options or other derivative instruments that are traded over-the-counter, the fund will be subject to the risk of default of its counterparties in performing any of their obligations. It may result in losses to the fund.

**Counterparty risk involved in ETFs with different replication strategies:-**

**(a) Full replication and representative sampling strategies**

An ETF using a full replication strategy generally aims to invest in all constituent stocks/assets in the same weightings as its benchmark. ETFs adopting a representative sampling strategy will invest in some, but not all of the relevant constituent stocks/assets. For ETFs that invest directly in the underlying assets rather than through synthetic instruments issued by third parties, counterparty risk tends to be less of concern.

**(b) Synthetic replication strategies**

ETFs utilizing a synthetic replication strategy use swaps or other derivative instruments to gain exposure to a benchmark. Currently, synthetic replication ETFs can be further categorized into two forms:

**i) Swap-based ETFs**

Total return swaps allow ETF managers to replicate the benchmark performance of ETFs without purchasing the underlying assets.

Swap-based ETFs are exposed to counterparty risk of the swap dealers and may suffer losses if such dealers default or fail to honor their contractual commitments.

**ii) Derivative embedded ETFs**

ETF managers may also use other derivative instruments to synthetically replicate the economic benefit of the relevant benchmark. The derivative instruments may be issued by one or multiple issuers.

Derivative embedded ETFs are subject to counterparty risk of the derivative instruments' issuers and may suffer losses if such issuers default or fail to honor their contractual commitments.

Even where collateral is obtained by an ETF, it is subject to the collateral provider fulfilling its obligations. There is a further risk that when the right against the collateral is exercised, the market value of the collateral could be substantially less than the amount secured resulting in significant loss to the ETF.

### **B(3) Listed Equity Linked Instruments (“ELI”)**

Exchange traded ELI are structured products which are marketed to retail and institutional investors who want to earn a higher interest rate than the rate on an ordinary time deposit and accept the risk of repayment in the form of the underlying shares or losing some or all of their investment. Similar to other securities, I/we can buy or sell exchange traded ELI anytime during the securities market’s trading hours.

When I/we purchase an ELI, I/we am/are indirectly writing an option on the underlying shares. If the market moves as I/we expected, I/we earn a fixed return from my/our investment which is derived mainly from the premium received on writing the option. If the market moves against my/our view, I/we may lose some or all of my/our investment or receive shares worth less than the initial investment.

#### **Risk involved in trading ELI**

**Exposure to equity market:** I/We am/are exposed to price movements in the underlying security and the stock market, the impact of dividends and corporate actions and counterparty risks. I/We must also be prepared to accept the risk of receiving the underlying shares or a payment less than my/our original investment.

**Possibilities of losing investment:** I/We may lose part or all of my/our investment if the price of the underlying security moves against my/our investment view.

**Price adjustment:** I/We should note that any dividend payment on the underlying security may affect its price and the payback of the ELI at expiry due to ex-dividend pricing. I/We should also note that issuers may make adjustments to the ELI due to corporate actions on the underlying security.

**Interest rates:** While most ELI offer a yield that is potentially higher than the interest on fixed deposits and traditional bonds, the return on investment is limited to the potential yield of the ELI.

**Potential yield:** There are fees and charges related to the purchase and sale of ELI and payment / delivery at expiry. The potential yields disseminated by Exchange have not taken fees and charges into consideration.

**Obligation of liquidity providers:** Obligations of liquidity providers for an ELI are specified in the listing document, including, among other things: (1) circumstances under which liquidity will and will not be provided; (2) the minimum quantity of the ELI (at least 10 board lots) for which liquidity is provided; and (3) the maximum bid/ask spread per quote. In the event that a liquidity provider defaults or ceases to fulfill its role, I/we may not be able to buy or sell the product until a new liquidity provider has been assigned.

### **B(4) Leveraged and Inverse Product (“L&I Products”) traded in the Exchange**

L&I Products are issued in the form of Exchange traded Funds (“ETFs”) as a type of collective investment schemes but they are in fact derivative products.

Leveraged Products typically aim to deliver a daily return equivalent to a multiple of the underlying index return that they track. Inverse Products typically aim to deliver the opposite of the daily return of the underlying index that they track. In overseas markets, they are commonly known as Leveraged and/or Inverse ETFs.

To produce the specified leveraged or inverse return, L&I Products have to rebalance their portfolios, typically on a daily basis. As such, they do not share the buy-to-hold characteristics of conventional ETFs. Investors should understand how the performance of L&I Products is likely to be affected when they are held for more than one trading day and its compounding effect. They should be aware that any small variation in the underlying index return may have a large effect on the value of the product you hold.

Investors should note the following salient features about L&I Products:

- It is not advisable to hold L&I Products for longer than the rebalancing interval, typically one day;
- L&I Products are designed as a trading tool for short-term market timing or hedging purposes, and are not intended for long term investment;

- L&I Products are only suitable for sophisticated trading-oriented investors who constantly monitor the performance of their holdings on a daily basis; and - the performance of L&I Products, when held overnight, may deviate from the underlying indices.

The risk of loss in trading in L&I Products is substantial. In particular, they are not suitable for investors who are unfamiliar with the features and risks of L&I Products, as they are designed for daily investment results, and/or investors who are looking for a long-term investment and cannot actively monitor their holdings.

Therefore, L&I Products are normally not suitable for many members of the public who wish to invest in collective investment schemes or ETFs as a low risk exchange-listed product in order to diversify their investment risks. The regulatory authorities have, taking into account their special risk profile, prohibited and/or discouraged the use of margin finance for investment in L&I Products. Investors must carefully consider whether trading is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances.

Whilst they are listed, there is no assurance that a liquid market always exists for the L&I Products concerned. A higher liquidity risk is involved if the product involves derivatives which do not have an active secondary market. Wider bid-offer spreads in the price of the products may result in losses. Therefore, they can be more difficult and costly to unwind early, when the instruments provide access to a restricted market where liquidity is limited.

There may be disparity between the performance of the L&I Product concerned and the performance of the underlying indices due to, for instance, failure of the tracking strategy, currency differences, fees and expenses.

