

**MIZUHO BANK, LTD.**  
**(Incorporated in Japan with Limited Liability)**  
**Hong Kong Branch**

**GENERAL TERMS AND CONDITIONS FOR ACCOUNTS**

Please read these General Terms and Conditions for Accounts carefully and make sure that you understand them.

**1. DEFINITIONS**

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions shall have the following meanings:

"**Account**" means any bank account, whether savings, current, deposit, call or otherwise, opened, established, maintained with or provided by the Bank to the Customer;

"**Account Information**" means any information relating to the Account including without limitation the Account number, Account balance or value, gross receipts, withdrawals and payments from the Account;

"**Addressing Service**" means a service provided by HKICL to enable customers of Participants to use a predefined Proxy ID instead of an account number to identify the destination of a payment or funds transfer instruction and other communications for the purpose of HKICL FPS; "**Applicable Laws and Regulations**" means: (i) any local or foreign law, ordinance, regulation, demand, guidance, guidelines, rules, codes of practice, whether or not relating to an intergovernmental agreement between the governments or regulatory authorities of two or more jurisdictions; and (ii) any agreement between the Bank (or that of any other member of the Group, as the case may be) and any government or taxation authority in any jurisdiction;

"**Authorised Representative**" means a person appointed by the Customer and accepted by the Bank for and in connection with the operation of any Account;

"**Authority**" means any national, state, or local government, any political subdivision thereof, any agency, authority, instrumentality, whether judicial or administrative, regulatory or self-regulatory organization, law enforcement body, court, central bank or tax or revenue authority in any jurisdiction whether within or outside of Hong Kong;

"**Bank**" means Mizuho Bank, Ltd., which expression shall include its successors and assigns;

"**Business Day**" means any day on which the Bank is open for business in Hong Kong;

"**Clearing House**" means the medium and the location provided, operated and managed by HKICL or any other clearing bank and available to members for the exchange, sorting and balancing of cheques in Renminbi, Hong Kong Dollars or US Dollars (as the case may be) and other negotiable instruments in Renminbi, Hong Kong Dollars or US Dollars (as the case may be) drawn on members and for the processing of direct debits and credits, funds transfers and other banking transactions in each case in Renminbi, Hong Kong Dollars or US Dollars (as the case may be) presented by or on behalf of members;

"**Connected Person**" means an individual or entity whose information (including without limitation Personal Information or Tax Information) is provided by or on behalf of, the Customer to the Bank or any member of the Group in connection with the provision of services or Accounts by the Bank. In relation to the Customer, a Connected Person may include but is not limited to, any guarantor, a director or officer of a company, partners or members of a partnership, any "Substantial Owner", "Controlling Person", or beneficial owner, trustee, settlor, or protector of a trust, account holder of a designated account, payee of a designated payment, representative, agent or nominee of the Customer, or any other persons or entities having a relationship to the Customer that is relevant to its banking relationship with the Bank or the Group;

**"Controlling Person"** means any individual who exercises control over an entity (for a trust, this term includes the settlor, the trustees, the protector, the beneficiaries or class of beneficiaries, and any other individual who exercises ultimate effective control over the trust), and in the case of a legal entity other than a trust, such term means persons in equivalent or similar positions of control;

**"Customer"** means any person who has agreed to open, establish and maintain an Account and includes the beneficial owner of the Account, if different, and for the avoidance of doubt, includes any FPS Customer;

**"Default Account"** means the account maintained by the Customer with the Bank or any other Participant and set as the default account for receiving payment or funds using HKICL FPS or (if and to the extent specified or permitted by the rules, guidelines and procedures of HKICL) for debiting payment or funds using HKICL FPS;

**"eDDA"** means a direct debit authorisation set up by electronic means using HKICL FPS;

**"eDDA Service"** means a service provided by HKICL as part of HKICL FPS to assist customers of Participants to set up direct debit authorisation;

**"FPS Bank Services"** means the services that may be provided by the Bank to Customers from time to time to facilitate payments and funds transfers using HKICL FPS which services may include the QR Code Services, the Addressing Service, the eDDA Service and any other services and facilities provided by HKICL in connection with the Faster Payment System from time to time as and when adopted by the Bank;

**"FPS Customer"** means a Customer to whom the Bank provides FPS Bank Services and, where the context permits, includes any person authorised by such Customer to give instructions or requests to the Bank in connection with the use of the FPS Bank Services;

**"FPS Identifier"** means a unique random number generated by HKICL FPS to be associated with the account of a customer of a Participant;

**"Group"** means the Bank and/or any of its affiliates, subsidiaries, associated entities, and any of their branches and offices, and the Bank's holding company and/or any of its affiliates, subsidiaries, associated entities, and any of their branches and offices and "any member of the Group" has the same meaning;

**"HKICL"** means Hong Kong Interbank Clearing Limited and its successors and assigns;

**"HKICL FPS"** or **"Faster Payment System"** means the Faster Payment System and related facilities and services provided, managed and operated by HKICL from time to time for (i) processing direct debits and credits, funds transfers and other payment transactions and, if applicable, (ii) exchanging and processing instructions relating to eDDA Service and Addressing Service;

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

**"Hong Kong Dollars"** means the lawful currency of Hong Kong for the time being;

**"items"** includes cheques, bills of exchange, drafts, cashiers orders and other monetary and negotiable instruments;

**"Japanese Yen"** means the lawful currency of Japan for the time being;

**"Money Laundering Laws"** means the applicable financial record keeping and reporting requirements and applicable money laundering and terrorist financing statutes in all jurisdictions in which the Customer and/or the Bank is situated or conducts business, the rules and regulations thereunder and any applicable related or similar rules, regulations or guidelines, issued, administered or enforced by any Authority;

**"Participant"** means a participant of HKICL FPS which may be a bank or other financial institution, a retail payment system operator, a licensed stored value facility, or any other person accepted by HKICL

as a participant of HKICL FPS from time to time;

**"Personal Information"** means (i) where you and any Connected Person is an individual, his/her full name, date and place of birth, residential address, mailing address, contact information (including without limitation telephone number), and any taxpayer identification number, social security number, citizenship(s), residency(ies) and tax residency(ies) or (if applicable) such information as the Bank may reasonably require regarding you and any Connected Person; (ii) where you and any Connected Person is a corporate/entity, its date and place of incorporation or formation, registered address, address of place of business, tax identification number, tax status, tax residency, registered address, address of place of business or (if applicable) such information as the Bank may reasonably require regarding each of its substantial shareholders and controlling persons;

**"Proxy ID"** means the identifiers which may be accepted by HKICL for registration in the Addressing Service to identify the account of a customer of a Participant, including but not limited to the mobile phone number or email address of the Customer, or the FPS Identifier;

**"QR"** means a "quick response" code which is a special two dimensional code using four standardized encoding modes to store data efficiently;

**"QR Code Services"** means the QR code and the associated payment and funds transfer services that may be provided by the Bank to the Customer from time to time;

**"Regulatory Requirement"** means any law, regulation or court order, or any rule, direction, guideline, code, notice or restriction (whether or not having the force of law) issued by any Authority (including without limitation a tax authority), clearing or settlement bank or exchange, or industry or self-regulatory body, whether in or outside Hong Kong, to which HKICL, the Bank, any member of the Group or any other Participant or the respective affiliates or group companies, or the Customer is/are subject or is/are expected to comply with from time to time;

**"Renminbi"** means the lawful currency of the People's Republic of China for the time being;

**"Sanctioning Authority"** means any of Hong Kong, Macau, the Commonwealth of Australia, the United Nations, the European Union, Her Majesty's Treasury, any European Union member state, or the United States of America government;

**"SDN List"** means the Specially Designated Nationals List maintained by the Office of Foreign Assets Control of the Department of the Treasury of the United States of America, or any similar list of sanctioned persons or entities maintained by any Sanctioning Authority; **"subsidiary"** and **"holding company"** shall have the meanings given to them in the Companies Ordinance (Chapter 622 of the Laws of Hong Kong);

**"Substantial Owner"** means any individuals entitled to more than 10% of the equity, profits, or capital of an entity either directly or indirectly;

**"Tax Information"** means in respect of you and any Connected Person: (i) any documentation or information (and accompanying statements, waivers and consents as the Bank may from time to time require or as you and any Connected Person from time to time give) relating, directly or indirectly, to the tax status of you and any Connected Person (ii) Personal Information of you and any Connected Person; and (iii) Account Information;

**"Terms and Conditions"** means these General Terms and Conditions for Accounts, and includes the same as amended, supplemented and substituted from time to time;

**"US Dollars"** means the lawful currency of the United States of America for the time being.

1.2 Unless the context otherwise requires :

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

(c) references to Clauses and Paragraphs are references to clauses and paragraphs in these Terms and Conditions, and references to Paragraphs are to paragraphs in the Clause in which the reference appears;

(d) references to documents (including, without limitation, these Terms and Conditions) include the same as from time to time amended, supplemented and substituted;

(e) clause and other headings are for ease of reference only and shall not affect the interpretation of these Terms and Conditions;

(f) the word "person" includes any individual, company, firm, partnership, joint venture, association, sole proprietorship or other incorporated or unincorporated entity.

## **2. OPENING AND CLOSING OF ACCOUNTS**

2.1. Prior to the opening of an Account, the Customer shall provide the Bank with suitable references and proof of identity and legal existence of both itself and, if appropriate, its directors and controlling shareholders, and complete and sign such forms, mandates and specimen signature cards as may be prescribed by the Bank from time to time. The Customer may appoint Authorized Representative(s) for or in connection with the operation of any Account and shall provide the Bank with specimen signatures and other relevant details of its Authorized Representative(s) as may be required by the Bank.

2.2 The Bank shall be entitled from time to time at its discretion to prescribe :-

(a) maximum and minimum amounts or balances that must be credited to Accounts at the time of opening and during the maintenance and operation of Accounts;

(b) the currencies in which Accounts may be denominated and, notwithstanding any provision of these Terms and Conditions, the methods of payment into and out of such Accounts; and

(c) the available periods for time deposit Accounts.

