

## Cyberbanking Terms and Conditions

General Terms and Conditions for Cyberbanking

Schedule I Terms and Conditions for Cyberbanking Account

Schedule II Terms and Conditions for Cyberbanking Card / Dual Currency ATM Card

**In consideration of The Bank of East Asia, Limited agreeing to open and continue to maintain Cyberbanking account(s) and/or provide its services, I/we (the "Customer") hereby understand and agree that the following terms and conditions and the Schedules (as amended from time to time) (collectively referred to as the "Terms") shall apply to the Account and the Services and shall be binding on the Customer.**

### General Terms and Conditions

1. The terms and conditions stated herein apply in respect of various banking services (collectively called "Cyberbanking" - previously known as "East Asia Cyberbanking Service") offered by the Bank over different electronic delivery channels as prescribed by the Bank from time to time, including but not limited to the internet, mobile phones and fixed line telephone networks, and Automatic Teller Machines. The provision of individual electronic delivery channel to the Customer shall be at the sole discretion of the Bank.

### 2. Definitions and Interpretation

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

- 2.1 **"Account"** means any Cyberbanking account, accounts with Cyberbanking service, credit card account, Mandatory Provident Fund ("MPF") account and/or any other account the Customer opens with BEA;
- 2.2 **"Agent"** means any Person appointed by BEA;
- 2.3 **"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;
- 2.4 **"ATM"** means Automatic Teller Machine of the Bank or the ATM under the ATM Network of any other JETCO and PLUS Member Bank or the ATM under the ATM Network of any UnionPay Member Bank or any other networks specified by the Bank from time to time where applicable;
- 2.5 **"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;
- 2.6 **"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, margin trading, 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;

- 2.7 **"Cyberbanking Card"/"Dual Currency ATM Card"** ("the Card") means the card issued by the Bank to the Customer by which the Customer can access, through Automatic Teller Machines ("ATM")/point of sales terminals ("POST") and such of the Bank's accounts as the Bank from time to time may permit;
- 2.8 **"Certification Authority"** or **"CA"** means a certification authority recognised for the purposes of ETO and the Public Key Infrastructure ("PKI"), which is responsible for the use of a trustworthy system for the issuance, withdrawal, and publication in a publicly available repository of recognised and accepted digital certificates for secure on-line identification;
- 2.9 **"UnionPay Member Bank"** means the member bank of the China UnionPay;
- 2.10 **"Designated Account"** means any account 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 Cyberbanking provided that the Bank may at its option, cancel or suspend the provision of Cyberbanking in respect of any of the Designated Account(s);
- 2.11 **"Designated Service"** means the service provided by the Bank in Cyberbanking 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;
- 2.12 **"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 Cyberbanking;
- 2.13 **"Digital Certificate"** means any certificate issued by a certification authority (as defined in ETO) that BEA has accepted for use in a transaction through the Cyberbanking;
- 2.14 **"Digital Signature"**, in relation to an electronic record, means an electronic signature of the signer (as defined in the ETO);
- 2.15 **"ETO"** means the Electronic Transactions Ordinance (Cap.553);
- 2.16 **"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;
- 2.17 **"HKD"** means Hong Kong dollars;
- 2.18 **"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 of respective products/services; (ii) instruction given through various electronic delivery channels; (iii) any instruction given through ATM/POST by the use of the Card; (iv) instruction given through Cyberbanking; or (v)

verbal or written or facsimile or telex 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;