L&I Products may currently be traded, cleared and settled in Hong Kong dollars, Renminbi and/or US dollars. Investors trading with underlying assets not denominated in Hong Kong dollars are also exposed to exchange rate risk. Currency rate fluctuations can adversely affect the underlying asset value, also affecting the product price.

Like ETFs, the risk of L&I Products can include counterparty risk, market risk, tracking errors, trading at discount or premium, and liquidity risk.

The specific risks presented by L&I Products necessarily depend upon the terms of the issued product and your circumstances. In general, however, they all involve some combination of market risk, credit risk, funding risk, operational risk, risk of rebalancing activities and intraday investment risk.

1. Market risk is the risk that the value of a transaction will be adversely affected by fluctuations in the level or volatility of or correlation or relationship between one or more market prices, rates or indices or other market factors or by illiquidity in the market for the relevant transaction or in a related market.
2. Credit risk is the risk that a counterparty will fail to perform its payment or other obligations when due.
3. Funding risk is the risk that, as a result of mismatches or delays in the timing of cash flows due from or to the counterparties in the relevant transaction in question or related hedging, trading, collateral or other transactions, the parties or a party to the relevant transactions will not have adequate cash available to fund current obligations.
4. Operational risk is the risk of loss arising from inadequacies in or failures of the issuer's and/or your internal systems and controls for monitoring and quantifying the risks and contractual obligations associated with the transaction in question, for recording and valuing the portfolio and related transactions, or for detecting human error, systems failure or management failure.
5. Risk of rebalancing activities: There is no assurance that L&I Products can rebalance their portfolios on a daily basis to achieve their investment objectives. Market disruption, regulatory restrictions or extreme market volatility may adversely affect the rebalancing activities.
6. Intraday investment risk: Leverage factor of L&I Products may change during a trading day when the market moves but it will not be rebalanced until day end. The L&I Product's return during a trading day may be greater or less than the leveraged/opposite return of the underlying index.

Although L&I Products are listed as ETFs, the Hong Kong Stock Exchange does not endorse any product or bear any responsibility and/or liability for any of their existence or performance.

Unconventional return pattern (for inverse products only): Inverse products aim to deliver a daily return that is a multiple of the opposite of the underlying index return. If the value of the underlying index increases for extended periods, or where the exchange rate of the underlying index denominated in a currency other than the inverse product's base currency rises for an extended period, inverse products can lose most or all of their value.

Inverse products vs short selling (for inverse products only): Investing in inverse products is different from taking a short position. Because of rebalancing, the performance of inverse products may deviate from a short position in particular in a volatile market with frequent directional swings.

You should therefore study and understand L&I Products before you trade and carefully consider whether such trading is suitable in the light of your own financial position and investment objectives.

This brief statement does not disclose all of the risks and other significant aspects of trading in L&I Products. In light of the risks, you should undertake such transactions only if you understand the nature of the contracts (and contractual relationships) into which you are entering and the extent of your exposure to risk. You should not construe this generic disclosure statement as business, legal, tax or accounting advice or as modifying applicable law. You should consult your own business, legal, tax and accounting advisers with respect to proposed L&I Product transactions and you should refrain from entering into any transaction unless you have fully understood the terms and risks of the transaction, including the extent of your potential risk of loss.

The information in relation to this Clause 36 "Risk Disclosure Statement – Exchange Traded Derivative Products and/or Structured Products" is quoted from, including but not limited to the website of Hong Kong Exchange and Clearing Limited ("HKEx"). For further information, please refer to the website of HKEx (<http://www.hkex.com.hk/eng/index.htm>), Hong Kong Monetary Authority (<https://www.hkma.gov.hk/eng/>) and Securities and Futures Commission (<https://www.sfc.hk/web/EN/index.html>).

**37. Risk of Trading Options**

The risk of loss in trading options is substantial in some circumstances, I/we may sustain losses in excess of my/our initial margin funds. Placing contingent orders, such as "stop-loss" or "stop-limit" orders, will not necessarily avoid loss. Market conditions may make it impossible to execute such orders. I/We may be called upon at short notice to deposit additional margin funds. If the required liable funds are not provided within the prescribed time, my/our position may be liquidated. I/We will remain liable for any resulting deficit in my/our Account. I/We should therefore study and understand options before I/we trade and carefully consider whether such trading is suitable in the light of my/our own financial position and investment objectives. If I/we trade options, I/we should understand the exercise and expiration procedures and my/our rights and obligations upon exercise or expiry.

**38. Risk of Client Assets Received or Held Outside Hong Kong**

I/We acknowledge that my/our Securities that are foreign listed Securities and are outside Hong Kong are subject to applicable laws and regulations of the relevant overseas jurisdiction that may be different from the Securities and Futures Ordinance and the rules made thereunder in Hong Kong. Consequently, my/our Securities may not enjoy the same position as that conferred on Securities received or held in Hong Kong.

**39. Risk of Providing an Authority to Lend or Deposit Securities with Third Parties**

There is risk if I/we provide the Bank or its Agent with an authority that allows the Bank or its Agent to lend my/our Securities to or deposit them with certain third parties under the Securities and Futures (Client Securities) Rules or the Securities and Futures Ordinance (Cap.571). This is allowed only if I/we consent in writing and which must not exceed 12 months. I/We understand that I/we am not/are not required by law to sign these authorities. If I/we sign one of these authorities and my/our Securities are lent to or deposited with third parties, those third parties will have a lien or charge on my/our securities. Although the Bank and/or its Agent is/are responsible to me/us for my/our Securities lent or deposited under the authority, a default by the Bank or its Agent could result in the loss of my/our Securities. I/We further understand that if I/we do not require margin facilities or do not wish my/our Securities to be lent or pledged, I/we do not have to sign such authorities.

**40. RISKS OF TRADING RENMINBI SECURITIES OR INVESTING IN RENMINBI INVESTMENTS**

**Exchange risks and Daily Conversion Limit, etc.**

RMB is currently not freely convertible and there may at any given time be limited availability of RMB outside Mainland China. There is conversion risk in RMB denominated securities, and daily or other limits may apply to conversion amounts. If converting to or from RMB in Hong Kong, I/we may have to allow sufficient time to avoid

exceeding such limits. In addition, there is a liquidity risk associated with RMB denominated securities, especially if such securities do not have an active secondary market and their prices have large bid/offer spreads.