2.3 If, in the Bank's reasonable opinion, any Account (i) has not been satisfactorily operated or maintained or (ii) has a nil balance and, in the Bank's reasonable opinion, has been inactive for an extended period the length of which shall be determined at the Bank's discretion, the Bank may at any time at its absolute discretion by 30 days' notice to the Customer, unless there are exceptional circumstances (for example, use of the Account for criminal activities), close that Account without being obliged to give any reason for so doing. Upon the lapse of 30 days after the deemed receipt of such notice by the Customer pursuant to Clause 26.1 or immediately, if the aforesaid exceptional circumstances exist, the Bank shall be released from any further obligations in respect of the relevant Account or to the Customer. The Customer shall be held solely responsible for any and all consequences resulting or arising therefrom.

2.4 The Bank may transfer any balance on an Account closed by the Bank pursuant to Clause 2.3 to the Bank's unclaimed balances account. Subject to payment of the service charge (details of which are available on request) provided for under Clauses 7.9 and 8.13, the Customer may collect the balance from the Bank during the Bank's business hours on any Business Day.

2.5 Notwithstanding Clause 2.3, the Bank may at any time without liability and disclosing any reason suspend the operation of, or freeze, any Account of the Customer. The Bank shall notify the Customer after exercising its rights under this Clause 2.5.

2.6 When a current Account is closed, the Customer shall return all unused cheques to the Bank within 7 days from the date of closing of the current Account.

## **3. AUTHORIZED REPRESENTATIVES**

3.1 Any instruction from the Customer bearing signature(s), chop(s) or seal(s) (if applicable) conforming to those in the mandate and/or such other documents for the time being in effect governing the operation of an

Account shall be binding on the Customer. The Bank shall be entitled to rely, and shall not be liable for any loss or damage if acting, on instructions signed by or on behalf of the Customer using signature(s), chop(s) or seal(s) (if applicable) conforming to those in the then current mandate and/or such other documents.

3.2 The Bank shall be entitled to refuse to act upon any instruction bearing signature(s), chop(s) or seal(s) (if applicable) which, in its reasonable opinion, do not conform to those in the mandate and/or such other documents for the time being in effect.

3.3 Unless otherwise agreed by the Bank, if the Customer wishes to change an Authorized Representative or the authorized signing arrangement in relation to any Account, the Customer shall submit to the Bank :

(a) in the case of an individual, sole proprietor or partnership, written instructions from the Customer (if an individual or sole proprietor) or all the partners comprising the Customer (if a partnership), as the case maybe;

(b) in the case of a company, a certified true copy of a board resolution of the Customer in the Bank's standard form authorizing the change of Authorized Representative or signing arrangement, as the case may be; and

(c) in any other case, such other duly authorized instructions as shall be in form and substance satisfactory to the Bank, requesting such change.

Nothing in this clause shall oblige the Bank to give effect to such change.

#### **4. CHANGE OF SPECIMEN SIGNATURES AND SEALS**

If the Customer wishes to change specimen signature(s), chop(s) or seal(s), the Customer must fill in a form provided for this purpose by the Bank using the same signature(s), chop(s) or seal(s) which at the time appears in the Bank's file and submitting new specimen signature(s), chop(s) or seal(s) indicating the date from which the new signature(s), chop(s) or seal(s) will be effective. No new signature(s), chop(s) or seal(s) shall be used without the prior consent of the Bank.

#### **5. AUTHORITY**

The Customer requests and authorizes the Bank to honour all items drawn on, and items accepted and presented for payment against, Accounts whether or not such Accounts be overdrawn, to comply with any other directions given regarding Accounts, and to accept and act upon any receipts for money deposited with or owing by the Bank on Accounts, provided that such items, directions and receipts are signed by the Customer or, in the good faith determination of the Bank, appear to be signed by the Customer. The Customer agrees to accept liability for all withdrawals from Accounts, to be responsible for the repayment of any overdraft and interest thereon and to assume full responsibility for the genuineness of all instructions given in connection therewith, unless any such withdrawal or instruction is forged or given fraudulently and the Bank has failed to exercise reasonable skill and care in relation to it or is otherwise unauthorized as a result of the wilful default or gross negligence of the Bank or any of its employees, agents or servants.

#### **6. STATEMENTS OF ACCOUNT AND CONFIRMATIONS OF DEPOSITS**

6.1 The Bank will send a statement of account for current Accounts, savings Accounts and other Accounts for which the Bank issues statements of account to the Customer at its last known address at monthly intervals or at such other intervals as determined by the Bank from time to time. The Bank shall not be obliged to send a statement of account for an Account if no entry has been made in that Account for the entire month since the date of the last statement. If the Customer fails to receive a statement of account within 14 days after the end of the month or interval to which the statement relates, the Customer should notify the Bank immediately and request a copy to be sent to him.

6.2 A deposit (whether fixed term, call or otherwise) placed with and accepted by the Bank shall be evidenced by the issue of a deposit confirmation by the Bank, showing the date and amount of the deposit, the date of maturity of the deposit and the applicable interest rate.

6.3 The Customer must examine each statement of account and deposit confirmation and must notify the Bank in writing

(a) in the case of a statement of account, within 90 days of the day of deemed receipt of such statement pursuant to Clause 26.1; and

(b) in the case of a deposit confirmation, within 14 days of the date of the issuance of such deposit confirmation,

of any errors, discrepancies or unauthorized transactions referred to in them arising from whatever cause, including forgery, fraud, lack of authority or negligence of the Customer or any other person. After such period, the statement of account and deposit confirmation shall be deemed to be correct and conclusive evidence of the balances upon the relevant Account. No claim to the contrary by the Customer shall be admissible against the Bank unless (i) the Bank has failed to exercise reasonable skill and care in respect of any such errors, discrepancies or unauthorized transactions; (ii) such unauthorized transactions arose from the forgery or fraud of any of the Bank's employees, agents or servants; or (iii) any such unauthorized transactions arose from the wilful default or gross negligence of the Bank or any of its employees, agents or servants.

6.4 Notwithstanding Clause 6.3, the Customer acknowledges that entries in any statement of account or deposit confirmation provided by the Bank are not conclusive as to their correctness against the Bank as deposits may have been made or other items may have been changed since the date of the statement or confirmation. The Bank shall be entitled to correct entries on any records, statements or confirmations and shall not be liable to the Customer or any other person for any loss of whatsoever nature incurred as a consequence of such corrections.

## **7. SAVINGS ACCOUNTS**

7.1 No savings Account passbook will be issued to the Customer. All transactions on savings Accounts will be recorded in statements of account.

7.2 Any election by the Customer as to the currency in which a foreign currency savings Account is to be denominated shall be irrevocable.

7.3 Interest at the rates from time to time determined by the Bank, details of which are available upon request, displayed at the Bank's branch offices and/or advertised in the press will accrue upon the daily balance credited to savings Accounts. Accrued interest will be credited to the Customer's savings Account half yearly in June and December.

7.4 Withdrawals may be made by the Customer during the Bank's business hours on Business Days but may not be made by means of cheques.

7.5 Withdrawals may be made by means of withdrawal slips provided by the Bank for such purpose and the Customer or its Authorized Representative may be required to produce evidence of identity such as an identity card or a passport, at the time of withdrawal. Withdrawal slips must in every case be signed in accordance with the Customer's mandate using the same signature, chop and/or seal and signing arrangements as recorded on the Bank's file before withdrawal will be permitted.

7.6 Any payment made by the Bank to any person presenting a withdrawal slip purporting to be signed by the Customer or the Customer's Authorized Representative(s) or purporting to bear the Customer's chop or seal (if applicable) shall have the same effect as if made to the Customer personally and, subject to Clause 18, shall absolve the Bank from all liability to the Customer or to any other person.

7.7 Withdrawals from savings Accounts which would result in the savings Accounts being overdrawn shall not be permitted unless special arrangements have been agreed with the Bank. If a temporary overdraft

facility is granted by the Bank, the Customer shall undertake to refund to the Bank the whole amount so overdrawn with interest thereon at a rate prescribed by the Bank as applicable to the overdraft facilities granted in its ordinary course of business to customers or at such other rate as may be agreed between the Bank and the Customer.

7.8 A cash handling charge determined by the Bank from time to time may be charged by the Bank on deposits accepted or paid in foreign currency. Details of the Bank's handling charges are available on request and are displayed at all branches of the Bank.

7.9 The Bank reserves the right to charge (i) additional banking fees in such amounts as the Bank shall from time to time determine if the average monthly balance (as determined by the Bank) in any savings Account with the Bank falls below such amount as the Bank may from time to time determine and (ii) a periodic service charge of such amount as the Bank may from time to time determine if, in the Bank's opinion, any savings Account is inactive or has a balance in the Bank's unclaimed balances account.

## **8. CURRENT ACCOUNTS**

8.1 Blank cheques will be provided by the Bank in respect of current Accounts denominated in such currencies as the Bank may, in its discretion, determine from time to time. When a cheque book is required and the Bank provides cheque books in relation to the relevant current Account, the Customer must sign an application form supplied by the Bank in accordance with its mandate, using the same signature, chop and/or seal and signing arrangements as recorded on the Bank's file. If the Customer does not apply in person, the Bank may at its discretion deliver the cheque book to the Customer's Authorized Representative, or forward it to the registered address of the Customer by mail or by hand at the Customer's expense, and costs may be debited by the Bank from any Account of the Customer.

8.2 Upon receipt of a cheque book, the Customer should count the number of cheques carefully and examine the account and serial numbers printed thereon to ensure there are no discrepancies and read the conditions as printed on the inside of the cover of the cheque book which form part of these Terms and Conditions. Cheque books should at all times be kept under lock to safeguard against loss or theft.

8.3 Cheques should not be pre-signed in blank. All alterations on cheques must be authenticated by the full signature or signatures of the drawer near the place where such alterations have been made. Initials and abbreviations shall not be used (as the same can be forged easily), unless previous arrangements have been made in respect thereof. The Customer agrees that the Bank shall not under any circumstances be held liable for losses arising from unauthorized alterations to cheques and the Bank shall be entitled to honour cheques even though they are so altered and to debit the Account accordingly provided that the alterations are not reasonably apparent or detectable.

8.4 All cheques must be written in non-erasable ink or ball point pen. Cheques or other instructions to the Bank must be signed in accordance with the Customer's mandate, using the same signature(s), chop and/or seal and signing arrangements as recorded on the Bank's file in respect of the Account. The Bank shall not be obliged to honour any cheque or act upon any instruction if the signature upon it does not appear to conform to the Customer's specimen signature(s) or the specimen signature(s) of its Authorized Representative(s) on the Bank's file or where the cheque or instruction is not signed or given in accordance with the Customer's mandate and any relevant authorized signing arrangements.

