

## Investment Product Terms

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## PART ONE GENERAL TERMS

### 1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless specified otherwise or unless the context otherwise requires:

**“Account”** means each and any account or sub-account in connection with any Service or Transaction which the Client has opened or maintains with the Bank from time to time pursuant to Clause 3.1 of Part One of this Agreement.

**“Affiliate”** means any subsidiary, related corporation, parent company, office, representative office, associated company of the Bank, and includes their respective successors and assigns.

**“Agent”** means any agent, broker, dealer, counterparty, advisor, banker, attorney, custodian, sub-custodian, depository, manager, service provider or nominee selected or used by the Bank in connection with any Account, Service or Transaction or otherwise in connection with this Agreement.

**“Agreement”** means this Agreement including each Part hereof, as supplemented by such other document as the Bank may specify from time to time in relation to the operation of any Account, the provision of any Service and the entry into any Transaction.

**“Applicable Laws”** means to the extent applicable, all laws, rules, regulations, notices, circulars, codes and guidelines of any regulatory, supervisory, governmental, quasi-governmental or other authority or body or exchange or clearing house, in each case as supplemented and amended from time to time.

**“Authorised Person”** means each person authorised (whether solely or jointly) to, on the Client’s behalf, give Instructions to the Bank.

**“Bank”** means Standard Chartered Bank Nigeria Limited, its successors and assigns.

**“Benefits”** has the meaning ascribed to it in Clause 9.3 of Part One of this Agreement.

**“Business Day”** means a day (other than a Saturday or Sunday or public holiday) on which the Bank is open for business and, in the context of Instructions, Transactions and Services, a day when banks and relevant financial markets and institutions are open for business in the jurisdiction concerned.

**“Charge”** has the meaning ascribed to it in Clause 21.1 of Part One of this Agreement.

**“Charged Assets”** means (i) any and all monies in whatever currency standing to the credit or for the benefit of the Client on the Account and any other account with or in the name of, to the order of, or under the control or direction of, the Bank, its Affiliates or Agents, including all additions to or renewal or replacement of such monies and interest payable thereon, (ii) the Securities delivered to, deposited with, transferred to, registered in the name of, held in the possession of, or under the control or direction of, the Bank, its Affiliates or Agents, together with all dividends, interest or other distributions paid or to be paid on the Securities, and including for the avoidance of doubt the Custody Property and (iii) any other assets from time to time beneficially owned by the Client (whether owned jointly or in its own name) delivered to, deposited with, transferred to, registered in the name of, held in the possession of, or under the control or direction of, the Bank, its Affiliates or Agents.

**“Client”** means the holder(s) of any Account as identified in any account opening documentation completed or provided when such Account is opened, including its/their successors and assigns.

**“Client Information”** has the meaning ascribed to it in Clause 19.1 of Part One of this Agreement.

**“Collateral”** means any asset acceptable to the Bank and held by the Bank as security for the Liabilities from time to time.

**“Collateral Requirement”** has the meaning ascribed to it in Clause 11.2 of Part One of this Agreement.

**“Event of Default”** has the meaning ascribed to it in Clause 25 of Part One of this Agreement.

**“Exchange”** means any exchange, trading system, platform or organised market on which purchasers and sellers of Securities are brought together and through which orders may be transmitted including, but not limited to, stock exchanges and alternative trading systems.

**“Governing Law”** means the laws of the Federal Republic of Nigeria.

**“Indemnified Person”** has the meaning ascribed to it in Clause 24.1 of Part One of this Agreement.

**“Instruction”** means any instruction or request given or purportedly given by the Client or, where applicable, Authorised Persons to the Bank pursuant to this Agreement by such means as the Bank may allow as detailed in Clause 5.2 and Clause 5.3 of Part One of this Agreement.

**“Joint Account Holder”** has the meaning ascribed to it in Clause 15.1 of Part One of this Agreement.

**“Liabilities”** means all monies, obligations and liabilities now or at any time hereafter due, owing by the Client to or incurred by any of the Standard Chartered Group entities, anywhere, whether on the Account, or in respect of any Services or any Transaction or any Instructions or otherwise in whatever manner and actual or contingent, present or future and in whatever currency and whether solely or jointly and in whatever name, style or form and whether as principal debtor or as surety, including all obligations assumed by any Standard Chartered Group entities in favour of the Client or other persons at the Client’s request, together with interest, commissions, fees, charges and all expenses and legal costs on a full indemnity basis.