Investment in RMB denominated securities is subject to exchange rate risks. The value of the RMB against any other foreign currencies fluctuates and is affected by changes in Mainland China and international political and economic conditions and by many other factors. The value of RMB settlement amounts compared to other currencies will vary with the prevailing exchange rates in the market.

For RMB products which are not denominated in RMB or with underlying investments which are not RMB-denominated, such products will be subject to multiple currency conversion costs involved in making investments and liquidating investments, as well as the RMB exchange rate fluctuations and bid/offer spreads when assets are sold to meet redemption requests and other capital requirements (e.g. settling operating expenses).

#### **Limited availability of underlying investments denominated in RMB**

For RMB products that do not have access to invest directly in Mainland China, their available choice of underlying investments denominated in RMB outside Mainland China may be limited. Such limitation may adversely affect the return and performance of the RMB products.

#### **Projected returns which are not guaranteed**

If the RMB investment product is attached with a statement of illustrative return which is (partly) not guaranteed, I/we should pay particular attention to any disclosure relating to the return (or the part of the return, as the case may be) which is not guaranteed and the assumptions on which the illustrations are based, including, e.g., any future bonus or dividend declaration.

#### **Long term commitment to investment products**

For RMB products which involve a long period of investment, I/we should pay particular attention to the fact that if he redeems the investment before the maturity date or during the lock-up period (if applicable), I/we may incur a significant loss of principal where the proceeds may be substantially lower than the invested amount. I/We should beware of the early surrender/withdrawal fees and charges, if any, as well as the loss of bonuses (where applicable) as a result of redemption before the maturity date or during the lock-up period.

#### **Credit risk of counterparties**

I/We should pay particular attention to the credit risk of counterparties involved in the RMB products. To the extent that the RMB products may invest in RMB debt instruments not supported by any collateral, such products are fully exposed to the credit risk of the relevant counterparties. Where a RMB product may invest in derivative instruments, counterparty risk may also arise as the default by the derivative issuers may adversely affect the performance of the RMB product and result in substantial loss.

#### **Interest rate risk**

For RMB products which are, or may invest in, RMB debt instruments, I/we should pay attention to the fact that such instruments may be susceptible to interest rate fluctuations, which may adversely affect the return and performance of the RMB products.

#### **Liquidity Risk**

I/We should pay attention to the liquidity risk associated with the RMB products, and where applicable, the possibility that the RMB products may suffer significant losses in liquidating the underlying investments, especially if such investments do not have an active secondary market and their prices have large bid/offer spreads.

#### **Possibility of not receiving RMB upon redemption**

For RMB products with a significant portion of non-RMB denominated underlying investments, I/we should pay attention to the possibility of not receiving the full amount in RMB upon redemption. This may be the case if the issuer is not able to obtain sufficient amount of RMB in a timely manner due to the exchange controls and restrictions applicable to the currency.

#### **Additional risks associated with leveraged trading**

Prior to conducting leveraged trading of RMB products, I/we should make sure that I/we understand and accept the risks and the terms and conditions of the borrowing arrangement. Leveraging heightens the investment risk by magnifying prospective losses. I/We should pay attention to the circumstances under which I/we will be required to place additional margin deposits at short notice and that my/our collateral may be liquidated without my/our consent. I/We should beware of the risk that market conditions may make it impossible to execute contingent orders, such as "stop-loss" orders. In addition, I/we should be mindful of the exposure to interest rate risk, and in particular, the cost of borrowing may increase due to interest rate movements.

#### 41. **Further Risk Disclosure Statement**

- 41.1 Liquidation may not be possible Under certain market conditions, I/we may find it difficult or impossible to liquidate a position. This can occur, for example, when the market makes a "limit move" or trading is suspended by the relevant exchange. In addition, there may not be a ready market for certain investments and market traders may not be prepared to deal in certain investments. Some investments may have to be held till/on maturity, for instance, some equity linked notes or index options can only be exercised on the expiry date, whilst other investments may be exercised at any time before expiry. Proper information for determining the value of certain investments may not be available.
- 41.2 Issuer or Counter-party Risks If the issuer of any securities, or other instrument or a trading counter-party becomes unable to meet its obligations then such investments may become worthless and any trading costs and profits irrecoverable.
- 41.3 Country Risks If an investment is made in any asset issued by a party subject to foreign laws, recovery of the sums invested and any profits or gains may be delayed or prevented by exchange controls, debt moratorium or other actions imposed by the government or other official bodies.
- 41.4 Currency Risks Where trading contracts or other investments are denominated in currencies other than my/our primary reference currency, or where my/our converted funds from another currency upon making an investment, there is the risk that if the foreign exchange markets move against me/us, then upon maturity or any earlier dealing the net proceeds converted into my/our primary reference currency, or the currency from which the initial funds were converted (as the case may be), may be significantly less than the equivalent figure on the date of the contract entered into or the investment made, and that any income or gains made may be entirely negated.
- 41.5 Off-Exchange Transactions Transactions may be traded off-exchange or on an over-the-counter basis. Non-exchange traded or "non-transferable" instruments may not be readily realized and are not regulated by the rules of any exchange. Situations may arise where no market traders are prepared to deal in them or no proper information may be available to determine their value. Sometimes it may not be possible to obtain a price quotation. Minimum transaction amounts may be imposed and/or changed by traders from time to time.
- 41.6 Taxation Income or profit from trading in any investments may be subject to withholding tax or capital gains tax or other tax of the country of the issuer or the country in which such investments are traded. In such event, unless the issuer agrees to gross-up the income or profit received by me/us, I/We will only receive the interest payment or proceeds of sale or redemption of the investment less the withholding tax or capital gains tax or other tax.
- 41.7 Bank has no obligation to make price The Bank has no obligation to make price to me/us if my/our favorable price level cannot be obtained or there is no buyer in the market, nor to buy back any Securities or other investment from me/us unless the Bank has written an option requiring it to do so in certain circumstances.
- 41.8 Pre-mature dealings Market movements are unpredictable and unless the debt instrument is held to maturity, I/we may not be possible to realize the debt instruments either at a reasonable price or at all.
- 41.9 Limited rights of action I/We should have no direct right of action against the issuer, drawer/payer, endorser or guarantor or any other related party of the debt instrument upon any default of any such party.
- 41.10 Liability only to account for what is received The Bank's obligation to pay any principal or other amount to me/us on maturity will only arise if, and to the extent that, payment of principal or such other amount is actually received by the Bank from or on behalf of the issuer of the debt instrument.
- 41.11 Hold Mail or Direct Mail to Third Party If I/we provide the Bank with an authority to hold mail or to direct mail to third parties, it is important for me/us to promptly collect in person all contract notes and statements of my/our Account and review them in detail to ensure that any anomalies or mistakes can be detected in a timely fashion.