8.5 The Customer shall exercise care when drawing cheques and agrees that cheques shall not be drawn by any means and/or in any manner which may enable a cheque to be altered or may facilitate fraud or forgery. The Customer agrees when issuing a cheque to :

- (a) delete the words "OR BEARER" from, and cross, any cheque which is sent through the post, by courier or by other persons;
- (b) write the amount, both in words and figures, as close as possible to each other and to the left-hand margin so as to leave no space for other insertions;
- (c) write the word "only" after the amount in words;

(d) use only Arabic numerals when writing the cheque's amount in figures.

8.6 If a signed cheque is lost or stolen, the Customer must immediately report the loss or theft to the Bank in writing duly signed with the same signature, chop and/or seal and signing arrangements as recorded in the Bank's files with instructions to stop payment of such a cheque. If the cheque is stolen, the Customer should also report the loss to the nearest police station. The Bank shall not be liable to the Customer if the cheque is paid prior to the receipt of the instructions to stop payment. If any blank cheques are lost, the Customer shall notify the Bank immediately and request their cancellation. Any instructions countermanding a cheque by the Customer must include complete and accurate details of the number of the cheque, the name of the payee and the amount and date. The Bank shall only comply with such instructions if all such details accord strictly with those of the cheque presented for payment. The Customer agrees to indemnify the Bank against all reasonable losses and expenses it may incur resulting from the non-payment of the cheque on presentation.

8.7 The Customer agrees to indemnify the Bank and keep the Bank indemnified against, and agrees that the Bank is entitled to debit any Account to compensate the Bank for, all reasonable claims, demands, actions, damages, costs, losses, expenses (including legal fees) and other sums which the Bank may properly incur or pay by reason of or as a consequence of the Bank paying pursuant to a cheque or other document that is lost, stolen, unlawfully used, fraudulently altered or forged and not caused by the Bank's negligence, wilful default or fraud.

8.8 If any cheque is physically presented for payment, the Bank shall return to the relevant collecting bank any cheque if it is incorrectly completed, altered without authorization, post-dated, out of date or has any discrepancies that the Bank considers will jeopardize the parties concerned. The Bank reserves the right to impose a reasonable handling charge and recover from the Customer any expenses incurred by the Bank as a result of returning the cheque.

8.9 The Bank shall not honour any cheque if the Account on which it is drawn is not in funds unless special overdraft arrangements have been agreed. If temporary overdraft facilities are granted by the Bank, the Customer shall undertake to refund to the Bank the whole amount so overdrawn with interest thereon at a rate prescribed by the Bank as applicable to the overdraft facilities granted in its ordinary course of business to customers or at such other rate as may be agreed between the Bank and the Customer. The Bank reserves the right to impose a charge determined by the Bank in its discretion for every dishonoured cheque.

8.10 The Customer shall pay the fees and charges stipulated by the Bank from time to time and the Bank's other out of pocket expenses incurred with respect to stopping payment of a cheque or any countermanding instructions from the Customer. Details of any such fees, charges and expenses connected are available at the request of the Customer and are displayed at all branches of the Bank in Hong Kong.

8.11 Order cheques to be credited to an Account must be properly endorsed in favour of the Customer. Cheques drawn to the order of a third party and so endorsed may be accepted for deposit at the sole discretion of the Bank without prejudice to its rights to claim from the Customer any loss arising from such acceptance. The Customer shall undertake to refund in full to the Bank immediately upon request any loss sustained by it by reason of the Bank allowing the Customer to draw against uncleared cheques or as a result of the Bank endorsing the cheques or from any other cause whatsoever.

8.12 Unless otherwise agreed, no interest is payable on current Accounts.

8.13 The Bank reserves the right to charge (i) additional banking fees in such amounts as the Bank shall from time to time determine if the average monthly balance (as determined by the Bank) in any current Account with the Bank falls below such amount as the Bank may from time to time determine and (ii) a periodic service charge of such amount as the Bank may from time to time determine if, in the Bank's opinion, any current Account is inactive or has a balance in the Bank's unclaimed balances account.

8.14 The Bank shall exercise reasonable care in relation to the custody and presentation of cheques presented by the Customer for collection.

8.15 The Customer agrees that:

(a) cheques drawn by the Customer which have been paid may, after having been recorded in electronic form, be retained by the collecting bank, HKICL or any other applicable clearing bank for



such period as is stated in the rules relating to the operation of the Clearing House as may from time to time be issued by HKICL or in any other applicable rules (as the case may be) and after the lapse of such period, such cheques may be destroyed by the collecting bank, HKICL or the relevant clearing bank, as the case may be; and

(b) the Bank is authorized to contract *inter alia* with any collecting bank, HKICL or any other applicable clearing bank in accordance with the terms in Clause 8.15(a) and generally in respect of the retention and destruction of cheques.

## **9. TIME DEPOSIT ACCOUNTS**

9.1 Funds for the opening of a time deposit Account with the Bank shall be paid to the Bank in the following manner :

- (a) by cheque in favour of the Customer; or
- (b) by debiting a designated account of the Customer with the Bank;
- (c) by deposit of cash in Hong Kong Dollars, US Dollars or Japanese Yen only;
- (d) by remittance in the form of telegraphic transfer in favour of the Customer;
- (e) by such other form and manner acceptable to the Bank.

9.2 Interest on a time deposit shall be determined by the Bank. Details of applicable interest are available upon request and displayed at the Bank's branch offices and/or advertised in the press. Interest shall accrue upon the daily balance of a time deposit, calculated on the basis of the actual number of days elapsed (including the first day of the period during which it accrues but excluding the last) and a 360/365 day year.

9.3 Interest shall be payable on the maturity date of the time deposit or at such other times as may be agreed by the Bank. The Customer shall give the Bank at least one Business Day's notice prior to maturity of the time deposit regarding renewal or withdrawal of the time deposit and accrued interest. In the absence of such instructions, the Bank may, at its discretion, either (i) renew the time deposit for the same period as was applicable to the time deposit immediately prior to its maturity or for such other period as the Bank considers appropriate and the interest rate applicable shall be the interest rate applied by the Bank with respect to time deposits in the currency of the relevant time deposit prevailing at the relevant time or (ii) hold the money constituting the time deposit (and interest accrued on it) with no obligation to pay further interest until receipt of instructions from the Customer as to treatment of the time deposit (and accrued interest). If a time deposit is renewed, the applicable interest rate shall be the rate prevailing on the renewal date.

9.4 Early withdrawal of all or part of the time deposit is permitted at the Bank's sole and absolute discretion and in accordance with the Bank's policies regarding time deposits in force from time to time. If the Bank agrees to allow a withdrawal of the time deposit prior to its maturity, the Bank shall, unless otherwise agreed, only be obliged to pay interest up to the date of withdrawal and may impose a service charge or a minimum amount of withdrawal and/or withhold all or part of the interest which has accrued on the time deposit up to the time of such early withdrawal. Information on the rates used from time to time for determining such service charge/minimum amount imposed by the Bank shall be made available to the Customer upon request.

9.5 The Bank shall not be liable to the Customer for any diminution in the value of the monies in any time deposit Account brought about by taxes, levies or depreciation in the currency in which the time deposit is denominated. Apart from any taxes that the Bank is required by applicable law to withhold in connection with a time deposit and interest accruing thereon, the Bank is also not responsible for the reporting and/or payment of any taxes in relation to the Customer in Hong Kong or any other country.

9.6 Settlement instructions in respect of a time deposit at maturity must reach the Bank on or before the maturity of the time deposit. The settlement instructions must be in a form acceptable to the Bank and duly signed by the Customer or its Authorized Representative(s), using the specimen signature(s), chop and/or seal filed with the Bank.

9.7 If the maturity date of a Hong Kong Dollar deposit falls on a day which is not a Business Day, it shall instead fall on the next Business Day. If the maturity date of a foreign currency deposit falls on a day on which banks in the country of the relevant foreign currency are not open for business, then it shall instead fall on the next day on which such banks are open for business unless the Bank determines that it is desirable for the deposit to mature on the last day on which such banks were open for business prior to the original maturity date.

## **10. PAYMENTS INTO / FROM ACCOUNTS**

10.1 All items accepted for deposit in any Account are credited subject to final clearance and interest will only begin to accrue upon such items when they are cleared and credited. If any item deposited with the Bank for credit to any Account is returned unpaid or dishonoured, the sum credited into such Account and any interest accrued thereon shall be null and void and an amount equal to the sum and interest so credited shall be debited from such Account. The Bank shall notify the Customer as soon as practicable after such debit is made. The Bank reserves the right to charge the Customer's Account in accordance with the Bank's standard rate of charges in force from time to time for items which are subsequently returned unpaid or dishonoured. Details of such charges are available upon request.

10.2 The Customer may not draw against uncleared items (whether drawn on the Bank or sent for collection) paid in by the Customer until the proceeds thereof have been actually received by the Bank. The Bank reserves the right to recover from the Customer in full any loss sustained by it as a result of the non-payment from whatsoever causes of such items. All items received for collection after the normal clearing time on any day shall be treated as received for the account of the following Business Day.

10.3 If the Bank receives instructions for several payments or other transactions which in aggregate would exceed the amount of the credit balance on any Account or any authorized limit in respect thereof, it shall be entitled at its absolute discretion to select which transaction or transactions shall be executed, without reference to the date of despatch or time of receipt of the Customer's instructions.

10.4 Unless otherwise agreed in writing, the liabilities of the Bank hereunder shall be payable only at the branch at which the relevant Account is maintained. The Customer shall only be permitted to make withdrawals in cash at the discretion of the Bank and only to the extent that funds in the relevant currency are actually available to the Bank in cash in Hong Kong. The Bank shall have a reasonable time within which to deliver cash withdrawn by the Customer. If funds in such currency are not available (whether in cash or otherwise) in Hong Kong, the Bank shall be entitled to discharge its obligations in Japanese Yen, Hong Kong Dollars or US Dollars in its discretion, converted at the Bank's own rate of exchange then prevailing between the relevant currency and Japanese Yen, Hong Kong Dollars or US Dollars, as the case may be. The Bank may also, if it in its discretion sees fit, discharge its obligations by the issue of a banker's draft or other item drawn upon it.