**“Loss”** or **“Losses”** mean any losses, damages, costs (including legal costs on a full indemnity basis), fines, expenses, fees, charges, actions, suits, proceedings, claims, claims for an account or equitable compensation or equitable lien, any other demands or remedy whatsoever, or any diminution in the value of or loss or damage to any property or security or any lost opportunity whereby the value of the same could have been increased or otherwise.

**“Potential Event of Default”** means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

**“Principal”** has the meaning ascribed to it in Clause 5.10 of Part One of this Agreement.

**“Risk Disclosure Statement”** means the risk disclosure statement set out in Part Three of this Agreement and includes all annexures and supplements thereto from time to time and all the disclosures or descriptions of risks contained in documents which are specific to any

particular Securities, Transaction or Service as provided by the Bank to the Client from time to time.

“**Securities**” means equities, bonds, debentures, debenture stocks, certificates of deposit, treasury bills, bills of exchange, units or interests in unit trusts or mutual funds or any other kind of collective investment schemes, warrants, options, all derivatives over the same, securitised structured products such as notes, warrants or certificates, annuities, debt certificates which may be drawn by lot for redemption, mortgage bonds and any other interests, rights or property, whether in the form of an instrument or otherwise, commonly known as securities in the jurisdiction in which they are created or issued.

“**Service Providers**” has the meaning ascribed to it in Clause 19.2.2 of Part One of this Agreement.

“**Services**” mean any services offered, granted or made available by the Bank to the Client from time to time pursuant to Clause 3.1 of Part One of this Agreement.

“**Services Document**” means any agreement or document applicable in respect of any Services, each as amended or supplemented by the Bank from time to time.

“**Standard Chartered Group**” means any one or more of Standard Chartered Bank, its subsidiaries, associated companies and affiliates (including, without limitation, the Bank and its Affiliates).

“**Statements**” has the meaning ascribed to it in Clause 12 of Part One of this Agreement.

“**Transaction**” means any transaction effected by the Bank with the Client or for or on behalf of the Client pursuant to or in connection with this Agreement, any Account or Service.

“**Trust**” has the meaning ascribed to it in Clause 16.1 of Part One of this Agreement.

“**User**” has the meaning ascribed to it in Clause 19.2 of Part One of this Agreement.

**1.2** In this Agreement, unless specified otherwise or unless the context requires otherwise:

- 1.2.1 a reference to any statute, statutory provision or regulation shall be construed as a reference to the same as it may be amended, modified or re-enacted from time to time;
- 1.2.2 headings and titles are for convenience only and do not affect its interpretation;
- 1.2.3 the singular includes the plural and vice versa;
- 1.2.4 words denoting any gender shall include the other genders;
- 1.2.5 “**assets**” means property or assets of any nature and includes all or part of any present and future business, undertaking, real property, personal property, uncalled capital, revenues and any rights of every description (whether actual or contingent, present or future) to receive, or require delivery of, any of the foregoing;
- 1.2.6 any reference to the Bank’s “**discretion**” shall be construed to refer to the Bank’s “**sole and absolute discretion**”; any determination to be made by the Bank or any exercise by the Bank of any rights or entitlement may be made at the Bank’s sole and absolute discretion and, in every case, shall be conclusive and binding on the Client; and the word “**includes**” or “**including**” as used in this Agreement shall be construed to mean “**includes without limitation**” or, as the case may be, “**including without limitation**”; and

1.2.7 “**person**”, “**he**” or “**him**” includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state or agency of a state (in each case, whether or not having separate legal personality).

## **2 SCOPE AND PREVALENCE**

- 2.1** This Agreement governs the opening and operation of the Account, the provision of the Services by the Bank to the Client and the entry into of Transactions.
- 2.2** All Transactions entered into under this Agreement between the Bank and the Client form a single agreement between the Bank and the Client.
- 2.3** The Bank may introduce and provide new Services from time to time. The Client will receive notification of any new terms and conditions governing such Services which may be introduced. Such terms and conditions will supplement and form part of this Agreement and will be binding on the Client. The Client agrees to comply with such terms and conditions to the extent applicable.
- 2.4** Unless otherwise indicated:
- 2.4.1** in case of inconsistency between the provisions in the General Terms in Part One and the provisions in other Parts in this Agreement, the provisions in the other Parts shall prevail;
  - 2.4.2** in case of inconsistency between this Agreement and any other agreement entered into between the Bank and the Client from time to time, (including, without limitation, the general account terms between the Bank and the Client), where such inconsistency relates to the Account, Transactions or Services, then this Agreement shall prevail, otherwise such other agreement shall prevail; Where there is no inconsistency, this Agreement may be read in conjunction with such other agreement entered into between the Bank and the Client from time to time, (including, without limitation, the general account terms between the Bank and the Client);
  - 2.4.3** in case of inconsistency between this Agreement and any offering document, term sheet, or documentation pertaining to a particular Transaction or Service, the offering document, term sheet, or documentation of that Transaction or Service shall prevail; and
  - 2.4.4** in case of inconsistency between this Agreement and any Services Document , the Services Document shall prevail.
- 2.5** This Agreement, and accordingly the Account, all Services and all Transactions, are subject to Applicable Laws. To the extent that any provision of Applicable Laws conflicts with any provision of this Agreement and such provision of Applicable Laws cannot be varied contractually, such provision of Applicable Laws shall prevail in relation to such conflict.