41.12 Own Investment Decision I/We confirm that my/our decision to make the investment is based on my/our own judgment. I/we have not received any assurances concerning the expected net returns on the investment. If we are an Institutional Professional Investor or a Corporate Professional Investor, we confirm that our decision is made without relying upon any communication (written or oral) of the Bank as investment advice or recommendation to place the investment.

41.13 Independent advice If I/we am/are in any doubt on the risks involved in any trading or investment arrangements or I/we am/are uncertain of or have not understood any aspect of Risk Disclosure Statement, I/we should seek independent professional advice.

**41A. China Connect Service-Investing in Shanghai-Hong Kong Stock Connect or Shenzhen-Hong Kong Stock Connect Northbound Trading Service**

All orders submitted to or executed on the Shanghai Stock Exchange (“SSE”) or Shenzhen Stock Exchange (“SZSE”) through the Northbound Trading Service will be subject to the rules and procedures of the relevant exchanges and the applicable law and regulations of Mainland China.

**Key risks**

(1) Not protected by Investor Compensation Fund

I/We note that any Northbound or Southbound trading under Shanghai-Hong Kong Stock Connect and Shenzhen-Hong Kong Stock Connect will not be covered by Hong Kong’s Investor Compensation Fund. As far as Hong Kong investors participating in Northbound trading are concerned, since I/we am/are carrying out Northbound trading through securities brokers in Hong Kong and these brokers are not Mainland brokers, therefore I/we am/are not protected by China Securities Investor Protection Fund in the Mainland.

(2) Quotas used up

Once the daily quota is used up for Northbound trading, acceptance of the corresponding buy orders will also be immediately suspended and no further buy orders will be accepted for the remainder of the day. Buy orders which have been accepted will not be affected by the using up of the daily quota, while sell orders will be continued to be accepted. Buying services will be resumed on the following trading day.

(3) Differences in trading day

Shanghai-Hong Kong Stock Connect and Shenzhen-Hong Kong Stock Connect will only operate on days when both the Hong Kong market and the relevant Mainland market are open for trading and when banks in both Hong Kong and Mainland markets are open on the corresponding settlement days. So it is possible that there are occasions when it is a normal trading day for the Mainland market but Hong Kong investors cannot carry out any A-share trading. I/We take note of the days Shanghai-Hong Kong Stock Connect and Shenzhen-Hong Kong Stock Connect are open for business and decide according to my/our own risk tolerance capability whether or not to take on the risk of price fluctuations in A-shares during the time when Shanghai-Hong Kong Stock Connect or Shenzhen-Hong Kong Stock Connect is not trading.

(4) Restrictions on selling imposed by front-end monitoring

If I/we keep my/our A-shares outside of the designated broker of the Bank and want to sell certain A-shares I/we hold, I/we must transfer those A-shares to the respective accounts of the designated broker of the Bank before the market opens on the day of selling (T day). If I/we fail to meet this deadline, I/we will not be able to sell those A-shares on T day.

(5) The recalling of eligible shares

When a share is recalled from the scope of eligible shares for trading via Shanghai-Hong Kong Stock Connect or Shenzhen-Hong Kong Stock Connect, the share can only be sold but restricted from being bought. This may affect my/our investment portfolio or strategies. I/We should therefore pay close attention to the list of eligible shares as provided and renewed from time to time by SSE, SZSE and The Stock Exchange of Hong Kong Limited.

(6) Restrictions on day trading

Day trading is not allowed for Mainland A shares market. If I/we buy SSE or SZSE Securities on T day, I/we can only sell the shares on and after T+1.

(7) No manual trade or block trade

All trading must be conducted on SSE or SZSE, no manual trade facility or block trade facility are allowed.

(8) Short selling

Naked short selling is not allowed. However, covered short selling of SSE or SZSE Securities which are eligible for both buy orders and sell orders through Northbound trading will be allowed subject to a number of requirements set by SSE or SZSE respectively.

(9) Short-swing profit

Under Mainland China's Securities Law, if I/we hold 5% or more shares of a listed issuer and sells (or buys) shares and make a profit (a 'short-swing profit') within 6 months of the acquisition (or sale), I/we shall be required to disgorge the profit made from such sale (or purchase).

(10) Orders cancellation under contingency

The Bank shall have right to cancel my/our orders in case of contingency such as hoisting of Typhoon Signal No 8 in Hong Kong.

The Bank may not be able to send in my/our order cancellation requests in case of contingency such as when SEHK loses all its communication lines with SSE or SZSE, etc and I/we should still bear the settlement obligations if the orders are matched and executed.

(11) Account information of beneficial owner

The Bank have right to disclose my/our identity to SEHK which may on-forward to SSE or SZSE for surveillance and investigation purposes. Besides, SSE or SZSE has the power to require the Bank to assist in its investigation.

(12) Currency risks

Northbound trading will be traded and settled in RMB. If I/we am/are a non-mainland PRC investor who holds a local currency other than RMB, I/we will be exposed to currency risk due to the need for the conversion of the local currency into RMB. During the conversion, I/we will also incur currency conversion costs. Even if the price of the RMB asset remains the same when I/we purchase it and when I/we redeem / sell it, I/we will still incur a loss when I/we convert the redemption / sale proceeds into local currency if RMB has depreciated.

(13) Amendments to the Terms and Conditions of Investment Account

In "Schedule V : China Connect Service" of the Terms and Condition of Investment Account containing specific terms and conditions governing transactions of trading securities through the China Connect Service, the Bank shall have the right to suspend, restrict or terminate the China Connect Service, force me/us to sell any Securities, or request me/us to disgorge any profit or unwind any Transactions upon request by the SSE, SZSE or other Exchanges or in accordance with the Relevant Rules, without prejudice to all other rights the Bank may have.

