

**The Bank of East Asia, Limited**

**SupremeGold Account/**

**Supreme Account/**

**BEA GOAL/**

**i-Account**

**Terms and Conditions**

# **SUPREMEGOLD ACCOUNT/ SUPREME ACCOUNT/ BEA GOAL/ I-ACCOUNT TERMS AND CONDITIONS**

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In consideration of The Bank of East Asia, Limited agreeing to open and continue to maintain certain account(s) or provide certain of its services, I/we (the "Customer") hereby understand and agree that the following terms and conditions (the "Terms"), which comprise the General Terms and Conditions and the Bank Product and Service Conditions shall apply to the Account and the Services and shall be binding on the Customer.

## **A. General Terms and Conditions**

### **1. Definitions and Interpretation**

In the Terms and all supplements thereto, the following terms shall, except where the context requires otherwise, have the following meanings:

- (1) **"Account"** means any SupremeGold Account, Supreme Account, BEA GOAL or i-Account (as the case may be) and all other accounts the Customer opens with BEA;
- (2) **"Agent"** means any person appointed by BEA;
- (3) **"Application Form"** means the account opening application form prescribed by the Bank from time to time for the purpose of requesting and authorising the Bank to open an Account;
- (4) **"Applicable Percentage"** means such percentage or percentages from time to time specified by the Bank at its discretion to be applicable to each individual type of Securities and notified to the Customer for the purpose of Clause 9 of the General Terms and Conditions;
- (5) **"Asset Linked Deposit"** means a Linked Deposit made under the Terms where the Underlying is an asset or assets other than currency, index and shares;
- (6) **"Authorised Person"** means the person authorised by the Customer to give Instructions in relation to the Account to BEA, as notified (together with specimen signatures) to it from time to time in such manner as it may require, and if more than one, any one of them;
- (7) **"Bank Nominee"** means The Bank of East Asia (Nominees) Limited or such other person appointed by the Bank as the Customer's nominee at its discretion from time to time;
- (8) **"BEA" or "the Bank"** means The Bank of East Asia, Limited, a company incorporated in Hong Kong and whose registered office is at 10 Des Voeux Road Central, Hong Kong, and a registered institution under the Securities and Futures Ordinance with C.E. Number: AAJ165, including its successors and assigns;
- (9) **"BEA GOAL"** means the account comprising the Sub-accounts in the name of the Customer designated as such opened, operated and maintained in accordance with the Terms;
- (10) **"Broker"** means any stock broker, underwriter, dealer, management company, trustee or agent selected by the Bank for performing or implementing any Instruction;
- (11) **"Business Day"** save as the Bank may otherwise notify the Customer for any particular purpose, means a day on which commercial banks are open for business in Hong Kong and, in the case of a Currency Linked Deposit, the major financial centres in the country where the Underlying is legal tender, and in the case of Unit Trust Investment Services, Saturdays will not be a Business Day;
- (12) **"Card"** means such card(s) related to the Account(s) issued by BEA to the Customer by which the Customer can access, through Automated Teller

Machines/point of sales terminals, such of the Sub-account(s) and other accounts as BEA may permit;

- (13) **"Charged Securities"** means such Securities and Unit Trusts of the Customer charged to the Bank as continuing security for the Credit Facilities and for performance of all obligations of the Customer to the Bank from time to time hereunder, as more particularly described in Clause 9.3 of the General Terms and Conditions;
- (14) **"Collateral"** means any asset acceptable to BEA and held by BEA as security for the obligations of the Customer;
- (15) **"Confirmation"** in respect of a Linked Deposit, means a confirmation relating to that deposit confirming the terms of that Linked Deposit;
- (16) **"Coupon Amount"** in respect of a Linked Deposit, means the amount specified as such in the Confirmation relating to that Linked Deposit;
- (17) **"Coupon Rate"** in respect of a Linked Deposit, means the rate of interest per annum specified in the Confirmation relating to that Linked Deposit;
- (18) **"Credit Facilities"** means the credit facilities agreed to be made available from time to time by the Bank to the Customer subject to the provisions herein, and in particular the specific terms set out in the facility letter issued by the Bank to the Customer in connection with the same;
- (19) **"Currency Linked Deposit"** means a Linked Deposit made under the Terms where the Underlying is a currency or currencies;
- (20) **"Custody Services"** means the services to be provided by BEA to the Customer in relation to or in connection with the holding or arranging for the Customer's assets in safe custody pursuant to and under the Terms;
- (21) **"BEA Online"** means such services including BEA Mobile offered by the Bank over different electronic delivery channels including but not limited to the Internet, mobile devices, fixed line telephone networks, Automatic Teller Machines, and such other channels as announced by the Bank as available from time to time;
- (22) **"Delivery Amount"** means:
  - (i) in relation to an Equity Linked Deposit, the number of shares specified as such in the relevant Confirmation;
  - (ii) in relation to a Currency Linked Deposit, the amount of currency specified as such in the relevant Confirmation;
  - (iii) in relation to an Index Linked Deposit, the amount of currency or asset specified as such in the relevant Confirmation; and
  - (iv) in relation to an Asset Linked Deposit, the amount of asset specified as such in the relevant Confirmation;
- (23) **"Deposit Amount"** in respect of a Linked Deposit, means the amount specified as such in the Confirmation relating to that Linked Deposit;
- (24) **"Derivative Assets"** means, in relation to any Charged Securities, all interests, stocks, shares or other securities, dividends, payments, distribution rights, other property and all other rights at any time paid, accruing, offered or issued at any time by way of bonus, redemption, exchange, purchase, substitution, conversion, preference, option or otherwise which derive from, attach to, are incidental to or are in respect of such Charged Securities;
- (25) **"Designated Service"** means the service provided by the Bank in BEA Online from time to time which allows the Customer to access the information of the Designated Service Account and give Instructions with regard to such services according to the procedures and rules as prescribed by the Bank from time to time;

- (26) **"Designated Service Account"** means any account held by the Customer and maintained with the Bank, which is related to a Designated Service being utilised by the Customer, and is nominated by the Customer to the Bank as such and accepted by the Bank from time to time to be the subject of BEA Online;
- (27) **"Determination Date"** in respect of a Linked Deposit, means the date specified as such in the Confirmation relating to that Linked Deposit, subject to adjustment in accordance with the Terms;
- (28) **"Eligible Securities"** means such Securities from time to time specified by the Bank and notified to the Customer;
- (29) **"Encumbrance"** means (i) a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person, (ii) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person or (iii) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect;
- (30) **"Equity Linked Deposit"** means a Linked Deposit made under the Terms where the Underlying is a share or shares;
- (31) **"Exchange Business Day"** means a day on which the Relevant Exchange is open for business;
- (32) **"Exchange Rate"** means the rate for converting one currency into another currency which BEA determines to be prevailing in the relevant foreign exchange market at the relevant time, such determination to be conclusive and binding on the Customer;
- (33) **"Fixing Value"** in respect of a Linked Deposit, means the price, rate or level specified as such in the Confirmation relating to that Linked Deposit;
- (34) **"Foreign Exchange Services"** means the services to be provided by BEA to the Customer in relation to or in connection with the trading of foreign currencies available on a spot, forward or other basis pursuant to and under the Terms;
- (35) **"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;
- (36) **"HKD"** means Hong Kong dollars;
- (37) **"i-Account"** (previously known as "The Bank of East Asia Cyberbanking i-Account") means the account comprising the Sub-accounts in the name of the Customer designated as such opened, operated and maintained in accordance with the Terms;
- (38) **"Index Linked Deposit"** means a Linked Deposit made under the Terms where the Underlying is an index or indices;
- (39) **"Instruction"** means (i) any instruction given by or on behalf of the Customer to the Bank to sell, redeem, purchase, subscribe, hold, withdraw or otherwise deal in Linked Deposit, Securities or Unit Trusts, foreign exchange or spot gold margin or to effect any other transactions pursuant to the terms hereof; (ii) instruction given through various electronic delivery channels; (iii) instruction given through ATM/POST by the use of the Card; (iv) instruction given through BEA Online; or (v) any instruction given through BEA Mobile, or (vi) verbal or written or facsimile instruction given in such form and delivered or transmitted to BEA by such means as BEA may prescribe, in each case subject to the applicable minimum and/or maximum amounts as may be prescribed by BEA from time to time in respect of any particular type of instruction;

- (40) **"Investments"** means the Customer's investments including, without limitation, all Linked Deposits established by the Customer, all Securities, assets and credit balances in all Accounts retained by, under the control of or charged in favour of BEA or its Agents from time to time;
- (41) **"Linked Deposit"** means an Equity Linked Deposit, a Currency Linked Deposit, an Index Linked Deposit, an Asset Linked Deposit or other linked deposits;
- (42) **"Losses"** means actions, proceeding, losses, damages, liabilities, claims demands, costs and expenses (including legal fees) which may be suffered or incurred by BEA and/or its directors, officers, employees, agents, nominees and correspondents (collectively "Related Parties") arising from, relating to or incidental to the operation or maintenance of the Accounts and/or provision of Services pursuant to the Terms;
- (43) **"Market Value"** means in respect of any individual Securities in the Securities Account at any given time, the market price (net of expenses) which the Bank determines in its discretion, could be obtained on a sale of such Securities at such time and in such market on which Securities of the same type are normally dealt;
- (44) **"Maturity Date"** in respect of a Linked Deposit, means the date specified as such in the Confirmation relating to that Linked Deposit, subject to adjustment in accordance with the Terms;
- (45) **"Minimum Aggregate Deposit Amount"** in respect of a Linked Deposit means the amount determined by the Bank as such and notified to the Customer;
- (46) **"OD Protection"** means any overdraft protection facility which the Bank may make available to the Customer from time to time in accordance with the Terms;
- (47) **"Outstanding Indebtedness"** means the aggregate principal amount and interest thereon owing to the Bank under the Credit Facilities at any relevant time;
- (48) **"Payable Amount"** shall have the meaning ascribed thereto in Clause 7.20 of the Bank Product and Service Conditions;
- (49) **"Paying Bank"** means the account holding bank of the accounts, from which the funds are debited in the interbank fund transfers transaction;
- (50) **"Person"** includes an individual, sole proprietorship, partnership, trust, corporation and an unincorporated body of persons;
- (51) **"PIN"** means the number designated by BEA and used by the Customer to authenticate the access to the individual electronic delivery channels of BEA Online and subsequent to any change in PIN via BEA Online or BEA Mobile, or performed by the Customer using the Card over an ATM machine of BEA, any code designated and used by the Customer from time to time to access the service;
- (52) **"Receiving Bank"** means the account holding bank of the accounts, to which the funds are deposited in the interbank fund transfers transaction;
- (53) **"Registered Payee"** means any payee (which may be the Customer or a third person) nominated by the Customer as such to the Bank and stated in the Application Form or subsequently through written instruction(s), online registration(s) or other methods as prescribed by and accepted by the Bank from time to time to be the subject of BEA Online with such account details or identifiers as may be acceptable to the Bank provided that the Bank may at its option, cancel or suspend the provision of BEA Online in respect of any of the Registered Payee(s);

- (54) **"Related Account"** means any account held by the Customer and maintained with the Bank, which is nominated by the Customer as such to the Bank and stated in the Application Form or subsequently through written instruction(s), online registration(s) or other methods as prescribed by and accepted by the Bank from time to time to be the subject of BEA Online provided that the Bank may at its option, cancel or suspend the provision of BEA Online in respect of any of the Related Account(s);
- (55) **"Relevant Exchange"** in relation to an Equity Linked Deposit, means an exchange on which the Underlying is traded, and in relation to an Index Linked Deposit, means the exchange on which all the constituent components of the Underlying is traded;
- (56) **"Securities"** includes shares, stocks, debentures, loan stocks, bonds, notes or other similar instruments of any kind whatever, of or issued by, any body, whether incorporated or unincorporated, or of any government or authority and includes any right, option or interest in or over any of the foregoing as well as certificates of interest or participation in, or temporary or interim certificates for, receipts for, or warrants to subscribe to or purchase, any of the foregoing, the scope of which may be determined by the Bank from time to time at its discretion;
- (57) **"Securities Account"** means any account opened in the name of the Customer in accordance with the Customer's instructions for the purpose of holding any Securities and may be designated by reference to the types of Securities comprised in that account;
- (58) **"Securities Investment Services"** means the services to be provided by the Bank to the Customer in relation to or in connection with the sale and purchase of Securities pursuant to and under the Terms;
- (59) **"Security Value"** in respect of any Eligible Security means its Market Value multiplied by its Applicable Percentage;
- (60) **"Services"** means any and all banking, investment, credit, insurance or other facilities, products or services granted or provided by BEA to the Customer pursuant to the Terms from time to time;
- (61) **"Settlement Account"** means the account opened and maintained by the Customer with the Bank as may be designated by the Customer and agreed by the Bank as such, the account number of which as at the date hereof is stated in the Application Form;
- (62) **"Settlement Date"** in respect of a Linked Deposit, means the date specified as such in the Confirmation relating to that Linked Deposit;
- (63) [Intentionally left blank.];
- (64) **"Sub-accounts"** means any one or more of the following accounts comprised in the Account, i.e., HKD Current Account, Statement Savings Account, Time Deposit Account, USD Current Account, Securities Account, Linked Deposit Account and such other types of accounts as BEA may from time to time introduce;
- (65) **"Supreme Account"** (previously known as "East Asia Supreme Account") means the account comprising the Sub-accounts in the name of the Customer designated as such opened, operated and maintained in accordance with the Terms;
- (66) **"SupremeGold Account"** means the account comprising the Sub-accounts in the name of the Customer designated as such opened, operated and maintained in accordance with the Terms;
- (67) **"Third Party Account"** means the deposit account accommodated with the Receiving Bank held by the third party in case of an interbank fund transfer Transaction;



- (68) **"Trade Date"** in relation to any Linked Deposit means the date on which a binding contract is entered into in respect of such Linked Deposit pursuant to Clause 11.1(a) of the Bank Product and Service Conditions;
- (69) **"Transaction"** means a transaction effected by BEA pursuant to or as a result of an Instruction;
- (70) **"Top-up Call"** shall have the meaning ascribed thereto in Clause 9.4(a) of the General Terms and Conditions;
- (71) **"Underlying"** in respect of a Linked Deposit, means the share or shares, currency or currencies, index or indices or other asset or assets specified as such in the relevant Confirmation;
- (72) **"Unit Trust"** means a unit or share in unit trusts, mutual fund corporations or other collective investment schemes and "Unit Trusts" shall be construed accordingly;
- (73) **"Unit Trusts Investment Services"** means the services to be provided by the Bank to the Customer in relation to or in connection with the subscription, redemption and other dealings of Unit Trusts pursuant to and under the Terms;
- (74) **"USD"** means United States dollar;
- (75) in the Terms, words importing the singular include the plural and vice versa, words importing any gender include both genders and references to persons include bodies corporate or unincorporated;
- (76) any document is a reference to that document as modified from time to time;
- (77) where the Underlying consists of two or more shares, two or more currencies, two or more indices or two or more other assets, unless the context otherwise requires, references to the Underlying shall mean any one of those shares, currencies, indices or other assets, as the case may be;
- (78) the headings in the Terms do not affect its interpretation.

## 2. Availability of Services

SupremeGold Account, Supreme Account, BEA GOAL and i-Account are all-in-one accounts targeted at customers maintaining different levels of portfolios with the Bank and the Bank shall be entitled to prescribe the minimum balance requirements maintained in the Account in order to maintain the account status. If the Customer fails to maintain the minimum balance requirement, the Bank may at its discretion switch the Account from one type of account to another provided a one-month prior written notice will be given to the Customer. In case the Account is switched from one type of account to another pursuant to this clause, the account number of the Account will remain the same, but the monthly statement of the Account will be changed such that it will bear the name of the updated type of account. All the applicable terms and conditions provided herein, the bank charges, privileges and services applicable to the Account will be changed accordingly.

- 2.1 At the request of the Customer, BEA may, from time to time, at its sole discretion, provide or arrange the following Services to the Customer subject to prior arrangement, and upon the provisions contained herein:
  - (a) opening, operating and closing any Account of any nature and any Sub-account thereof;
  - (b) custody services;
  - (c) depository services;
  - (d) credit facilities services;

- (e) securities investment services;
- (f) unit trusts investment services;
- (g) foreign exchange trading services;
- (h) currency/indices/equity/asset linked deposit services;
- (i) non-discretionary investment services;
- (j) e-Cheques Services;
- (k) derivatives and such other services as the Customer and BEA may agree from time to time.

- 2.2 The Customer requests and authorises BEA to provide from time to time information on Services which BEA determines may meet the Customer's investment objectives set out in the Client Information Statement attached to the Application Form and which may from time to time be notified (and/or revised) by the Customer to BEA in writing.
- 2.3 For Credit Facilities services, BEA will (in its sole discretion thinks fit) notify the Customer of the availability of such services and offer such services to the Customer provided always that the Customer shall have satisfied all conditions precedent prescribed by BEA, including without limitation the provision of sufficient Collateral as determined by BEA.
- 2.4 For other new Services as BEA may introduce from time to time, BEA may require additional documentation to be executed by the Customer before such services may be available.
- 2.5 The Customer agrees that the issuance and presentation of e-Cheques shall be subject to the Rules and Regulations for e-Cheques Services prescribed by BEA from time to time.

### **3. New Products and Services**

BEA and its Agent may introduce and provide new Services from time to time and notify the terms and conditions governing as such to the Customer. The Terms, insofar as they are not inconsistent with the terms and conditions for the new Services, shall apply to such new Services and be binding on the Customer. In the event of any conflict between the two, the terms and conditions for the new Services will (unless BEA in its sole discretion otherwise thinks fit in any particular case) prevail.

### **4. Customer's Instructions**

- 4.1 Subject to the provisions contained in the Terms, BEA is authorised to act on the Instructions in relation to any Account given by the Customer (or in the case of joint accounts, any one of the persons comprising the Customer) or by any one of the Authorised Person(s).
- 4.2 All Instructions given in writing or transmitted by facsimile must be in accordance with the Terms and must bear signature which, in BEA's sole opinion, corresponds to that of the Customer's specimen in the record of BEA.
- 4.3 Any Instruction, once given, may not be withdrawn by the Customer without the written consent of BEA. All Instructions which are understood and acted on by BEA in good faith, shall be binding on the Customer. BEA shall be under no duty to inquire into the authenticity of any Instructions or the identity or authority of the person giving or purporting to give any Instructions.
- 4.4 BEA may treat all Instructions given as fully authorised and binding on the Customer regardless of the circumstances prevailing at the time of the Instructions being given or the nature or amount of the transaction and notwithstanding any error, misunderstanding, lack of clarity, errors in

transmission, fraud, forgery or lack of authority in relation to the Instructions. The Customer agrees that he is under an express duty to BEA to prevent any fraudulent, forged or unauthorised Instructions being given.

- 4.5 BEA may at all times and from time to time in its sole discretion without having to state the grounds for such refusal and without any liability whatsoever, refuse to act upon any Instructions or such part thereof as BEA thinks appropriate.
- 4.6 In the event that BEA receives an Instruction that BEA considers to be inconsistent with any previous Instruction which has not been executed, BEA may, at its sole and absolute discretion, refuse to act on either of such Instructions unless and until either one of such Instructions has been revoked or withdrawn to the satisfaction of BEA.
- 4.7 The Customer understands and agrees that the one-time password (OTP) for verifying transactions through BEA Online will be sent by short message service ("SMS") to the mobile phone number registered by the Customer for such purpose or, if no such number has been registered, to the last known mobile phone number of the Customer in the record of the Bank.

## **5. Authorisation and Indemnity of Telephone, Facsimile and Telex Instructions (applicable to SupremeGold Account only)**

- 5.1 Notwithstanding that the relevant mandate may provide otherwise, BEA is authorised to act on any oral instruction given, or purported to be given by the Customer or any Authorised Person, using the Card, over the telephone, by facsimile or such other electronic or telecommunication means as may be acceptable to BEA and notified to the Customer. Instruction given by telephone or other electronic means mean instructions given by a person who can (i) quote the account number of the Account; (ii) if required by BEA, quote the personal identification number(s) assigned by BEA to the Customer or any of the Authorised Persons of the Account (each a "PIN"); (iii) if required by BEA, quote such security code (including one-time password sent by SMS and security code generated by the i-Token Service of BEA) of the Customer or of any Authorised Persons; and (iv) produce or quote such other information as may be requested by BEA. Facsimile Instructions may only be made in such manner as may be prescribed by the Bank and notified to the Customer from time to time.
- 5.2 Instructions given pursuant to Clause 5.1 of the General Terms and Conditions or Instructions given by other means of communication acceptable to BEA are sent entirely at the Customer's own risk and the Customer hereby undertakes to indemnify BEA at all times against all Losses which may be brought up by any mistake or omission or misinterpretation in any event.
- 5.3 BEA may at its discretion record telephone Instructions by writing and/or tape recording and/or any other method, and BEA may deem the recording of such Instructions as conclusive and binding evidence of the same as against the Customer. BEA shall not be held liable for the execution of Instructions by telephone, facsimile or other electronic means given by any unauthorised person of the Account.
- 5.4 For all telephone Instructions, BEA may (but shall not be obliged to) require any proof of identity. In case of Instructions given by facsimile or other electronic means, the name and/or number of the Account, appearing in the facsimile or other electronic means, will be considered as sufficient proof of identity.
- 5.5 The Customer authorises BEA to open further deposit accounts in the name of the Customer and agrees to be bound by related terms as requested by

the Customer through telephone or other means, without signing another account opening application. The Customer acknowledges that BEA is not obliged to open any deposit accounts as requested by the Customer.

- 5.6 Notwithstanding any provisions herein contained, BEA may at any time in its sole discretion refuse to execute any of the Instructions without any reason and without being responsible for any loss or damage suffered by the Customer thereby arising. This service will remain available subject to the written notification of either party of its cancellation as provided. However, BEA may terminate or amend this arrangement at any time, without notice.

## **6. Operation of Account**

- 6.1 The Customer authorises BEA, to carry out at its sole discretion, including, without limitation, any of the following acts for the purpose of the provision of the Services under the Terms:

- (a) to provide the Account through the Sub-accounts, namely, HKD Current Account, USD Current Account, Statement Savings Account, Time Deposit Account, Securities Account, and Linked Deposit Account and such other accounts as BEA may introduce from time to time subject to the provisions described in the Bank Product and Service Conditions hereto;
- (b) to provide BEA Online subject to the provisions described on Bank Product and Service Conditions hereto;
- (c) to provide the Card(s) subject to the provisions described on Bank Product and Service Conditions hereto;
- (d) to act as the Customer's agent to place deposits ("Fiduciary Deposit") with such banks or other financial institutions in any part of the world (the "Third Party Institution") at BEA's sole discretion in accordance with its terms and conditions;
- (e) to provide credit services such as, short term facility for advances not exceeding one (1) year, overdrafts, issuance of bank guarantees and/ or standby letters of credit having a tenor of up to twelve (12) months from the date of issue, leveraged bond and leveraged deposit, and IPO financing to finance Customer's interest in subscribing new Securities pursuant to forthcoming new issues or offers for sale to the public;
- (f) to provide Currency/Indices/Equity/Asset Linked Deposit Services upon Customer's request and subject to the acceptance by BEA;
- (g) to provide Foreign Exchange Services subject to completion of all relevant documentation and provision of Collateral to enable the Customer to trade in foreign currencies available on a spot, forward or other basis as agreed;
- (h) to provide Securities Investment Services including notifying the Customer of information, notices and other communications received or to refrain from acting as it may deem appropriate; acting as the agent of the Customer to purchase and sell Securities; and applying for new public issue of Securities subject to prior arrangement;
- (i) to provide Unit Trusts Investment Services including subscription for and redemption of Unit Trusts for the Customer;
- (j) to provide Custody Services including holding or to arranging for the Customer's assets in safe custody; registering documents of title and other instruments relating to the Customer's assets; collecting and receiving all dividends and other income payments in respect of Securities.