## **3 PROVISION AND AVAILABILITY OF SERVICES**

- 3.1** Subject to the terms and conditions in this Agreement, the Bank may (but is not obliged to) from time to time open and maintain any Account for the Client and provide the Client with execution, clearing and settlement services, custody services and any other services as agreed between the Bank and the Client from time to time.

- 3.2** Notwithstanding the entry into of this Agreement, the Bank has no obligation to open an Account for, provide any Service to, or enter into any Transaction for or with, the Client or on the Client's behalf, and the Bank may refuse to do so. No reasons for any refusal, termination or discontinuance need to be given to the Client. The Bank may require the Client to sign additional documentation (including providing sufficient margin) in order to open an Account, provide any Services or enter into Transactions.

## **4 AUTHORISED PERSONS**

- 4.1** Subject to the Bank's approval, which may be withheld at the Bank's discretion, the Client may appoint Authorised Persons to give Instructions on the Client's behalf regarding any Account, Transaction or Service by providing a written power of attorney or such other form of authorisation as may be acceptable to the Bank. All acts of the Authorised Persons shall be binding on the Client. The Bank will not be liable or responsible for any Losses provided that the Bank acts in accordance with any Instruction.
- 4.2** A list of specimen signatures of the Authorised Persons shall be filed with the Bank which shall remain in full force and effect until the Bank has received written notice of amendment or revocation. The Bank may ignore and disregard any notice of revocation of such authority not in form and substance satisfactory to it. The Authorised Persons may provide Instructions in relation to the operation of the Account, entry into of Transactions, any request for additional Services and all other matters in relation to the Account, Transactions or Services in any manner as the Authorised Persons think fit, and the Bank may act on all such Instructions. Unless the Bank otherwise agrees, all written Instructions must bear the signature(s) of the Client or Authorised Persons in accordance with the specimen(s) available on the Bank's records.

## **5 INSTRUCTIONS AND TRANSACTIONS**

### *Instructions*

- 5.1** The Client authorises the Bank in its discretion to rely on, and treat as fully authorised, any Instruction or other communication which purports to be given by the Client or on the Client's behalf (including from any Authorised Person) and which is reasonably accepted by the Bank in good faith provided always that the Bank shall have the right under Clause 5.6 of Part One of this Agreement. The Bank may act on, process or perform any such Instruction or communication without any enquiry as to the authority or identity of the person making or purporting to give such Instructions or the authenticity thereof. The Client agrees that the Client is under an express duty to the Bank to prevent any fraudulent, forged or unauthorised Instructions being given.
- 5.2** The Client must give the Bank Instructions in writing in accordance with the signing mandate as agreed with the Bank from time to time. Instructions can be given by telex, telephone, fax (signed in accordance with the signing mandate) or e-mail, or by any other means acceptable to the Bank unless:
- 5.2.1** the Bank agrees otherwise in writing; or
- 5.2.2** the Bank notifies the Client that Instructions can only be given in a particular way.
- 5.3** If the Client gives an Instruction by telex, telephone, fax or e-mail, the Bank may act upon such Instructions without receipt of any written confirmations and the Bank's records of telex, telephone, fax or e-mail Instructions shall be conclusive evidence of all such Instructions. Without prejudice to the above, the Client acknowledges that the Bank is entitled to insist on any verbal Instructions given by or purportedly given by or on behalf of

the Client being confirmed by the Client in writing, but the Client shall always be bound by such verbal Instructions regardless of whether they have been so confirmed.