10.5 Special or standing instructions from the Customer for payments from an Account and remittances and collections by the Bank on behalf of the Customer shall be subject to a handling charge determined by the Bank from time to time. Details of these handling charges are available on request and are displayed at all branches of the Bank.

10.6 If the Bank receives any incoming remittance with ambiguous, discrepant or unclear payment instructions, it shall be entitled (but not obliged) to interpret those instructions in such manner as it may, in its absolute discretion, see fit with or without reference to the Customer or any other person and may act accordingly. The Bank shall not be liable to the Customer for any loss the Customer may suffer or incur if it shall decide to so interpret such payment instructions and makes an incorrect payment or otherwise takes action or omits to do something (i) which is reasonable in the circumstances, given the ambiguous, discrepant or unclear instructions and/or (ii) if the Customer consents to the Bank making such payment, or so acting, or omitting to act.

10.7 If the Bank is satisfied, in its absolute discretion, that any payments into or from any Account are incorrect, the Bank shall be entitled, without reference to the Customer, to correct entries on any records, statements or confirmations as provided in Clause 6.4 and to reverse the relevant payments so as to return the Account to its status immediately prior to the relevant payment being made. The Bank shall not be liable to the

Customer or any other person for any loss of whatsoever nature incurred as a consequence of such corrections or reversals.

## **11. BANK SERVICES RELATING TO FASTER PAYMENT SYSTEM**

### **11.1 Bank Services relating to Faster Payment System**

- (a) The Bank may provide the FPS Bank Services to the Customer to facilitate payments and funds transfers using the Faster Payment System. The Faster Payment System is provided and operated by HKICL. The FPS Bank Services are therefore subject to the rules, guidelines and procedures imposed by HKICL in relation to the Faster Payment System from time to time.
- (b) **By requesting the Bank to register any Proxy ID for the Customer in the HKICL FPS or to set up any eDDA for the Customer using the HKICL FPS, or by initiating any payment or funds transfer using the HKICL FPS, the Customer will be regarded as having accepted and will be bound by the provisions of this Clause 11. The Customer should not request the Bank to register any Proxy ID or set up any eDDA for the Customer and should not initiate any payment or funds transfer using the HKICL FPS unless the Customer accepts the provisions of this Clause 11.**
- (c) **The Bank may provide the FPS Bank Services at its sole discretion to the Customer whenever the Customer initiates any payment or fund transfer instructions. However (and for the avoidance of doubt), the Bank also reserves the right to effect any payment or fund transfer instructions using the Clearing House Automated Transfer System ("CHATS") or by telegraphic transfer. If relevant, the Customer will be informed that the payment or fund transfer can be made using the HKICL FPS before the Customer confirms the instruction. By confirming the instruction, the Customer will be regarded as having accepted and will be bound by the provisions of this Clause 11. If the Customer does not accept the provisions of this Clause 11, the Customer should immediately cancel the instruction.**

### **11.2 Scope of FPS Bank Services and conditions for use**

- (a) The Bank provides the FPS Bank Services to the Customer to facilitate payments and funds transfers using the Faster Payment System. The Bank may also at its sole discretion incorporate the QR Code Services, the Addressing Service, the eDDA Service and any other services and facilities provided by HKICL in connection with the Faster Payment System into the FPS Bank Services it provides from time to time. The Bank shall have the absolute right to set or vary from time to time the scope of the FPS Bank Services that it provides and the conditions and procedures for using the FPS Bank Services. In order to use the FPS Bank Services, the FPS Customer must accept and follow these conditions and procedures.
- (b) The Bank may provide the FPS Bank Services to facilitate payments and funds transfers in any currency specified by the Bank from time to time, including without limitation Hong Kong Dollars and Renminbi.
- (c) **In order to enable the Bank to handle an instruction for the FPS Customer in relation to payments or funds transfers using HKICL FPS, the FPS Customer must provide or input the necessary information and complete the process by such means or in such manner as may be prescribed by the Bank from time to time.**
- (d) All payments or funds transfer transactions using HKICL FPS will be processed, cleared and settled under the interbank clearing and settlement arrangements including, without limitation, the arrangements in relation to the Faster Payment System agreed by the Participants and HKICL from time to time.
- (e) The Bank reserves the right to suspend or terminate the FPS Bank Services in whole or in part at any time without giving notice or reason.

### **11.3 Addressing Service - registration and amendment of Proxy ID and related records**

- (a) In order to use the Addressing Service to receive payments or funds transfers using HKICL FPS, the

FPS Customer must register his/her/its Proxy ID in the HKICL FPS when the Bank offers this service. The Bank shall have a discretion as to whether to offer the FPS Identifier as Proxy ID to the FPS Customer. For the avoidance of doubt, the Customer may receive payments or funds transfers using the HKICL FPS by reference to an Account number without registering a Proxy ID.

- (b) Registration and amendment of a Proxy ID and related records in the HKICL FPS must be done in accordance with the applicable rules, guidelines and procedures imposed by HKICL from time to time. In order to enable the Bank to register or amend a Proxy ID or any related records for the FPS Customer, the FPS Customer must provide or input the necessary information and complete the registration process by such means or in such manner as may be prescribed by the Bank from time to time.
- (c) **If at any time the same Proxy ID is registered by the FPS Customer for more than one account (whether maintained with the Bank or with any other Participant), the FPS Customer must set one account as the Default Account. By instructing the Bank to set or change the Default Account for the FPS Customer, the FPS Customer authorises the Bank to submit the request on behalf of the FPS Customer to HKICL FPS to override the existing Default Account registered in HKICL FPS and agrees to be bound by such change.**

#### 11.4 eDDA Service

In order to enable the Bank to handle a request for the FPS Customer in relation to eDDA setup after the Bank begins to offer the eDDA Service, the FPS Customer must provide or input the required information and complete the process by such means or in such manner as may be prescribed by the Bank from time to time. The prescribed process may include requiring the relevant parties to set up the eDDA using their respective account numbers or customer identification numbers or codes. For the avoidance of doubt, a Proxy ID is not intended for the purpose of verifying an eDDA setup. Any amendment of a Proxy ID and the related records or termination of a Proxy ID after an eDDA setup will not affect that eDDA.

#### 11.5 The FPS Customer's responsibility

##### (a) Present genuine owner or authorised user of Proxy ID and accounts

**Once the relevant services are offered by the Bank, the FPS Customer can only register his/her/its own Proxy ID for his/her/its own accounts or set up an eDDA for his/her/its own accounts. The FPS Customer must be the present genuine owner or authorised user of each Proxy ID and each account provided to the Bank for registration in the Addressing Service and the eDDA Service. By instructing the Bank to register any Proxy ID or any account for the FPS Customer in relation to the Faster Payment System, the FPS Customer confirms that he/she/it is the present genuine owner or authorised user of the relevant Proxy ID or account. This is particularly important for mobile phone numbers as they may be recycled in Hong Kong.**

##### (b) Proxy ID

**Once the relevant services are offered by the Bank, any Proxy ID to be registered by the FPS Customer for the Addressing Service must satisfy any applicable requirements imposed by HKICL from time to time. For example, HKICL may require the FPS Customer's mobile phone number or email address being registered as Proxy ID to be the same number or address registered by the FPS Customer as his/her/its contact information on the Bank's records at the relevant time. The FPS Customer understands and agrees that the Bank, other Participants and HKICL have the right and discretion to deregister any Proxy ID that is not correct or up-to-date in accordance with available information without giving notice and without the FPS Customer's consent.**

##### (c) Correct information

- (i) **The FPS Customer shall be solely responsible for the accuracy and completeness of all information (including without limitation any beneficiary account information) provided that the Bank shall not be responsible for checking or verifying the same and the Bank shall not be liable for any losses or damages caused by any inaccuracies, incompleteness or**

omissions of any information provided by the FPS Customer.

- (ii) Without prejudice to the generality of sub-paragraph (i), the FPS Customer must ensure that all the information provided by the FPS Customer for registration or amendment of a Proxy ID (or any related records) or for any eDDA setup is correct, complete, up-to-date and not misleading. The FPS Customer must notify the Bank as soon as reasonably practicable of any changes to such information by such means or in such manner as may be specified by the Bank from time to time.
- (iii) The FPS Customer is fully responsible for using a correct and up-to-date Proxy ID and related records when giving any payment or funds transfer instruction. The FPS Customer is solely liable for and will hold the Bank harmless from any incorrect payment or transfer effected by the Bank and HKICL FPS due to an incorrect or outdated Proxy ID or related records.

**(d) Timely updates**

Once the relevant services are offered by the Bank, the FPS Customer is fully responsible for giving instructions and information changes or updates to the Bank on a timely basis for amending the FPS Customer's Proxy ID (or related records) or any eDDA setup, including without limitation changing the FPS Customer's Default Account, or terminating any Proxy ID or eDDA. The FPS Customer acknowledges and agrees that keeping his/her/its Proxy ID, eDDA and all related records up-to-date is critical for ensuring effective execution of payment and funds transfer instructions and for avoiding incorrect payments or transfers due to incorrect or outdated Proxy ID, eDDA or related records.

**(e) Change of Default Account**

If an account is terminated as the Default Account by the FPS Customer or by the relevant Participant for any reason (including but not limited to suspension or termination of the account), HKICL's system will automatically assign the most recently registered record in the Addressing Service that is associated with the same Proxy ID to be the Default Account. If the FPS Customer wishes to set another account as the Default Account, the FPS Customer must change the registration through the Participant where the FPS Customer maintains that other account.

**(f) Transactions binding on the FPS Customer**

- (i) For any payment or funds transfer, once the FPS Customer confirms the details of a transaction and submits applicable instructions to the Bank, such instructions and any resulting transaction shall be final, irrevocable and binding on the FPS Customer.
- (ii) For any Proxy ID registration or eDDA setup, once the FPS Customer submits an instruction related thereto to the Bank, such instruction shall be irrevocable and binding on the FPS Customer. The FPS Customer may amend or cancel any Proxy ID or eDDA setup in accordance with the procedures and requirements prescribed by the Bank from time to time.