- 6.2 BEA will only provide Services or accept Instructions insofar as it is (in BEA's reasonable opinion) practicable and reasonable to do so, having regard to its regular business practice and procedure. BEA shall comply with laws, rules, regulations, guidelines, requests, and/or recommendations of any organisation or authority that regulates the conduct of banking and/or the provision of services contemplated under any Account. BEA reserves the right to prescribe any conditions subject to which it provides any Services or accepts any Instruction or to refuse to provide any Services or act on any Instruction to ensure its compliance with any such applicable laws, rules, regulations, guidelines, requests, and/or recommendations.
- 6.3 The Customer may apply to utilise any services offered by BEA hereunder by giving an Instruction to such effect to BEA. Any of the existing Authorised Persons appointed for the purpose of the Account shall be entitled to give such an Instruction to BEA for such services.

## **7. Appointment of Agent**

BEA may employ or utilise agents, brokers, dealers, custodians and sub-custodians, depositories, advisors, bankers, dealers, attorneys, managers and its head office or any of its branches, subsidiaries, affiliates or associates and delegate to any such Agent the performance of BEA's duties and exercise of BEA's rights. BEA may also appoint any Agent to take delivery and to be registered as nominee of any of the Customer's assets in any part of the world. BEA shall not be liable for any act, omission, negligence or default of any Agent provided that it has exercised such care in appointing the Agent as it would employ for its own business.

## **8. Representations and Warranties**

The Customer hereby represents and warrants to BEA that:

- (a) the Customer, subject to contrary declaration in writing, is the sole beneficial owner of all Securities, Unit Trusts and funds in the Account and has good title to all Securities and Unit Trusts deposited with the Bank or which he has instructed BEA to deal on his behalf free from Encumbrances or any third party interest and the Customer is the person who will stand to gain the commercial or economic benefit of the Transactions executed pursuant to the Instructions and bear his commercial or economic risk;
- (b) the Customer agrees that he will only place sale or redemption orders with BEA in respect of Securities or Unit Trusts which the Customer presently owns and this does not include Securities or Unit Trusts which have been borrowed by the Customer. Hence, when an Instruction to sell Securities is given by the Customer, this is not an instruction to sell for short;
- (c) the Customer has and will maintain beneficial ownership of the Charged Securities free from Encumbrances or any third party interest (except in favour of BEA);
- (d) the security given to BEA under Clause 9 "Credit Facilities and Collateral" constitutes and will continue to constitute the valid and legally binding obligations of the Customer enforceable in accordance with its terms;
- (e) the Client Information Statement attached to the Application Form completed by the Customer is true and complete at the date thereof and the Customer will notify BEA forthwith upon any material changes in the information provided therein;
- (f) (in case the Customer is an individual in Hong Kong) he is eighteen (18) years of age or older and, (in case the Customer is in any other jurisdiction) he is of legal age in that jurisdiction.

- (g) in case the Customer is a limited company:
  - (i) it has been duly incorporated and is in good standing;
  - (ii) it has the power, authority and legal right to enter into and perform the Terms, and all necessary corporate action have been taken by it to authorise the entering into the Terms;
  - (iii) all acts, conditions, things required to be done, performed and observed in order that the Terms shall constitute the legal, valid and binding obligations of the Customer enforceable in accordance with its terms have been done, performed and observed in strict compliance with all applicable laws and Memorandum and Articles of Association or other constitutional documents of the Customer.
- (h) its use of BEA Online, BEA Mobile and any of the Services will comply with all applicable laws, rules and regulations, and shall ensure that no Instruction will be given in any jurisdiction where the giving of such Instruction would violate any laws, rules or regulations or render the Bank being in breach of any applicable laws, rules or regulations.

## **9. Credit Facilities and Collateral**

9.1 BEA may at its discretion, at the request of the Customer, make Credit Facilities available to or for the Account of the Customer subject to the terms and conditions as it may require. The Customer's assets referred to in Clause 9.3 of the General Terms and Conditions shall automatically stand as Collateral to BEA in whatsoever way for such facilities of the Customer in respect thereof. If the Customer is in default, BEA is hereby authorised to sell by public or private sale all or any of the Collateral, on such terms and conditions as it thinks fit, without liability to the Customer for any loss and to apply the proceeds of sale, after deduction of expenses, in payment or reduction of the outstanding indebtedness of the Customer to BEA.

### **9.2 Purpose and Limit**

- (a) The Bank may at its discretion grant to the Customer the Credit Facilities whereupon the Bank will issue a facility letter to the Customer setting out, inter alia, the maximum aggregate principal amount determined by the Bank. The Credit Facilities will be made available to the Customer through the Settlement Account or such other account as may be set out in the facility letter.
- (b) The Bank hereby reserves the right, at its discretion at any time by notice to the Customer, to modify the facility limit, to cancel or terminate the Credit Facilities or to demand immediate payment of all monies and sums, whether principal, interest or otherwise, then due or owing from the Customer in respect of the Credit Facilities or otherwise under the Terms. Further, the Bank may at any time refuse to make available to the Customer any advance under the Credit Facilities notwithstanding that the facility limit applicable for the time being has not been exceeded.
- (c) Each advance under the Credit Facilities made for the purpose of financing the purchase of Securities pursuant to the Securities Investment Services or the subscription for Unit Trusts pursuant to the Unit Trust Investments Services may be made by the Bank to the Customer pursuant to an Instruction as of the settlement date of such purchase of Securities or subscription of Unit Trusts customarily set by the relevant stock exchange upon which the Securities are traded or the trustee or management company of the relevant Unit Trust (as the case may be). Each advance under the Credit Facilities made for other

purposes may be made by the Bank to the Customer pursuant to a written request signed by the Customer.

- (d) Each advance under the Credit Facilities made for the purpose of financing the establishment of a Linked Deposit may be made by the Bank to the Customer pursuant to an Instruction as of the Settlement Date of the relevant Linked Deposit to which that advance relates and, subject to Clause 9.1 of the General Terms and Conditions, shall be repaid on the earliest of (i) the termination or early repayment of the relevant Linked Deposit; (ii) termination of the Terms; and (iii) the Maturity Date of the relevant Linked Deposit. No prepayment of any advance made for this purpose may be made without the Bank's approval.
- (e) The Outstanding Indebtedness shall not at any time exceed the limit of the Credit Facilities prescribed by the Bank from time to time or such amount being the aggregate amount of the Security Value of all Eligible Securities in the Securities Account (whichever shall be lower).
- (f) Any one or more advances shall, on repayment, be available to be re-borrowed (in whole or in part) by the Customer provided that:
  - (i) the prescribed limit specified in the facility letter for the Credit Facilities (as amended from time to time) shall not be exceeded by the re-borrowing; and
  - (ii) the Credit Facilities have not been cancelled or terminated by the Bank.
- (g) A certificate issued by the Bank stating the amount at any particular time due and payable by the Customer to the Bank under the Credit Facilities or otherwise shall in the absence of manifest error be conclusive and binding against the Customer.

### 9.3 Security to the Bank

- (a) In consideration of the Bank granting or continuing to make available the Credit Facilities to the Customer, the Customer as beneficial owner hereby charges by way of a first fixed charge, pledges and assigns to the Bank all and any Securities and Unit Trusts in the Securities Account, any further Securities and Unit Trusts deposited with the Bank whether pursuant to Clause 9.4 of the General Terms and Conditions or otherwise, and the Derivative Assets in relation to such Securities and Unit Trusts, together with all rights and benefits attaching or accruing thereto, as a continuing security for the punctual payment to the Bank on the respective due dates of the ultimate balance of all amounts outstanding under the Credit Facilities and all other monies and sums due or owing from the Customer to the Bank from time to time pursuant to the Terms and for the performance of all the obligations of the Customer to the Bank from time to time hereunder.
- (b) The Bank is hereby irrevocably authorised to hold the Charged Securities in the name of the Bank Nominee and the Customer hereby irrevocably authorises the Bank to do and execute any and all acts or things and documents necessary to transfer, complete and/or vest the title to any of the Charged Securities to the Bank Nominee and to do all things and execute all such documents as the Bank may reasonably require in order to perfect the security given hereunder.
- (c) All dividends, interests, income, payments or other distributions received by the Bank in respect of the Charged Securities will be credited to the Settlement Account on receipt by the Bank.
- (d) Notwithstanding any Instruction of the Customer as to the application of any funds in the Settlement Account, the Bank is entitled to withhold

and apply any funds standing to the credit of the Settlement Account to the extent necessary to secure repayment of the Outstanding Indebtedness, payment of any sum due or owing to the Bank under the Terms and performance by the Customer of his obligations to the Bank hereunder, including without limitation, to satisfy any Top-up Call.

- (e) The security given by the Customer hereunder shall be in addition to and may be enforced by the Bank without prejudice to any other guarantee, indemnity or collateral security or other power, right or remedy now or at any time hereafter held by or available to the Bank in respect of the Credit Facilities or the obligations of the Customer hereunder and shall be a continuing security notwithstanding the death, bankruptcy, liquidation, winding-up, incapacity or any change in the constitution of the Customer or any intermediate or partial payment or settlement of account or satisfaction of the whole or any part of the amounts outstanding under the Credit Facilities or any obligations of the Customer hereunder.
- (f) The Customer hereby represents warrants and undertakes to the Bank that:
  - (i) the security to the Bank under this Clause 9.3 constitutes and will continue to constitute the valid and legally binding obligations of the Customer enforceable in accordance with its terms;
  - (ii) he shall, at any time and from time to time, execute and deliver such further charges, authorities and other documents as the Bank may from time to time require for perfecting its title to or for vesting or enabling the Bank to vest the full benefit or the security under this Clause 9.3 in its favour, for which purposes the Customer hereby irrevocably appoints the Bank as his lawful attorney, and covenants to ratify and confirm all documents, acts and things and all transactions entered into by the Bank in the exercise or purported exercise of its powers under the Terms, and the Customer irrevocably acknowledges and agrees that this power of attorney is, among others, given to secure the performance of the obligations of the Customer hereunder.
- (g) In the event that the Bank has made available the Credit Facilities to the Customer, the Customer hereby authorises the Bank to:
  - (i) deposit any of the Charged Securities with an authorised financial institution as collateral for financial accommodation provided to the Bank;
  - (ii) deposit any of the Charged Securities with a recognised clearing house or another intermediary licensed or registered for dealing in securities as collateral for the discharge and satisfaction of the Bank's settlement obligations and liabilities.

The term of the Customer's consent contained in this Clause 9.3(g) shall be for a period of twelve (12) months from the date of the Application Form, and may be renewed on the anniversary of such date in subsequent years for, in each instance, a further twelve (12) months. Such consent shall be deemed to have been renewed if (i) the Bank gives a written notice to the Customer not less than fourteen (14) days prior to the expiry of the existing term of consent reminding the Customer of the impending expiry and informing the Customer that unless the Customer objects, it will be renewed upon expiry upon the same terms and conditions contained in this Clause 9.3(g) and for a period of twelve (12) months and (ii) the Customer does not object to the same before its expiry. The Customer may withdraw such consent at any time by giving not less than thirty (30) days' prior written notice to the Bank.



## 9.4 Security Cover

- (a) If at any time the Outstanding Indebtedness reaches or exceeds the limit of the Credit Facilities prescribed by the Bank at the relevant time or such amount being the aggregate amount of the Security Value of all Eligible Securities in the Securities Account (whichever shall be lower), the Bank may give the Customer notice of a top-up call under the Terms (a "Top-up Call"). The Customer shall, upon receiving a Top-up Call, satisfy the Top-up Call by either depositing cash in the account through which the Credit Facilities are made available to the Customer in reduction of the Outstanding Indebtedness and/or depositing with and charging in the Bank's favour such additional Securities or Unit Trusts as may be acceptable to the Bank or by such other means acceptable to the Bank, so as to maintain the security requirement under Clause 9.2(e) of the General Terms and Conditions. Each Top-up Call shall be satisfied by the Customer within the following time period:
- (i) if a Top-up Call shall be made before 10:00 a.m., Hong Kong time, on any Business Day, the Customer shall satisfy the Top-up Call by the close of business on the next Business Day following the Top-up Call; and
  - (ii) if a Top-up Call shall be made between 10:00 a.m. and 5:00 p.m., Hong Kong time, on any Business Day, the Customer shall satisfy the Top-up Call by no later than two Business Days following the Top-up Call.
- (b) Between the time a Top-up Call shall have been made and the time such Top-up Call shall have been satisfied, the Bank is entitled to exercise any of its rights under Clause 9.3 of the General Terms and Conditions without notice to the Customer and shall not be required to carry out any Instruction in relation to any dealing in Securities or the Securities Account or the Settlement Account.
- (c) (i) If the Customer has failed to satisfy a Top-up Call within the specified period, or if the Customer shall fail to comply with the provisions of the Terms, or shall fail to pay and discharge any debts and liabilities to the Bank, the Bank may, without demand, notice, legal process or other action sell, realise, redeem, liquidate or otherwise dispose of, as appropriate, such of the Charged Securities or any part thereof at the relevant market or by private contract, and on such terms as the Bank in its discretion thinks fit, free from all trusts, claims, rights of redemption and equities of the Customer.
- (ii) Any proceeds resulting from such sale, realisation, redemption, liquidation or disposal after deducting all the expenses and charges incurred by the Bank in relation thereto shall be deposited in the account through which the Credit Facilities are made available to the Customer in reduction of the Outstanding Indebtedness until the security requirement under Clause 9.2(e) of the General Terms and Conditions shall be maintained. In normal circumstances, the Bank will only sell, realise, redeem, liquidate or dispose of such quantity of the Charged Securities required to achieve such security requirement. Nevertheless, the Bank shall have no responsibility, liability or obligation to the Customer if it has sold, realised, redeemed, liquidated or disposed of more quantity of the Charged Securities than is necessary to satisfy such security requirement. The Customer shall not have any right or claim against the Bank in respect of any loss arising out of any such sale, realisation, redemption, liquidation or disposal or proposed sale, realisation, redemption, liquidation or disposal,

however such loss may have been caused, and whether or not a better price could or might have been obtained by either deferring or advancing the date of such sale, realisation, redemption, liquidation, disposal or otherwise.

## **10. Sufficiency of Funds**

- 10.1 Instruction will not be acted on if there are insufficient funds or pre-arranged credit is not available in the Account. BEA may at its discretion act on such Instruction notwithstanding without seeking prior approval of or giving prior notice to the Customer and may make the usual charge against the Customer.
- 10.2 If BEA places any order or enters into any Transaction for the purpose of effecting an Instruction which is subsequently not effected due to insufficiency of funds, BEA is entitled (but not obliged) at any time at its discretion to place other order or enter into other transaction to set-off the order so placed or Transaction so entered into. Any resulting loss shall be borne by the Customer but any resulting gain shall belong to BEA. BEA's certificate in writing as to such loss and the amount in respect thereof shall be binding and conclusive against the Customer.
- 10.3 Overdrafts are allowed only after due arrangement has been made with BEA and provided that interest on daily debit balance of the Account at a mutually agreed rate will be charged. However, if BEA notwithstanding the absence of any prior arrangement, permits an overdraft in the Account, then interest at a rate which BEA considers appropriate will be charged on the overdraft until such time when such overdraft has been fully repaid.
- 10.4 The Bank, may at its absolute discretion, make available to the Customer any OD Protection to any Account specified by BEA. Such OD Protection shall be subject to the pre-defined limit in which the Bank may determine and vary. Interest at a rate which BEA considers appropriate will be charged on the overdraft amount until such time as the overdraft amount has been fully repaid.

## **11. Customer Default**

- 11.1 Any one of the following events shall constitute an event of default ("Event of Default"):
  - (a) the Customer's failure to pay any purchase price of Securities or other sums due and payable to BEA hereunder in the currency and manner as specified or failure to submit to BEA any documents or deliver any Securities to BEA as required under the Terms;
  - (b) the filing of a petition in bankruptcy, winding up or the commencement of other analogous proceedings against the Customer;
  - (c) if the Customer (being an individual) dies or becomes bankrupt;
  - (d) upon the application for or appointment of a liquidator, receiver, trustee or similar official over all or a material part of the Customer's undertaking, property or assets;
  - (e) any representation or warranty made in the Terms or in any document delivered to BEA pursuant to the Terms being or becoming incorrect;
  - (f) any consent or authorisation required by the Customer to open the Account in accordance with the Terms being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;
  - (g) default by the Customer in the due performance or observance of any of the provisions of the Terms;

- (h) if any encumbrancer shall take possession of, or a distress, execution or other process is levied or enforced against, all or part of the undertaking, property or assets of the Customer;
- (i) if the Customer is unable or admits inability to pay his debts as they fall due; or
- (j) the occurrence of any event which, in the sole opinion of BEA, might jeopardise any of the rights of BEA or its Agents under the Terms.

11.2 If an Event of Default occurs, BEA may at its sole discretion:

- (a) cancel any or all outstanding Instructions or orders or any other commitments made on behalf of the Customer;
- (b) liquidate any position with BEA through the sale of Securities on an exchange and to apply the proceeds to settle all outstanding liabilities including all costs, charges, legal fees and expenses including stamp duty, commission and brokerage properly incurred by BEA in transferring or selling all or any of the Securities or properties in the Account;
- (c) call upon any security which have been granted in favour of BEA and/or its Agent as security for the obligations of the Customer in respect of the Account;
- (d) exercise any right of set-off conferred by the Terms or otherwise;
- (e) immediately close all of the Account; or
- (f) without prejudice to the provisions of Clause 20.4 of the General Terms and Conditions, terminate the Terms at any time without notice to the Customer.

## 12. Default Interest

The Customer agrees to pay interest on all overdue balances (including interest arising after a judgement debt is obtained against the Customer) at such rates and on such other terms as BEA has notified to the Customer from time to time.

## 13. Account Statement and Transaction Advice

- 13.1 BEA shall send the Customer confirmations or advice of all Transactions carried out by the Customer within two (2) Business Days after the date of the relevant Transaction and monthly statements reflecting such Transactions and balances in the Account within seven (7) Business Days after the last day covered by the relevant monthly statement. The Customer undertakes to carefully check, examine and verify the correctness of each confirmation or advice and each such statement.
- 13.2 The Customer agrees that reliance can only be placed upon original confirmations, advice and/or statements. The Customer undertakes to inform BEA promptly and in any event, with regard to such confirmations or advice, within fourteen (14) calendar days from the date of such confirmation or advice, and with regard to such statements, within ninety (90) calendar days from the date of such statements, of any discrepancies, omissions, credits or debits wrongly made to or inaccuracies or incorrect entries in the Account or the contents of each confirmation, advice or statement.
- 13.3 Upon the expiry of the fourteen (14) calendar days, the Customer shall be deemed to have approved the confirmations or advice and upon the expiry of the ninety (90) calendar days, the Customer shall be deemed to have approved the original statements as sent by BEA to the Customer in which case they shall be conclusive and binding upon the Customer without any

further proof that the Account is and all entries therein and the execution of all Transactions are correct, and BEA shall be free from all claims in respect of the Account and all such Transactions.

- 13.4 BEA may, in its sole discretion, without prior notice to the Customer, reverse entries which relate either to instruments which are returned to BEA unpaid or arise by reason of operational error and may correct errors made in any confirmation, advice or statement.
- 13.5 BEA shall have no liability for items lost in mail or otherwise, or not called for by the Customer.

#### **14. Rebate and Commission**

The Customer agrees that BEA, subject to such applicable disclosure and other requirements prescribed by the Hong Kong Monetary Authority, Securities and Futures Commission or other relevant regulatory bodies and authorities from time to time, can accept goods and/or services (i.e., soft dollars) from any broker in consideration of directing transaction business on behalf of the Customer to such broker; and/or to accept and retain cash and/or money rebates, brokerages and/or commission in relation to transactions effected on behalf of the Customer.

#### **15. Investment Advice**

- 15.1 If BEA solicit the sale of or recommend any financial product to the Customer, the financial product must be reasonably suitable for the Customer having regard to the Customer's financial situation, investment experience and investment objectives. No other provision of the Terms or any other document BEA may ask the Customer to sign and no statement BEA may ask the Customer to make derogates from this Clause 15.1.
- 15.2 BEA may act or rely on the opinion or advice of or any information obtained from any investment adviser, dealer broker, surveyor, auctioneer, professional adviser or other expert and BEA, acting in good faith, shall not be liable for any loss arising out of such action or reliance.

#### **16. Power of Attorney and Further Assurance**

The Customer irrevocably and unconditionally appoints BEA by way of security to be its attorney (with full power of substitution) and in its name or otherwise on its behalf and as its act and deed to do all things which may be required or which BEA shall think proper or expedient for carrying out any obligations imposed on the Customer. At the request of BEA, the Customer shall execute such documents and perform such acts as it may consider expedient in connection with the provision of the Services and the exercise of its powers and rights under the Terms.

#### **17. Currency of Payment**

- 17.1 The Account shall operate in any currency acceptable to BEA. If the Customer gives Instructions to BEA to effect any sale or purchase of Securities or other Transactions requiring a currency exchange, the costs thereof and any profit or loss arising as a result of a fluctuation in the Exchange Rate of the relevant currency will be entirely for the account of the Customer.
- 17.2 BEA may, without prior notice to the Customer, convert monies in the Account into and from any currency at such Exchange Rate as BEA shall in its sole discretion determine as being the then prevailing money market rate. Such conversion may be made for the purpose of any Transaction or for the calculation of any debit balance due from the Customer or credit balance owed to the Customer.

## **18. Fees and Expenses**

- 18.1 The Customer shall pay all applicable custodian, management, and service fees and charges to BEA and its Agent for the maintenance of the Account and/or provision of any Services. The Customer shall fully indemnify BEA against all costs and expenses, including but not limited to registration fees, legal or otherwise, if any, in connection with the maintenance of the Account and/or provision of any Services. Paid fees and charges are non-refundable notwithstanding early termination of the Account(s) and/or the Service(s) and/or the Terms.
- 18.2 BEA reserves the right to revise all fees and charges from time to time with prior notice to the Customer in accordance with the applicable code of practice.

## **19. Assignment and Delegation**

- 19.1 The Customer shall not assign or transfer any of the Customer's rights, interests, powers or obligations hereunder except with the prior written consent of BEA.
- 19.2 BEA may assign or otherwise transfer all or any of its rights, interests, powers or obligations under the Terms and any Accounts or Services or Transactions to which they relate and/or the Collateral and may deliver the same to the transferee(s). BEA shall be released and discharged from any liability or responsibility in respect of Collateral so transferred, but shall retain all its rights, interests and powers in respect of Collateral not so transferred.
- 19.3 Without prejudice to any other rights which BEA may have, BEA shall be entitled from time to time, on such terms as it may in its discretion think fit, delegate the performance of all or any part of its duties under the Terms or its other rights or obligations hereunder to any third party wherever situated on such terms and conditions as BEA deems fit. Pursuant to such delegation BEA is hereby authorised to disclose such information of the Customer (whether confidential or otherwise) as the Customer shall make known to BEA or as shall otherwise be known to BEA, to such third parties to enable the performance of its duties hereunder by such third parties. All expenses incurred by such third parties shall be for the account of the Customer. BEA shall not be responsible for any of the acts or omissions of any such third parties or for any loss occasioned by reason of the liquidation, bankruptcy or insolvency of any such third parties.
- 19.4 The Terms shall be binding upon and enure for the benefit of the Customer and BEA and their respective successors, permitted assigns and personal representatives.