- 5.4** The Client will bear all risks, and no member of the Standard Chartered Group is or will be responsible or liable for Losses arising from Instructions or communications provided to the Bank by any means. In particular but without limitation, the Bank will not be responsible or liable for any Loss suffered or incurred as a consequence of (a) any failure or delay in executing an Instruction caused by circumstances beyond its reasonable control including delay or failure to read an Instruction, or (b) any delay in reading an Instruction given by telex, fax or e-mail.
- 5.5** An Instruction given to the Bank may not be cancelled, withdrawn or amended unless the Bank, in its discretion, decides otherwise. The Bank has no liability if it does not or is unable to stop or prevent the implementation of the initial Instruction.
- 5.6** The Bank may, in its discretion and without being required to give any explanation, refuse to accept or comply with any Instruction or reject or cancel any Instruction.
- 5.7** The Bank shall have no duty to assess the prudence or otherwise of any Instruction. Notwithstanding this, if the Bank determines that any of the Instructions or other circumstances may expose the Bank (whether directly or indirectly) to any Loss, the Bank may suspend the operation of any or all of the Accounts, the entry into any or all of the Transactions, the provision of all or any of the Services and/or require an indemnity from the Client before continuing to operate the Account(s), carrying out any Transaction or providing any Service or complying with any Instruction.

#### ***Transactions***

- 5.8** The Bank may apply limits to Transactions, Services or Instructions of certain types or amounts. The Bank is not obliged to inform the Client of these limits and any changes which the Bank may make to them. The Bank will not be liable to the Client for not notifying the Client of these limits and any changes thereto or any Losses arising from or in connection with the application of such limits.
- 5.9** The Bank reserves the right to debit from any account with the Bank at any time any cash or other assets that were credited to the Client in error.

#### ***Additional provisions where the Client is acting as an agent***

- 5.10** In the event that the Client is acting as agent for its underlying customers (each a "**Principal**") under this Agreement, the Client undertakes to inform the Bank and disclose the identity of each Principal to the Bank prior to opening an Account, entering into any Transaction or accepting the provision of any Service on behalf of such Principal. The Bank will treat the Client alone as its Client, and the Bank will not treat any Principal as its Client, for the purposes of Applicable Laws.
- 5.11** In respect of each Instruction, the Client undertakes to specify the Principal to which such Instruction relates, failing which such Instruction shall be construed as that for the benefit of the Client. Notwithstanding anything in this Agreement, the Client warrants that, in relation to any Account, Transaction or Service he is acting as agent for a Principal, such Principal and the Client will be jointly and severally liable in respect of all Liabilities.

## **6 NO INVESTMENT ADVICE**

**6.1** This Clause 6 is subject to any express agreement from time to time entered into between the Bank and the Client in writing to the contrary.

**6.2** The Bank does not provide investment advice, portfolio monitoring services or discretionary portfolio management services to the Client and the Bank does not act as the Client's adviser in relation to the Account, any Securities, any Transaction and any Service.

**6.3** Without prejudice to the generality of Clauses 6.1 and 6.2 above, if the Bank provides any information on the Account, Securities (or the relevant reference underlying), Transactions, Services or markets such as research, reports, market trends, investment analysis, commentary or internal ratings upon the performance of selected companies, assets, interest rates, exchange rates and/or indices, the Client represents, warrants and fully understands (which representations and warranties shall be deemed repeated on each date the Client enters into a Transaction or accepts the provision of a Service or otherwise provides an Instruction of any kind to the Bank and on a continuous basis for so long as the Client has any Account or any outstanding Service or Transaction with the Bank) and agrees that this should not be construed as:

**6.3.1** any endorsement of the Securities (or the relevant reference underlying), Transactions, Services or markets;

**6.3.2** a representation that the Bank has performed any due diligence on the Securities (or the relevant reference underlying), Transactions, Services or markets;

**6.3.3** investment advice;

**6.3.4** the Bank acting as the Client's adviser or fiduciary;

**6.3.5** information which the Client can or may rely on in connection with his investment decision;

**6.3.6** a representation by the Bank that the information in the materials is complete, accurate, clear, fair and not misleading (as the Bank does not make any representation with respect to the contents of the materials); or

**6.3.7** the Bank taking responsibility for the performance of any Securities;

and the Client should seek his own independent advice as to the suitability of any Securities, Transaction or Service as he considers appropriate. The use of or reliance on any such information is at the Client's own risk. The Bank is not responsible or liable for the accuracy and completeness of any such information, the performance of any Securities, or the outcome of any Transaction or Service.