- 2.19 "**JETCO and PLUS Member Bank**" means the member bank of the JETCO or Visa International;
- 2.20 "**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;
- 2.21 "**Paying Bank**" means the account holding bank of the accounts, from which the funds are debited in the interbank fund transfers transaction;
- 2.22 "**Person**" includes an individual, sole proprietorship, partnership, trust, corporation and an unincorporated body of persons;
- 2.23 "**PIN**" means the number designated by BEA and used by the Customer to authenticate the access to the individual electronic delivery channels of Cyberbanking and subsequent to any change in PIN via Cyberbanking 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;
- 2.24 "**POST**" means Point of Sale Terminal of any Member Bank of the EPSCO or JETCO or the POST of any UnionPay Member Bank or any other networks specified by the Bank from time to time where applicable;
- 2.25 "**Receiving Bank**" means the account holding bank of the accounts, to which the funds are deposited in the interbank fund transfers transaction;
- 2.26 "**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 Cyberbanking provided that the Bank may at its option, cancel or suspend the provision of Cyberbanking in respect of any of the Related Account(s);
- 2.27 "**Services**" means banking, investment and/or other services prescribed, announced and offered by the Bank from time to time;
- 2.28 "**Third Party Account**" means, in case of an interbank fund transfer Transaction, the deposit account accommodated with the Receiving Bank or, in case of own bank fund transfer Transaction, the deposit account held by the third party with the Bank;
- 2.29 "**Transaction**" means a transaction effected by BEA pursuant to or as a result of an Instruction;
- 2.30 "**Underlying**" in respect of a Linked Deposit, means the share, currency, index or other asset specified as such in the relevant confirmation;

- 2.31 Any document is a reference to that document as modified from time to time;
- 2.32 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;
- 2.33 The headings in the Terms do not affect its interpretation.

### **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 shall (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 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.
- 4.3 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.
- 4.4 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.
- 4.5 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.

- 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 may request BEA for the provision of various Cyberbanking 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 Cyberbanking and/or the Cyberbanking Card / Dual Currency ATM Card and/or any other means as BEA may prescribe.

## **5. Sufficiency of Funds**

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.

## **6. Fees and Expenses**

BEA is entitled to levy fees and charges against Customer to cover costs and expenses arising out of the running and operation of the Account. 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.

## **7. Termination and Closure of Services**

- 7.1 On the closure of the Related Account and/or Designated Account and/or termination of Designated Service, the Cyberbanking services and Cyberbanking Card / Dual Currency ATM Card for such account(s) and/or service(s) will be terminated.
- 7.2 BEA reserves the right to suspend or terminate all or any of the Accounts, the Cards and/or Services at any time after giving reasonable notice, except in exceptional circumstances where no prior notice is required.
- 7.3 If the Account is closed, the Card and Cyberbanking will be automatically terminated. The Customer shall surrender the Card to BEA and the access of the Account and/or Services under the Cyberbanking will be suspended immediately.
- 7.4 Without prejudice to the generality of Clause 7.2 of the General Terms and Conditions herein, 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 Accounts/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 records show that the Customer has maintained no Related Account and/or Designated Service and/or Designated Account for such period as the Bank 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.
- 7.5 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 7.2 of the General Terms and Conditions herein, 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.

## 8. Rights / Responsibilities for Joint Account Holders

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) any notice in connection with the Terms to any one such person comprising the Customer will be deemed effective notification to all such persons;
- (c) on the death of any of the persons comprising the Customer, the Bank will suspend the Cyberbanking services immediately. The Cyberbanking account shall be closed by the survivor(s) on proof of the death of the deceased joint account holder;
- (d) each of account holders is authorised to recognise the balance in the each Related Account and/or Designated Service and/or Designated Account and/or Designated Service Account which recognition is binding for the other account holder(s). The Bank may offer a claim on one or several account holders with the credit balance on the Related Account and/or Designated Service and/or Designated Account and/or Designated Service Account;

- (e) if the Related Account and/or Designated Service Account is/are maintained in joint names, then each and every one of the Related Account and/or Designated Service Account holders shall be jointly and severally liable for all transactions involving the use of Cyberbanking and the terms and conditions contained herein shall apply to each of the Related Account and/or Designated Service Account holders separately;
- (f) if the Cyberbanking Account shall consist of more than one person, each and every one of the Customer shall be jointly and severally responsible for all transactions involving the use of the Card and/or the Services prescribed by the Bank from time to time so issued and the terms and conditions herein shall be jointly and severally binding on each and every one of the Customer.

## 9. Notices

- 9.1 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 telegraph, telex, facsimile transmission, short message service ("SMS"), or electronic mail, at the time of dispatch.
- 9.2 The Customer undertakes to notify BEA in writing or through Cyberbanking immediately upon any change of address, mobile phone number and contact number.
- 9.3 The Customer agrees that BEA may send any Communication, confirmation, or statement to him in electronic form.