## **20. Termination**

- 20.1 BEA reserves the right to suspend or terminate all or any of the Accounts, Sub-accounts and/or Services at any time after giving reasonable notice, except in exceptional circumstances where no prior notice is required.
- 20.2 If the Account is closed, all the Sub-accounts will be closed and the Card and BEA Online will be automatically terminated. The Customer shall surrender the Card to BEA and the access of the Account and/or Services under the BEA Online will be suspended immediately.
- 20.3 Without prejudice to the generality of Clause 20.1 of the General Terms and Conditions, BEA shall be entitled to close/terminate any or all Accounts/ Services immediately and without prior notice if:
- (a) there is any change of law which prohibits or renders the maintenance or operation of any Sub-account/Services or any part thereof illegal;

- (b) the Customer commits any breach of or omits to observe any obligations under the Terms which, in the opinion of BEA, amounts to a material default on the part of the Customer;
  - (c) BEA's books and records show a zero balance on any of the Sub-accounts of the Customer for a period as BEA shall prescribe; or
  - (d) BEA determines, or reasonable belief exists, that the Customer:
    - (i) has passed away;
    - (ii) has become an undischarged bankrupt or has entered into a composition or scheme of arrangement within the meaning of Bankruptcy Ordinance (Cap. 6); or
    - (iii) has been convicted in Hong Kong or elsewhere of an offence for which the Customer has been found to have acted fraudulently, corruptly, or dishonestly, or committed any offence under any applicable laws.
- 20.4 In the event of any termination, all provisions in the Terms shall continue to apply until all obligations and liabilities owed by the Customer to BEA, whether actual or contingent, are fully and properly satisfied and discharged. Termination shall not affect any legal rights and obligations, which may have arisen, including the rights and liabilities of the parties for which there is an outstanding liability.
- 20.5 The Terms shall be in force from the date hereof until termination by either party by giving not less than seven (7) Business Days' prior written notice to the other.
- 20.6 Upon termination of the Terms howsoever arising, all amounts due or owing by the Customer to BEA hereunder shall become immediately due and payable. BEA shall cease to have any obligations to deal in Securities or Unit Trusts on behalf of the Customer in accordance with the provisions of the Terms, notwithstanding any Instructions to the contrary.
- 20.7 As soon as and insofar as is practicable upon termination of the Terms, BEA shall sell, realise, redeem, liquidate or otherwise dispose of all or part of the Securities or Unit Trusts in the Securities Account for such consideration and in such manner as BEA shall in its discretion consider necessary to satisfy any liabilities of the Customer to BEA, at the Customer's sole risk and cost but without incurring any liability whatsoever for any loss howsoever arising.
- 20.8 Any cash proceeds of such sale, redemption or realisation upon receipt by BEA shall be credited to the Settlement Account, and thereafter the net credit balance in the Settlement Account (if any) shall be returned to the Customer, after first deducting or providing for all costs, charges, fees and expenses (including legal expenses) incurred by BEA in such sale, realisation, redemption, liquidation or disposal, and all liabilities of the Customer to BEA. All Securities and Unit Trusts in the Securities Account which are not realised or disposed of together with any documents of title thereof in the possession of BEA or BEA Nominee shall be delivered to the Customer at the Customer's sole risk and expense.
- 20.9 In the event of there being a debit balance in the Settlement Account after application of the cash proceeds and deduction of any sums pursuant to Clause 20.8 of the General Terms and Conditions, the Customer shall forthwith pay to BEA an amount equal to such debit balance together with BEA's cost of funding such amount up to the date of actual receipt of full payment of BEA (after as well as before any judgement).
- 20.10 BEA shall act in accordance with the laws, rules, regulations, guidelines, requests, and/or recommendations of public and regulatory organisations or

authorities operating in various jurisdictions, which relate to, amongst other things, the prevention of money laundering, terrorist financing, and the provision of financial and/or other services to any persons or entities which may be subject to sanctions, without prejudice to the generality of Clause 20.1 of the General Terms and Conditions, BEA may take any action (including but not limited to the suspension or closure of the Account(s)) which it, in its sole and absolute discretion, considers appropriate to take in accordance with all such laws, rules, regulations, guidelines, requests, and/or recommendations. Such action may include, but is not limited to, the disclosure, interception, and/or investigation of any payment messages and other information or communications sent to or by the Customer or on the Customer's behalf through the systems of BEA or any member of the BEA group; and making further enquiries as to whether a name which might refer to a sanctioned person or entity actually refers to that person or entity.

- 20.11 If the Account is closed within such minimum period as may be prescribed by BEA at the time the Account is opened, the Customer shall pay an administrative fee of such amount as BEA may prescribe from time to time.

## **21. Set-off and Lien**

- 21.1 Without prejudice to rights of BEA under any other provisions of the Terms, BEA may without notice combine or consolidate the Customer's account(s) with any liabilities to BEA and set-off or transfer any sum(s) standing to the credit of any such accounts or any sum(s) owing to the Customer from BEA in or towards satisfaction of any of the Customer's liabilities to BEA on any other account or in any other respect whether such liabilities be actual or contingent, primary or collateral, several or joint and that BEA's rights hereunder shall not be affected by the death of the Customer.
- 21.2 BEA shall have the right to retain all or any Securities and Unit Trusts, valuables or any other property which may be deposited with or otherwise held by BEA or in the name of the Customer or any one or more of them whether for safe custody or any other reasons, and BEA shall have the power to uplift, realise, collect or sell as BEA may think fit the same or any part thereof at such price and to apply the proceeds to satisfy any liabilities owed by the Customer to BEA or any other company within the group of BEA or upon the request of BEA and at the Customer's costs to execute all transfer and do all things requisite for vesting or to any person as BEA shall direct after deducting all costs, expenses, charges, in relation thereto or as a result thereof until all the liabilities have been fully settled or repaid by the Customer.

## **22. Joint and Several Liability**

- 22.1 Where the Customer consists of more than one person:
- (a) each of such persons comprising the Customer shall be jointly and severally bound by the Terms and be liable for any and all liabilities incurred by any of them in connection with the Terms;
  - (b) either or any one of such persons comprising the Customer is entitled to give Instruction to BEA and BEA is entitled to act on any such Instruction given for or in connection with any Account(s) and/or Sub-Account(s);
  - (c) BEA is entitled to place to the credit of any Sub-account with all amounts, including dividends, interest and capital sums arising from Securities or Unit Trust or proceeds of cheques or bills payable to any of such persons comprising the Customer;
  - (d) BEA shall be entitled to deal separately with any one person comprising the Customer on any matter without prejudicing or affecting BEA's rights, powers, and remedies against any other such persons.

- 22.2 Where the Customer consists of more than one person, on the death of any of the persons comprising the Customer:
- (a) subject to compliance with all applicable laws and regulations, any credit balance on the Account(s) and/or Sub-account, all the Securities and Unit Trusts in the Securities Account and any other assets in the Account(s) and/or Sub-account shall be held to the order of the surviving person or (if more than one) the surviving person(s); and BEA may, without liability as aforesaid, act on any Instructions with regard to the same given by any surviving person(s) pursuant to the Terms and the Customer agrees to indemnify BEA in respect of any claim that may be made against BEA as a result of complying with the Instructions of the surviving person(s);
  - (b) the balance in the Account(s) and/or Sub-account(s) shall be at the disposal of the survivor(s) on proof of the death of the deceased joint account holder.
- 22.3 Any notice in connection with the Terms to any one such person comprising the Customer will be deemed effective notification to all such persons.
- 22.4 In the event of death, bankruptcy or liquidation or mental or other incapacity of one or more of such persons comprising the Customer, BEA shall have the right to set off any claims BEA has or may have against such person(s) howsoever incurred against any credit balance in the Account and further, BEA shall have the right, in its sole discretion, to freeze any Account and/ or Sub-account and refuse any dealings therewith or refuse to accept any Instructions, whether in respect of any Account and/or Sub-account, Services or otherwise.

## **23. Indemnity and Exemption of Liability**

- 23.1 Any payment made to or for BEA's account under the Terms in any currency other than the currency in which it is payable (the "Relevant Currency") shall only constitute a discharge to the Customer to the extent of the amount of the Relevant Currency which BEA is reasonably and without undue delay able to purchase with the amount of the currency so received. If the amount of the currency so received by BEA on conversion into the Relevant Currency, falls short of the total amount of the Relevant Currency, the Customer shall immediately reimburse BEA for the total amount of the shortfall and shall fully indemnify BEA against any loss or damage arising as a result of his failure to do so. The amount of the shortfall shall be debited to the Settlement Account.
- 23.2 The Customer hereby irrevocably agrees to indemnify BEA and keep BEA and any Related Parties fully indemnified from and against all or any Losses, arising out of any act or omission of BEA or any Related Parties under or otherwise in connection with the Account or the Terms (unless due to the negligence or wilful default of BEA or such Related Parties) or arising out of or otherwise connected with the default or breach of the Customer of any of its obligations or any provision hereunder.
- 23.3 Unless due to the negligence, fraud or wilful default of BEA, its director, officers or employees, BEA does not assume any liability or responsibility to the Customer or any third party for any loss, damage or expense suffered or incurred by the Customer or any third party arising from or in connection with:
- (a) the operation of any Account and the provision of any Services by BEA;
  - (b) the act, omission, negligence or default on the part of the Customer, or any correspondent, Agents or other parties involved in any Transactions;



- (c) the reliance upon any Instruction by BEA in accordance with the Terms which BEA believes in good faith to be given by the Customer or an Authorised Person notwithstanding any error, misunderstanding, fraud or lack of clarity in term of such Instructions;
- (d) mechanical failure, power failure, malfunction, break down, interruption or inadequacy of equipment or installation in connection with any Accounts or Services, acts of God, market condition or any other cause beyond the reasonable control of BEA.

## **24. Notices**

- 24.1 Any notice, request, certificate, demand or other communication (the "Communication") by either party to the other in connection herewith shall be sent to the last known address of such person from time to time. Any Communication shall be deemed to have been given to the addressee, if delivered personally, at the time of such delivery, if dispatched by letter postage prepaid, forty-eight (48) hours after posting if the address is in Hong Kong and seven (7) calendar days after posting if the address is outside Hong Kong, and if sent by facsimile transmission, SMS or electronic mail, at the time of dispatch.
- 24.2 The Customer undertakes to notify BEA in writing or through BEA Online immediately upon any change of address, mobile phone number and contact number.
- 24.3 The Customer agrees that BEA may send any Communication, confirmation, or statement to him in electronic form.

## **25. Right of Waiver**

No indulgence or concession granted by BEA and no omission or delay on the part of BEA in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

## **26. Confidentiality and Personal Data**

- 26.1 Each party hereto shall use all reasonable endeavor to keep confidential the provisions of the Terms and all information with respect thereto and unless compelled to do so by any court of competent jurisdiction, any regulators or governmental agency acting within their power or any police search or similar warrant, shall not disclose the same to any person not authorised by the other party.
- 26.2 The Customer agrees that the data requested by BEA in the Customer Information Statement attached the Application Form or otherwise from time to time is necessary for BEA to provide the Services offered hereunder. If the Customer fails to provide the same to BEA, BEA may not be able to provide or continue to provide any Services offered hereunder to the Customer. The Customer may always contact the Personal Data Officer of BEA to gain access to and request correction or amendment to such data. Such data together with any other data of the Customer obtained by BEA from time to time may be disclosed to such persons and may be used for such purposes as are respectively set out in the Personal Data (Privacy) Ordinance - Personal Information Collection (Customers) Statement of The Bank of East Asia, Limited from time to time. Without prejudice to the foregoing, BEA may, if requested by The Stock Exchange of Hong Kong Limited or the Securities and Futures Commission, provide to The Stock Exchange of Hong Kong Limited or the Securities and Futures Commission details of the Securities Account and the Settlement Account in order to assist it with any investigation or enquiry it is undertaking. BEA may also

provide to any person who has given or who proposes to give a guarantee or a third party security to secure any of the Customer's liabilities hereunder with a copy or summary of the Terms, copies of any formal demand for overdue payment sent to the Customer, statements of account of the Customer and such of the other data of the Customer as BEA may deem fit.

- 26.3 The Customer may at any time request BEA to inform him of the items of data which are held by BEA and/or routinely disclosed to a credit reference agency and in the event of default to a debt collection agency and request BEA to provide him with further information to enable the making of an access and correction request to the relevant credit reference agency or debt collection agency.
- 26.4 The person to whom request for access to data or correction of data or information regarding policies and practices and kinds of data held is the Group Data Protection Officer, the Bank of East Asia Group, 20th Floor, Bank of East Asia Building, 10 Des Voeux Road Central, Hong Kong. Under the Personal Data (Privacy) Ordinance, BEA and its Agent have the right to charge a reasonable fee for the processing of any customer data access request. The Customer hereby confirms receipt of the copy of current version of The Personal Data (Privacy) Ordinance - Personal Information Collection (Customers) Statement from The Bank of East Asia Group and confirms acceptance thereof in the form so provided and as may be varied from time to time.

## **27. Severability**

If any one or more provisions of the Terms, or any part thereof, shall be declared or adjudged to be illegal, invalid or unenforceable under any applicable law, such illegality or unenforceability shall not vitiate any of the other provisions hereof which shall remain in full force, validity and effect.

## **28. Amendment**

BEA may revise any provisions contained in the Terms and/or introduce additional provisions at any time and from time to time after giving such reasonable notice as may be required by the applicable code of practice or code of conduct. Such provisions, any revision and/or additions thereto shall become effective when brought to the attention of the Customer by way of notice and shall be deemed to have been accepted by, and binding on, the Customer if the Customer continues to use any of the Account and/or the Services currently provided by BEA after the effective date of such notice.

## **29. Credit Enquiry**

The Customer hereby authorises BEA and its Agent at any time to contact from time to time such credit reporting agencies, credit bureaus and other information sources (both in Hong Kong and overseas) as it deems necessary or desirable for BEA to open and to maintain any Account and request them to conduct a credit enquiry or check on the Customer's banks, brokers, or any credit agency, for the purpose of ascertaining the Customer's financial information. The Customer understands that BEA may access the database of credit reporting agencies for the purpose of a grant of consumer credit or the review or renewal of consumer credit facilities granted to the Customer or for the reasonable monitoring of the indebtedness of the Customer while there is a default by the Customer. In particular, BEA may access the consumer credit data for the purpose of the review of the existing consumer credit facilities granted to the Customer to assist BEA in considering any of the following matters:

- (a) an increase in the credit amount;
- (b) the curtailing of credit (including the cancellation of creditor a decrease in the credit amount);

- (c) the putting in place or the implementation of a scheme of arrangement with the individual customer.

Further, in relation to consumer credit which is not a residential mortgage loan, upon termination of the Account by full repayment and if there has not been any material default on such Account, the Customer shall have the right to instruct BEA to make a request to the credit reporting agencies to which BEA has provided the data of the terminated account to delete such data from its database.

### **30. Risk Disclosure Statements**

BEA refers the Customer to the Risk Disclosure Statements attached to the Application Form. The Customer agrees to read, ask questions and, if necessary, seek independent advice.

### **31. Governing Law and Jurisdiction**

The Terms shall be governed by and construed in all respects in accordance with the laws of Hong Kong and BEA's by-laws, regulations and practices, brought to the attention of the Customer by display, advertisement or otherwise as the foregoing are now in effect or as hereafter amended, enacted or adopted. The Customer hereby irrevocably submits to the non-exclusive jurisdiction of the Hong Kong Courts to determine, enforce and adjudicate all disputes and claims arising out of the above and in connection therewith.

### **32. Governing Version**

The English version of the Terms shall prevail whenever there is a discrepancy between the English and the Chinese versions. However, in respect of the Securities Investment Services, Unit Trusts Investment Services, Custody Services and the Currency/Indices/Equity/Asset Linked Deposit, if there is a discrepancy between the English and the Chinese versions, the language version selected by the Customer as the governing version by written notice to the Bank shall prevail. In the absence of a selection, the English version shall prevail.

### **33. Miscellaneous**

- 33.1 The Customer represents and warrants that the information and documents provided to BEA in connection with the Account; the Services and any Instructions are true, correct and authentic. The Customer undertakes to notify BEA in the event of any material change to the information provided to BEA. BEA also agrees to notify the Customer in the event of any material change to its name or address, the nature of services to be provided to the Customer or the remuneration to be paid by the Customer to BEA provided in the Terms. The Customer agrees to be bound by the Terms and acknowledges that it has received a copy of, read and fully understood the Terms and the Risk Disclosure Statements attached to the Application Form.
- 33.2 The Bank may destroy any documents relating to the Terms after microfilming/scanning the same and destroy any microfilm/scanned records after such period of time as it considers prudent.
- 33.3 The Bank shall not be liable for any failure or delay to meet any obligations under the Terms upon the occurrence of an event or events which renders performance by the Bank illegal or impossible, or if performance will cause the Bank to incur an unreasonable expense which would not have been incurred prior to the relevant event or events. In the case of Linked Deposits, events which may cause this Clause 33.3 to operate include the closure of the exchange or market on which the Underlying is traded or the closure of

any related clearance or settlement system, an act of state or an acts of God.

- 33.4 The Customer confirms that he is acting as principal in relation to all Transactions effected under the Terms.
- 33.5 The Bank may appoint any agent, service provider or sub-contractor to perform any of its obligations under the Terms.
- 33.6 The Customer shall reimburse BEA fully on demand for all reasonable expenses (including reasonable legal costs and out-of-pocket expenses) incurred by BEA in suing for or recovering any sum due to BEA or in the preservation or enforcement of any of its right under the Terms and all other documents and transactions referred to herein.
- 33.7 For the avoidance of doubt, where any security is created under the Terms to secure the liabilities of the Customer and where the Customer consists of two or more persons of which one of them is an individual, then the liabilities secured shall only refer to such part of the obligations, indebtedness and liabilities (whether present or future, actual or contingent, solely or jointly with other person or as principal or surety) incurred by all such persons jointly.
- 33.8 If the Customer is a firm (whether sole proprietorship or partnership firm), the following provisions shall apply:
- (a) the Customer and the proprietor or partners and persons carrying on business in the name of the Customer now or at any time hereafter shall be jointly and severally liable under these terms and conditions;
  - (b) the Customer shall advise BEA of any change in its constitution or membership and unless expressly released, the Customer and all persons signing the application as the proprietor or partners of the Customer shall continue to be liable hereunder irrespective of any change.
- 33.9 The Customer agrees that all documents shall be written in ink, and in no circumstances shall BALL PENS using ink erasable by ordinary pencil rubber or otherwise be used since unauthorised alteration which is difficult to detect can easily be made.
- 33.10 Nothing in the Terms, whether expressed or implied, is intended to, or will, confer on any person any benefit or any right to enforce any terms which such person would not have but for the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong), except that nothing in this Clause 33.10 shall prevent any member of the group to which BEA forms part and the Related Parties from enforcing their respective rights (if any) under the Terms pursuant to the said Ordinance. (Applicable to agreement entered into before 1 January 2016)

No person other than the Customer or the Bank will have any right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce or enjoy the benefit of any of the provisions of these Terms. (Applicable to agreement entered into on or after 1 January 2016)

## **B. Bank Product and Service Conditions**

### **1. Deposit Account**

- 1.1 BEA may at any time, without liability and at its sole discretion, refuse any deposits, limit the amount which may be deposited, return all or any part of any deposit or close the Sub-accounts.
- 1.2 Notwithstanding that the deposit has been made or is expressed to be in any foreign currency, BEA shall nevertheless have the right and absolute discretion to repay the Customer in full satisfaction of his deposit or any part thereof together with any accrued interest thereon in such account in any of the following manners, either in the same foreign currency or different foreign currency or in Hong Kong currency or in any combination of currencies, and the Customer shall have no right to object thereto:
- (a) by issuing to the Customer a cheque/draft to be drawn by BEA on a correspondent bank in the country of the currency of the amount; or
  - (b) by effecting telegraphic transfer in the currency of the relevant country; or
  - (c) by converting into Hong Kong currency at BEA's prevailing rate of exchange at the time of conversion; or
  - (d) by a combination of any of the above; or
  - (e) in any other manner which BEA at its complete discretion thinks fit.
- In case of (a) and (b) above, BEA shall have absolute discretion in the choice of correspondent(s). BEA is entitled to debit the account the amount of its charges and expenses and, as appropriate, those of its correspondents.
- 1.3 Customer should examine the withdrawal/deposit slip or passbook after each Transaction before leaving the counter to ensure that the correct entry has been made.
- 1.4 BEA reserves the rights to levy a service charge on deposits the balances of which are less than the certain level as determined from time to time by BEA at such rate as BEA may in its sole discretion decide.
- 1.5 All payments and credits against monetary instruments may be received for collection but the proceeds will only be credited to the Sub-account after receipt of payment by BEA in cleared funds. Local cheques are credited to the Sub-account when paid in but except by special arrangement, may not be drawn against until the proceeds have been received by BEA in cleared funds.
- 1.6 Cheques drawn on foreign banks will only be accepted for deposit at BEA's discretion.
- 1.7 All cheques and other monetary instruments in writing accepted for deposit are credited subject to final clearance. BEA reserves the right to debit the Customer's account with items, which are subsequently returned unpaid, and the interest and the necessary expenses/charges so incurred.
- 1.8 The Customer who uses the US Dollar clearing system through BEA's participation in it:
- (a) acknowledges that the operation of the US Dollar clearing system is subject to the US Dollar Clearing House Rules and the US Dollar Operating Procedures referred to therein as the same may be modified from time to time;
  - (b) agrees to the provisions of Rule 2.3.5 of the US Dollar Clearing House Rules to the extent that such Rule is applicable or refers to such Customer or other person or to the Transaction of such Customer or other person;

- (c) agree that, without prejudice to (b) above, the Monetary Authority shall not owe any duty or incur any liability to the Customer or other persons in respect of any claim, loss, damage or expense (including without limitation, loss of business opportunity, loss of profit, special, indirect or consequential loss) (even if the Monetary Authority knew or ought reasonably to have known of their possible existence) of any kind or nature whatsoever arising in whatever manner directly or indirectly by the giving of any notice, advice or approval in relation or pursuant to the US Dollar Clearing House Rules and the US Dollar Operating Procedures referred to therein (as the same may be notified from time to time).

1.9 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 or Hong Kong Interbank Clearing Limited ("HKICL") for such period as is stated in the rules relating to the operation of the Clearing House and after this, they may be destroyed by the collecting bank or HKICL as the case may be;
- (b) BEA is authorised to contract inter alia with collecting banks and HKICL in accordance with paragraph (a); and
- (c) in the event that a cheque purchased by BEA from the Customer is returned or unpaid for whatever reason or retained by the counterparty pursuant to any applicable laws, guidelines, rules, regulations, or otherwise, BEA shall not be obliged to return the original of such paper cheque to the Customer.

1.10 The Customer acknowledges that the opening and operation of the Account is subject to any applicable laws, rules and regulations promulgated from time to time by any relevant regulatory authorities, any agreements entered into by the Bank in relation to the clearance of foreign currency transactions, and rules issued by the clearing bank of foreign currency transactions, in each case as amended from time to time.

## 2. Current Account

- 2.1 The Current Account shall be denominated in such currency as may be acceptable to the Bank. The Bank shall be entitled to prescribe minimum and maximum amounts or balances in respect of the opening, operation and closing of any Current Account.
- 2.2 Unless otherwise notified by BEA, no interest will accrue on and be credited to the credit balance of the Current Account. If BEA notifies that interest will accrue and be credited to any Current Account, interest at the rates as to be determined by BEA from time to time will accrue on a daily basis will be credited to the Current Account every month or at such intervals as BEA decides. On account closure, interest will be calculated up to but excluding the date of such closing. No interest will be earned in respect of the days when the balance in the account falls below a certain level as determined and notified to the Customer from time to time by BEA and brought to the attention of the Customer by display, advertisement or otherwise as to be determined by BEA.
- 2.3 Cheques drawn on BEA can be presented and paid at any branch of BEA in Hong Kong unless otherwise specified by BEA.
- 2.4 Cheques may not be drawn on BEA except on the forms supplied and registered for each account. Customer must adhere to and agree to be bound by BEA's terms and conditions for use of cheques.