Please be informed that the above may not cover all risks related to Shanghai-Hong Kong Stock Connect and Shenzhen-Hong Kong Stock Connect and any above mentioned laws, rules and regulations are subject to change.

If there is any inconsistency or conflict between the English and Chinese versions, the English version shall prevail.



## **Schedule IV: Foreign Law Requirement**

### **42. INTERPRETATION**

#### **42.1 Terms and Conditions definitions**

Terms defined and references construed in these Terms and Conditions have the same meaning and construction under this Schedule IV, unless the context requires otherwise.

#### **42.2 Definitions**

In this Schedule IV:

“**CRS**” means the Common Reporting Standard for automatic exchange of financial account information in tax matters, developed by the Organization for Economic Co-operation and Development and any associated similar or analogous legislation, treaty, regulation, instruction or other official guidance of any Government Authority in any jurisdiction.

“**FATCA**” means:

- (i) sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (as amended) or any amended or successor version thereof;
- (ii) any intergovernmental agreement, memorandum of understanding, undertaking and other arrangement between governments and regulators in connection with (i) including as entered into by the government of Hong Kong;
- (iii) agreements between the Bank and the IRS or other regulator or government agency pursuant to or in connection with (i); and
- (iv) any laws, rules, regulations, interpretations or practices adopted in the U.S., Hong Kong or elsewhere pursuant to any of the foregoing.

“**Foreign Law Requirement**” means any obligation imposed on the Bank and/or any Bank Group Company pursuant to any future or present:

- (i) foreign laws (including foreign laws in respect of which the Bank and/or the Bank Group Company in its/their sole and absolute discretion considers itself/themselves bound and including laws and regulations of the PRC);
- (ii) Hong Kong laws (including Hong Kong laws whether or not that implement Hong Kong’s obligations under an agreement with a foreign government (including the government of the PRC), regulator, regulatory authority, tax authority or global organization (or among more than one of the above));
- (iii) under agreements entered into between the Bank and/or the relevant Bank Group Company and a foreign government (including the government of the PRC) or regulator; or
- (iv) guidelines, guidance, rules, regulations, demands, codes, notices or circulars issued by any legal, regulatory, government, tax or law enforcement body, or self-regulatory organization within or outside of Hong Kong in respect of (i) to (iii).

For the avoidance of doubt, this definition includes any obligation or requirement applying to the Bank and/or any Bank Group Company pursuant to FATCA and/or CRS and as amended or introduced from time to time.

“**Government Authority**” means any government, government body, government agency or regulator, in or outside of Hong Kong, including the Inland Revenue Department of Hong Kong and the IRS.

“**Hong Kong**” means the Hong Kong Special Administrative Region of the PRC.

“**IRS**” means the U.S. Internal Revenue Service.

“**PRC**” means the People’s Republic of China (excluding Hong Kong, Macau and Taiwan).

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

Unless the context otherwise requires, references to an “instruction” shall include an Instruction, references to a “transaction” shall include a Transaction, and references to a “service” shall include a Service.

### **43. UNDERTAKING TO PROVIDE INFORMATION**

43.1 The Customer undertakes and agrees to:

- (a) provide the Bank with all information, documents and supporting materials that the Bank in its sole and absolute discretion requires in order to fulfil its, or a Bank Group Company's, obligations required under any Foreign Law Requirement including information, documents and supporting materials in respect of the Customer and any person referred to in Clause 46.1;
- (b) notify the Bank in writing promptly of any change of the information, documents and supporting materials provided to the Bank pursuant to (a); and
- (c) provide updated or additional information of the type described in (a) as required by the Bank in its sole and absolute discretion from time to time to the satisfaction of the Bank.

43.2 The Customer agrees that confidentiality rights under applicable data protection, bank secrecy or similar laws will not apply to information that the Bank obtains from the Customer for the purpose of the Bank's, or a Bank Group Company's, compliance with any Foreign Law Requirement.

#### 44. **DISCLOSURE OF INFORMATION**

##### 44.1 **Disclosure for the purpose of any Foreign Law Requirement**

The Customer agrees that the Bank and any recipient of any personal and account information or records from the Bank in relation to the Customer and/or any person referred to in Clause 46.1 may disclose such information or records to any person, entity, government body, agency or regulator, whether or not established under Hong Kong law, considered by the Bank in its sole and absolute discretion as required under any Foreign Law Requirement. Any such person or entity may utilize such information in the course of any business or regulatory functions carried on by him or it.

##### 44.2 **Acknowledgment of extent of disclosure**

The Customer understands, acknowledges and agrees that where the Bank is required to disclose information about the Customer and/or the Customer's relationship with the Bank in accordance with any Foreign Law Requirement, this information may include (but is not limited to) the account number of the Customer's account(s), the amount of interest or dividends paid or credited to the Customer's account(s), the amount of proceeds from the sale or redemption of property (including without limitation the Securities) paid or credited to the Customer's account(s), the account balance or value, the name, address, country of residence and social security number or employer identification number or taxpayer identification number of the Customer and/or any person referred to in Clause 46.1, and such other information as may be required by the relevant Government Authority or considered by the Bank in its sole and absolute discretion as required under any Foreign Law Requirement.

##### 44.3 **Offshore disclosure**

The Customer acknowledges and agrees that information and documents may be disclosed to third parties located inside or outside Hong Kong.

#### 45. **CONSENT TO DEDUCT, WITHHOLD AND BLOCK**

45.1 The Customer acknowledges and agrees that notwithstanding any other provision of these Terms and Conditions:

- (i) any payments by the Bank under these Terms and Conditions, will be subject to withholding and deduction considered by the Bank in its sole and absolute discretion as required under Foreign Law Requirements;
- (ii) any amount withheld under (i) may be held in whatever account or in whatever manner determined by the Bank in its sole and absolute discretion; and
- (iii) neither the Bank nor any of its affiliates shall be liable for any gross up, loss or damage suffered as a result of the Bank's exercising of its rights under this Clause 45.