**(g) Use FPS Bank Services responsibly**

The FPS Customer must use the FPS Bank Services in a responsible manner. In particular (but without limitation), the FPS Customer must comply with the following obligations:

- (i) The FPS Customer must comply with all Regulatory Requirements that govern the FPS Customer's use of the FPS Bank Services, including, without limitation, collecting, using and handling the personal data and other information relating to any other person in compliance with the Regulatory Requirements protecting data privacy. The FPS Customer must not use the FPS Bank Services for any unlawful purposes or any purposes other than those authorised or contemplated in the rules, guidelines and procedures of HKICL.
- (ii) In sending remarks or messages to be displayed to recipients or counterparties of the FPS

**Customer's payment or funds transfer instructions or eDDA setup using HKICL FPS, the FPS Customer should mask the name or other data of such recipients or counterparties to prevent unauthorised display or disclosure of any personal data or confidential data.**

- (iii) If the Bank offers the FPS Identifier as Proxy ID to the FPS Customer, the FPS Customer should not repeatedly cancel the registration and request the generation of another FPS Identifier in an attempt to generate a number or value that the FPS Customer desires.**

**(h) Other obligations regarding payments and funds transfers**

**Any instruction given by the FPS Customer in relation to the FPS Bank Services will be handled by the Bank in accordance with this Clause 11 and the applicable provisions in these Terms and Conditions. The FPS Customer must comply with his/her/its other obligations with respect to payments, funds transfers and direct debit authorisations, including, without limitation, maintaining sufficient funds in the relevant Account(s) for settling payments and funds transfer instructions from time to time.**

**(i) The FPS Customer is responsible for authorised persons of the FPS Customer**

**Where the FPS Customer authorises any other person to give instructions or requests to the Bank in connection with the use of the FPS Bank Services (whether the FPS Customer is an individual, a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body):**

- (i) the FPS Customer is responsible for all the acts and omissions of each person authorised by the FPS Customer;**
- (ii) any instruction or request received by the Bank and believed by the Bank in good faith to be given by the FPS Customer or any person authorised by the FPS Customer will be irrevocable and binding on the FPS Customer; and**
- (iii) the FPS Customer is also responsible for ensuring that each person authorised by the FPS Customer will comply with all provisions of this Clause 11 that are applicable to him/her when acting on behalf of the FPS Customer.**

**(j) The FPS Customer shall bear the responsibility for all charges**

**The FPS Bank Services are subject to charges and at the rates prescribed by the Bank or any other Participants from time to time and the FPS Customer shall be solely and fully responsible for the same. For the avoidance of doubt, the Bank shall bear no responsibility for any such charges whatsoever.**

**11.6 The Bank's responsibility and restriction of liability**

- (a) The Bank will process and submit the FPS Customer's instructions and requests to HKICL FPS in accordance with the applicable rules, guidelines and procedures imposed by HKICL from time to time. HKICL FPS has the right to process and execute the FPS Customer's instructions and requests in such sequence or manner as HKICL considers appropriate. The Bank has no control over the operation of HKICL FPS nor the timing on which the FPS Customer's instructions or requests are executed by HKICL FPS. Where the Bank receives status update notifications involving any of the FPS Customer's Proxy ID (or related records) or eDDA setup or any other matter relating to HKICL FPS from or through HKICL FPS from time to time, the Bank will notify the FPS Customer accordingly by such means and at such time as the Bank considers appropriate.**
- (b) Without reducing the effect of Clause 11.6(a) above, any other provisions of these Terms and Conditions or any other agreement(s) between the Bank and the FPS Customer (whether in the capacity as a FPS Customer or otherwise):**
  - (i) the Bank is not liable for loss, damage or expense of any kind which the FPS Customer or any other person may incur or suffer arising from or in connection with the use of the FPS Bank Services or the processing or execution of instructions or requests given by the FPS Customer in**

relation to the FPS Bank Services or HKICL FPS, except to the extent that any loss, damage or expense incurred or suffered is direct and reasonably foreseeable arising directly and solely from the fraud, gross negligence or wilful default of the Bank or the Bank's directors, officers, employees or agents;

- (ii) for clarity, the Bank is not liable for loss, damage or expense of any kind which the FPS Customer or any other person may incur or suffer arising from or in connection with one or more of the following:
    - (1) the FPS Customer's failure to comply with his/her/its obligations relating to the FPS Bank Services; and
    - (2) any delay, unavailability, disruption, failure, error of or caused by HKICL FPS, or arising from any circumstances beyond the Bank's reasonable control; and
  - (iii) in no event will the Bank, any member of the Group, the Bank's licensors, and the Bank's, the Group's and the Bank's licensors' respective directors, officers, employees and agents be liable to the FPS Customer or any other person for any loss of profit or any special, indirect, incidental, consequential or punitive loss or damages (whether or not they were foreseeable or likely to occur).
- (c) Without prejudice to any provisions of this Clause 11, any other provisions of these Terms and Conditions or any other agreement between the Bank and the FPS Customer (whether in the capacity as an FPS Customer or otherwise), the Bank reserves the right not to accept or otherwise reject any instruction given by the FPS Customer in relation to the FPS Bank Services without giving any reason. The Bank further reserves the right to delay or not to process any instruction given by the FPS Customer in relation to the FPS Bank Services without notice for any reason, including without limitation:-
- (i) if the Bank is of the opinion that:
    - (1) the relevant information is not complete or has not been accurately or properly provided or is not sufficiently clear; or
    - (2) there are not sufficient available funds in the relevant account for settling the relevant payment or funds transfer instructions at any time; or
    - (3) the FPS Customer is or is suspected to have been in breach of any of the Regulatory Requirements, this Clause 11 or any other provisions of these Terms and Conditions; or
    - (4) the processing of the relevant payment or funds transfer instructions may breach any of the Applicable Laws and Regulations; or
  - (ii) for security reasons (including but not limited to where the fraud prevention or risk control policies, measures or procedures which the Bank deems appropriate to adopt cannot be completed, fulfilled or satisfied).

The Bank shall not be liable for any loss or damage incurred or suffered by any person caused by non-acceptance, rejection, delay or non-processing of any payment or instruction given by the FPS Customer in relation to the FPS Bank Services for any reason.

- (d) The FPS Customer's confirmation and indemnity
- (i) Without reducing the effect of any indemnity given by the FPS Customer under any other provisions of these Terms and Conditions or any other agreement between the Bank and the FPS Customer (whether in the capacity of an FPS Customer or otherwise) or any other rights or remedies that the Bank may have, the FPS Customer indemnifies the Bank and the Bank's directors, officers, employees and agents and holds each of them harmless against all liabilities, claims, demands, losses, damages, costs, charges and expenses of any kind (including without limitation legal fees on a full indemnity basis and other expenses reasonably incurred) which may be incurred or suffered by the Bank or any of its directors, officers, employees and agents and all actions or proceedings which may be brought by or against the Bank or any of its directors, officers, employees and agents as a result of or in connection with the Bank's provision of the FPS Bank Services or the FPS Customer's use of the FPS Bank Services.

- (ii) The above indemnity does not apply to the extent that it is proved that any liabilities, claims, demands, losses, damages, costs, charges, expenses, actions or proceedings are direct and reasonably foreseeable arising directly and solely from the fraud, gross negligence or wilful default of the Bank or the Bank's directors, officers, employees or agents. The above indemnity shall continue to have effect after the termination of the FPS Bank Services.

#### **11.7 Collection and use of Customer Information**

- (a) This Clause 11.7 supplements and is without prejudice to any other provisions of these Terms and Conditions or any other agreement between the Bank and the FPS Customer (whether in the capacity of an FPS Customer or otherwise).
- (b) For the purposes of using the FPS Bank Services, the FPS Customer may be required to provide the Bank with the personal data and other information relating to one or more of the following persons from time to time:
  - (i) the FPS Customer;
  - (ii) the recipient of any payment or funds transfer to be made by the FPS Customer, or the counterparty of any eDDA to be set up by the FPS Customer; and
  - (iii) where the FPS Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, any of the FPS Customer's directors, officers, employees, authorised persons and representatives,

and all personal data and information provided to the Bank or compiled by the Bank from time to time in connection with the FPS Bank Services shall in these Terms and Conditions, be collectively referred to as "**Customer Information**".

- (c) The FPS Customer acknowledges and agrees (and, where applicable, for and on behalf of each of the FPS Customer's directors, officers, employees, authorised persons and representatives) that the Bank may collect, use, process, retain or transfer any of the Customer Information for the purposes of the FPS Bank Services. These purposes include without limitation one or more of the following:
  - (i) providing the FPS Bank Services to the FPS Customer, maintaining and operating the FPS Bank Services;
  - (ii) processing and executing the FPS Customer's instructions and requests in relation to the FPS Bank Services from time to time;
  - (iii) disclosing or transferring the Customer Information to HKICL and other Participants for their use for the purpose of the operation of HKICL FPS;
  - (iv) meeting the requirements to make disclosure under any Regulatory Requirements; and
  - (v) purposes relating to any of the above.
- (d) The FPS Customer understands and agrees that the Customer Information may be further disclosed or transferred by HKICL, the Bank or any other Participants to their respective customers and any other third parties who are users of HKICL FPS for the purposes of providing and operating the Addressing Service and the eDDA Service.
- (e) If the Customer Information includes personal data or other information of any person other than the FPS Customer (including without limitation any persons specified in Clauses 11.7(b)(ii) or 11.7(b)(iii) above), the FPS Customer confirms that the FPS Customer will obtain and has obtained the consent from such person regarding the use (including without limitation disclosure and transfer) of his/her/its personal data and other information by HKICL, the Bank and the other Participants specified in this Clause.