## 10. 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.

## 11. 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.

## 12. 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.

### **13. 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 nonexclusive jurisdiction of the Hong Kong Courts to determine, enforce and adjudicate all disputes and claims arising out of the above and in connection therewith.

### **14. Governing Version**

The Chinese version of these terms and conditions is for reference only. If there is any conflict between the English and the Chinese versions, the English version shall prevail.

### **15. Miscellaneous**

- 15.1 For the avoidance of doubts, all the Schedules hereafter described form integral parts of the Terms and shall be binding on the Customer. Unless otherwise stated, reference to Clauses and Schedules means the clauses of and schedules to the Terms.
- 15.2 Words and phrases in the Terms shall be read and construed in accordance with the definitions contained hereto. Where the context permits, the singular includes the plural and vice versa, the masculine includes feminine and neuter and vice versa.
- 15.3 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.
- 15.4 The Terms shall be binding on and enure to the benefit to the Bank and the Customer and his personal representatives and successors or assigns of the Customer and each of them.
- 15.5 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 the Terms.

### **16. Specific Terms and Conditions**

- 16.1 The use of the Cyberbanking Account is subject to the provisions of Schedule I.
- 16.2 The use of the Cyberbanking Card / Dual Currency ATM Card is subject to the provisions of Schedule II.



**Schedule I**  
**Terms and Conditions for Cyberbanking Account**

1. BEA may grant to the Customer the facility to carry out certain banking functions in the Account, Related Account, Designated Service Account and Designated Account (only fund transfer to, but not out of, a Designated Account 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 Cyberbanking during the service hours specified by BEA from time to time.
2. The granting of usage and/or access to Cyberbanking to operate the Account, Related Account and Designated Service Account shall be at sole discretion of BEA and BEA may cancel or suspend Cyberbanking or any part thereof at any time. Without limiting the foregoing, BEA may refuse to accept any Digital Signature and/or Digital Certificate in relation thereto at its absolute discretion, notwithstanding that the use of the Digital Certificate has been registered with BEA. On the termination of Cyberbanking, access to the Account, Related Account and Designated Service Account through electronic delivery channels will be terminated.
3. BEA shall supply the Customer with the Cyberbanking Account 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 Cyberbanking Account 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.
4. BEA and its Agent may at its sole discretion introduce and provide new Services through Cyberbanking 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. It shall be the Customer's responsibility to comply with the Certification Practice Statement ("CPS") as well as terms and conditions as set out by each issuing CA of the Digital Certificate under the ETO and the Customer acknowledges and agrees that BEA will not have any liability whatsoever in connection therewith.
6. The Customer may use a Digital Certificate which is issued by the CA that may be acceptable to BEA within the Service(s) published by BEA from time to time provided that the CA issuing that Digital Certificate has notified BEA the readiness and acceptance of the underlying Digital Certificate in accordance with the rules and procedures set by the CA within the validity period of the Digital Certificate. The Customer agrees to be bound by other terms and conditions of the Service(s) provided as prescribed by BEA from time to time.
7. BEA may accept the Digital Signature of the Customer which is supported by a Digital Certificate issued by the CA as may be acceptable to BEA within the validity period of the Digital Certificate. BEA is entitled to treat such Digital Signature as the manual signature of the relevant person(s).