45.2 The Customer acknowledges and agrees that any transaction, payment, instruction or service under these Terms and Conditions may be delayed, blocked, transferred or terminated where considered by the Bank in its sole and absolute discretion as required for the Bank to meet its obligations including those under any Foreign Law Requirement.

45.3 The Customer further agrees that the Bank shall have full authority to (i) sell, liquidate and/or otherwise dispose of in any manner and at such prices and on such terms and conditions as the Bank deems fit all or part of any of the assets (including without limitation the Securities) in the Customer's account(s) that may produce funds to enable the Bank to comply with its obligations considered by the Bank in its sole and absolute discretion as required

under any Foreign Law Requirement; (ii) prohibit the Customer from effecting any transactions through or under any of the Customer's account(s) for such period as the Bank deems necessary or appropriate; (iii) suspend or close the Customer's account(s); and/or (iv) transfer the Customer's account(s) to an affiliate of the Bank in another jurisdiction, for the avoidance of doubt including the PRC.

**46. THIRD PARTIES**

**46.1 Documents and information**

The Customer undertakes to provide the Bank with all documents and information pertaining to:

- (a) the ultimate beneficial owner of any account;
- (b) the person ultimately responsible for giving any instruction or for entering into any transaction;
- (c) any person on whose behalf the Customer acts in receiving payment; and/or
- (d) any other person identified by the Bank in its sole and absolute discretion as being connected with the Customer,

as requested by the Bank in its sole and absolute discretion in order for it to comply with its obligations under any Foreign Law Requirement.

**46.2 Change of details**

The Customer undertakes to notify the Bank in writing promptly of any change of address or contact telephone number or other personal particulars recorded with the Bank in respect of any person referred to in Clause 46.1.

**47. REPRESENTATION AND WARRANTY**

The Customer represents, warrants and confirms that any information, documents and supporting materials provided by the Customer to the Bank for the purpose of the Bank's, or a Bank Group Company's, compliance with any Foreign Law Requirement are and shall remain true, complete and accurate throughout the period when the Customer maintains a banking relationship with the Bank.

**48. INDEMNITY**

**48.1 Indemnity**

Without limitation to any other indemnity provided by the Customer to the Bank under any other provision of these Terms and Conditions or any other arrangement or agreement, the Customer agrees to indemnify the Bank and its Nominees, Agents and Personnel against all liabilities, claims, demands, losses, taxes, costs, charges and expenses of any kind which any of the Bank and its Nominees, Agents and Personnel may suffer or incur, including taxes, interest or penalties, as a result of that party providing misleading or false information or otherwise failing to comply with any requirement under this Schedule IV or the Bank's use of or reliance on any information, documents and supporting materials provided by the Customer to the Bank for the purpose of the Bank's compliance with any Foreign Law Requirement. The Customer further agrees that the Bank is entitled to withhold, retain, or deduct such portion from the Customer's assets (including without limitation the Securities) in the possession or control of the Bank or such amount(s) from any of the Customer's accounts with the Bank as it determines to be sufficient to cover any amount which may be owed by the Customer under this Clause 48.1. This indemnity shall continue notwithstanding the termination of the banking relationship between the Bank and the Customer.

**49. RIGHTS OF BANK CUMULATIVE**

**49.1 No limitation on existing rights**

Nothing in this Schedule IV limits the effect of any term or requirement of any other provision of these Terms and Conditions or any other arrangement or agreement of the Customer with the Bank, and the rights of the Bank under this Schedule IV are in addition and without prejudice to any of its rights under any other provision of these Terms and Conditions or any other arrangement or agreement of the Customer with the Bank.

**49.2 Failure to comply**

Without limiting the generality of Clauses 45.2 and 45.3, the Customer acknowledges and agrees that if the Customer fails to comply with any requirement of this Schedule IV, including failing to provide information,

documents and supporting materials as required by the Bank, the Bank may suspend or close the Customer's account(s); and/or transfer the Customer's account(s) to an affiliate of the Bank in another jurisdiction, for the avoidance of doubt including the PRC.

50. **CONFLICT BETWEEN TERMS**

In case of any conflict or inconsistency between the English and the Chinese versions of this Schedule IV, the English version shall prevail.

## **Schedule V: China Connect Service**

This Schedule V contains specific terms and conditions governing Transactions of trading Securities through the China Connect Service.

### **51. Definitions**

51.1 Terms defined and references construed in these Terms and Conditions have the same meaning and construction under this Schedule V, unless the context otherwise requires.

51.2 In this Schedule V:

**“Affiliate”** means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For the purpose, “control” of any entity or person means ownership of a majority of voting power of the entity or person.

**“China Connect Service”** means the Securities trading and clearing links programme developed by the Exchange in Mainland China, The Stock Exchange of Hong Kong Limited, China Securities Depository and Clearing Corporation Limited and HKSCC, through which (i) The Stock Exchange of Hong Kong Limited and/or its Affiliates provides order-routing and other related services for certain eligible Securities traded on the Exchange in Mainland China and (ii) China Securities Depository and Clearing Corporation Limited and HKSCC provides clearing, settlement, depository and other services in relation to such Securities.

**“Exchanges”** shall have the meaning as per Clause 1.1 of these Terms and Conditions, which shall include the Shanghai Stock Exchange, Shenzhen Stock Exchange or any other exchange accepted by The Stock Exchange of Hong Kong Limited, as the case may be, for the provision of the China Connect Service. For the avoidance of doubt, this definition shall not restrict in any way the interpretation of Clause 1.1 of these Terms and Conditions.

**“Relevant Rules”** means all laws, rules, regulations, codes, guidelines, circulars, requirements, conditions, restrictions and the like (whether or not having the effect of law) as issued or promulgated from time to time by the relevant governmental authorities or tax authorities in Mainland China and Hong Kong, regulators in Mainland China, the Hong Kong Regulators, Exchanges and its subsidiaries, market operators and any other relevant entities as applicable to the China Connect Service.