#### **11.8 QR Code Services**



- (a) This Clause 11.8 applies to the use of the QR Code Services **once these services are offered by the Bank**, together with any other provisions of these Terms and Conditions and any other terms and conditions that apply to the mobile application ("**App**") through which the FPS Customer accesses the QR Code Services.
- (b) Using the QR Code Services and the FPS Customer's responsibility
- (i) The QR Code Services allow the FPS Customer to scan a QR code provided by the Bank or by another person to capture the payment or funds transfer data automatically without the need to enter the data manually. Any QR code provided by another person must meet the specifications and standards prescribed by HKICL in order to be accepted. **The FPS Customer is fully responsible for ensuring that the captured data are accurate and complete before confirming any payment or funds transfer instruction. The Bank is not responsible for any error contained in such payment or funds transfer data.**
  - (ii) The QR Code Services can be used on a mobile device running an operating system supported and specified by the Bank from time to time.
  - (iii) Updates to the QR Code Services may be issued periodically through the supplying app store for the App. For some devices, updates will be downloaded automatically. For other devices, the FPS Customer will need to download the updates. Depending on the update, the FPS Customer may not be able to use the QR Code Services until the latest version has been downloaded. **The FPS Customer is fully responsible for ensuring the latest version has been downloaded to the FPS Customer's mobile device for the purpose of using the QR Code Services.**
  - (iv) The QR Code Services are intended for use by the Customer only. The Bank shall have the right to cancel the FPS Customer's account for the App and/or block the FPS Customer from accessing the QR Code Services if the Bank discovers that the FPS Customer is not eligible to use the QR Code Services.
  - (v) The QR Code Services are not intended for use in any jurisdiction where their use would be contrary to any law or regulation of that jurisdiction or where the Bank is not licensed or authorised to provide the QR Code Services.
  - (vi) **The FPS Customer must comply with all applicable laws and regulations that govern the FPS Customer's download of the App, or access or use of the App or the QR Code Services.**
- (c) **Security**
- (i) **The FPS Customer must not use the QR Code Services on any device or operating system that has been modified outside the mobile device or operating system vendor supported or warranted configurations. This includes devices that have been "jail-broken" or "rooted". A jail broken or rooted device means one that has been freed from the limitations imposed on it by the FPS Customer's mobile service provider and the phone manufacturer without their approval. The use of the QR Code Services on a jail broken or rooted device may compromise security and lead to fraudulent transactions. Use of the QR Code Services in a jail broken or rooted device is entirely at the FPS Customer's own risk and the Bank will not be liable for any losses or any other consequences suffered or incurred by the FPS Customer as a result.**
  - (ii) **The FPS Customer is fully responsible for all instructions or requests given by the FPS Customer or any other person authorised by the FPS Customer during the use of the QR Code Services.**
  - (iii) **The FPS Customer is fully responsible for ensuring that the information shown or stored on the FPS Customer's mobile device is kept secure.**
  - (iv) **If the FPS Customer knows or suspects that any other person knows the FPS Customer's security details, or has used or tried to use them, or if the FPS Customer's mobile device is lost or stolen, the FPS Customer must notify the Bank as soon as reasonably practicable.**

- (d) The Bank's responsibility and restriction of liability
- (i) While the Bank makes commercially reasonable efforts to provide the QR Code Services, the Bank is not liable for any failure to provide the QR Code Services.
  - (ii) The QR Code Services are provided on an "as is" basis with no representation, guarantee or agreement of any kind as to their functionality. The Bank cannot guarantee that no viruses or other contaminating or destructive properties will be transmitted or that no damage will occur to the FPS Customer's mobile device in relation to the use of the QR Code Services. The Bank is not responsible for any loss the FPS Customer may incur as a result of the FPS Customer's use of the QR Code Services.
  - (iii) **The FPS Customer understands and agrees that:**
    - (1) **The FPS Customer uses the QR Code Services at the FPS Customer's sole risk. To the maximum extent permitted by law, the Bank expressly disclaims all warranties and conditions of any kind, whether express or implied.**
    - (2) **The FPS Customer downloads or obtains any material or information through the use of the QR Code Services at the FPS Customer's sole risk and discretion. The FPS Customer is solely responsible for any damage to the FPS Customer's computer or any other device or loss of data resulting from downloading, obtaining or using such material or information.**
  - (iv) For the avoidance of doubt, nothing above is intended to exclude or restrict any condition, warranty, right or liability which may not be lawfully excluded or restricted.

## **12. DEBIT AUTHORIZATION**

Without prejudice to any other provisions of these Terms and Conditions or any other agreement between the Bank and the Customer, the Customer agrees that the Bank may debit to any Account all sums which the Customer is liable to pay to the Bank, whether under these Terms or Conditions or otherwise, including but not limited to sums paid or advanced by the Bank to the Customer together with all interest, charges, commissions, fees and costs or any reasonable expenses incurred by the Bank in relation to any Account.

## **13. COMPUTER AND MICROFILM BOOKS AND RECORDS**

The Customer agrees that items, books and records kept in digital or electronic form or on microfilm on computer discs or otherwise by the Bank shall constitute conclusive evidence of the Customer's dealings with the Bank unless :

- (a) the Bank failed to exercise reasonable skill and care in respect of any such items, books and records;
- (b) the contents of such items, books and records resulted from the forgery or fraud of any employee, agent or servant of the Bank; or
- (c) the contents of any such items, books and records resulted from the wilful default or gross negligence of the Bank or any of its employees, agents or servants.

The Bank may, if it sees fit, destroy any original items, documents or other original evidence of the Customer's dealings with the Bank after microfilming the same or converting them into digital or electronic form and storing them on computer discs.

## **14. NO CREATION OF THIRD PARTY RIGHTS**

The Customer shall not assign, pledge, mortgage, charge or otherwise encumber any right, title and/or interest to and in any Account without the prior written consent of the Bank.

## **15. RETENTION OF MONEY AND SET-OFF**

15.1 Without prejudice to any other provision of these Terms and Conditions or any other agreement between the Bank and the Customer, the Bank shall be at liberty to retain all monies, deposits and any interest accrued thereon in any Account or any part of such monies, deposits and interest, irrespective of whether such monies, deposits or interest are due for repayment to the Customer, if the Customer is or becomes indebted to the Bank, whether under these Terms or Conditions, any other agreement between the Bank and the Customer or otherwise.

15.2 Without prejudice to any other provision of these Terms and Conditions or any other agreement between the Bank and the Customer, the Bank may, at any time, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of the then existing Accounts opened in the name of the Customer (whether subject to notice or not, whether matured or not, whether held singly or jointly and whether in Hong Kong or with any other branch of the Bank in any other jurisdiction). The Bank may set-off or transfer any sum standing to the credit of any one or more such Accounts, whether in Hong Kong or with any other branch of the Bank in any other jurisdiction, in or towards satisfaction of any liabilities of the Customer, whether such liabilities be present or future, actual or contingent, primary or collateral, and several or joint. If such combination, consolidation, set-off or transfer requires the conversion of one currency into another, such conversion shall be made at the Bank's spot buying rate of exchange (as conclusively determined by the Bank, the details of which will be provided to the Customer upon request) for the currency for which the Customer is liable against the currency credited to the relevant Account. The Bank shall notify the Customer as soon as practicable after exercising its rights under this Clause 15.

## **16. INDEMNITY FROM CUSTOMER AND GENERAL LIABILITY OF BANK**

16.1 Without prejudice to any other provision of these Terms and Conditions or any other agreement between the Bank and the Customer, the Customer shall indemnify and keep the Bank indemnified against all reasonable losses, damages, costs (including legal fees and any interest or commission payments), proceedings, claims and demands which the Bank may reasonably suffer or incur as a result of any (i) transactions or contracts entered into, (ii) services provided, or (iii) payments made, actions taken or omitted to be taken or instructions acted upon at the Bank's reasonable discretion or at the direction of or with the consent of the Customer, in respect of any Account. The aforesaid indemnities shall apply whether or not the Customer makes applications, issues instructions or otherwise deals with the Bank on the Bank's standard form documents. The Customer shall immediately on demand pay in full any sums due to the Bank under any of these indemnities.

16.2 Neither the Bank, nor any of its directors, officers, employees or agents, shall be liable to the Customer for any expenses, losses or damage (direct or consequential) suffered by or occasioned to the Customer by reason of:

- (i) any act or omission by the Bank or any of its directors, officers, employees or agents other than as a result of the fraud, wilful default or gross negligence of the Bank or its directors, officers, employees or agents;
- (ii) the Bank's failure in good faith to honour any stop-payment instructions given by the Customer;
- (iii) the presentation to the Bank of any item which is post-dated or the loss or theft of any item sent through the post or which otherwise is not delivered to the Bank by the Customer in person;
- (iv) the Bank for any reason failing to honour any items drawn on it by the Customer, but the Bank shall immediately notify the Customer through the normal channels giving the reason for the dishonour;
- (v) unauthorised use or forgery of any signature of the Customer or an authorized signatory of the Customer as a result of the gross negligence, wilful default or fraud of the Customer;
- (vi) any act, omission or insolvency of any person not associated with the Bank;
- (vii) any malfunction of, or error in the transmission of information caused by, any electrical or mechanical machine or system or any interception of communication facilities, abnormal operating

conditions, labour difficulties, acts of God, or any similar or dissimilar causes beyond the reasonable control of the Bank;

(viii) notwithstanding Paragraph (vii), the error, failure, negligence, act or omission of any other person, system, institution or payment infrastructure;

(ix) the Bank failing to act upon any items or other instructions which are not signed using signatures conforming to those in the mandate and/or such other documents for the time being in effect in respect of any Accounts;

(x) the Bank acting on instructions or applications by, or otherwise dealing, with the Customer on any non-standard Bank form documentation;

(xi) any loss or destruction of cheques or delay in the presentation thereof in the absence of negligence on the part of the Bank or any loss or destruction of cheques or delay in presentation while the cheques are in the custody of any properly authorized third party through whom such cheques are presented for collection; and

(xii) any disposal or destruction of any paid cheques or other items, whether such disposal or destruction was made by the Bank, any collecting bank, HKICL or any other clearing bank.

(xiii) the exercise of any action or failure to act by the Bank or a member of the Group under Clause 23 (Tax Withholding and Compliance Provisions).

#### **17. LOSS OF SEAL ETC.**

If a seal or chop used for operating an Account is lost or if the Customer becomes aware that any Account may have been or may be about to be operated contrary to its instructions, the Customer shall immediately notify the Bank in writing. The Bank shall not be responsible for any withdrawal, transfer or other transaction upon the relevant Account made prior to its receipt of such written notice unless:

(a) the Bank failed to exercise reasonable skill and care;

(b) any unauthorized transaction arose from the forgery or fraud of any employee, agent or servant of the Bank; or

(c) any unauthorized transaction arose from the wilful default or gross negligence of the Bank or any of its employees, agents or servants.

#### **18. CHANGE OF CUSTOMER'S INFORMATION**

The Customer shall immediately notify the Bank in writing of any change in the Customer's personal particulars, address, telephone or facsimile number and any other details relating to the Customer or its Account(s). Such changes shall not be effective until duly entered in the Bank's records.