8. BEA may presume that the information of the Customer contained in a Digital Certificate issued by such CA as may be acceptable to BEA to be correct if the Digital Certificate was published in a repository.
9. The Customer may request, in writing or through Cyberbanking, the alteration of the PIN if necessary from time to time. For the purpose of these conditions the term PIN shall be the PIN currently in use.
10. The issuance, selection, or usage of a new PIN and/or a new Digital Certificate shall not be construed as the commencement/creation of a new contract.
11. The Customer acknowledges that the PIN, the private key and/or password of Digital Certificate 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) including any joint account holder of the Customer 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.
12. Without prejudice to other provisions hereof, the Customer agrees to indemnify BEA against all or any Losses on a full indemnity basis which is directly or indirectly related to or in connection with the use of Cyberbanking and/or Digital Certificate, whether such use is authorised or unauthorised, unless any of the Losses arises out of BEA's negligence, fraud or willful default.
13. 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 Cyberbanking 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 the Important Notes for Security in relation to Cyberbanking without prior notice. If the Customer fails to do or to procure the Authorised Person (in case of accounts other than individual, joint and sole-proprietorship accounts) to do, the security precautionary measure, the Customer shall be liable for all unauthorised Transactions.
14. Any Transaction effected by BEA pursuant to or as a result of an Instruction initiated by the Customer with the correct Cyberbanking Account Number, self-selected user identity ("ID"/name, PIN and/or Digital Certificate 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 Cyberbanking 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 scheduled 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.

15. BEA shall in no circumstances be liable for any failure of Cyberbanking in whole or in part nor for the inability of the Customer to gain access in whole or in part to Cyberbanking caused by the delay or failure of any communication network or any party providing such access.
16. Provided that BEA has not been in gross 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 Cyberbanking Account Number, self-selected user ID/name, and PIN and/or Digital Certificate shall be binding on the Customer.
17. 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 Cyberbanking 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 17. 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 PIN.

18. Subject to the provisions herein, BEA's liability to the Customer in relation to the provision of Cyberbanking 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 Cyberbanking, the Cyberbanking Account Number(s), self-selected user ID, PIN(s) or Digital Certificate(s), 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.
19. BEA shall have the absolute discretion from time to time to determine the scope of Cyberbanking, acceptance of Digital Certificate, set or change the daily cut-off time, withdraw or discontinue the operations of Cyberbanking without notice or responsibility to the Customer. Any Transactions performed through Cyberbanking after the daily cut-off time shall be treated as next Business Day value Transactions. Since the Cyberbanking system may be accessed from any country, the daily cut-off time in Hong Kong shall prevail.

20. The cost and expense to obtain and maintain suitable equipment to access Cyberbanking shall be borne by the Customer solely.
21. Any Instruction given to BEA through Cyberbanking 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, Related Account, Designated Account and/or Designated Service Account becoming overdrawn without authorisation or if such Account, Related Account, Designated Account and/or Designated Service Account is/are on hold, or frozen or dormant or in any other circumstances which BEA may in sole judgment consider appropriate.
22. The Customer may request for the provision of various Cyberbanking 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.
23. All Transactions entered into pursuant to the Instructions given to BEA through Cyberbanking shall be subject to the terms and conditions governing such Transactions as prescribed by BEA from time to time.
24. 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.
25. The Customer acknowledges that transactions involving any transfer of funds between any Account, Related Account, Designated Account 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 or BEA (as the case may be) 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.
26. Cyberbanking can be used for fund transfer/payment Transactions if there are sufficient funds in the Account, Related Account(s) and/or Designated Service Account. If the transfer/payment Transaction is made without sufficient funds in the account(s), BEA is not obliged to effect any such transfer/payment Transaction and is entitled to refuse to effect such transfer/payment Transaction, with or without cause, without incurring any liability whatsoever and without prior

notice to the Customer. If BEA agrees to effect such transfer/payment Transaction, 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.

27. The amounts that the Customer shall be permitted to transfer through Cyberbanking 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 Cyberbanking or for any other reason.
28. 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 Cyberbanking 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 23 hereof, 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.
29. 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 Cyberbanking.
30. The Customer understands and acknowledges that Cyberbanking 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 Cyberbanking 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.
31. The Customer agrees to the disclosure or transfer of personal data in respect of the Account(s), Transactions and dealings with BEA, the mobile phone service providers and of other third party engaged in any Transaction or providing any service in respect of the Cyberbanking 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 Cyberbanking.
32. BEA shall endeavour to take all steps as far as reasonably practicable to ensure that information made available by Cyberbanking is correct and updated at regular intervals. The Transaction details and balances of the Account(s), Related Account(s), Designated Service Account(s) and/or Designated Account(s) as shown in the Customer's terminal or any printout 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 Cyberbanking.
33. 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 Cyberbanking. 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 Cyberbanking.