- 2.5 BEA may mark cheques "good for payment" and the account may be debited immediately with the amount of the cheque so marked.
- 2.6 BEA will record any order countermanding payment of cheque(s) but shall not be responsible for any loss if the cheque(s) is/are paid by BEA before BEA has had a reasonable time to act on the Instruction(s).
- 2.7 Upon closing of the relevant account either by the Customer or by BEA, all cheque forms previously issued to the Customer and not used shall become the property of BEA and the Customer shall forthwith deliver the same to BEA.
- 2.8 The Customer requests and authorises BEA to honour and comply with all cheques, promissory notes and other orders drawn, and all bills accepted on behalf of the Customer whether the Current Account be in credit or overdrawn and to comply with all directions given for or in connection with any account(s) of any kind whatsoever on behalf of the Customer and to accept and act upon all receipts for monies deposited with or owing by BEA on any account(s) in the name of the Customer so long as such cheques, promissory notes, orders, bills, directions or receipts are signed by the Customer provided always that BEA will be entitled not to honour or pay the same if funds in such account(s) are insufficient or if BEA is of the opinion that the honour or payment of the same is prohibited or restricted by law or governmental directions.
- 2.9 BEA may by notice to the Customer offer the no-bounce cheque/autopay protection to the Customer who maintains the HKD Current Account with BEA subject always to the terms and conditions as BEA may from time to time prescribe and BEA reserves the right to terminate or suspend such protection at any time or such circumstances at the discretion of BEA.
- 2.10 Cheques or other items paid in by the Customer and which have been dishonoured may be returned to the Customer at the Customer's own risk.
- 2.11 The exchange market is volatile. The Customer shall bear all risks in exchanging his deposit from/to any foreign currency. The Customer accepts all risks in relation to the deposit arising from exchange controls of any relevant country or any other circumstance beyond the control of BEA.
- 2.12 BEA's prevailing Exchange Rate will apply to all exchange transactions under the Current Account denominated in any currency other than HKD. BEA reserves the right to levy commission in lieu of exchange, at a rate to be determined by BEA, on payment/receipt of funds in notes/cheques denominated in any currency other than HKD.

### **3. Statement Savings Account**

- 3.1 A Statement Savings Account may be opened in more than one designated currency with BEA with an initial deposit as to be determined by BEA from time to time.
- 3.2 Deposits and withdrawals may be made at any branch of BEA in Hong Kong at any time during banking hours upon production of the requisite deposit and withdrawal slips or withdrawals may be made upon production of the Card and the Customer's legal identification document simultaneously for BEA's verification.
- 3.3 Withdrawals may not be made by means of cheques.
- 3.4 Deposits and withdrawals may be made by the telegraphic transfer of funds in the respective currency of the deposit. BEA will repay the deposit to the Customer in the manner as specified in Clause 1.2 of the Bank Product and Service Conditions. BEA reserves the right to levy commission in lieu of exchange, at a rate to be determined by BEA, on payment/receipt of funds in foreign currency notes/cheques.

- 3.5 Interest at the rates as to be determined by BEA from time to time will accrue on a daily basis and be credited to the relevant account every month or at such intervals as BEA decides. On account closure, interest will be calculated up to but excluding the date of such closing. No interest will be earned in respect of the days when the balance in the account falls below a certain level as determined from time to time by BEA and brought to the attention of the Customer by display, advertisement or otherwise as to be determined by BEA.

#### **4. Time Deposit Account**

- 4.1 Time Deposits placed with and accepted by BEA with the minimum deposit set by BEA for individual types of deposit are non-negotiable and non-transferable.
- 4.2 The interest rates applicable to the various types of deposits are determined by BEA from time to time at its sole and absolute discretion.
- 4.3 Interest on Call Deposits will be calculated and accrued on a daily basis at the call rate as determined by BEA at its sole and absolute discretion.
- 4.4 Interest on Fixed Deposits will be calculated on the principal amount at the rate agreed for the number of days from effective date up to but excluding the maturity date.
- 4.5 A Confirmation of Deposit will be issued to the Customer for each time deposit placed under the Account. The Customer undertakes to produce the Confirmation of Deposit to BEA for endorsement when required.
- 4.6 Where deposits are to be automatically renewed according to the Instructions from the Customer, the interest rate applicable to each renewal will be BEA's prevailing rate on the date of maturity of its immediately preceding tenor.
- 4.7 Unless BEA notifies otherwise, in the absence of maturity instructions from the Customer, Fixed Deposits will be renewed automatically on maturity for further consecutive period of a duration equal to the preceding deposit period. The interest rate applicable to the relevant type of deposit prevailing on the date of maturity of the immediately preceding deposit period will be the rate for the renewal.
- 4.8 Call Deposits may be withdrawn at any time by the Customer by giving notice to BEA in advance for such period of time as specified for the relevant type of Call Deposit.
- 4.9 Fixed Deposits may not be withdrawn before their maturity date except with the consent of BEA. BEA reserves the right not to pay interest on deposits withdrawn before the maturity date and in addition, shall be entitled to levy a penalty charge.
- 4.10 Time Deposit Account may not be drawn against by cheques.
- 4.11 In the events of the Customer withdrawing the amount of any Time Deposit as herein before provided the Customer undertakes to give BEA a discharge in such form as BEA may specify and to produce the relevant Confirmation of Deposit to BEA when required to do so.
- 4.12 Regarding Time Deposit in a foreign currency, placement of deposits should be settled by the telegraphic transfer of funds in the foreign currency of the deposit subject to the authenticated confirmation of the receipt of funds received by BEA from overseas correspondent. Where settlement is made other than by the telegraphic transfer of funds, BEA will charge the Customer the additional costs caused thereby. Settlement for placement of deposits may be made in HKD, in which case, BEA will apply the prevailing Exchange Rate for converting the HKD into the foreign currency of the



deposit. Withdrawals should be made by the telegraphic transfer of funds in the foreign currency of the deposit. BEA will repay the deposit to the Customer in the manner as specified in Clause 1.2 of the Bank Product and Service Conditions.

- 4.13 Regarding Swap Deposits, they are denominated in USD but are only payable in HKD and are accepted subject to foreign exchange contracts made between BEA and the Customer on the day of deposit. In the absence of maturity instruction from the Customer, Swap Deposits upon maturity will automatically be rollovered to a HKD 24 Hours Call Deposit.

## **5. BEA Online**

- 5.1 BEA may grant to the Customer the facility to carry out certain banking functions in the Account, Related Account, Designated Service Account and Registered Payee (only fund transfer to, but not out of, a Registered Payee is allowed). Notwithstanding any other agreements or arrangements between the Customer and BEA relating to the Account, Related Account or Designated Service Account may provide otherwise, BEA may accept Instruction relating thereto through various electronic delivery channels subject always to the provisions of the Terms as prescribed by BEA from time to time. The Customer shall only be entitled to gain access to BEA Online during the service hours specified by BEA from time to time.
- 5.2 The granting of usage and/or access to BEA Online to operate the Account, Related Account and Designated Service Account and/or transfer of funds to the account(s) of the Registered Payee(s) shall be at sole discretion of BEA and BEA may cancel or suspend BEA Online or any part thereof at any time. On the termination of BEA Online, access to the Account, Related Account and Designated Service Account through electronic delivery channels will be terminated.
- 5.3 On the closure of the account(s) which is/are the subject of BEA Online, the BEA Online services and Card for such account(s) will be terminated.
- 5.4 BEA shall supply the Customer with the BEA Online Services Login Number or other account identification(s) in any format as prescribed by BEA from time to time and an initial PIN for individual electronic delivery channels provided by BEA from time to time at the sole discretion of BEA. The BEA Online Services Login Number is the same as the account number of the Account. BEA is authorised to provide the initial PIN to the Customer (in case of individual and sole-proprietorship accounts) or any one of the persons comprising the Customer (in case of joint accounts) or any one of the Authorised Persons (in case of accounts other than individual, joint or sole-proprietorship accounts) of the Account.
- 5.5 BEA and its Agent may at its sole discretion introduce and provide new Services through BEA Online from time to time. The Customer can, through online registration or in such manner BEA may prescribe from time to time, subscribe for the new Services by accepting all the terms and conditions of such Services, and providing sufficient documents as requested by BEA for verification of the identity of the Customer.
- 5.6 [Intentionally left blank.]
- 5.7 [Intentionally left blank.]
- 5.8 [Intentionally left blank.]
- 5.9 [Intentionally left blank.]
- 5.10 The Customer may request, in writing or through BEA Online, the alteration of the self-selected user identity ("ID")/name or PIN if necessary from time to time. For the purpose of these conditions the term self-selected user ID/ name or PIN shall be the self-selected user ID/name or PIN currently in use.

- 5.11 The issuance, selection, or usage of a new self-selected user ID/name or PIN shall not be construed as the commencement/creation of a new contract.
- 5.12 The Customer acknowledges that the self-selected user ID/name or PIN is/are confidential and must not be disclosed (whether directly or indirectly, intentionally or unintentionally), and shall procure the Authorised Person (in case of accounts other than individual, joint or sole-proprietorship accounts) not to disclose, to any other person(s) under any circumstances. The Customer shall be liable for any direct and indirect losses or damages caused by breaching the confidentiality by means of any words, action, conduct or communication.
- 5.13 Without prejudice to other provisions hereof, the Customer agrees to indemnify BEA against all or Losses on a full indemnity basis which is directly or indirectly related to or in connection with the use of BEA Online or BEA Mobile whether such use is authorised or unauthorised or related to or in connection with any breach of these Terms, save for Losses arising out of BEA's negligence, fraud or wilful default.
- 5.14 The Customer shall ensure that the security measures within the Customer's control are at all times both adequate and properly maintained and understands and agrees that the failure on the part of the Customer to comply with any one of the security precautionary measures set out in the Important Notes for Security in relation to BEA Online and BEA Mobile as prescribed by BEA from time to time may lead to security breach and BEA shall not in any event be held liable for any loss or damage suffered by the Customer as a result thereof. BEA may at all times and from time to time in its sole discretion update the security precautionary measures set out in Important Notes for Security in relation to BEA Online and BEA Mobile without prior notice.
- 5.15 Any Transaction effected by BEA pursuant to or as a result of an Instruction initiated by the Customer with the correct BEA Online Services Login Number, code or security code generated or designated by i-Token Service of BEA, self-selected user name and/or, PIN shall be binding on the Customer. Except only due to the negligence or wilful default of BEA, BEA shall not be liable in respect of:
- (a) any loss or damage suffered by the Customer or by any other person as a result of any failure to gain access to the BEA Online or utilise the banking functions through various electronic delivery channels due to reasons beyond BEA's control, including without limitation to any computer, telecommunication, electrical or network failure; or
  - (b) any claim, damage, loss, responsibility, liability or obligation for any error delay, failure and any consequence arising from or in connection with the Bill Payment and Schedule instructions; or
  - (c) any other loss or damage whatsoever suffered by the Customer or by any other person as a result of any Instructions initiated by the Customer through various electronic delivery channels.
- 5.16 BEA shall in no circumstances be liable for any failure of BEA Online in whole or in part nor for the inability of the Customer to gain access in whole or in part to BEA Online caused by the delay or failure of any communication network or any party providing such access.
- 5.17 Provided that BEA has not been in negligence, has acted in good faith and with due diligence and also complied with the obligations under the Terms, any Transaction effected by BEA pursuant to or as a result of an Instruction initiated by the Customer with the correct BEA Online Services Login Number, self-selected user ID/name, and PIN shall be binding on the Customer.

5.18 Notwithstanding anything contained in the Terms, in the absence of gross negligence or fraudulence on the part of the Customer and if the Customer has acted in good faith and with due diligence and also fully complied with the obligations under all provisions contained herein, the Customer shall not be liable for unauthorised Transactions performed and/or executed through the BEA Online due to:

- (a) a computer crime not prevented by the security system of BEA;
- (b) a human or system error caused by BEA, resulting in an improper transaction, leading to the lost or misplaced funds; or
- (c) a missed or mis-directed payment caused by BEA.

The Customer shall be entitled to reimbursement from BEA for interest or late penalties incurred by the Customer for missed payments attributable to the foregoing causes (a), (b) and (c) of this Clause 5.18. On the other hand, the Customer shall be liable for all Losses if the Customer or any Authorised Person (in case of accounts other than individual, joint and sole-proprietorship accounts) acts fraudulently, or is in gross negligence, including failing to properly safeguard his self-selected user ID/name or PIN.

5.19 Subject to the provisions herein, BEA's liability to the Customer in relation to the provision of BEA Online shall be limited to the amount of the relevant Transaction or the direct damages sustained whichever is less. BEA shall in no circumstances be liable and the Customer agrees not to claim against BEA (whether in contract or tort (including negligence) or otherwise) for any direct or indirect, special or consequential loss, damages, cost, expense, claim, action or proceedings in connection with the use of or inability to use the BEA Online, the BEA Online Services Login Number(s), self-selected ID, PIN(s) or code or security code generated or designated by the i-Token Service of BEA, whether such use is authorised or unauthorised, including but not limited to any loss of profits or revenue, loss or injury to reputation or goodwill, loss of customers, loss of use of any data, equipment or software, even if BEA has been advised of or should have been aware of the possibility of such loss or damage.

5.20 BEA shall have the absolute discretion from time to time to determine the scope of BEA Online, set or change the daily cut-off time, withdraw or discontinue the operations of BEA Online without notice or responsibility to the Customer. Any Transactions performed through BEA Online after the daily cut-off time shall be treated as next Business Day value Transactions. Since the BEA Online system may be accessed from any country, the daily cut-off time in Hong Kong shall prevail.

5.21 The cost and expense to obtain and maintain suitable equipment to access BEA Online shall be borne by the Customer solely.

5.22 Any Instruction given to BEA through BEA Online shall operate as a request by the Customer to BEA to act on the Instruction provided that BEA shall not be obliged to act on any such Instruction which would result in the Account, the Related Account, the account of the Registered Payee (where it is in the name of the Customer) and/or Designated Service Account becoming overdrawn without authorisation or if such Account, Related Account, the account of the Registered Payee (where it is in the name of the Customer) and/or Designated Service Account is/are on hold, or frozen or dormant or in any other circumstances which BEA may in sole judgement consider appropriate. If BEA agrees to act on the Instruction, the Customer shall repay to BEA immediately on demand such amount overdrawn or over transferred together with interest thereon at the rate chargeable by BEA from time to time on overdraft accounts with BEA and other liabilities thereby created.

- 5.23 The Customer may request for the provision of various BEA Online services by giving telephone Instructions to BEA from time to time, provided that such services by themselves are allowed to be operated by telephone Instructions pursuant to their respective terms and conditions from time to time as prescribed by BEA and will be settled by direct debit of the Customer's designated account with BEA and BEA will notify the Customer of the payment by electronic mail or other means in its sole discretion. The Customer hereby acknowledges that such telephone Instructions given to BEA shall operate as a request by the Customer to BEA to act on the Instruction and once given by the Customer and acted upon by BEA shall be irrevocable and binding on the Customer and the Customer shall be subject to all the terms and conditions governing the use of such telephone Instructions as BEA may from time to time prescribe.

The acceptance of telephone Instructions to BEA shall be at the sole discretion of BEA.

- 5.24 The Customer may request BEA for the provision of various BEA Online services by giving written or facsimile Instructions to BEA provided that such services by themselves are allowed to be operated by written or facsimile Instructions pursuant to their respective terms and conditions from time to time as prescribed by BEA and provided further that BEA shall be entitled to specify, from time to time, such services which may be available to the Customer through the use of the BEA Online and/or any other means as BEA may prescribe.
- 5.25 All Transactions entered into pursuant to the Instructions given to BEA through BEA Online shall be subject to the terms and conditions governing such Transactions as prescribed by BEA from time to time.
- 5.26 The Customer acknowledges that all Instructions transmitted to BEA through any electronic channel shall not be considered as having been received and executed by BEA until BEA has received and executed such Instructions in a manner prescribed by BEA from time to time.
- 5.27 The Customer acknowledges that transactions involving any transfer of funds between any Sub-accounts or Related Account, or the account of Registered Payee or Designated Service Account, or payment Instructions on any day may at BEA's sole discretion be processed to the said accounts concerning the transfer of funds or payment Instructions on the day of the Transaction or the next Business Day. In the case of any Transactions involving the transfer of funds to other bank's account or any Third Party Account, the Receiving Bank may credit the funds received to the payee's accounts at different times and BEA is not responsible as to when the transferred funds will actually be credited to the payee's accounts. Where funds are received from the Paying Bank for the Customer's account, BEA will credit the funds to the Customer's account in accordance with BEA's practice from time to time. BEA has the right at any time to reverse any credit to the Customer's account if the Paying Bank fails for any reason to make payment to BEA.
- 5.28 [Intentionally left blank.]
- 5.29 The amounts that the Customer shall be permitted to transfer through BEA Online shall be limited to the individual and the aggregate daily limits including but not limited to the withdrawal and deposit transaction limits expressed in HKD or its equivalent as published by BEA from time to time. BEA shall have the right to impose such restrictions as BEA thinks fit for the efficient operation of BEA Online or for any other reason.
- 5.30 The Customer irrevocably authorises BEA to debit the Account, Related Account(s) and/or Designated Service Account with the amount of any transfer/payment Transaction effected through BEA Online and BEA is

entitled to act on such transfer/payment Transaction Instruction without obtaining any further written or other confirmation from the Customer, notwithstanding that such transfer/payment Transaction Instruction is not given or authorised by the Customer. Subject to Clause 5.25 of the Bank Product and Service Conditions, the Customer agrees and accepts full and sole responsibility for all consequences, losses and/or liabilities incurred as a result of such transfer/payment Transaction, whether given or authorised by the Customer or not and shall fully indemnify BEA and keep BEA fully indemnified against all or any Losses by reason of the effect of such transfer/payment Transaction.

- 5.31 BEA will not assume any responsibility or obligation for any Transaction or error arising out of failure of the Customer to provide or input sufficient or accurate data to enable any Transaction to be effected through BEA Online.
- 5.32 The Customer understands and acknowledges that BEA Online is provided as an additional service in relation to banking transactions with BEA and shall not be considered as a substitute for other method(s) of effecting banking transactions. In the event that BEA Online is not available for any reason whatsoever (whether or not within the control of BEA), the Customer shall have no claim whatsoever against BEA and shall use other available means to effect banking transactions.
- 5.33 The Customer agrees to the disclosure or transfer of personal data in respect of the Account(s), Transactions and dealings with BEA, the mobile network service providers and of other third party engaged in any Transaction or providing any service in respect of the BEA Online between any one or more of such entities and their subsidiaries, group members and agents thereof whether in or outside Hong Kong in connection with the provision of the BEA Online.
- 5.34 BEA shall endeavour to take all steps as far as reasonably practicable to ensure that information made available by BEA Online is correct and updated at regular intervals. The Transaction details and balances of the Account(s), the account of the Registered Payee (whether it is in the name of Customer) and Related Account(s) as shown in the Customer's terminal or any print-out are for reference only. Those Transaction details and account balances as recorded in BEA's system will be conclusive. The Customer agrees and confirms that BEA shall not be held liable for or in connection with the accuracy of all the information received by the Customer through BEA Online.
- 5.35 BEA shall not be liable for any damage to the Customer's computer terminal or equipment or related facilities or any loss or corruption of the Customer's data in connection with the operation of BEA Online. BEA shall not in any event be liable for any indirect, special, incidental or consequential damages arising from or in connection with the provision of BEA Online.
- 5.36 The Customer agrees to pay any and all of the fees and/or charges, which BEA may charge from time to time in connection with the provision and/or use of BEA Online by the Customer. BEA may at any time without obtaining consent from the Customer set-off or transfer any monies standing to the credit of any of bank accounts of whatsoever description (including but not limited to current, savings, fixed or call deposit accounts) towards discharge of all sums due to BEA or arising out of the use of BEA Online. The Customer hereby confirms that BEA shall in no event be liable for any loss or damage or consequence including but not limited to, the dishonour of any Transaction involving the use of BEA Online or the levying of any overdraft interest due to insufficient credit balance of the Account(s) and Related Account(s) or Designated Service Account, which may be incurred or suffered by the Customer as a result of, or arising from the charge levying from the account by BEA. The Customer hereby further waives his rights, if

any, against BEA of the aforesaid liabilities, if any, and confirms that the Customer shall be solely liable for such liabilities.

5.37 The Customer understands that due to unpredictable traffic congestion, openness and public nature of the internet and other reasons, the internet may not be a reliable medium of communication and that such unreliability is beyond the control of BEA. This may subject Transactions to delays in transmission, incorrect data transmission, delays in execution or execution of Instructions at prices different from those prevailing at the time Instructions were given, misunderstanding and errors in any communication between BEA and the Customer, transmission blackouts, interruptions and so on.

#### 5.38 Bank Services relating to Faster Payment System

(a) BEA provides the Bank Services to customers to facilitate payments and funds transfers using the Faster Payment System. The Faster Payment System is provided and operated by HKICL. The 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. Clauses 5.38 to 5.44 of the Bank Product and Service Conditions govern BEA's provision to the Customer and the Customer's use of the Bank Services. The Bank Services form part of BEA's banking services. Clauses 5.38 to 5.44 of the Bank Product and Service Conditions form part of the SupremeGold Account/Supreme Account/BEA GOAL/i-Account Terms and Conditions (the "Existing Terms"). The provisions of the Existing Terms (other than Clauses 5.38 to 5.44) continue to apply to the Bank Services to the extent that they are relevant and not inconsistent with the provisions in Clauses 5.38 to 5.44 of the Bank Product and Service Conditions. Unless otherwise specified, the provisions of Clauses 5.38 to 5.44 of the Bank Product and Service Conditions prevail if there is any inconsistency between them and the other provisions of the Existing Terms with respect to the Bank Services.

(b) By requesting BEA 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 Clauses 5.38 to 5.44 of the Bank Product and Service Conditions. The Customer should not request BEA 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 Clauses 5.38 to 5.344 of the Bank Product and Service Conditions.

(c) In Clauses 5.38 to 5.44 of the Bank Product and Service Conditions, the following terms have the following meanings:

**"Addressing Service"** means a service provided by HKICL as part of HKICL FPS to facilitate customers of Participants to use predefined Proxy ID instead of account number to identify the destination of a payment or funds transfer instruction and other communications for the purpose of HKICL FPS.

**"Bank Services"** means the services provided by BEA to customers from time to time to facilitate payments and funds transfers using HKICL FPS and the Addressing Service, eDDA Service and any other services and facilities provided by HKICL in connection with the Faster Payment System from time to time. **"Default Account"** means the account maintained by the Customer with BEA 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 facilitate customers of Participants to set up direct debit authorisation.

**"Faster Payment System Identifier" or "FPS ID"** means a unique random number generated by HKICL FPS to be associated with the account of a customer of a Participant.

**"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 (ii) exchanging and processing instructions relating to eDDA Service and Addressing Service.

**"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.

**"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 the mobile phone number or email address of the customer, or the FPS ID.

**"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 regulatory authority, governmental agency (including tax authority), clearing or settlement bank or exchange, or industry or self-regulatory body, whether in or outside Hong Kong, to which HKICL, BEA or any other Participant or the respective affiliates or group companies, or the Customer is subject or is expected to comply with from time to time.