#### **19. CERTIFICATE CONCLUSIVE**

For all purposes, including any legal proceedings, a certificate by an authorized signatory of the Bank as to the sums and liabilities for the time being due or incurred to the Bank by the Customer shall, in the absence of manifest error or fraud or negligence of the Bank, be conclusive evidence thereof against the Customer.

#### **20. SUSPENSE ACCOUNT**

The Customer acknowledges and agrees that the Bank may place and keep any money received in connection with any Account(s) to the credit of a suspense account on such terms and for such period as the Bank may think fit.

#### **21. CUSTOMER INFORMATION AND PERSONAL DATA**

21.1 The Bank is authorized, if it so wishes, to obtain references in respect of the Customer from any person, including (if the Customer is an individual) an employer, and to obtain credit reports on the Customer, when considering whether to open an Account, to continue it, or to revise the facilities offered pursuant to it. The Bank shall not approach any proposed referee for the Customer unless the Customer has first confirmed to the Bank that the Customer has obtained the consent of such referee for his/her/its name to be used.

21.2 The Customer (if an individual) agrees that from time to time, he/she may (on request of the Bank or otherwise) provide to the Bank personal data as defined in the Personal Data (Privacy) Ordinance ("**PDPO**") and any other information. The Customer further agrees to be bound by the Bank's Circular to Customers relating to Data Protection Policy ("**Circular**") issued to the Customer from time to time.

21.3 The Customer (if a corporation) agrees to be bound by the Circular issued to the Customer from time to time and to the use of customer data in the manner specified in the Circular, and agrees that the provisions of the Circular shall apply generally to the Bank's treatment of customer data. If, in the course of dealings with the Bank, it is necessary for the Bank to have access to any data of any company in the Customer's group (including the Customer's holding company, subsidiary and affiliated company), the Customer represents that it already has the authorization of such company for disclosing such data to the Bank and it agrees to ensure that such company have read and understood the Circular. The Customer further agrees to ensure that all individual agents and staff members who, in the course of their dealings with the Bank, are or may be obliged to provide their personal data to the Bank have read and understood the Circular.

## **22. GENERAL UNDERTAKINGS FROM THE CUSTOMER**

22.1 Without prejudice to any other provision of these Terms and Conditions, the Customer shall (and if the Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, the Customer shall procure that its directors, officers, employees, authorised persons and representatives) ensure that its opening, use and operation of all Account(s) and its use of any other services provided by the Bank or the Group are in all respects in compliance with all Applicable Laws and Regulations to which the Customer may from time to time be subject.

### **22.2 Money Laundering Laws**

- (a) Without limiting the generality of Clause 22.1, the Customer shall (and if the Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, the Customer shall procure that its directors, officers, employees, authorised persons and representatives) ensure that its use of all Account(s) and any other services provided by the Bank or the Group are in all respects in compliance with all Money Laundering Laws and the Bank's own requirements in relation to its own compliance with Money Laundering Laws.
- (b) The Customer shall (and if the Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, the Customer shall procure that its directors, officers, employees, authorised persons and representatives) ensure that no action, suit or proceeding by or before any court or before any Authority or body or any arbitrator is brought or threatened against it with respect to Money Laundering Laws.

### **22.3 Sanctions**

- (a) Without limiting the generality of Clause 22.1, the Customer shall (and if the Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, the Customer shall procure that its directors, officers, employees, authorised persons and representatives) ensure that none of the funds maintained in, paid into or from any Account will, directly or indirectly, be used or paid for the purposes of any transaction or activity related to either:
  - (i) any person which is listed on an SDN List, or is owned or controlled, directly or indirectly, by any person listed on an SDN List;
  - (ii) any person that the Customer knows or has reasonable cause to suspect is acting on behalf of any of the above;

- (iii) an Authority or state-owned enterprise (or any entity owned or controlled by any of the foregoing) of any country which is the subject of sanctions by any Sanctioning Authority, even if located outside such country;
  - (iv) a person or entity who is otherwise the target of sanctions by any Sanctioning Authority such that the Bank cannot deal or otherwise engage in business transactions with such person or entity; or
  - (v) any country which is the subject of sanctions by any Sanctioning Authority.
- (b) Neither the Customer nor (where applicable) any of its affiliates, subsidiaries, associated entities, and any of their branches and offices, and the Customer's holding company and/or any of its affiliates, subsidiaries, associated entities, and any of their branches and offices shall engage in, directly or indirectly, any transaction or activity related to either:
- (i) any person which is listed on an SDN List, or is owned or controlled, directly or indirectly, by any person listed on an SDN List; or
  - (ii) any person that the Customer or (where applicable) its affiliates, subsidiaries, associated entities and holding company knows or has reasonable cause to suspect is acting on behalf of any of the above; or
  - (iii) any country which is the subject of sanctions by any Sanctioning Authority.
- (c) The Customer shall not engage in, directly or indirectly, any conduct which might reasonably be expected to cause it to become a subject of sanctions by any Sanctioning Authority.

22.4 Without limiting the generality of Clause 22.1, the Customer shall (and if the Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, the Customer shall procure that its directors, officers, employees, authorised persons and representatives) ensure that the Customer has conducted its business in compliance with the applicable anti-corruption laws and regulations and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws and regulations.

22.5 Without limiting the generality of Clause 22.1, the Customer (and if the Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, the Customer shall procure that its directors, officers, employees, authorised persons and representatives) shall not do or authorise anything, cause anything to be done or otherwise attempt to do anything in the course of the opening, use, maintenance and operation of any of the Account(s) and in any transactions or activities involving any of the Account(s) which may circumvent, disable, damage or otherwise interfere with any system, coding, programmes or other methodologies or features put in place by the Bank for the purposes of monitoring, checking or otherwise examining transactions and activities on the Account(s), including without limitation for the purpose of its compliance with all Applicable Laws and Regulations (including Money Laundering Laws) and Regulatory Requirements.

**22.6 Without prejudice to any provisions of these Terms and Conditions or any other agreement between the Bank and the Customer, the Bank reserves the right not to accept or process, to delay, or otherwise to reject any instruction given by the Customer and, where the Bank considers appropriate and to the extent permitted by law, close the Customer's Account(s), without giving any reason, including without limitation if the Bank is of the opinion that:**

- (a) the Customer or (where applicable) any of its affiliates, subsidiaries, associated entities, and any of their branches and offices, and the Customer's holding company and/or any of its affiliates, subsidiaries, associated entities, and any of their branches and offices is, alleged or suspected to be in breach of any of the Applicable Laws and Regulations, including without limitation the Money Laundering Laws, anti-corruption laws or any of the provisions of Clause 22.3; or**
- (b) the Bank, in maintaining every Account, processing an instruction of the Customer, or otherwise providing services to the Customer, may breach any of the Applicable Laws and Regulations, including without limitation any Money Laundering Laws, or any applicable anti-corruption laws and regulations and the sanctions laws and regulations of a Sanctioning**

**Authority, or any of the applicable guidelines, policies, standards of the Bank effective from time to time, including without limitation those related to anti-money laundering, counter-terrorist financing and sanctions; or**

- (c) **an instruction given by the Customer fails to satisfy any checks, standards, screening, reviews or controls relating to anti-money laundering, counter-terrorist financing and sanctions that may be imposed by the Bank from time to time.**

## **23. TAX WITHHOLDING AND COMPLIANCE PROVISIONS**

23.1 The Customer must provide the Bank with his/her/its Personal Information, and where reasonably required by the Bank the Personal Information of any other Connected Person, in such form and within such time as the Bank may from time to time require. When there is a change or addition to their Personal Information, or to that of any Connected Person, the Customer must update the Bank promptly (and in any event no later than 30 days from the date of the change or addition) of the change or addition. The Customer must complete and sign such forms and documents and consent to reporting (and procure such signed forms, documents, and consents from any Connected Person) as the Bank may reasonably require from time to time for purposes of compliance with Applicable Laws and Regulations.

23.2 The Customer agrees that the Bank and any member of the Group may disclose the Customer's Tax Information and the Tax Information of any other Connected Person to any Authority in any jurisdiction for the purpose of ensuring the Bank's compliance with Applicable Laws and Regulations. **The Customer hereby waives, and where reasonably required by the Bank agrees to procure any other Connected Person to waive, any applicable restrictions that would otherwise but for this waiver hinder or restrict the Bank or any member of the Group from disclosing Tax Information in the manner described in this Clause.**

23.3 The Customer agrees that:

- (i) where the Customer fails to comply with his/her/its obligations under Clause 23.1 or 23.2 of this Clause titled Tax Withholding and Compliance Provision, or
- (ii) where any other Connected Person fails to comply with the Bank's requirements described in this Clause; or
- (iii) where the Personal Information (regardless of whether the Personal Information relates to the Customer or a Connected Person) the Customer provided is inaccurate, incomplete, or not promptly corrected or updated; or
- (iv) the Bank or any other member of the Group is prevented (under Hong Kong law or otherwise) from making disclosure of the Customer's Tax Information to the relevant Authority as may be required by Applicable Laws and Regulations;

the Bank may take one or more of the following actions at any time:

- (i) deduct from or withhold part of any amounts payable to the Customer;
- (ii) terminate the Customer's Account or service and discontinue entirely or in part the relationship with the Customer;
- (iii) provide (whether before or after the termination of the Customer's Account) Tax Information relating to the Customer or any Connected Person to such Authority in any jurisdiction; as may be required for the Bank to ensure compliance with Applicable Laws and Regulations.