34. 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 Cyberbanking and/or Digital Certificate 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 Cyberbanking. 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 Cyberbanking 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.
35. 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.
36. 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 the Bank 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.
37. The Customer hereby warrants and represents that:
- (a) if the Customer is a limited company, the Customer has been duly incorporated and in good standing;
  - (b) all acts, conditions, things required to be done, performed and observed in order that these terms and conditions 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;
  - (c) 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.

**Schedule II****Terms and Conditions for Cyberbanking Card / Dual Currency ATM Card**

1. The Customer (herein referred to as the "Cardholder") who has been issued with the Cyberbanking Card / Dual Currency ATM Card (collectively called "the Card") can use the Card on any one of the Automatic Teller Machines ("ATM") installed by or belonging to BEA, at the Bank's discretion, or any Member Bank of the JETCO, UnionPay and PLUS 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.
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.
3. The Card shall only and exclusively be used by the Cardholder and is not transferable.
4. The Cardholder shall at no time and in no circumstances disclose to any person whomsoever his/her Personal Identification Number ("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.
5. If the Cardholder shall consist of more than one person, each and every one of the Cardholders 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. 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 account(s) to which the Card relates. If withdrawal or transfer is made without sufficient funds in such account(s) 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 such 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.
7. The Cardholder acknowledges that Transactions involving any transfer of funds between any 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.

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.
9. Cash and/or cheque in Hong Kong currency may be deposited with BEA by the use of the Card and the ATM of BEA provided always 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 coins by the use of the Card and the ATM is not allowed;
  - (f) 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.
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/her knowledge or by his/her 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.
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 account to which the Card relates.

12. The Card and the related PIN are issued and delivered to the Cardholder at his/her own risk.
13. 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.
14. 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.
15. 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.
16. 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 account to which the Card relates. If such annual fee is to be collected in any currency other than Hong Kong currency, BEA shall have absolute discretion to convert such annual fee into such other currency(ies) at BEA's rate of exchange determined by BEA at the time the transaction is processed without reference to or consent from the Cardholder. 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 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.
17. The Cardholder agrees that BEA may contact his/her 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. The Cardholder is entitled at any time to request access to the information held by BEA about the Cardholder or the account(s) of the Cardholder and to request an update or correction of any such information. Such request should be made in writing to the Group Data Protection Officer, The Bank of East Asia Group, 10 Des Voeux

Road Central, Hong Kong. BEA has a right to charge a reasonable fee for complying with any data access requests.

18. 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.
19. 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.
20. The Cardholder acknowledges that fund transfers to Third Party Accounts involve risks, for example, in the event of payments to unauthorised Third Party Accounts.
21. 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.
- 21A. 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.
22. 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.
23. Deposit of foreign currency notes/coins and/or cheques by use of the Cyberbanking Card and the ATM is not permitted and BEA will not be responsible for the consequences of any attempts to deposit such items.

**Clauses 24 to 26 below are applicable to Dual Currency ATM Card only**

24. BEA shall be entitled to charge a fee for each transaction made at the ATM and/or POST at such rate as determined in its absolute discretion and announced by BEA from time to time. BEA shall have absolute discretion to convert such fee into Hong Kong currency and/or such other currency(ies) at BEA's rate of exchange determined by BEA at the time the transaction is processed without reference to or consent from the Cardholder. The Cardholder acknowledges that if the transaction fee cannot be debited successfully due to insufficient funds in the account(s) or any other reason, 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.
25. Deposit of cheques in Renminbi by use of the Card and the ATM is not allowed. BEA will not be responsible for the consequence of any attempts to deposit such items.
26. Renminbi notes may be deposited by use of the Card and the ATM of BEA provided always the Cardholder agrees that:

- (a) envelope Renminbi note deposit 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) 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;
- (c) 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.

BEA may from time to time in its absolute discretion refuse to accept any deposit in Renminbi notes by the use of the Card and the ATM of BEA without incurring any liability whatsoever and without prior notice to the Cardholder.