**"Customer"** means each customer to whom BEA provides Bank Services and, where the context permits, includes any person authorised by the customer to give instructions or requests to BEA in connection with the use of the Bank Services.

#### 5.39 Scope of Bank Services and conditions for use

- (a) BEA provides the Bank Services to customers to facilitate payment and funds transfer using the Faster Payment System and the Addressing Service, eDDA Service and any other services and facilities provided by HKICL in connection with the Faster Payment System from time to time. BEA has the right to set or vary from time to time the scope of the Bank Services and the conditions and procedures for using the Bank Services. In order to use the Bank Services, the Customer has to accept and follow these conditions and procedures.
- (b) BEA may provide the Bank Services to facilitate payment and funds transfer in any currency specified by BEA from time to time, including Hong Kong dollars and Renminbi.
- (c) In order to enable BEA to handle an instruction for the Customer in relation to payment or funds transfer using HKICL FPS, the Customer has to provide or input the necessary information and complete the

process by such means or in such manner prescribed by BEA from time to time.

- (d) All payment 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) BEA reserves the right to suspend or terminate the Bank Services in whole or in part at any time without giving notice or reason.

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

- (a) In order to use the Addressing Service to receive payment or funds transfer using HKICL FPS, the Customer has to register the Customer's Proxy ID in the HKICL FPS. BEA has discretion as to whether to offer the FPS ID as Proxy ID to the Customer.
- (b) Registration and amendment of 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 BEA to register or amend Proxy ID or any related records for the Customer, the Customer has to provide or input the necessary information and complete the registration process by such means or in such manner prescribed by BEA from time to time.
- (c) At any time where the same Proxy ID is registered by the Customer for more than one account (whether maintained with BEA or with any other Participant), the Customer must set one account as the Default Account. By instructing BEA to set or change the Default Account for the Customer, the Customer consents and authorises BEA to submit the request on behalf of the Customer to HKICL FPS to override the existing Default Account registered in HKICL FPS.

#### 5.41 eDDA Service

- (a) In order to enable BEA to handle a request for the Customer in relation to eDDA setup, the Customer has to provide or input the necessary information and complete the process by such means or in such manner prescribed by BEA 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 verifying 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.
- (b) The Customer hereby authorises BEA to effect transfers from the Customer's account to that of the beneficiaries in accordance with such instructions as BEA may receive from the beneficiaries from time to time provided always that the amount of any one such transfer shall not exceed the limit indicated in the eDDA setup.
- (c) The Customer agrees that BEA shall not be obliged to ascertain whether or not notice of any such transfer has been given to the Customer.
- (d) The Customer accepts full responsibility for any overdraft (or increase in existing overdraft) on the Customer's account which may arise as a result of any such transfer(s) conducted in accordance with the eDDA setup.



- (e) The Customer agrees that should there be insufficient funds in the Customer's account to meet any transfer, BEA shall be entitled, in its discretion, not to effect such transfer in which event BEA may charge the Customer the usual fees.
- (f) The eDDA shall remain in effect until the Customer has provided us at least one (1)-week advanced notification for cancellation or variation of the Customer's eDDA setup or until after the Customer's designated end date as specified in the eDDA setup (whichever shall first occur).
- (g) The Customer agrees that any notice of cancellation or variation of the authorisation for a specific direct debit transaction will only become effective once the counter-party confirms the cancellation or variation request.
- (h) If the amount of the Customer's payments is likely to vary each time, the Customer agrees that the Customer will set the limit for each payment at the maximum amount the Customer expects to pay at any one time in the eDDA setup.

#### 5.42 The Customer's responsibility

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

The Customer can only register the Customer's own Proxy ID for the Customer's own accounts or set up eDDA for the Customer's own accounts. The Customer must be the present genuine owner or authorised user of each Proxy ID and each account provided to BEA for registration in the Addressing Service and the eDDA Service. By instructing BEA to register any Proxy ID or any account for the Customer in relation to the Faster Payment System, the Customer confirms that the Customer 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

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

- (c) Correct information

- (i) The Customer has to ensure that all the information provided by the Customer for registration or amendment of Proxy ID (or any related records) or for any eDDA setup is correct, complete, up-to-date and not misleading. The Customer has to notify BEA as soon as reasonably practicable of any changes or updates to such information by such means or in such manner specified by BEA from time to time.
- (ii) The Customer is fully responsible for using the correct and up-to-date Proxy ID and related records in giving each payment or funds transfer instruction. The Customer is solely liable for and will hold BEA harmless from any incorrect payment or transfer effected by BEA and HKICL FPS due to incorrect or outdated Proxy ID or related records.

(d) Timely updates

- (i) The Customer is fully responsible for giving instructions and information changes or updates to BEA on a timely basis for amending the Customer's Proxy ID (or related records) or any eDDA setup, including without limitation changing the Customer's Default Account, or terminating any Proxy ID or eDDA. The Customer acknowledges that keeping the Customer's 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 payment or transfer due to incorrect or outdated Proxy ID, eDDA or related records.
- (ii) The Customer may be liable if loss is caused by the Customer's failure to provide update information which may result in BEA being unable to process the Customer's applications or to provide or continue to the eDDA Service and/or the related services to the Customer.

(e) Change of Default Account

If an account is terminated as the Default Account by the Customer or by the relevant Participant for any reason (including suspension or termination of the account), the system of HKICL 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 Customer wishes to set another account as the Default Account, the Customer has to change the registration through the Participant where the Customer maintains that other account.

(f) Transactions binding on the Customer

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

(g) Use Bank Services responsibly

The Customer must use the Bank Services in a responsible manner. In particular, the Customer has to comply with the following obligations:

- (i) The Customer must comply with all Regulatory Requirements that govern the Customer's use of the Bank Services, including 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 Customer must not use the 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 Customer's payment or funds transfer instructions or eDDA setup using HKICL FPS, the 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 BEA offers the FPS ID as Proxy ID to the Customer, the Customer should not repeatedly cancel the registration and request for generation of another FPS ID in an attempt to generate a number or value that the Customer's desire.

(h) Other obligations regarding payments and funds transfers

Any instruction given by the Customer in relation to the Bank Services will be handled by us in accordance with Clauses 5.38 to 5.44 of the Bank Product and Service Conditions and the applicable provisions in the Existing Terms. The Customer has to comply with the other obligations with respect to payments, funds transfers and direct debit authorisations, including without limitation maintaining sufficient funds in the relevant accounts for settling payment and funds transfer instructions from time to time.

(i) The Customer is responsible for the Customer's authorised persons

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

- (i) the Customer is responsible for all the acts and omissions of each person authorised by the Customer;
- (ii) any instruction or request received by BEA, believed by BEA in good faith to be given by the Customer or any person authorised by the Customer, will be irrevocable and binding on the Customer; and
- (iii) the Customer is also responsible for ensuring that each person authorised by the Customer will comply with the provisions of Clauses 5.38 to 5.44 of the Bank Product and Service Conditions that are applicable to him/her when acting on the Customer's behalf.

5.43 BEA's responsibility and restriction of liability

- (a) BEA will process and submit the 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 Customer's instructions and requests in such sequence or manner as HKICL considers appropriate. BEA has no control over the operation of HKICL FPS nor the timing on which the Customer's instructions or requests are executed by HKICL FPS. Where BEA receives status update notifications involving any of the 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, BEA will notify the Customer accordingly by such means and at such time as BEA considers appropriate.
- (b) Without reducing the effect of Clause 5.43(a) above or the provisions of the Existing Terms:
  - (i) BEA is not liable for loss, damage or expense of any kind which the Customer or any other person may incur or suffer arising from or in connection with the use of the Bank Services or the processing or execution of instructions or requests given by the Customer in relation to the 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 BEA's negligence or wilful default or that of BEA's officers, employees or agents;

- (ii) for clarity, BEA is not liable for loss, damage or expense of any kind which the Customer or any other person may incur or suffer arising from or in connection with one or more of the following:
    - (1) the Customer's failure to comply with the Customer's obligations relating to the Bank Services; and
    - (2) any delay, unavailability, disruption, failure, error of or caused by HKICL FPS, or arising from any circumstances beyond BEA's reasonable control; and
  - (iii) in no event will BEA, its affiliates or group companies, its licensors, and its and their respective officers, employees and agents be liable to the 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) The Customer's confirmation and indemnity
- (i) Without reducing the effect of any indemnity given by the Customer under the Existing Terms or any other rights or remedies that BEA may have, the Customer will indemnify BEA and its officers, employees and agents and hold each of them harmless against all liabilities, claims, demands, losses, damages, costs, charges and expenses of any kind (including legal fees on a full indemnity basis and other expenses reasonably incurred) which may be incurred or suffered by BEA or any of them and all actions or proceedings which may be brought by or against BEA or any of them as a result of or in connection with BEA's provision of the Bank Services or the Customer's use of the 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 BEA's negligence or wilful default or that of BEA's officers, employees or agents. The above indemnity shall continue to have effect after the termination of the Bank Services.

#### 5.44 Collection and use of Customer Information

- (a) For the purposes of using the Bank Services, the Customer may be required to provide BEA with the personal data and other information relating to one or more of the following persons from time to time:
  - (i) the Customer;
  - (ii) the recipient of any payment or funds transfer to be made by the Customer, or the counterparty of any eDDA to be set up by the Customer; and
  - (iii) where the Customer is a company, a corporation, or a sole proprietorship or partnership firm or any other unincorporated body, any of the Customer's directors, officers, employees, authorised persons and representatives,

all personal data and information provided to BEA or compiled by BEA from time to time in connection with the Bank Services are collectively referred to as "Customer Information".
- (b) The Customer agrees (and, where applicable, for and on behalf of each of the Customer's directors, officers, employees, authorised persons and representatives) that BEA may collect, use, process, retain or transfer any of the Customer Information for the purposes of the Bank Services. These purposes include without limitation one or more of the following:

- (i) providing the Bank Services to the Customer, maintaining and operating the Bank Services;
  - (ii) processing and executing the Customer's instructions and requests in relation to the 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.
- (c) The Customer understands and agrees that the Customer Information may be further disclosed or transferred by HKICL, us or any other Participants to their 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.
- (d) If the Customer Information includes personal data or other information of any person other than the Customer (including any persons specified in Clause 5.44(a)(ii) or Clause 5.44(a)(iii) above), the Customer confirms that the Customer will obtain and has obtained the consent from such person regarding the use (including disclosure and transfer) of his/her personal data and other information by HKICL, BEA and the other Participants as specified in this Clause.

## 6. Card

- 6.1 The Customer (herein referred to as the "Cardholder") who has been issued with the Card can use such Card on any one of the Automated Teller Machines ("ATM") installed by or belonging to BEA or, at the Bank's discretion, any Member Bank of the JETCO and PLUS or UnionPay ATM Network ("Member Bank"), and/or any other devices or terminals for effecting payment by transfer of funds by electronic means, including but not limited to point of sale terminals ("POST") or otherwise from time to time announced by BEA.
- 6.2 The Card is and shall at all times be the property of BEA and BEA reserves the right at all times at its absolute discretion to terminate the Terms with the Cardholder by withdrawal of the Card or the service thereby provided, or by refusing to renew the Card without giving any reason therein and without any prior notice to the Cardholder. The Cardholder shall surrender the Card to BEA immediately upon BEA's demand on the occurrence of any one of the said events.
- 6.3 The Card shall only and exclusively be used by the Cardholder and is not transferable.
- 6.4 The Cardholder shall at no time and in no circumstances disclose to any person whomsoever his PIN designated for operating the ATM of BEA or the ATM of any other Member Bank and/or POST. Notwithstanding the foregoing, the Cardholder shall be fully responsible for all Transactions involving the use of any Card by any person whomsoever whether or not authorised by the Cardholder.
- 6.5 If the Cardholder shall consist of more than one person, each and every one of the Cardholder shall be jointly and severally responsible for all Transactions involving the use of the Card so issued and the Terms shall be jointly and severally binding on each and every one of the Cardholder.
- 6.6 The Card shall be used for withdrawal or transfer at ATM of BEA or any other Member Bank and/or POST only if there are sufficient funds in the Sub-

account(s) to which the card relates. If withdrawal or transfers is made without sufficient funds in the Account(s), to which the Card relates BEA is not obliged to effect any such withdrawal or transfer and is entitled to refuse to effect such withdrawal or transfer, with or without cause, without incurring any liability whatsoever and without prior notice to the Cardholder. If BEA agrees to effect such withdrawal or transfer, the Cardholder shall repay to BEA immediately on demand such amount overdrawn or over transferred together with interest thereon at the rate chargeable by BEA from time to time on overdraft accounts with BEA. The Cardholder hereby agrees to indemnify BEA and keep BEA fully indemnified against all or any Losses arising from or relating to the Cardholder's making withdrawals or effecting transfer of funds from the Account(s) held with BEA by using the Card and the ATM or POST, unless any of the Losses arises out of BEA's negligence, fraud or wilful default.

- 6.7 The Cardholder acknowledges that Transactions involving any transfer of funds between any Sub-accounts through an ATM and/or POST on any day may at BEA's sole discretion be processed on the day of the Transaction or on the next Business Day. In the case of any Transactions involving the transfer of funds to other bank's account or any Third Party Account, the Receiving Bank may credit the funds received to the payee's accounts at different times and BEA is not responsible as to when the transferred funds will actually be credited to the payee's accounts. Where funds are received through an ATM and/or POST from the Paying Bank for the Cardholder's account, BEA will credit the funds to the Cardholder's account in accordance with BEA's practice from time to time. BEA has the right at any time to reverse any credit to the Cardholder's account if the Paying Bank fails for any reason to make payment to BEA.
- 6.8 The records of BEA and/or any other Member Bank and/or any other institutions in relation to any Transactions made by the use of the Card on any ATM and/or POST shall in all respects be conclusively binding on the Cardholder for all purposes. If the Cardholder has any question, problem or dispute in relation to any Transactions involving the use of the Card, the Cardholder must look to BEA for answers to such questions or for resolution of such problems or disputes.
- 6.9 Cash and/or cheque(s) in Hong Kong currency may be deposited with BEA by the use of the Card and the ATM of BEA provided the Cardholder agrees that:
- (a) envelope cash deposits shall be treated as having been received by BEA and will be credited to the Cardholder's account only after verification by BEA (such verification may not take place on the same day), and before the same is credited to the Cardholder's account as aforesaid, the Cardholder cannot withdraw or utilise the same;
  - (b) cheques deposited are accepted for collection only, the proceeds will not be credited to the Cardholder's account and be available for withdrawal or transfer until after the cheques have been duly cleared. Such collection of cheques may not take place on the same day as the deposit of cheques;
  - (c) the Customer advice(s) issued by the ATM in respect of the acceptance of such deposit(s) represents only what the Cardholder has purported to have deposited with BEA by the use of the Card and the ATM and shall in no way and under no circumstances bind BEA as to its/their validity and correctness as to the amount so deposited, which is subject to the verification by BEA;
  - (d) the Cardholder shall indemnify BEA and keep BEA fully indemnified against all or any Losses arising from or relating to the Cardholder's

making deposits with BEA by using the Card and the ATM, unless any of the Losses arises out of BEA's negligence, fraud or wilful default;

- (e) deposit of foreign currency notes and cheques by use of the Card and the ATM is not permitted and BEA will not be responsible for the consequences of any attempts to deposit such items;
- (f) deposit of coins by the use of the Card and the ATM is not allowed; and
- (g) instant cash deposits will be credited to Cardholder's account instantly if the transaction is accepted but BEA reserves the right to verify and reverse such transaction.

- 6.10 The Cardholder irrevocably authorises BEA to debit, without any prior notice to the Cardholder, the account of the Cardholder with BEA the amount of any withdrawal, transfer and/or Transaction involving the use of the Card at the ATM of BEA or the ATM of any other Member Bank and/or POST whether or not made with his knowledge or by his authority on receipt by BEA of the transfer request. In case of fund transfer to any other bank's account or Third Party Account, BEA is not responsible in any circumstances to recover any amount paid to the Receiving Banks, unless due to the negligence, fraud or wilful default of BEA and is not responsible if any Receiving Bank fails for any reason to pay the transferee.
- 6.11 In the event of loss or theft of the Card, the Cardholder shall immediately report to BEA and confirm the same in writing, if requested by BEA. The Cardholder shall be responsible for all Transactions effected by the use of the Card by any person whether or not authorised by the Cardholder before such written notification of Card loss or theft has been received by BEA. If any replacement Card is issued, BEA is entitled to charge a fee. BEA may from time to time in its sole discretion determine the fee for the replacement of the Card which shall be debited from the designated Sub-account to which the Card relates.
- 6.12 The Card and the related PIN are issued and delivered to the Cardholder at his own risk.
- 6.13 For any Transaction carried out in any currency other than Hong Kong currency, BEA shall have complete discretion to convert such foreign currency by any lawful means at BEA's disposal and at BEA's prevailing Exchange Rate without reference to or consent from the Cardholder.
- 6.14 BEA and/or any Member Bank and/or any other institutions shall not be responsible for any and all consequences, if the Transactions involving the use of the Card are not honoured or operative for any reason whatsoever or if there is any malfunctioning and/or failure of the ATM and/or POST.
- 6.15 BEA shall be entitled from time to time to impose any limit and/or restriction whether in amount or otherwise on the use of the Card. If a Transaction made by the Cardholder exceeds such limit or use, BEA is not obliged to effect such withdrawal or transfer and is entitled to refuse or reject to effect such withdrawal or transfer, without incurring any liability whatsoever and without prior notice to the Cardholder.
- 6.16 BEA hereby reserves all rights to charge a fee for the use of the Card and such fee shall be at such rate and for such period and payable in such manner as BEA may announce from time to time.
- 6.17 BEA shall be entitled to charge and the Cardholder hereby agrees to pay an annual fee for the Card. BEA may from time to time in its absolute discretion determine the annual fee for the use of the Card. Such annual fee is payable in advance and shall be debited automatically from the designated Sub-account to which the Card relates. Any amendment and change will be announced by BEA from time to time in such manner as it deems fit. All such fees shall not be refundable irrespective of cancellation of the Card whether

by the Cardholder or by BEA. The Cardholder hereby confirms that BEA shall in no event be liable for any loss or damage or consequence including but not limited to, the dishonour of any Transaction involving the use of the Card or the levying of any overdraft interest due to insufficient credit balance of the Sub-account to which the Card relates, which may be incurred or suffered by the Cardholder as a result of, or arising from the levying and automatic debiting of any annual fee from the designated account. The Cardholder hereby further waives his rights, if any, against BEA of the aforesaid liabilities, if any, and confirms that the Cardholder shall be solely liable for such liabilities.

- 6.18 Without prejudice to the generality of Clause 26.2, 26.3 and 26.4 of the General Terms and Conditions, the Cardholder agrees that BEA may contact his employer, banks, or other information sources to obtain, collect, hold, store, use, exchange and disclose details of information, provided by/or related to the Cardholder or any Transactions or dealings between them/ or personal data without prejudice to the generality of the foregoing. Data held by BEA relating to the Cardholder will be kept confidential but BEA may disclose any such details or information as above to any member banks and to any third party service provider whose name or logo appear on the Card. Such transfers are necessary to ensure international acceptability and efficient provision of the services of the Card. BEA may also compare the information collected about the Cardholder and may use the results of such comparisons for the purpose of taking any action including action which may be adverse to the interest of the Cardholder in connection with denying authorisation for use of the Card or cancellation of the Card or collection of amounts outstanding in respect of the Card.
- 6.19 BEA shall not be liable for any act or omission of any merchant shop or establishment including, without limitation, any refusal to honour or accept the use of the Card or any statement or other communication made or any dispute defect or deficiency in any goods or services supplied in connection with the use of the Card. The Cardholder shall handle or resolve all claims or disputes directly with such merchant shop or establishment and no such claim or dispute shall affect or entitle the Cardholder to revoke challenge or vary any transfer or payment effected.
- 6.20 The Cardholder's use of the Card shall at all times be subject to all the terms and conditions currently enforced for the time being imposed by BEA. The Cardholder may at any time return the Card to BEA by cutting the Card in half and returning the pieces to BEA whereupon on actual receipt by BEA of the pieces of the Card, the Card shall be cancelled.
- 6.21 The Cardholder acknowledges that fund transfers to Third Party Accounts involve risks, for example, in the event of payments to unauthorised Third Party Accounts.
- 6.22 If a Receiving Bank is in default in the interbank settlement before the Cardholder's payment has been made to it, the payment would not be made and the debit entry in the Cardholder's account would accordingly be reversed.
- 6.23 ATM services of the Card within or outside Hong Kong are subject to the respective daily transaction limits as determined by BEA or set by the Cardholder through BEA (whichever is lower in each case) and the scope of services as determined by BEA from time to time.

## **7. Securities Investment Services**

- 7.1 Subject to Clause 7.23 of the Bank Product and Service Conditions, the Customer may instruct BEA and BEA may act as the Customer's agent to purchase and sell and/or accept for custody, including, without limitation, shares and partly paid shares, stocks, debentures, loan stocks, funds, bonds



or bond indices, notes, warrants, interests in unit trusts and mutual fund provided that BEA will place orders for the purchase of Securities only if the Customer has arranged to make sufficient funds available in advance to meet the obligations of such purchase. BEA will only place orders for the sale of Securities provided that such Securities are in the Account free of all liens and other Encumbrances whatsoever.

- 7.2 The Customer may send Instructions through BEA Online or designated hotlines to purchase, sell or otherwise deal with Securities and to gain access to information services provided that such Instructions are given in accordance with the provisions contained herein. The Customer further acknowledges and agrees that he shall notify the Bank immediately if:
- (a) an Instruction has been placed through BEA Online or the designated hotlines and he has not received any acknowledgment of the Instruction or of its execution whether by hard copy, electronic or verbal means within three (3) minutes of placing the Instruction;
  - (b) he has received acknowledgment whether by hard copy, electronic or verbal means of a Transaction which he did not instruct or any similar conflict; or
  - (c) he becomes aware of any unauthorised use of his BEA Online Services Login Number, user ID/name, and/or PIN.

The Customer agrees that if he fails to notify the Bank immediately when any of the above situations occurs, neither BEA nor its Related Parties will have any liability to him, or to any other person whose claim may arise through him, for any claims with respect to the handling, mishandling or loss of any Instruction.

- 7.3 With regard to the application for new issue of Securities, the Customer agrees to be bound by the terms and conditions of the relevant issue (where applicable) and authorises BEA as the Customer's agent to agree to the terms and conditions thereof.
- 7.4 BEA will place the Securities with custodians which at its sole discretion it may select. Securities designated to be placed in custody with a custodian shall be delivered to the custodian by BEA in its own name, but for the account and at the sole risk and expense of the Customer. BEA is only obliged to assign to the Customer any rights of recourse in respect of the custodians.
- 7.5 BEA is authorised, but not obliged, to register all Securities in the name of its nominee. As such, Customer shall sign and execute the requisite instruments of transfer and other documents as appropriate.
- 7.6 With regard to the duly completed subscription applications and subscription money, and/or switching, and/or redemption requests by the Customer on the Securities together with the relevant documents, information and other necessary materials in respect of any particular Transactions, BEA's obligation under the Terms in respect of those Transactions shall be absolutely discharged.
- 7.7 Nothing in the Terms shall impose or be interpreted to impose any obligation or undertaking on BEA to verify the correctness of the prices to effect the dealings pursuant to the Customer's requests.
- 7.8 The Customer shall charge all the Securities deposited with BEA from time to time as Collateral. BEA shall not be obliged to release any of the Securities unless all the outstanding debt have been fully paid and discharged.
- 7.9 The Customer shall fully indemnify BEA against any claim, which may be made against BEA by a purchaser or any other person by reason of any

defect in the Customer's title to any of the Securities or by any reason of any of the Securities not being genuine.