### **52. Compliance with the Relevant Rules**

52.1 Trading of Securities through the China Connect Service will only be available to Customers eligible for such trading and on such days and in such manner as advised by the Bank from time to time and the Customer must comply with the Relevant Rules in order to trade through the China Connect Service. The list of eligible Securities for trading through the China Connect Service and the scope of the China Connect Service shall be determined by the Exchanges from time to time. The Exchanges may prescribe conditions and restrictions from time to time, including, without limitation, trading and settlement restrictions, quota restrictions, requirements to comply with certain shareholding thresholds and disclosure obligations, restrictions on foreign ownership limits, conditions and restrictions in conducting margin trading, stock borrowing and lending and short selling activities, restrictions in conducting off-exchange transactions, requirements in disgorgement of profits as a result of the short swing profit rule, circuit breaker provisions, restrictions in trading ChiNext shares, etc. The Exchanges may, among others, suspend, change, restrict or terminate the China Connect Service, force the Customer to sell any Securities, or request the Customer to disgorge any profit or unwind any Transactions in accordance with the Relevant Rules, without prejudice to any other rights of the Exchanges.

52.2 In addition to any other rights that the Bank has whether under these Terms and Conditions or otherwise, the Bank shall be entitled to take (or not to take) such action as the Bank determines in its sole and absolute discretion in order to comply with any of the Relevant Rules.

52.3 Without limiting the generality of Clause 52.2, the Bank shall have the absolute right, without reference to the Customer, to suspend, cancel, reject or not to carry out any Instruction of the Customer (or any part thereof) upon request by the Exchanges, in accordance with the Relevant Rules or in case of contingency (including the hoisting of Typhoon Signal number 8 or above in Hong Kong), without prejudice to the Bank’s any other rights under these Terms and Conditions or under law or equity, including without limitation to suspend or terminate any of the Services or to close the Account.

- 52.4 The Customer is deemed to irrevocably authorise the Bank to sell, transfer or carry out any other action in relation to the Securities owned by the Customer if the Bank is instructed to do so by any Exchanges, regulators of Mainland China and any other regulator, agency or authority with jurisdiction, authority and responsibility in respect of the China Connect Service, or if the Bank otherwise determines in its absolute discretion that it is necessary or desirable to do so in order to comply with the Relevant Rules.
- 52.5 To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, the Bank has no obligation to inform or update the Customer of the trading and settlement requirements, the list of eligible Securities and any other details of the Relevant Rules in relation to the China Connect Service and it is the duty of the Customer to understand thoroughly and to comply in all respects with the requirements of the Exchanges and the Relevant Rules. The Customer understands that when trading via the China Connect Service, the Customer shall not only be subject to the legal and regulatory requirements in Mainland China but also in Hong Kong and the breach of either of which will have regulatory or criminal penalties.
- 52.6 The Customer represents that it is eligible under the Relevant Rules for trading through China Connect Service, and has complied or will comply with all the Relevant Rules, including, without limitation, the pre-trade checking requirements, forced sale requirements, substantial shareholding thresholds, disclosure and reporting requirements, etc.
53. **Forced-Sale**
- 53.1 Without limiting the generality of Clause 52.2, the Customer agrees that the Exchanges or the relevant regulators shall have the right to force the Customer to sell any of the Securities within any time period and/or to request the Customer to disgorge any profit in accordance with the Relevant Rules and the Customer agrees that such sale may be effected without any notification in advance to the Customer and/or such profit shall be disgorged accordingly. Without prejudice to all other rights the Bank may have, the Customer irrevocably authorises the Bank, without reference to the Customer, to sell or arrange for the sale of the Securities on the Customer's behalf at such price and on such terms as the Bank may determine at the Bank's absolute discretion and/or to debit the profits and all relevant fees, charges, costs and expenses from any of the Accounts for the compliance of any request or instruction from the Exchanges and the relevant regulators in relation to the forced-sale and/or request for disgorgement of profit.
- 53.2 Where the relevant Securities that are subject to the forced-sale are in the custody other than of the Bank, the Customer is deemed to authorise the Bank to provide instructions to the custodian on the Customer's behalf to return the relevant Securities for sale in accordance with the requested forced-sale and the Customer undertakes to inform the custodian on such authorisation and, where required, the Customer undertakes to instruct the custodian to act accordingly.
- 53.3 The Bank shall not be liable for any losses and damages the Customer may suffer directly or indirectly as a result of the forced-sale and/or disgorgement of profit and the Customer agrees to indemnify the Bank for all costs and expenses in complying with the request of forced-sale and/or disgorgement of profit.
54. **Disclosure and Retention of Information**
- 54.1 The Customer must comply with the disclosure obligations and all the related requirements as stipulated in the Relevant Rules.
- 54.2 Without prejudice to the generality of any applicable law, the Customer expressly consents to the disclosure by the Bank or its Affiliates to the Exchanges, the market operators, the relevant regulators and authorities in the jurisdiction of the incorporation or organisation of the issuer of the Securities in relation to a Transaction under the China Connect Service, the jurisdictions in which the Exchanges are located, a jurisdiction of tax residence of the issuer or any jurisdiction as the Bank reasonably considers appropriate, information relating to any Transaction, including the name, any account or confidential information, personal data of the Customer in order for the Bank or any of its Affiliates to comply with the laws and regulations of any of the jurisdictions mentioned above, to comply with the Relevant Rules and/or to assist any surveillance and investigation of any of the Exchanges, regulators or authorities.
- 54.3 The Customer acknowledges that the Bank will be required under the Relevant Rules in Mainland China to keep records of all orders and trades executed on the Customer's behalf, any instructions received from the Customers and the Customer's account information in relation to trading via the China Connect Service for a period not less than 20 years or any other period as determined by the Bank as appropriate.

**55. Sufficient Securities**

- 55.1 The Customer understands and agrees that, subject to the Relevant Rules, sufficient Securities must be ready in the Account before commencement of trading on a trading day if the Customer intends to sell the Securities during a trading day.
- 55.2 Short selling will only be allowed to eligible Securities subject to the requirements set out by the Exchanges and the Customer must comply with all the Relevant Rules in respect of short selling. The Customer understands that the Exchanges may without notice suspend short selling activities at any time and the list of eligible Securities for short selling may be changed from time to time. Notwithstanding the aforesaid, the Bank shall be entitled to refuse to accept or give effect to any short sell order at any time without any liability to the Customer.