23.4 The Customer confirms and agrees that:

- (i) without prejudice to the Customer's agreement to be bound by the terms of these Terms and Conditions, the Customer confirms he/she/it has read this Clause "Tax Withholding and Compliance Provisions", has received adequate explanation from the Bank (or the Customer's broker, lawyer, or tax adviser, as applicable), and understands the implications of this Clause "Tax Withholding and Compliance Provisions" by which the Customer irrevocably agrees to be bound;
- (ii) any agreement, waiver, confirmations given in or to be given pursuant to this Clause "Tax Withholding and Compliance Provisions" are irrevocable;
- (iii) no member of the Group, including the Bank, shall be liable for any costs or loss that the Customer or any Connected Person may incur because of the Bank or a member of the Group taking any actions permitted by or exercising any powers under this section "Tax Withholding and Compliance Provisions";
- (iv) the amount (if any) payable by any member of the Group where a member of the Group exercises its right to terminate the Account or service under this section "Tax Withholding and Compliance Provisions" may differ from the amount payable where the account is otherwise terminated by the Customer or the Bank pursuant to other provisions of these Terms and Conditions; and
- (v) this Clause "Tax Withholding and Compliance Provisions" is without prejudice, and in addition, to the Bank's rights or powers under any other provision of these Terms and Conditions; and
- (vi) to the extent not otherwise prohibited by law, the Bank may disclose any and all information related to any Account to any government or tax authority (whether within or outside of Hong Kong) and whether before or after exercise of a termination right under these Terms and Conditions by the Bank.

#### **24. JOINT ACCOUNTS**

If the Customer is constituted by more than one person:

- (a) the obligations and liabilities of those persons to the Bank in connection with any Account shall be joint and several;
- (b) the Bank shall be entitled to act upon any request or instructions received from one or more such persons if such request or instruction is in accordance with the authorized signing arrangement established pursuant to the Customer's mandate;
- (c) subject to paragraph (d) below, the Customer authorizes the Bank to hold on the death of any of the persons constituting the Customer any credit balance in any Account and the securities and property of any description held in joint names to the order of the survivor(s) or the executors or



administrators of the last survivor of the Customer subject to any claim or objection on the part of any competent authority, but without prejudice to (i) any right the Bank may have in respect of such balance, securities or property arising out of any mortgage, lien, charge, pledge, right of set-off, counterclaim or otherwise and (ii) any legal proceedings which the Bank may see fit to take in view of any claim by any person other than the survivor(s) or the executors or administrators of the last survivor of the Customer PROVIDED HOWEVER that the Bank may on the death of one or more of the persons constituting the Customer freeze all or any of such persons' Accounts with the Bank and/or any of their securities, properties, deeds or documents deposited with the Bank and hold the same to the order of the survivor(s) only after the relevant probate/letters of administration shall have been granted and lodged with the Bank.

(d) if any one or more of the persons constituting the Customer dies, any request or instruction issued by the Customer which is in accordance with the authorized signing arrangements and received and acted on by the Bank before notice in writing of such death shall have been received by the Bank shall be binding upon the Customer and each of the persons constituting the Customer and their respective executors, administrators, successors and all other persons claiming from or under the Bank; upon receipt by the Bank of notice in writing of such death, the provisions of Clause 24(c) shall apply;

(e) the Bank may at any time, apply all or part of the funds standing to the credit of any other Account (whether a joint account or an individual account) in the name of any person constituting the Customer with the Bank in or towards discharging any liabilities of any such person to the Bank;

(f) the Bank shall be entitled to deal separately with any person constituting the Customer on any matter, including the discharge of any liability to any extent without affecting the liability of any other such person;

(g) in the absence of written instructions to the contrary, if an Account is maintained in joint names, each person constituting the Customer shall be entitled to operate and authorize closure of the Account individually and independently from the other(s); if, prior to acting on instructions received from one such person, the Bank receives contradictory instructions from another such person, it shall act thereafter only on the instructions of all persons constituting the Customer;

(h) any notice to any one person constituting the Customer will be deemed effective notification to all such persons;

(i) references to the Customer shall be construed, as the context requires, to any or all such persons.

## **25. DEBT COLLECTION**

If the Customer fails to pay any sum due to the Bank, the Bank may appoint a debt collection agency to collect it. The Customer shall indemnify the Bank against all fees and expenses reasonably and properly incurred by the Bank, including, but not limited to, legal fees and debt collection agents' fees, in connection with demanding, collecting or suing to recover any sum payable by the Customer or other remedies resulting from the breach of any of these Terms and Conditions or any other agreement with the Bank. The Bank shall comply in all respects with the Code of Banking Practice in force from time to time in relation to collection of debts.

## **26. NOTICES**

26.1 Without prejudice to any other provisions of these Terms and Conditions, any notice issued by the Bank shall be deemed to have been validly served if addressed to the Customer at the address for notices notified to the Bank in writing by the Customer from time to time or which appears in the Bank's records as the Customer's last known address. Any notice delivered personally shall be deemed to have been validly served at time of delivery. Any notice dispatched by letter postage prepaid shall be deemed to have been validly served immediately after posting, its return by the post office notwithstanding. Any notice sent by telex or by facsimile shall be deemed to have been validly served at the time of transmission.

26.2 Any notice to the Bank shall be in writing and duly signed by or on behalf of the Customer using the specimen signature(s) in its current mandate and/or such other documents prescribed by the Bank and for the time being in effect in respect of the relevant Accounts. Notices from the Customers shall be addressed and delivered to the Bank at its principal place of business or such other offices or branches in Hong Kong for the time being selected by the Bank and notified to the Customer and shall be deemed to have been received only upon actual receipt by the Bank.

**27. BUSINESS HOURS**

The business hours of the Bank may be extended or otherwise revised by the Bank in accordance with its business requirements. A notice posted in its branch offices shall constitute written notice to the Customer of such change. All business transacted within the extended or revised period shall be considered as having been transacted during normal business hours in the ordinary course of business.

**28. DOLLAR AND SUBSIDIARY CURRENCY NOTES ORDINANCE**

Following the order made in October 1995 by the Financial Secretary under Section 7 of the Dollar and Subsidiary Currency Notes Ordinance (Chapter 67 of the Laws of Hong Kong) demonetizing the one cent note, all transactions in cash between the Bank and the Customer or any other person dealing with the Bank shall be settled by rounding the amount down to the extent necessary to the nearest integral multiple of ten cents. The Bank or, as the case may be, the Customer or such other person shall receive a full discharge by the payment in cash of the rounded-down amount for the amount of the obligation sought to be discharged including any odd cents which are not, by virtue of the rounding-down, paid. This shall not affect the transactions by cheque or other means of payment which may still include amounts in respect of odd cents.

**29. AMENDMENTS**

The Bank may amend these Terms and Conditions at any time, subject to giving the Customer 30 days' prior notice (unless such amendment is not within the Bank's control) of the relevant amendment. If the Bank, in its reasonable opinion, considers that it is not practicable to notify the Customer by written notice, notice under this clause shall be deemed to be duly given to the Customer by displaying such notice at its branch offices for 30 consecutive days.

**30. MISCELLANEOUS**

30.1 All transactions in relation to Accounts or otherwise with the Bank (whether or not also governed by these Terms and Conditions) shall be effected by means of the applicable transaction forms provided by the Bank for such purpose or in such other manner as the Bank may reasonably require. The Customer shall be deemed to be bound by terms and conditions imposed by the Bank in respect of such transactions whether appearing on relevant forms or not and whether or not the relevant forms or other documents required by the Bank are completed and/or signed by the Customer.

30.2 Without prejudice to any other provision of these Terms and Conditions, the Bank shall be entitled to charge reasonable service and handling fees and charges in respect of all banking services provided to the Customer and functions carried out for the Customer during the course of its banking relationship with the Customer. Details of these fees and charges are available on request and are displayed at all branch offices of the Bank.

30.3 Unless the context otherwise requires, references to the Customer shall, if the Customer is a sole proprietorship, include the sole proprietor and his/her successors in the business and, if the Customer is a partnership, include all the partners from time to time of the partnership and the successors to such partnership business. These Terms and Conditions shall be binding on the Customer and the Customer's successors notwithstanding any change in the constitution of the Customer or any such successors and, without limiting the foregoing, shall not be terminated or affected by the death or retirement of any parties or by any other change in the composition of any firm as aforesaid.

30.4 Any forbearance or delay by the Bank in exercising any right or remedy shall not be deemed to be a waiver of such right or remedy, and any single or partial exercise of any right or remedy shall not preclude further exercise thereof. No course of dealing between the Customer and the Bank nor any waiver in any one or more instances shall be deemed a waiver in any other instance. The Bank's rights and remedies shall continue in full force and effect until they are specifically amended or waived in writing by the Bank.

30.5 Any provision in these Terms and Conditions which is invalid shall be ineffective only to the extent of such invalidity and shall not affect the validity of the remaining Terms and Conditions.

30.6 If the Customer is at any time required to provide the Bank with copy documents whilst it is a customer of the Bank, the Customer agrees that it shall if so requested by the Bank furnish relevant copies certified by such person as may be specifically designated by the Bank for the purposes of complying with its regulator's customer due diligence rules.

### **31. ASSIGNMENT**

31.1 These Terms and Conditions are for the benefit of the Bank and its successors and assignees, notwithstanding any change by way of merger, amalgamation, consolidation or otherwise in the constitution of the Bank or any such successors or assignees. The Customer confirms and agrees, in advance, that the Bank may assign or otherwise transfer any of its (i) rights and/or (ii) obligations under these Terms and Conditions and any related transactions and/or in or under any securities, deeds, documents and properties over which it has a security interest and may deliver the same to the successor(s), assignee(s) or transferee(s), who shall become vested with all the rights and/or obligations formerly vested in the Bank. The Bank shall be released from any liability in respect of those rights and/or obligations.

31.2 The Customer shall not assign or transfer any of its rights under these Terms and Conditions or any contracts or transactions effected under them.

### **32. RIGHTS OF THIRD PARTIES**

Unless expressly provided to the contrary in these Terms and Conditions (such as (but not limited to) in Clauses 11 and 22), a person who is not a party to these Terms and Conditions has no rights under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce or to enjoy the benefit of any term of these Terms and Conditions. Notwithstanding any provision of these Terms and Conditions to the contrary or otherwise, the consent of any person who is not a party to these Terms and Conditions is not required to rescind or vary any provision of these Terms and Conditions at any time.

### **33. CONFLICT**

If there shall be any conflict between these Terms and Conditions and any other terms and conditions governing services, facilities and products of the Bank and general descriptive information about the Bank's services which specifically concern the Code of Banking Practice endorsed by the Hong Kong Monetary Authority (as amended from time to time), these Terms and Conditions shall prevail.

### **34. GOVERNING LAW**

These Terms and Conditions shall be governed by and construed in accordance with the laws of Hong Kong and the parties agree to submit to the non-exclusive jurisdiction of the courts of Hong Kong in connection with any suit, action or proceeding arising out of or in connection with these Terms and Conditions.