7.10 BEA is authorised by the Customer, from time to time:

- (a) to request payment of and to receive all interest, dividends and other payments or distributions in respect of the Securities;
- (b) to take Instruction directly from the Customer or his/its duly authorised agent on delivery of any of the Securities;
- (c) to surrender any of the Securities against receipt of monies payable at maturity or on redemption if called prior to maturity, and where Securities are called for redemption prior to maturity, BEA shall have no duty to present the Securities for redemption, unless, after the call is made, the Customer requests BEA in writing not less than three (3) Business Days before the redemption date;
- (d) where monies are payable in respect of any of the Securities in more than one currency, to collect them in such currency as may be permissible by law and BEA may in its discretion determine;
- (e) to complete and deliver on behalf of the Customer as owner thereof any ownership certificates in connection with the Securities which may be required by law;
- (f) in its discretion to comply with the provisions of any law, regulation or order now or hereafter in force which purport to impose on a holder of any of the Securities a duty to take or refrain from taking any action in connection with any of the Securities or payments or distributions or monies payable in respect of any of the Securities;
- (g) to exchange any of the Securities in interim or temporary form for Securities in definitive form;
- (h) to satisfy any liabilities arising from or in respect of the holding of the Securities as in its discretion BEA may think fit irrespective of any Instructions received from the Customer or his/its duly authorised agent;
- (i) to dispose of any monies received or collected or received as proceeds of sale of any of the Securities by crediting the Account of the Customer;
- (j) to deliver any of the Securities and BEA is not bound to deliver to the Customer Securities identical to his Securities held by it or in its name or the name of any of its Agents or nominees.

7.11 BEA shall have no duty or responsibility to attend any meeting or to exercise any vote pursuant to its holding of the Securities. Subject as aforesaid BEA will use its best endeavours to comply with written Instructions from the Customer or his/its duly authorised agent and upon such conditions and indemnity and provision for expenses as BEA may require.

7.12 The Customer acknowledges that he is liable for any liabilities in respect of unpaid calls or any other sums, cost or expenses payable in respect of any Securities held by BEA on the Customer's behalf.

7.13 The Customer acknowledges that BEA's sole responsibility with regard to the proceeds of any sale of Securities pursuant to the Customer's Instructions is to receive payment by way of cheque, bank draft or any other appropriate form of such proceeds from the purchaser of the relevant Securities. BEA will not be liable to pay to the Customer any such proceeds of sale if any such payment is not honoured or not being valid.

#### 7.14 Provision of Securities Investment Services

Subject to and upon the provisions of the Terms, BEA may but is not obliged to, provide the Securities Investment Services to the Customer upon the request of the Customer from time to time.

#### 7.15 Securities Account and Settlement Account

- (a) For the purpose of effecting sale and purchase of Securities on behalf of the Customer, the Customer agrees to open and maintain in the Customer's name a Settlement Account and a Securities Account, both being Sub-accounts of the Account.
- (b) All monies payable to or by the Customer in respect of the Securities Investment Services including, without limitation, any purchase prices, proceeds of sale, commissions, brokerages, exchange and other levies and any other charges and expenses shall be paid into or out of the relevant Settlement Account.

#### 7.16 Bank as Agent for Customer

- (a) BEA is hereby authorised to act as agent for the Customer to pass to a Broker or Brokers, whether in the name of the Customer or in BEA's own name and whether lumped together with instructions of BEA's other customers or otherwise, Instructions received by BEA in relation to the sale, purchase and other dealings in Securities. BEA is and shall be entitled to refuse to pass, or delay in passing, any such Instructions to a Broker or Brokers on such reasonable grounds as it deems fit and shall not be obliged to give any reasons for such refusal or delay. BEA will act as the Customer's agent in the execution of any Instruction for the sale or purchase of Securities. If BEA acts as principal in any Transaction for the sale or purchase of Securities, the same will be disclosed in the contract note of the relevant Transaction.
- (b) The Customer acknowledges that due to market conditions, Broker(s) may not be able to perform Instructions relating to sale or purchase of Securities in full and in case where an Instruction given by BEA to a Broker on behalf of BEA's customers (including the Customer) for selling or purchasing of the same Securities has been performed by the Broker partially, BEA shall allocate any contracts so concluded by the Broker to the Customer by way of performance of the Instructions given by the Customer on a fair basis. Further, BEA shall be under no obligation to notify the Customer immediately if any Instruction is not performed in full and if the Customer requires confirmation in this regard, the Customer should contact BEA subsequently.
- (c) To the extent not by then performed or deemed to be performed by contracts allocated by BEA to the Customer pursuant to Clause 7.16(b) of the Bank Product and Service Conditions, Instructions to purchase or sell:
  - (i) Securities traded in the Stock Exchange of Hong Kong Limited shall be deemed to lapse if they are not executed at the close of trading hours of the Stock Exchange of Hong Kong Limited on the date of the relevant Instruction, and if not a trading day of the Stock Exchange of Hong Kong Limited, on the immediately following trading day of the Stock Exchange of Hong Kong Limited;
  - (ii) other Securities shall be deemed to lapse if they are not executed after thirty (30) days or such other expiration date required by the relevant stock exchange or market.

## 7.17 Brokers

- (a) BEA shall have the right and discretion to select which Broker should be engaged for performing any Instructions, whether or not BEA has any interest (directly or indirectly) in such Broker. In this respect, BEA shall not howsoever be liable to the Customer for having made such selection should the Customer suffer any loss or damage of whatever nature as a result of or in connection with any act or omission of the relevant Broker.
- (b) BEA may, as agent for the Customer, engage any Broker on any terms and conditions and subject to such exemptions as BEA may in its discretion determine. The Customer expressly agrees and acknowledges that BEA owes the Customer no duty of care in the selection of any Brokers and in the negotiation of any terms of contract with any Brokers.

## 7.18 Purchase of Securities

- (a) BEA shall make ready for collection by the Customer at such place as BEA may direct the relevant scrips and/or documents for Securities purchased under an Instruction only if the Customer has specifically informed BEA of its desire to collect such scrips and/or documents upon giving the relevant Instruction for purchase, provided always that the obligation of BEA hereunder shall be subject to BEA's receipt of such scrips and/or documents from the relevant Broker(s) and BEA shall not be liable for any delay or default of such Broker(s).
- (b) If the Customer fails to collect the relevant scrips and/or documents for Securities purchased under an Instruction within three (3) Business Days from the date of being notified by BEA that such scrips and/or documents are ready for collection or if the Customer did not indicate his desire to collect such scrips and/or documents upon giving the relevant Instruction for purchase, the relevant Securities shall be kept by, and deemed to be deposited with, BEA upon and subject to the provisions set out in Clause 9.1 of the Bank Product and Service Conditions.

## 7.19 Sale of Securities

- (a) Without prejudice to any other provisions herein contained, Instructions for sale of Securities will only be accepted by BEA if:
  - (i) the Customer has deposited the relevant Securities with BEA on or before giving the relevant Instructions; and
  - (ii) in the case where the relevant Securities are registered in the name of the Customer or third party(ies), the Customer has duly signed or caused to be signed the appropriate instruments of transfer and sold notes relating to such Securities or such other documents or instruments required for the sale thereof as BEA may require and has delivered the same to BEA.

Without prejudice to the foregoing, if the Customer shall fail to deposit the relevant Securities with BEA on or before the relevant settlement date after BEA has accepted an Instruction for the sale of Securities, BEA is authorised to borrow and/or purchase such Securities as are necessary to satisfy the settlement obligations on such terms and in such manner as BEA may deem fit and the Customer shall indemnify BEA for all Losses, arising out of or in connection with such borrowing and/or purchases.

- (b) In effecting any Instruction for selling Securities, BEA is authorised to appropriate and apply the relevant quantity of the appropriate Securities from the pool of Securities of the Customer deposited with BEA (whether registered in the name of BEA Nominee or not)

so as to enable BEA to complete the sale pursuant to the relevant Instruction.

- (c) The net proceeds of sale after deducting all brokerages, commissions, stamp duties, exchange and other levies, other fees and expenses incurred in selling the relevant Securities pursuant to the Instructions to sell shall first be applied towards payment and discharge (whether in full or partially) of all or any part of the indebtedness due and owing from the Customer to BEA under the Terms and the surplus thereof (if any) shall be credited into the relevant Settlement Account.

#### 7.20 Payable Amount

- (a) BEA is entitled not to pass Instructions to purchase, subscribe for or convert Securities or Unit Trusts to a Broker(s) unless there are available in the relevant Settlement Account cleared funds of an amount which is, in the opinion of BEA, sufficient to cover the relevant purchase price, subscription price or conversion price together with the relevant stamp duties, commissions, exchange and other levies and any other charges and expenses liable to be incurred in connection with such purchase or subscription (collectively, the "Payable Amount").

Without prejudice to the foregoing, if the Payable Amount is not received by BEA on or before the settlement date of the relevant Transaction for purchase of Securities or subscription or conversion of Unit Trusts, BEA is hereby authorised to transfer, sell or redeem any Securities or Unit Trusts in the Securities Account (including the purchased Securities and the Unit Trusts subscribed for or converted) in such manner and on such terms as it deems fit to satisfy the same.

- (b) The Customer agrees that he shall not, commencing from the date of giving an Instruction to purchase Securities or subscribe for or convert Unit Trusts until BEA is satisfied that the Payable Amount is no longer required for discharging any money liable to be paid by the Customer in connection with the relevant Instruction, withdraw or cause to be withdrawn any amount from the Settlement Account such that the credit balance in such Settlement Account will become lower than the relevant Payable Amount.
- (c) For the purpose of assessing the Payable Amount, BEA may rely on such guidelines as it may determine from time to time and BEA shall have the discretion to adjust the Payable Amount from time to time.

#### 7.21 Payments

All sums to be payable by the Customer hereunder shall be paid on the relevant due dates or on demand by BEA in immediately available and freely transferable funds in the relevant currency on the relevant due dates for payment. All such payments shall be made in full without set-off or counter-claim and free and clear of and without any deductions or withholdings for or on account of any present or future taxes, imposts, duties or other withholdings or deductions of any nature whatsoever. Provided that if any payment to be made to BEA is subject to any deduction, tax or other withholdings (other than tax on BEA's income), then the Customer will forthwith pay to BEA such additional amount(s) as may be necessary to ensure that BEA's receipt is equivalent to the amount which BEA would otherwise have received had there been no such deduction, tax or withholding.

#### 7.22 Investment Decision

The Customer further confirms and acknowledges that:

- (a) the Customer's decision from time to time to subscribe for, purchase, convert, sell, repurchase or redeem Securities or Unit Trusts shall be based on the Customer own analysis and review of all relevant documents and the Customers own knowledge of the securities and unit trust market and the mechanisms thereof and risks appurtenant thereto.

## 7.23 Operation of Account

- (a) BEA is authorised, notwithstanding any other agreements or arrangements between the Customer and BEA relating to the Securities Account or the Settlement Account or otherwise:
  - (i) to refuse to honour any cheque or other payment drawn or debited against the Settlement Account or to delay in taking any such action, during any period commencing from the date of receiving any Instruction for purchase of Securities or subscription for or conversion of Unit Trusts until BEA is satisfied that the relevant Payable Amount is no longer required for discharging any money liable to be paid by the Customer in connection with the relevant Instruction, if the same will result in the credit balance of the Settlement Account becoming lower than the relevant Payable Amount;
  - (ii) to withdraw or deduct sufficient amount from the Settlement Account and apply the same towards settlement of any money payable by the Customer in relation to the Securities Investment Services and the Unit Trust Investment Services including but not limited to any fees, purchase money, commissions, stamp duties, bank charges, transfer fees, registration fees, exchange and other levies, interest and any other expenses.
- (b) The Customer or any of the Authorised Person(s) is/are hereby authorised to give Instructions to BEA in relation to the Securities Account and the Settlement Account for which he is appointed or otherwise to withdraw and deal with any of the Customer's Securities in the Account or property or documents of title in relation thereto which may be deposited with the Bank for safe custody or in safe deposit from time to time (except that, unless otherwise agreed by BEA, the Authorised Person(s) of an Account (not being a sole proprietorship, partnership or trust account) held by individual(s) (whether singly or jointly with others) are only authorised to give Instruction to purchase, sell or take any action referred to in Clause 7 and 9 of the Bank Product and Service Conditions for shares or stocks (but not Unit Trust and other types of investment) through the Securities Account or effect transfer of shares or stocks (but not Unit Trust and other types of investment) in the Securities Account to another account maintained by the Customer with BEA or another person). For the avoidance of doubt, nothing in this Clause 7.23(b) shall be deemed to authorise any Authorised Person(s) to do anything other than the giving of Instructions and doing acts or things incidental thereto, and in particular, nothing herein contained shall authorise any Authorised Person(s) to sign cheques drawn on the Settlement Account.
- (c) The Customer shall indemnify BEA and hold BEA indemnified against all Losses howsoever arising, directly or indirectly, out of Transactions effected in accordance with any Instruction or BEA's failure to execute any such Instruction or enforcement of BEA's rights under the Terms. This indemnity shall continue notwithstanding any termination of the Terms. This indemnity shall not apply to Instructions given through the Internet or other electronic means.

- (d) The Customer warrants to BEA that (i) neither himself nor any of the Authorised Persons will give any Instruction to BEA in any country or jurisdiction where the offering of the Securities Investment Services or the Unit Trust Investment Services is unlawful; (ii) neither himself nor any of the Authorised Persons will or will attempt to, reverse engineer, decompose, disassemble or otherwise tamper with any software relating to the Securities Investment Services or the Unit Trusts Investment Services; (iii) each of the Customer and the Authorised Persons will ensure that the browser cache memory will be cleared as soon as he signs off each time after having given an Instruction through use of computer and he will exit the browser immediately after having given all his Instructions through use of computer.
- (e) The Customer may from time to time in writing notify BEA of any change of the Authorised Persons, the address for communication with the Customer or the account (current or savings) to be designated as the Settlement Account for the purpose of the Securities Investment Services and the Unit Trusts Investment Services respectively, and any such change shall be without prejudice to any antecedent rights and claims accrued to BEA under the Terms.

#### 7.24 Dealings in Securities and Unit Trusts by the Bank

- (a) Nothing in the Terms shall be deemed to inhibit BEA from:
  - (i) acting on its own account or in any capacity for any other person (whether related to BEA or otherwise) to buy, sell, hold or deal in any Securities or Unit Trusts in respect of which Instructions for purchase, sale or holding of the same or similar Securities or Unit Trusts may have at any time been received from or on behalf of the Customer; or
  - (ii) instructing or otherwise procuring the relevant Broker(s), trustee, management company or distribution agent to purchase or subscribe for the Customer Securities or Unit Trusts held by BEA for its own account or held by any other person related to BEA, provided that in any such case, the terms of any purchase shall be no less favourable to the Customer than they would have been had the transactions been entered into with a party other than BEA or, as the case may be, a person related to BEA.
- (b) BEA shall not be liable to account to the Customer for any emoluments, commissions, profits or any other benefits whatsoever earned by it in consequence of any act mentioned in Clauses 8.24(a)(i) and 8.24(a)(ii) of the Bank Product and Service Conditions or otherwise in relation to any Transaction in Securities or Unit Trusts effected in pursuance of any Instructions given by or on behalf of the Customer.

#### 7.25 Liability and Acknowledgement

- (a) BEA shall not be under any duties or obligations towards the Customer with respect to the Securities Investment Services, the Unit Trusts Investment Services, the Custody Services, the Hold Mail Services or the Credit Facilities other than those for which express provisions are made in the Terms and BEA shall not be liable for anything done or not done by it under or in connection with the Terms save in the case of negligence or wilful default on the part of BEA but not otherwise.
- (b) In particular, without prejudice to the generality of the foregoing, the Customer acknowledges and agrees that:
  - (i) BEA shall not be responsible for the adequacy, accuracy, authenticity or completeness of any representation, warranty, statement or information in any document or instrument relating

to any Securities or Unit Trusts or any contracts made in pursuance of any Instruction, or of any notice or other document or instrument delivered to the Customer by BEA, whether such notice, document or instrument is originally provided by the Broker(s) or otherwise;

- (ii) The Customer has been and will at all times continue to be solely responsible for (1) making his own independent investigation and appraisal of the business, operations, financial conditions, credit-worthiness, status and affairs of the company, body or scheme whose Securities or Unit Trusts the Customer intends to deal with; and (2) making his own independent decision in respect of any or all Instructions for dealing in Securities or Unit Trusts;
- (iii) BEA shall not be responsible for any delay or inaccuracy in the transmission or communication of any Instruction due to the breakdown or failure of transmission or communication facilities or due to any other cause including (without limitation) government restrictions or regulations, market conditions or suspension of trading; and
- (iv) BEA shall not be responsible for the execution, delivery, validity, legality, adequacy, enforceability or admissibility in evidence of any Securities purchased, Unit Trusts subscribed for or any contracts made in pursuance of any Instructions.

#### 7.26 Customer's Covenants, etc

- (a) The Customer shall do such acts and things and to sign and execute all such documents, proxies, authorities or agreements as are, in the opinion of BEA, necessary or desirable to ratify or confirm anything done by BEA in the performance of its duties and/or in the exercise of its rights and powers under the Terms, whether relating to any Instruction, the Securities Account and/or the Settlement Account or otherwise.
- (b) The Customer hereby expressly acknowledges and agrees that due to market conditions, BEA, the Broker, the trustee, management company or distribution agent concerned may not be able to obtain the best available price for the Customer whether for sale or purchase of Securities or subscription, conversion or redemption of Unit Trusts.
- (c) The Customer undertakes and agrees to pay such fees and charges to BEA for performing its duties under the Terms at such rate(s) and in such manner as BEA may from time to time determine at BEA's discretion. The current fees and charges payable by the Customer are set out in the Schedule of Charges of BEA, as amended from time to time by giving prior notice to the Customer by BEA in accordance with applicable codes of practice.
- (d) The Customer shall not instruct BEA to do anything hereunder which is in breach of, or would involve BEA, any Broker or any other person becoming or being in breach of any law, rule or regulation relating to the dealing in the Securities or Unit Trusts to which the Instruction relates (whether or not having the force of law).
- (e) Any Transaction executed pursuant to the Securities Investment Services or the Unit Trust Investment Services anywhere in the world will be subject to:
  - (i) all applicable laws and regulations of government agencies and statutory bodies of competent jurisdiction;



- (ii) the constitution, rules, practices and customs of the exchange, clearing house or other market in any country where the Transactions are executed; and
- (iii) banking regulations, practices and customs in any country where payments are effected in connection with Securities or Unit Trusts delivery and settlement.

BEA shall not be liable to the Customer as a result of action taken by BEA, BEA Nominee, the Broker or other person to comply therewith.

#### 7.27 Hold Mail Services Authorisation

The Customer hereby authorises and agrees BEA to receive and hold on behalf of the Customer all notices, communications, confirmations and statements to be sent to the Customer hereunder until they are collected by the Customer or the authorised representative of the Customer. Any notices, communications, confirmations and statements which are not collected by the Customer after such period of time as may be prescribed by BEA from time to time may be disposed of by BEA as it deems fit. The Customer accepts all consequences of and risks associated with the Hold Mail Services, including without limitation, risks of delay, error, fraud or forgery. The Customer hereby fully indemnifies BEA against all Losses in connection with the Hold Mail Services.

### 8. Unit Trusts Investment Services

#### 8.1 Provision of Unit Trusts Investment Services

Subject to and upon the provisions of the Terms, the Bank may, but is not obliged to, provide the Unit Trusts Investment Services to the Customer upon the request of the Customer (but not any Authorised Person of an Account (not being a sole proprietorship, partnership or trust account) held by individual(s) (whether singly or jointly with others), unless otherwise agreed by BEA) from time to time.

#### 8.2 Securities Account and Settlement Account

- (a) For the purpose of effecting subscription, redemption and other dealings of Unit Trusts on behalf of the Customer, the Customer agrees to open and maintain in the Customer's name a Settlement Account and Securities Account, both being Sub-accounts of the Account.
- (b) All monies payable to or by the Customer in respect of the Unit Trusts Investment Services including, without limitation, any subscription prices, proceeds of redemption, commissions, brokerages, and any other charges and expenses shall be paid into or out of the Settlement Account.

#### 8.3 Dealing in Unit Trusts

- (a) The Bank is hereby authorised to do all or any of the following on behalf of the Customer:
  - (i) to subscribe for, purchase, convert, sell, repurchase, and redeem and otherwise deal in Unit Trusts pursuant to Instructions from time to time in manner provided in the Terms, and to instruct and employ agents for such purposes;
  - (ii) to request payment of, receive and collect all proceeds of redemption of Unit Trusts and all interests, dividends, bonuses, and other payments or distributions in respect of all Unit Trusts, and to give valid and effectual receipts and discharges therefor;
  - (iii) to accept payments made in respect of Unit Trusts or any of them in such currency or currencies as the Bank may in its discretion

think fit, and to convert such monies into the currency of the Settlement Account, at the then prevailing rate of exchange as quoted by the Bank;

- (iv) to comply with the provisions of any applicable law, by-law, regulation or order, statutory or otherwise (including without limitation the provisions of the articles of incorporation, prospectus, trust deed, scheme particulars and/or any other document regulating the incorporation and management of the relevant Unit Trust), which are now or may hereafter from time to time be in force and which purport to impose on a holder of any of the Unit Trusts duty to take or refrain from taking any action in connection with any of the Unit Trusts or any payments or distributions in respect of the same, and the Customer acknowledges that the rights and duties of holders of Unit Trusts and the carrying out of the Instructions (including the length of time required for giving effect to the Instructions and the pricing of dealings in Unit Trusts) shall at all times be regulated by and subject to such law, by-law, regulation or order as aforesaid as well as the operational practices and procedures from time to time prescribed by the trustees and/or managers of the relevant funds;
  - (v) to deduct from the Settlement Account such sums of money as may be necessary to pay for the subscription monies and other fees, costs, charges and expenses payable, whether to the trustees, management company or other persons of the relevant scheme or otherwise, in respect of the subscription for and redemption or conversion of Unit Trusts in accordance with Instructions;
  - (vi) to make payments of all subscription monies and other fees, costs, charges and expenses mentioned in the foregoing sub-clause (v);
  - (vii) to deposit in the Settlement Account monies collected or received on behalf of the Customer in relation to the Unit Trust, whether registered in the name of the Bank Nominee or otherwise including, but not limited to, the proceeds of redemption of Unit Trusts (after deduction of any sums payable to the Bank hereunder);
  - (viii) to sign, execute, complete, surrender and deliver all applications for subscriptions for Unit Trusts all certificates of ownership of Unit Trusts, receipts and discharges and all other documents necessary for all or any of the aforesaid purposes or otherwise for the purposes of this Clause 8.
- (b) In the event that the Unit Trusts are registered in the name of the Bank Nominee, the Bank is hereby authorised to delegate such powers referred to in this Clause 8.3 as the Bank may deem necessary to the Bank Nominee such that it shall have the necessary authority to carry out its duties as nominee of the Customer.
  - (c) In providing the Unit Trusts Investment Services to the Customer, the Bank shall, unless the Bank indicated (in the contract note, confirmation or advice for the relevant transaction or otherwise) that the Bank is acting as principal, acting as agent of the Customer in relation to any Transaction effected by it for and on behalf of the Customer.
  - (d) Any Instruction for subscription, redemption, conversion, purchase, sale or other disposition of Unit Trusts shall be in such quantity and value as may be acceptable to the Bank. Such Instruction will be passed to the trustee, management company or distribution agent of the relevant Unit Trust and shall be subject to the final confirmation of such trustee, management company or distribution agent. The Customer

acknowledges that the Bank has no authority to effect issuance, conversion or redemption of Unit Trusts on behalf of the relevant trustee, management company or distribution agent.