**56. Acceptance of Risks**

The Customer will ensure that the Customer understands fully the nature and all the risks of trading of Securities via the China Connect Service (including without limitation, trading and settlement risk, liquidity risk, currency rate risk, currency conversion risk, equity risk, fundamental risk, legal and regulatory risk, market risk, event risk, political risk, economic risk, credit risk, processing and clearing risk, shareholder or bondholder risk and any other risks as the case may be). In particular, the Customer understands the risks listed in Clause 41A of these Terms and Conditions is not an exhaustive list of such risks and will decide on his own whether trading Securities via the China Connect Service is suitable for the Customer in the light of his circumstances, and acknowledges that the decision to do such trading is his alone, and will bear all risks connected with trading Securities via the China Connect Service.

**57. Fees, Charges, Tax and Penalties**

The Customer shall be liable or responsible for all taxes, stamp duties, levies, imposts, tariffs, commissions, fees, charges, interests, costs and expenses arising out of or in connection with trading of the Securities, as well as all penalties, fines, losses or damages for any non-compliance or breaches of the Relevant Rules. The Customer agrees that the Bank may without any notice to the Customer withhold any amount in order to satisfy any demand or potential demand for the payment of any of the above items on the Customer's behalf and/or deduct any amount from any account maintained with the Bank for the payment of any of the above items.

**58. No Liabilities**

- 58.1 To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, subject to Clause 2.8 (if applicable), except to the extent directly due to the negligence or wilful misconduct of the Bank, the Bank, its directors, employees and agents shall not be responsible or held liable for any losses or damages directly or indirectly suffered by the Customer arising from or in connection with any trading of Securities via the China Connect Service including without limitation the following:
- (a) the exercise of any of the rights of the Bank under these Terms and Conditions (including without limitation Clause 52.2);
  - (b) any action, decision, inaction, failure or default on the part of any third party (including without limitation, The Stock Exchange of Hong Kong Limited, the HKSCC and the Exchanges);
  - (c) a suspension, restriction or cessation of the China Connect Service or any inability to access or use the China Connect Service;
  - (d) any special arrangement put in place or any action, step or measure taken or not taken to deal with an emergency or contingencies such as the hoisting of the Typhoon Signal number 8 or above in Hong Kong, including but not limited to the cancellation of any or all orders input by the Bank via the China Connect Service;
  - (e) any suspension, delay, interruption or cessation of trading of any Securities on the Exchange in Mainland China;
  - (f) any delay or failure to route any orders, any delay or failure to send any order cancellation requests or to provide the China Connect Service due to system, communication or connection failure, power outage, software or hardware malfunction or events beyond the Bank's control or the control of the Exchange, provided that the Customer should still bear the settlement obligations if any such orders are matched and executed;
  - (g) in the event that an order which the Bank or its agent has requested to be cancelled is not cancelled for any reason whatsoever;
  - (h) in the event that the Exchange requires the Bank to reject any order for the China Connect Service;

- (i) any delay, failure or error of any system related to the China Connect Service or any system upon which the Exchange is reliant in providing the China Connect Service; and
- (j) any delay or failure to execute, or any error in matching or executing any order due to reasons beyond the control of the Exchanges or its subsidiaries, including but not limited to any action or decision taken or made, or not taken or made, by the regulators in Mainland China, the Exchanges, the Hong Kong Regulators, or any other relevant governmental or regulatory body.

58.2 The Exchanges and their subsidiaries and their respective directors, employees and agents shall not be responsible or held liable for any losses or damages directly or indirectly suffered by the Bank, the Customer or any third parties arising from or in connection with the trading of Securities via the China Connect Service, the making, amending or enforcing of the Relevant Rules, or any action taken by the Exchanges in the discharge of its supervisory or regulatory obligations or functions (including without limitation any action taken to deal with abnormal trading conduct or activities). The Customer further acknowledges that any trading via the China Connect Service shall not be protected by the Investor Compensation Fund established in Hong Kong nor any protection fund in Mainland China.

58.3 Notwithstanding any provisions in these Terms and Conditions, nothing in the Relevant Rules shall impose upon the Bank any obligation or duty that the Bank would not otherwise have under these Terms and Conditions. The Bank will not assume any obligation towards the Customer other than those expressly specified herein, and without limiting the generality of the foregoing, the Customer agrees and acknowledges that:

- (a) the Customer shall be responsible for complying with any disclosure of interest rules under the Relevant Rules and shall arrange for any filings;
- (b) the Customer shall be fully responsible for any tax in respect of Securities trading through the China Connect Service (including, without limitation, any tax on capital gain and dividend distribution or any other taxes, duties, levies or imposts), and the Bank assumes no responsibility for advising on or handling any tax issues, liabilities and/or obligations in connection therewith;
- (c) to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, the Bank is not obligated to and cannot ensure (and the Bank hereby expressly disclaims all warranties as to) the accuracy, reliability or timeliness of any corporate actions or announcements relating to any Securities covered by the China Connect Service and shall not be liable (whether in tort, contract or otherwise) for any losses or damages arising from any errors, inaccuracies, delays, actions or omissions in connection therewith or arising therefrom, and the Customer may not be able to attend meetings by proxy or in person in relation to any issuer of the Securities; and
- (d) to the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, the Bank assumes no obligation to inform the Customer any change in the Relevant Rules or risks relating to the China Connect Service, including without limitation, any rules relating to operational matters (such as the operational hours of the China Connect Service).

58.4 To the maximum extent permitted by applicable law and not inconsistent with the applicable obligations of the Bank under the Code in respect of the Services provided under these Terms and Conditions, and subject to Clause 2.8 (if applicable), the Customer shall indemnify the Bank for all losses and damages suffered by the Bank arising out of or in connection with (a) any breach of the Relevant Rules by the Customer, (b) any representations, warranties, information or documents provided to the Bank being found incorrect, untrue or misleading, (c) the Bank's provision or refusal to provide any Service in accordance with these Terms and Conditions, (d) any acts or decisions not to act by the Bank in accordance with these Terms and Conditions, (e) any payment or withholding obligation of the Bank in connection with the Customer's tax liability incurred in any jurisdiction in relation to holding, trading of or dealing in Securities, and/or (f) the exercise or preservation of the Bank's powers and rights under these Terms and Conditions, except to the extent directly due to the negligence or wilful misconduct of the Bank.

In case of inconsistency between the English version and the Chinese version of this Schedule V, the English version shall prevail.