- (e) Without prejudice to any other provisions herein contained, Instruction for the sale or redemption of Unit Trusts will only be accepted by the Bank if:
  - (i) the Customer has deposited the relevant Unit Trusts with the Bank on or before giving the relevant Instructions; and
  - (ii) in the case where the relevant Unit Trusts are registered in the name of the Customer or third party(ies), the Customer has duly signed or caused to be signed the appropriate transfer documents relating to such Unit Trusts or such other documents or instruments for the sale or redemption thereof as the Bank may require and has delivered the same to the Bank.

#### 8.4 Prospectuses and Offering Memoranda

- (a) The Customer agrees and acknowledges that the Bank shall not be responsible for the accuracy or completeness of or any misstatement in the contents of any prospectus, offering memorandum, promotional articles or materials, or any reports or accounts relating to any Unit Trust issued by the trustees, management companies and/or distribution agents thereof, copies of which are supplied by the Bank to the Customer.
- (b) The Customer undertakes not to give any Instruction for the subscription or conversion of any Unit Trust unless he has read and fully understand the contents of the prospectus, offering memorandum, reports and accounts of the relevant Unit Trust and any subscription, redemption or conversion of Unit Trusts will be effected subject to the prospectus, offering memorandum and constitutional documents of the relevant Unit Trusts.

#### 8.5 Other Provisions

Such of the provisions applicable to the Securities Investment Services which contain references to "Unit Trusts" or "Unit Trusts Investment Services" shall also apply to the Unit Trusts Investment Services.

### 9. Custody Services

#### 9.1 Securities and Unit Trusts deposited with BEA

- (a) The Customer hereby appoints BEA to act as custodian of all Securities and Unit Trusts (including but not limited to those deemed to be deposited by the Customer with BEA pursuant to Clause 7.18(b) of the Bank Product and Service Conditions together with the related forms of transfer and documents or evidence of title which are now or may at any time be deposited with BEA. All such Securities and Unit Trusts shall be governed by the following provisions:
  - (i) Such Securities and Unit Trusts are held by BEA as custodian of the Customer for safe-keeping at the Customer's own risk. BEA shall be entitled to deposit such Securities and Unit Trusts with any Broker(s) or other person in or outside Hong Kong on such terms as it may deem fit.
  - (ii) Such Securities and Unit Trusts may, at the discretion of BEA, be registered and held by BEA on behalf of the Customer in the name of BEA Nominee as BEA may in its discretion deem fit from time to time.
  - (iii) Such Securities and Unit Trusts may be treated by BEA as fungible and may be pooled together with the Securities and Unit Trusts (as

the case may be) of BEA's other customers and that at any time BEA may at its discretion allocate specific Securities or Unit Trusts (as the case may be) to the Customer, which allocation shall be conclusive and binding on the Customer. If for any reason whatsoever, all or any part of the Securities or Unit Trusts (as the case may be) of a particular class, company, or denomination deposited by the Customer with BEA and pooled by BEA together with the Securities or Unit Trusts (as the case may be) of BEA's other customers are lost or otherwise become unavailable for delivery, the reduction in the quantity or amount of such Securities or Unit Trusts shall be shared on a pro rata basis between the Customer and all other relevant customers of BEA.

- (iv) Such Securities or Unit Trusts shall be deposited with BEA at the sole risk of the Customer save in respect of loss or damage suffered by the Customer by reason of negligence or wilful default on the part of BEA in the performance of its duties hereunder but not otherwise.
- (b) For Securities and Unit Trusts registered in the name of BEA Nominee pursuant to Clause 9.1(a)(ii) of the Bank Product and Service Conditions, BEA is authorised to do or cause to be done all or any of the following at the cost and expenses of the Customer:
- (i) to collect on behalf of the Customer dividends, interest and other payments of income or capital in respect of such Securities or Unit Trusts and to credit the same after deduction of all fees, costs and expenses incurred therewith rounded up or down in such manner as BEA may reasonably think fit into the Settlement Account;
  - (ii) to take such action at the costs and expenses of the Customer when BEA deems appropriate to effect the collection referred to in Clause 9.1(b)(i) of the Bank Product and Service Conditions;
  - (iii) to surrender any of such Securities or Unit Trusts against receipt of the monies payable at maturity or on redemption if called prior to maturity, provided that when the Securities or Unit Trusts are called for redemption prior to maturity, BEA shall have no duty or responsibility to present or cause to be presented the relevant Securities or Unit Trusts for redemption, unless, after the call is made, the Customer requests BEA in writing so to do;
  - (iv) where monies are payable in respect of any of such Securities or Unit Trusts in more than one currency, to collect them in the currency of the Settlement Account or such currency as BEA may in its discretion determine;
  - (v) if required by the laws governing such Securities or Unit Trusts or the laws governing the operation of BEA or BEA Nominee, to complete and deliver on behalf of the Customer as owner thereof any ownership certificates, declaration or information in connection with such Securities or Unit Trusts;
  - (vi) in BEA's discretion, to comply with the provisions of any law, regulation or order now or hereafter in force which purport to impose on a holder of any of such Securities or Unit Trusts a duty to take or refrain from taking any action in connection with any of such Securities or Unit Trusts or any payments or distributions or monies payable in respect of any of such Securities or Unit Trusts;
  - (vii) to exchange any of such Securities or Unit Trusts in interim or temporary form for Securities or Unit Trusts in definitive form;

- (viii) in BEA's discretion, to sell or dispose of fractional shares to which the Customer may be entitled for BEA'S own account and benefit absolutely;
- (ix) in BEA's discretion, to take any action, exercise any rights or satisfy any liabilities arising in respect of such Securities or Unit Trusts as may seem to BEA advisable or expedient, if BEA should be unable, or if it should be impossible for BEA, to obtain the Instructions of the Customer or if the Customer has not responded to the request of BEA for Instructions within a reasonable period of time or if, in the opinion of BEA, it would involve undue delay or expense to obtain such Instructions;
- (x) any rights issue arising from any of such Securities or Unit Trusts shall be dealt with in the following manner:
- (1) BEA will within a reasonable time after receipt of the relevant rights issue documents to inform the Customer;
  - (2) if the Customer fails to instruct BEA within the time prescribed by BEA to reply:
    - where the rights issue is not obligatory, it shall be conclusively deemed that the Customer has irrevocably renounced all his rights and entitlements regarding such rights in favour of BEA for its own use and benefit absolutely and BEA is entitled to deal with such rights issue in its own right and for its own benefit in whatever manner it deems fit without having to account to the Customer for the profits (if any);
    - where the rights issue is obligatory, BEA is entitled at its discretion either to realise part of the Securities or Unit Trusts deposited by the Customer to raise sufficient monies to pay for the subscription of such obligatory rights issue or to pay on behalf of the Customer for such subscription, the payment of which shall be an advance of money to the Customer and secured by the Securities or Unit Trusts deposited by the Customer with BEA and shall be repayable by the Customer on demand, together with interest thereon at the rate and calculated in the manner as reasonably determined by BEA and such Securities or Unit Trusts shall stand charged to such payments as well;
  - (3) if the Customer shall instruct BEA to take up the rights issue by subscribing the requisite shares, BEA is not obliged to do so unless and until sufficient immediate available funds have been received by BEA within the time limit as prescribed by BEA and in default thereof, the provisions of sub-clause (x) shall apply as if the Customer has failed to instruct BEA in time;
  - (4) all Securities or Unit Trusts allotted pursuant to the rights issue taken up by or on behalf of the Customer (but excluding those which the Customer has renounced in favour of BEA) shall form part of the Securities or Unit Trusts deposited by the Customer with BEA.
- (xi) the Customer must give reasonable prior written notice to BEA to withdraw any or all of the Securities or Unit Trusts deposited by the Customer with BEA provided always that:
- (1) such Securities or Unit Trusts may not be withdrawn when they are being processed for transfer to and registration in the name of BEA Nominee;

- (2) withdrawal of any class of Securities or Unit Trusts shall be in multiples of its lowest denomination (whether in board lots or otherwise) (if applicable) and shall be effected at such other place as BEA may direct;
  - (3) withdrawal of any Unit Trust shall be subject to the requirements of the relevant trustee, management company and/or distribution agent;
  - (4) the Customer is not indebted to BEA;
  - (5) BEA shall have no duty or responsibility to return to the Customer scrips and/or documents relating to the relevant Securities or Unit Trusts bearing serial numbers identical with those delivered to BEA so long as the scrips and/or documents returned are of the same class, denomination and nominal amount and rank *pari passu* with those originally accepted by BEA, subject always to any capital reorganisation which may have occurred in the meantime; and
  - (6) BEA's obligation to re-deliver the scrips and/or documents upon withdrawal of the relevant Securities or Unit Trusts shall be subject to BEA's receipt of such scrips and/or documents from the relevant Broker(s) or person with whom BEA has deposited the relevant Securities or Unit Trusts pursuant to Clause 9.1(a)(i) of the Bank Product and Service Conditions.
- (c) BEA or BEA Nominee shall not be obliged to forward to the Customer any notices, proxies, prospectuses, offering memoranda, annual reports, or other documents or communications in respect of the Securities or Unit Trusts of the Customer. Notwithstanding the aforesaid, if BEA or BEA Nominee at its discretion determines that any action is required in respect of such Securities or Unit Trusts and the Customer cannot be contacted or fails to give BEA punctual or adequate Instructions for such action, the Customer hereby authorises BEA or BEA Nominee to act on his behalf at its discretion as it thinks fit, including without limitation, exercising any voting rights in respect of the Securities and Unit Trusts and BEA and BEA Nominee shall not be liable, in the absence of fraud or wilful default, for such action it may take. The Customer undertakes to indemnify BEA and BEA Nominee against all costs, charges and expenses that may be incurred by them in respect of the Securities or Unit Trusts held by them for safe-keeping on the Customer's behalf.
- (d) The Customer hereby authorises BEA to dispose of the Securities or Unit Trusts of the Customer for the purpose of settling any liability owed by the Customer to BEA or any of its associated entities (as defined in the Securities and Futures Ordinance).
- (e) BEA is hereby authorised to exercise a lien over all the property (including, without limitation, all Securities, Unit Trusts and funds held in the Securities Account and the Settlement Account respectively) of the Customer coming to BEA's possession or control at any time and from time to time, for any purpose whatsoever, with power for BEA, subject to the applicable laws and regulations, to sell and/or apply such property, if necessary and subject to Clause 9.1(d) of the Bank Product and Service Conditions, to satisfy any liabilities of the Customer to BEA.

## 9.2 Representations and Warranties

- (a) The Customer hereby represents and warrants to BEA that:
  - (i) unless where the Customer is a licensed or registered person under the Securities and Futures Ordinance and the Customer has

disclosed to BEA in writing that the Securities or Unit Trusts in the Securities Account are the property of its customers, the Customer is the sole beneficial owner of all Securities and Unit Trusts in the Securities Account and has good title to all Securities and Unit Trusts deposited with BEA or which he has instructed BEA to deal on his behalf free from encumbrances or any third party interest and, unless the Customer has notified BEA in the Customer Information Statement attached to the Application Form to the contrary, the Customer is the person who will stand to gain the commercial or economic benefit of the transactions executed pursuant to the Instructions and bear their commercial or economic risk;

- (ii) unless otherwise disclosed to BEA in writing, all Instructions are originated from the Customer and the Customer is ultimately responsible for the same and is the person that stands to gain the commercial or economic benefit of each transaction entered into pursuant to such Instructions and bear its commercial risk;
- (iii) the Customer Information Statement attached to the Application Form completed by the Customer is true and complete at the date thereof and the Customer will notify BEA forthwith upon any material changes in the information provided in the Customer Information Statement;
- (iv) it has not created or permitted to arise any encumbrance or third party rights over any asset in the Securities Account or funds in the Settlement Account or purport so to do, except in BEA's favour;
- (v) unless the Customer has disclosed in writing to BEA, he is not an officer or employee of any person registered with the Securities and Futures Commission;
- (vi) if the Customer is a licensed or registered person under the Securities and Futures Ordinance and the Securities or Unit Trusts in the Securities Account are the property of its customers, the Customer has obtained the standing authority (as defined in the Securities and Futures (Client Securities) Rules) of such customers for the Customer to deposit the Securities and Unit Trusts of such customers with BEA as Charged Securities and that such standing authority will be renewed or deemed to be renewed from time to time upon its expiry.

## **10. Foreign Exchange Services**

- 10.1 BEA provides Spot and Forward Hedging Service that enables the Customer to buy and sell foreign currencies on a "spot" or "forward" basis to manage the Customer's foreign exchange exposure.
- 10.2 At the request of the Customer, BEA will use all reasonable efforts to enter into foreign exchange contracts for the sale or purchase of currencies approved by BEA at the prices or rates specified by the Customer.
- 10.3 The Customer acknowledges and accepts that BEA may not be able to conclude the foreign exchange contracts at the specified prices or rates due to various circumstances.
- 10.4 BEA may impose such required margin before concluding any foreign exchange contracts and the provisions of Clause 9 "Credit Facilities and Collateral" under General Terms and Conditions shall apply accordingly.
- 10.5 All foreign exchange contracts are to be concluded when actual delivery of the underlying currencies is contemplated. In case of a spot contract, delivery will take place two (2) Business Days after the contract is

concluded. Delivery pursuant to a forward contract will be made on the future date specified in the contract and referred to therein as the settlement date.

- 10.6 The Customer acknowledges that in the event of the Customer's failure on foreign exchange contracts delivery or settlement, BEA shall be entitled to liquidate the relevant foreign exchange contracts. Any contra losses will be debited from the Account of the Customer.

## **11. Currency/Indices/Equity/Asset Linked Deposit Services**

### **11.1 Introduction**

- (a) The Customer (but not any Authorised Person of an Account (not being a sole proprietorship, partnership or trust account) held by individual(s) (whether singly or jointly with others), unless otherwise agreed by BEA) may from time to time request BEA to accept to establish an Asset Linked Deposit from the Customer. BEA may, but is not obliged to, accept any such request from the Customer on such terms as BEA in its sole discretion thinks fit. Acceptance may be effected by oral agreement between BEA and the Customer or by BEA sending to the Customer a Confirmation.
- (b) For the avoidance of doubt, a binding contract between BEA and the Customer in respect of a Linked Deposit is formed upon acceptance by BEA of a request in respect of that Linked Deposit from the Customer. The Customer acknowledges and agrees that such contract will be on the terms set out in a Confirmation sent to the Customer by BEA at a later date and such Confirmation is conclusive as to the terms of the contract between BEA and the Customer in respect of the relevant Linked Deposit.
- (c) Unless otherwise agreed between BEA and the Customer, the contract between BEA and the Customer in respect of a Linked Deposit is conditional upon acceptance by BEA of requests in respect of Linked Deposits with identical terms from other Customers within a reasonable period of time so that the aggregate of the Deposit Amounts in respect of such Linked Deposits is equal to or greater than the Minimum Aggregate Deposit Amount.
- (d) The Terms and all Confirmations form a single agreement between BEA and the Customer (the "Linked Deposit Agreement"). The terms and conditions of a particular Linked Deposit are set out in the Terms and the Confirmation relating to that Linked Deposit. Where there is an inconsistency between the Terms and a Confirmation, the Confirmation will prevail for the purposes of the relevant Linked Deposit.
- (e) Where there is an inconsistency between the provisions of the Terms and the terms of any account to which a Linked Deposit has been booked, the Terms will prevail for the purposes of that Linked Deposit.

### **11.2 Linked Deposits**

- (a) For each Linked Deposit entered into between BEA and the Customer, the Customer shall maintain an amount at least equal to the Deposit Amount in an account with BEA from the Trade Date to the Settlement Date.
- (b) On the Settlement Date in respect of a Linked Deposit, the Customer shall pay to BEA the Deposit Amount relating to that Linked Deposit. Such payment shall be effected automatically by BEA by debiting the account of the Customer where the amount under Clause 11.2(a) above is maintained.



- (c) On the Maturity Date in respect of a Linked Deposit, the parties shall pay or deliver the cash, securities or other assets specified as payable or deliverable in the Confirmation relating to that Linked Deposit. Other than expressly stated in the Confirmation in respect of a Linked Deposit, neither BEA nor the Customer is under any obligation to pay or deliver assets to the other in respect of that Linked Deposit.
- (d) Other than the Coupon Amount, no other amount representing interest is payable by BEA to the Customer in respect of a Linked Deposit. The Coupon Rate is a rate of interest used by BEA in its calculation of the Coupon Amount but is not the rate of interest payable on the relevant deposit.

### 11.3 Adjustments

- (a) BEA may (in good faith and in a commercially reasonable manner) make adjustments to the Delivery Amount or any other terms of any Linked Deposit upon the occurrence of one or more of the events listed in Clause 11.3(b) below or, provided that such adjustment is considered by BEA not to be materially prejudicial to the holders of similar Linked Deposits generally (without considering the circumstances of any individual customer or the tax or other consequences of such adjustment in respect of any individual customer), where an event or events occur which BEA believes, in its absolute discretion, makes such adjustment necessary or desirable. BEA will notify the Customer of any such adjustments as soon as it has determined them.
- (b) Without limitation to BEA's right under Clause 11.3(a) of the Bank Product and Service Conditions, BEA may make adjustments to the terms of any Linked Deposit in the circumstances listed in Clauses 11.3(b)(i) to 11.3(b)(iv) of the Bank Product and Service Conditions. These events are listed by way of illustration only and are not exhaustive.
  - (i) In relation to an Equity Linked Deposit, one of the following events occurs:
    - (1) The issuer of the Underlying (the "Issuer") offers by way of rights a new issue of shares to existing shareholders.
    - (2) The Issuer makes an issue of bonus shares to existing shareholders.
    - (3) The Issuer subdivides the Underlying into a greater number of shares or consolidates the shares into a smaller number of shares.
    - (4) It is announced that the Issuer will or may merge or consolidate with or into another company or sell or transfer all or substantially all of its assets.
    - (5) The amount of the Underlying to be delivered to the Customer does not equal a trading board lot of the Underlying or a multiple of a trading board lot of the Underlying.
  - (ii) In relation to a Currency Linked Deposit, one of the following events occurs:
    - (1) There is a revaluation of the Underlying.
    - (2) The Underlying is replaced by another currency as the lawful currency of the relevant jurisdiction.
  - (iii) In relation to an Index Linked Deposit, one of the following events occurs:

- (1) There is a material change in the formula or method of calculation of the Underlying or any other material modification to the Underlying (other than modifications prescribed in the formula or method of calculation of the Underlying).
- (2) The compiler of the Underlying fails to calculate or publish it.
- (iv) In relation to an Asset Linked Deposit, such event(s) as may be specified in the relevant application form and/or principal brochure for the Asset Linked Deposit.

#### 11.4 Closing Price and Price Source Disruption

- (a) BEA may refer to such external source of information as it believes to be appropriate in order to determine the Fixing Value, including:
  - (i) In relation to an Equity Linked Deposit, an exchange on which the Underlying is listed or any futures or options contract relating to the Underlying is listed.
  - (ii) In relation to a Currency Linked Deposit, a screen page such as a Reuters screen or a Bloomberg page, reference dealers in the Underlying or an official government rate.
  - (iii) In relation to an Index Linked Deposit, the compiler of the Underlying, an exchange on which any futures or options contract relating to the Underlying is listed or publications which periodically publish the value of the Underlying.
- (b) Where BEA believes that it is impossible or impractical to determine the Fixing Value from an external source, whether because of the occurrence of a market disruption event, the suspension of trading of the Underlying on any stock exchange on which it is listed or otherwise:
  - (i) BEA may (in good faith and in a commercially reasonable manner) determine the Fixing Value from information which BEA believes to be relevant for this purpose and BEA shall notify the Customer of this calculated Fixing Value as soon as it has been calculated; or
  - (ii) notwithstanding the date specified as the Determination Date in the relevant Confirmation, BEA may postpone the Determination Date to such date when BEA believes that it is possible and practical to determine the Fixing Value from an external source.

#### 11.5 Early Repayment

At the request of the Customer, BEA may, but is not obliged to, allow repayment of a Linked Deposit before the Maturity Date, in which case BEA:

- (a) shall not be required to pay any Coupon Amount on such Linked Deposit;
- (b) shall be entitled, in its absolute discretion, to determine the amount to be paid to the Customer as repayment of the Deposit Amount, which amount may be less than the Deposit Amount if BEA thinks fit;
- (c) may deduct from the amount referred to in Clause 11.5(b) of the Bank Product and Service Conditions:
  - (i) any administration or handling fee charged by BEA for such early repayment;
  - (ii) any additional cost (if any) of obtaining funds in the market for the remaining period of such Linked Deposit; and
  - (iii) any sums already paid to the Customer by way of interest or by way of taxation (if applicable).

## 11.6 Termination and Close-out

- (a) Upon the occurrence of an Event of Default referred to in Clause 11.1 of the General Terms and Conditions, BEA may terminate any or all Linked Deposit. BEA shall notify the Customer as soon as practicable after any decision is made to terminate any or all Linked Deposits.
- (b) If BEA elects to terminate any Linked Deposits, BEA shall reasonably and in good faith calculate the monetary value of all obligations owed by BEA and the Customer under the terminated Linked Deposits (taking into account, among other things, the current market value of the options in respect of those Linked Deposits) as at the day the Event of Default occurred or such later date as BEA considers appropriate. These amounts will be set-off against each other, resulting in a net sum (calculated by BEA reasonably and in good faith) owing by one party to the other. This net sum shall be payable immediately upon its calculation.

## 11.7 Customer Authorisation

If the Customer is obliged to pay an amount of cash in any currency or deliver any shares or other assets under the Terms, the Customer hereby authorises the Bank to make such payment or delivery from currencies, securities or other assets credited to accounts of the Customer held at the Bank or its affiliates in satisfaction of such obligations.

## 11.8 Assignment

- (a) The Customer may not assign, transfer or encumber or purport to assign, transfer or encumber any part of a Linked Deposit or any right or obligation under the Terms (except in favour of BEA).
- (b) The Bank may at any time assign or transfer any or all of its right and obligations under the Terms in relation to any Linked Deposit to any person without the Customer's agreement provided that three (3) months prior notice is given to Customer.

## 11.9 Miscellaneous

- (a) Subject to this Clause 11.9(b), where the Settlement Date or the Determination Date in respect of a Linked Deposit falls on a day that is not a Business Day, that date shall fall on the next Business Day.
- (b) Where the Determination Date for an Equity Linked Deposit or an Index Linked Deposit falls on a day that is not a Business Day and an Exchange Business Day, that date shall fall on the immediately following day which is both a Business Day and an Exchange Business Day.
- (c) Where the Maturity Date in respect of a Linked Deposit falls on a day that is not a Business Day and, where the Linked Deposit is an Equity Linked Deposit or an Index Linked Deposit, an Exchange Business Day, that date may, at the option of the Bank, fall on the immediately following day which is a Business Day and, where the Linked Deposit is an Equity Linked Deposit or an Index Linked Deposit, an Exchange Business Day, except when such extension exceeds the maximum period for deposits acceptable to the Bank or as regulated from time to time, in which case that date shall fall on the immediately preceding day which is a Business Day and, where appropriate, an Exchange Business Day.
- (d) The Customer acknowledges and agrees that the Bank may from time to time deal in the Underlying in respect of any Linked Deposit entered into with the Customer or enter into Linked Deposits or derivative transactions related to such Underlying with other persons (including

any affiliates of the Bank). The Customer understands and agrees that the obligations owed by the Bank under the Terms are not in any way connected with or related to those other transactions.

- (e) Any agreement that all or any part of a Linked Deposit is to be held on fixed time deposit shall be for the purpose of calculation and payment of interest only and shall not prejudice BEA's rights or obligations under any part of the Terms or preclude or delay BEA from exercising any of those rights.

## **12. Non-Discretionary Investment Services**

- 12.1 At the request of the Customer from time to time, BEA shall advise the Customer generally in relation to all investment, monies, Securities and such other assets as the Customer may from time to time place under the management of BEA pursuant to the Terms (hereinafter collectively called the "Fund"). BEA shall invest, manage and apply the Fund according to the Instructions given by the Customer, either verbally or in writing.
- 12.2 Without prejudice to the generality of the foregoing, BEA shall purchase, acquire, sell, exchange, convert, re-invest, dispose of or otherwise deal with the Customer's assets and other asset shares, stocks, bonds, debentures, certificates of deposit and Securities of every type and description and other property and investments according to the Customer's Instruction.
- 12.3 The Customer has been and will at all times continue to be solely responsible for making the Customer's own independent investigation and appraisal of the issuers of the Securities, financial instruments or investment products which the Customer intends to deal with and making the Customer's own independent decision in respect of any or all instructions for dealing in the Customer's asset or other investment.

## **13. Telegraphic Transfers/CHATS**

- 13.1 In the absence of specific Instructions to the contrary, remittance will be effected in the currency of the country in which payment is to be made.
- 13.2 BEA reserves the right to draw an outward remittance on a different place from that specified by the Customer if operational circumstances so require.
- 13.3 BEA may send any message relative to a telegraphic transfer in explicit language, code, or cipher and is not liable for errors, negligence or default of any correspondent, sub-agent, or other agency.
- 13.4 Except for loss or damage due to BEA's negligence fraud, or wilful default, BEA shall not be liable for any loss or damage (whether direct, indirect, or consequential and including, without limitation, loss of profit or interest) due to delay in payment or giving advice of payment; delay, or failure in processing any payment messages or other information or communication, loss of items in transit or otherwise, mutilation, error omission, interruption or delay in transmission or delivery of any item, letter telegram, or cable or the actions of our correspondents, sub-agent, or other agency, or declared or undeclared war, censorship, blockade, insurrection, civil commotion, or any law, decree, regulation, control, restriction, or other act of a domestic or of foreign government or other group or groups exercising governmental powers, whether de jure or de facto, or any act or event beyond BEA's control, or from its being misinterpreted upon receipt; or any steps which BEA, in its sole and absolute discretion, considers appropriate to take in any particular circumstance.
- 13.5 Any request for amendment or cancellation has to be made by the Customer in person upon production of proper identity documents, and refund can only be made by BEA upon receipt of its correspondent's effective confirmation of cancellation and at BEA's current buying rate for the

currency of the remittance at the time of refund. BEA is entitled to reimbursement from the Customer of the expenses so incurred by itself and its correspondents or Agents. All cable/postage charges and commission collected are not refundable.

- 13.6 The Customer should note that charges may be levied by BEA's correspondents or Agents, which vary from time to time. All charges incurred outside Hong Kong are for the account of the beneficiary unless specified. However, BEA is entitled to reimbursement from the Customer for expenses incurred by BEA, its correspondents, and/or Agents.
- 13.7 Applications for same day value are subject to cut-off times related to the geographical location of the destination.
- 13.8 Remittance messages may, for the purpose of complying with any applicable laws, rules, regulations, guidelines, and requests and/or recommendations contain personal data and/or information of the remitter such as the address, date of birth, and the number of the identification document held by the remitter. Such personal data and/or information will be seen or accessed by the beneficiary bank and the beneficiary and to the extent required or permitted by any applicable laws, rules, regulations, guidelines and requests and/or recommendations be made available, disclosed and transferred to the other parties or appropriate organisations or authorities, whether located in or outside Hong Kong.
- 13.9 Fund transfer transaction will be processed on the next working day if the transaction is completed when Typhoon Signal No. 8 or Black Rainstorm warning is hoisted.
- 13.10 The Customer when making remittance should ensure the beneficiary's information, including without limitation, the details of the intermediary bank, beneficiary bank and beneficiary's name and account number provided to BEA is complete, accurate and valid. BEA shall not be liable for any Loss that may arise as a result of any rejection, return and/or delay of remittance due to the incomplete, inaccurate and/or invalid information provided by the Customer. Any charges imposed by the related parties therefrom shall be borne by the Customer.
- 13.11 In case of Telegraphic Transfer through BEA Online, BEA will send details of the application of Telegraphic Transfer to the Customer through email of the BEA Online within reasonable time.

#### **14. Real-time Stock Price Quotes Service through the Internet**

- 14.1 BEA may at its discretion provide the real-time stock price quotes service ("Price Quotes Service") to the Customers subject to the Terms.
- 14.2 All information in the Price Quotes Service is to be treated as copyright material of BEA and is not to be copied or retransmitted in any form or otherwise reproduced in/on any medium without the prior written agreement of BEA except that where such terminals permit, the information may be recorded and replayed or printed solely for Customer's own use.
- 14.3 BEA, The Stock Exchange of Hong Kong Limited and any company or organisation from which information for the Price Quotes Service is sourced will endeavour to ensure the accuracy and reliability of the information provided but will not guarantee its accuracy and accepts no liability (whether in tort or contract or otherwise) for any loss or damage arising from any inaccuracies or omissions.
- 14.4 BEA will endeavour to provide information during the stated hours of operation but will not guarantee that access to the Price Quotes Service will always be immediate or uninterrupted and BEA reserves the right to change the hours of service and information provided.

- 14.5 The Price Quotes Service may be terminated by either party by giving the other not less than 1-month notice in writing.
- 14.6 Customer agrees to pay a full month service fee for Price Quotes Service through the Internet - Continuous Access even if the service period is shorter than one calendar month.
- 14.7 Without prejudice to Clause 14.4 and 14.5 of the Bank Product and Service Conditions, BEA may suspend the Price Quotes Service forthwith in the event that any charges levied remain unpaid after becoming due or that the Customer is or in the reasonable opinion of BEA, may become insolvent.
- 14.8 Customer shall not, without the prior written approval of BEA (such approval not to be unreasonably withheld) disseminate the information or any part thereof to third parties.
- 14.9 The Customer shall not use or permit the use of the information or any part thereof for any illegal purpose.
- 14.10 The Price Quotes Service will be provided through the internet and/or such other channel(s) determined by BEA from time to time.
- 14.11 The Customer will not use any information obtained through use of the Price Quotes Service other than in the ordinary course of his own business (which shall not include dissemination to third parties).
- 14.12 The Customer will not use any information obtained through use of the Price Quotes Service to establish, maintain or provide or to assist in establishing, maintaining or providing a trading floor or dealing service where trading of securities listed on The Stock Exchange of Hong Kong Limited or any other securities relating thereto is being undertaken otherwise than at or through The Stock Exchange of Hong Kong Limited.
- 14.13 Without prejudice to any other agreement as to the use of the personal data of the Customer, the Customer hereby further agrees to the disclosure of his personal data to AASTOCKS.com Limited for purposes in connection with the use of the Price Quotes Service.
- 14.14 The Bank will not be responsible for any losses or damages arising out of the use of the Price Quotes Service by the Customer including losses or damages arising out of the inaccuracy, non-availability or delay in transmission of any information provided through the Price Quotes Service.

## **C. Law Compliance Supplement**

This Law Compliance Supplement shall be read together with, supplement, and form part of the SupremeGold Account/Supreme Account/BEA GOAL/i-Account Terms and Conditions (the “**Relevant Terms**”).

Should there be any inconsistency between this Law Compliance Supplement and the Relevant Terms, these terms shall prevail to the extent the inconsistency relates to the subject matter of this Law Compliance Supplement.

### **1. Provisions to supplement the Relevant Terms**

#### **1.1 Provision of information**

- (a) The Customer must provide BEA with his/her Personal Information and, where reasonably required by BEA, those of any Consenting Person in such form and within such time as BEA may reasonably require from time to time for the purpose of complying with the Applicable Laws and Regulations.
- (b) When there is a change or addition to the Customer’s Personal Information and, where applicable, those of any Consenting Person, the Customer must update BEA of the change or addition promptly (and in any event no later than 30 days from the date of the change or addition).
- (c) The Customer must, and, where applicable, procure any Consenting Person to, complete and sign such documents and do such things in relation to his/her obligation under clause 1.1 of this Law Compliance Supplement as BEA may reasonably require from time to time for the purpose of complying with the Applicable Laws and Regulations.
- (d) The Customer agrees that BEA may directly require any Consenting Person to, in which case, the Customer will procure such Consenting Person to, provide or confirm accuracy of their Personal Information if BEA reasonably considers it to be appropriate for the purpose of complying with the Applicable Laws and Regulations.

#### **1.2 Disclosure of information**

- (a) The Customer agrees that any member of the BEA Group and Third Party Service Providers may use, retain, and disclose his/her Tax Information, as well as those of any Consenting Person, to any Authority (even if such Tax Information may be transferred to a jurisdiction without adequate personal data privacy laws in place) for the purpose of ensuring compliance with the Applicable Laws and Regulations on the part of any member of the BEA Group.
- (b) The Customer agrees that BEA may directly require any Consenting Person to, in which case, the Customer will procure such Consenting Person to, agree to the usage, retention, and disclosure described in clause 1.2(a) of this Law Compliance Supplement if BEA reasonably considers it to be appropriate for the purpose of complying with the Applicable Laws and Regulations.
- (c) The Customer shall obtain or, as the case may be, has obtained the requisite consent from each Consenting Person for the provision of his/her Tax Information to the BEA Group and any Third Party Service Providers and the usage, retention, and disclosure of such Tax Information by the aforesaid parties under this Law Compliance Supplement.
- (d) To comply with legal or regulatory requirements as well as the requirements of BEA’s anti-money laundering measures, the Customer agrees that BEA may, upon request, also transfer, share, exchange and

disclose any data about the Customer, the underlying transactions and BEA's comments on the Customer and its transactions to any payment recipients, beneficiaries, intermediaries, correspondent and agent banks, whether located in or outside Hong Kong, in relation to any inward or outward remittance or payment transactions received, effected or initiated by or on behalf of the Customer. The aforesaid data may include the Customer's identity, nature and place of business, transaction patterns and level of activities with BEA, source of funds, nature of the remitting account, details of the ultimate beneficial owners, shareholders, group companies, officers and authorized signatories of the Customer, purpose and other details of the underlying transactions, counterparties, remittance and payments and onward fund movements and the supporting documents, relationship between the Customer and the other parties to the underlying transactions, as the aforesaid data are made available to BEA.

1.3 Actions BEA may take to ensure compliance with the Applicable Laws and Regulations

- (a) Where the Customer fails to comply with his/her obligations under clause 1.1 of this Law Compliance Supplement above;
- (b) Where any Consenting Person fails to comply with the requirements of BEA in clause 1.1 or 1.2 of this Law Compliance Supplement;
- (c) Where the Personal Information (regardless of whether such Personal Information is in relation to the Customer or any Consenting Person) is inaccurate, incomplete, or not promptly updated;
- (d) For whatever reason, BEA is prevented (under the laws of Hong Kong or otherwise) from disclosing the Tax Information of the Customer and/or any Consenting Person to the Authority as required by the Applicable Laws and Regulations; or
- (e) Where BEA determines that the Customer's classification or status under the Applicable Laws and Regulations is such that the Customer cannot receive payments from or through BEA free of withholding or deduction due to the Applicable Laws and Regulations, BEA may take one or more of the following actions at any time as may be determined in BEA's sole and absolute discretion to be required to ensure compliance with the Applicable Laws and Regulations on the part of BEA and any member of the BEA Group:
  - (i) Deduct from or withhold part of any amounts for or on account of, or which represents, withholding, income tax, value added tax, tax on the sale or disposition of any property, duties, or any other lawfully collected amount which is required to be so deducted or withheld to comply with the Applicable Laws and Regulations ("Collected Amounts") from any payments payable to the Customer under or from the Account and pay such Collected Amounts to an Authority or hold such Collected Amounts in escrow as permitted by the Applicable Laws and Regulations with no obligation in any case for BEA to reimburse the Customer with respect to such Collected Amounts (provided that any tax or information returns that the Customer may file with respect to such Collected Amounts are the sole responsibility of the Customer and the Customer shall be solely responsible for disputing or filing any claims to refund or credit any Collected Amounts withheld or paid to the Authority);
  - (ii) Refuse to carry out the instructions of the Customer and/or to provide him/her with all or any products or services under the



Relevant Terms and/or otherwise block or freeze the Customer's Account;

- (iii) Transfer all or part of the BEA's rights, benefits, and liabilities under the Account or any amounts therein to any member of the BEA Group;
- (iv) Terminate or close the Account and discontinue the banking relationship with the Customer entirely or in part by giving prior notice to the Customer;
- (v) Provide (whether before or after termination of the Account) the Tax Information relating to the Customer and/or any Consenting Person to such Authority as required to ensure compliance with the Applicable Laws and Regulations on the part of BEA and any member of the BEA Group (even if such Tax Information may be transferred to a jurisdiction without adequate personal data privacy laws in place).

## 2. Meaning of words

The following words shall have the following meaning when used in this Law Compliance Supplement:

- (1) **"Account"** means any of the account(s) opened and/or maintained by the Customer with BEA, whether under or referred to in the Relevant Terms or otherwise.
- (2) **"Account Information"** means any information relating to the Account including without limitation the Account number, Account balance or value, gross receipts, withdrawals and payments to or from the Account.
- (3) **"Applicable Laws and Regulations"** means obligations of BEA to comply with: (i) any applicable local or foreign law, regulation, rules, demand, request, guidance, guidelines, and codes of practice; and (ii) any agreement between BEA (or any member of the BEA Group) and any Authority.
- (4) **"Authority"** means any national, state, or local government and any political subdivisions thereof, any agency, authority, instrumentality (whether judicial or administrative), regulatory or self-regulatory organization, law enforcement body, court, central bank, or tax or revenue authority in any jurisdiction whether within or outside of Hong Kong.
- (5) **"BEA"** means The Bank of East Asia, Limited and its successors and assigns and, for avoidance of doubt, may be defined or referred to as "BEA" or "the Bank" under the Relevant Terms.
- (6) **"BEA Group"** means BEA and any of its affiliates, subsidiaries, associated entities, and any branches and offices of any of the foregoing.
- (7) **"Consenting Person"** means the Customer and any Person other than the Customer who is beneficially interested or financially interested in the payments with respect to the Account. For the avoidance of doubt, this term includes, but is not limited to, a director, shareholder, or officer of a company, a partner of a partnership, the sole proprietor of a sole proprietorship, the trustee, settlor, or protector or beneficiary of a trust, the account holder of a designated account, the payee of a designated payment, the substantial owner, controlling person, or beneficial owner of the Customer, the agent or nominee of the Customer, or any other individual or entity having a relationship to the Customer that is relevant to its relationship with BEA as determined in

BEA's sole discretion. For purposes of the preceding sentence, a "substantial owner" includes any individual person who is entitled to more than 10 percent of the profits or capital of an entity or with an interest of more than 10 percent of the entity's equity or beneficial interests.

- (8) **"Customer"** means the customer of BEA and, for avoidance of doubt, may be defined or referred to as the "Customer", "Cardholder", "Depositor" or "depositor" under the Relevant Terms.
- (9) **"Hong Kong"** means the Hong Kong Special Administrative Region.
- (10) **"Person"** means an individual, sole proprietorship, partnership, body corporate, trust or other entities.
- (11) **"Personal Information"** means: (i) where the Customer and any Consenting Person is an individual, his/her full name, Hong Kong Identity Card/passport number, date and place of birth, residential and mailing address, contact information (including telephone number), and such information as BEA may reasonably require regarding the Customer and any Consenting Person; (ii) where the Customer and any Consenting Person is a corporate/entity, its date and place of incorporation, registered office or place of business, and such information as BEA may reasonably require regarding the Customer, Consenting Person, and each of its substantial owners, controlling persons, and beneficial owners.
- (12) **"Tax Information"** in respect of the Customer and any Consenting Person, means: (i) any documentation or information (and accompanying statements, waivers, and consents as BEA may from time to time require or as the Customer and any Consenting Person may from time to time give) relating, directly or indirectly, to the tax status of the Customer and any Consenting Person; (ii) Personal Information of the Customer and any Consenting Person; and (iii) Account Information.
- (13) **"Third Party Service Providers"** means any third party wherever situated selected by BEA or any member of the BEA Group to provide services to it.



# Notice of Amendments to SupremeGold Account/Supreme Account/BEA GOAL/i-Account Terms and Conditions

effective from 30th July 2024 (the "**Effective Date**")

The SupremeGold Account/Supreme Account/BEA GOAL/i-Account Terms and Conditions will be amended with effect from the Effective Date:

Part B Bank Product and Service Conditions	
Clause	Amendments
5.1-5.44	Clauses 5.1 to 5.44 shall be deleted and replaced by the following:  5.1 BEA Online provided by BEA are governed by the BEA Online Terms and Conditions of BEA (as amended from time to time).
15	<p>1. Section 15 is added in relation to the Alerts and Money Transfers:.</p> <ul style="list-style-type: none"><li>a. Clause 15.1 is added to specify that by making any Fund Transfer on or after the date on which these provisions come in effect, Customers confirm that they have accepted and will be bound by these provisions.</li><li>b. Clause 15.2 is added to define the terms "Alert", "Anti-fraud Database", "Hong Kong" and "Fund Transfer."</li><li>c. Clause 15.3 is added to specify that the reason for sending Alerts is to help Customers stay vigilant against frauds, scams and deceptions when making Fund Transfers.</li><li>d. Clause 15.4(a) is added to specify that BEA does not control the Anti-fraud Databases and compile the Alerts solely based on the information available from the Anti-fraud Databases from time to time. BEA does not warrant whether the Fund Transfers are fraudulent.</li><li>e. Clause 15.4(b) is added to specify that BEA may compile and deliver the Alerts in such ways as it considers appropriate.</li><li>f. Clause 15.4(c) is added to specify that BEA is not liable for loss of any kind which Customer may incur or suffer arising from any information available or omitted from any Anti-fraud Database, or any delay, unavailability, disruption, failure, error of or caused by any Anti-fraud Database, or arising from any circumstances beyond BEA's reasonable control.</li><li>g. Clause 15.4(d) is added to specify that BEA is not liable for loss, damage or expense of any kind which Customer or any other person may incur or suffer arising from or in connection with the Alerts or Fund Transfers affected by the Alerts, except to the extent that any loss incurred or suffered is direct and reasonably foreseeable, and arising directly and solely from BEA's gross negligence or wilful default or that of its officers, employees or agents.</li><li>h. Clause 15.4(e) is added to specify that in no event will BEA be liable to Customers or any other person for any loss of profit or any special, indirect, incidental, consequential or punitive loss or damages.</li><li>i. Clause 15.4(f) is added to specify that nothing in these provisions is intended to exclude or restrict any right or liability to the extent of which it may not be lawfully excluded or restricted.</li><li>j. Clause 15.5 is added to specify that Customers are responsible for taking reasonably practicable steps to safeguard Customers' own interests, money and assets from fraud or other illegal activities. Customers should consider carefully whether to proceed with or cancel a Fund Transfer affected by an Alert.</li></ul>
Part C Law Compliance Supplement	
1	<p>1. The following shall be inserted as a new Clause 1.2(e) of Part C. Law Compliance Supplement:</p> <p>1.2(e) The Customer consents and permits BEA, members of the BEA Group or its agents and each of its officers to disclose, reveal, divulge, exchange or transfer (whether within or outside Hong Kong) any Account Information, other information (other than personal data) in respect of the Customer, any transaction or dealings between the Customer and BEA or any transaction or use of any of BEA's product, service or credit facility by the Customer (collectively, "Customer Information") to any local</p>

or foreign legal, governmental, supervisory, regulatory, law enforcement or other authorities, courts or tribunals, or self-regulatory or industry bodies or associations in any jurisdictions (collectively "Authorities") or the Financial Intelligence Evaluation Sharing Tool (FINEST) and/or other fraud information-sharing initiatives or any other persons as we may consider necessary, if required by any law, rule, regulation, court order, codes or guidelines in any jurisdiction for the purposes of detecting, reporting and preventing known or suspected fraud. The Customer acknowledges and agrees that the Customer Information may be accessed and used by BEA, the Authorities and other financial institutions, for the purposes of detecting, reporting and preventing fraud, deciding whether or not to provide services to the Customer and other lawful purposes. If the Customer Information is related to documents or information of any other person, the Customer undertakes that he has obtained all necessary consents to share it and provide this consent on behalf of that person.

2. The following shall be inserted as a new Clause 1.2(f) of Part C. Law Compliance Supplement:

1.2(f) To comply with legal or regulatory requirements, as well as the requirements of BEA, the fund houses, their appointed agents or parties acting for or on their behalf, for their due diligence and anti-money laundering measures and compliance with the relevant statutory or regulatory obligations, the Customer agrees that BEA may, upon request, transfer, share, exchange and disclose any data about the Customer and the underlying transactions to the fund houses, their appointed agents or parties acting for or on their behalf, whether located in or outside Hong Kong. The aforesaid data may include, but not limited to, the Customer's identity, nature and place of business, source of funds, details of the ultimate beneficial owners, shareholders, connected parties, group companies, officers and authorized signatories of the Customer, purpose and other details of the transactions associated with the fund order placement, and the respective supporting documents, as the aforesaid data are made available to BEA.

If you do not accept the above amendments, you must notify the Bank of your objection in writing before the Effective Date and the Bank will discontinue the account service, otherwise you will be deemed to have consented to and agreed to be bound by this Notice of Amendments.

You can obtain a copy of the amended Terms and Conditions by visiting BEA's website at [https://www.hkbea.com/pdf/e-welcome\\_kit/AIO\\_T%26C\\_EN\\_072023.pdf](https://www.hkbea.com/pdf/e-welcome_kit/AIO_T%26C_EN_072023.pdf) or using the QR code. For enquiries, please call our customer service hotline on (852) 2211 1333.



Should there be any discrepancy between the English and Chinese versions of this document, the English version shall apply and prevail.

The Bank of East Asia, Limited  
June 2024

**Notice of Amendment of Account Terms and Conditions**

With effect from 23<sup>rd</sup> September, 2024 (the "Effective Date"), the Account Terms and Conditions of The Bank of East Asia, Limited ("the Bank") listed out below will be amended as follows.

<b>Product / Account Terms and Conditions</b> (if applicable)	<b>Amendment</b>
SupremeGold Account/ Supreme Account/ BEA GOAL/ i-Account Terms and Conditions	The existing Clause 13.9 under Part B. Bank Product and Service Conditions as shown below shall be deleted.  <b>13. Telegraphic Transfers/CHATs</b>  "13.9 Fund transfer transaction will be processed on the next working day if the transaction is completed when Typhoon Signal No.8 or Black Rainstorm warning is hoisted."
CorporatePlus Account Terms and Conditions	The existing Clause 13.9 under Part B. Bank Product and Service Conditions as shown below shall be deleted.  <b>13. Telegraphic Transfers/CHATs</b>  "13.9 Fund transfer transaction will be processed on the next Business Day if Typhoon Signal No.8 or Black Rainstorm warning is hoisted on the intended date of transfer in the Instruction."

If you do not accept the amendments to the Account Terms and Conditions, you must notify the Bank of your objection in writing before the Effective Date so that appropriate arrangements can be made for you to discontinue the related account(s)/service(s); otherwise, you will be deemed to have consented to and agreed to be bound by the Terms and Conditions as amended above in relation to the relevant account(s) maintained by you with the Bank and the relevant services provided by the Bank. For enquiries, please contact our customer service hotline at 2211 1333.

Should there be any discrepancy between the English and Chinese versions of this document, the English version shall apply and prevail.

Yours faithfully,

The Bank of East Asia, Limited