**6.4** The Client agrees and acknowledges that:

**6.4.1** the Client shall be solely responsible for making his own independent investment decisions;

**6.4.2** all decisions on how to operate the Account, whether to enter into, invest in, hold or dispose of any Securities, and whether to enter into any Transaction or to accept a Service, are the Client's; and

**6.4.3** the Client does not rely on the Bank, any of its Affiliates, Agents or nominees or any of their directors, officers or employees, or on any research, information,

representation, advice, recommendation, view, opinion or other statement (in each case whether written or oral) produced or provided by any of the abovementioned persons in making any investment decision. The Client has made and will make his own independent assessment of the Securities, Transactions and Services in terms of value, merit, suitability, effects or otherwise.

**6.5** Without prejudice to any provision of this Clause 6:

**6.5.1** the Bank is not obliged to give investment advice or make recommendations and, notwithstanding that the Bank may do so on request by the Client or otherwise, such investment advice or recommendations are given or made diligently and with reasonable care based on analyses and available alternatives the Bank should reasonably know to exist (and the Client acknowledges and agrees that it is so given or made) without any responsibility on the part of the Bank; and

**6.5.2** the Client acknowledges and agrees that the Client is aware that the Bank does not hold out any of its Agents, directors, officers or employees as having any authority to advise the Client, provide portfolio monitoring services or discretionary portfolio management services and the Bank does not purport to advise the Client on the terms of, or any other matters connected with, the Account, any Securities, Transaction or Service.

**6.6** None of this Agreement, the Account, any Service or Transaction or, to the extent applicable, any recommendation or investment advice provided by the Bank to the Client, shall give rise to any fiduciary or other equitable duties on the part of the Bank.

## **7 COMPLIANCE WITH LAWS**

**7.1** The Bank and its Affiliates may take any action in accordance with or in order to comply with any Applicable Laws (including the laws, regulations, notices and directions of public and regulatory authorities which relate to the prevention of money laundering, terrorist financing and the provision of financial and other services to any persons or entities) as it deems appropriate.

**7.2** The Client undertakes to comply with Applicable Laws at all times. The Standard Chartered Group has no obligation to monitor or ensure the Client's compliance with Applicable Laws including any restrictions on the powers to operate the Account, any restrictions in relation to investments, the authority and capacity of the Client to open, maintain or operate the Account, to enter into any Transaction, to accept the provision of Services or to give Instructions or otherwise to act in connection with the Account, any Transaction or Service.

## **8 PAYMENTS**

**8.1** All payments by the Bank to the Client under any Transaction or Service shall be made to the Account or any one of the Client's accounts with the Bank or by such other means, in each case, as the Bank shall determine in its discretion.

**8.2** All payments by the Client to the Bank under any Transaction or Service shall be made either by:

**8.2.1** deductions from the Account or any one of the Client's accounts with the Bank as determined by the Bank in its sole and absolute discretion; or

**8.2.2** payment to an account designated by the Bank,

or by such other means as may be notified to the Client from time to time. All such payments shall be made in full in immediately available and freely transferrable funds without set-off or counterclaim or any restriction or condition, free and clear of and without withholding or deduction of any taxes, charges or fees of any nature now or hereafter imposed or howsoever arising. If the Client is or becomes required by Applicable Laws to make any such withholding or deduction from any payment, then the Client shall pay to the Bank, in addition to the payment to which the Bank is otherwise entitled under any Transaction or Service, such additional amount as is necessary to ensure that the net amount actually received by the Bank will equal the full amount the Bank would have received had no such deduction or withholding been required.

- 8.3** The Client shall be responsible for all risks and expenses in connection with any payment under any Transaction or Service. Any expenses in connection with the making of payments under any Transaction or Service will be paid by the Client.
- 8.4** If, on any date, amounts are due and payable by each of the Bank and the Client to the other in the same currency in respect of any one or more Transaction and/or Service, such amounts shall be automatically satisfied and discharged and only the net amount owing on that day shall be paid by the party owing the larger amount to the other party.
- 8.5** The Bank may charge interest in respect of any sums due to the Bank and unpaid at such rates as the Bank may determine until all such sums are fully paid, as well before as after judgment.
- 8.6** Any discharge of the obligations of the Client by the Bank shall be deemed to be made subject to the condition that it will be void to the extent that any security, disposition or payment to the Bank by the Client or any other person is set aside, avoided or reduced pursuant to any provision or enactment relating to the bankruptcy, liquidation, reorganisation or otherwise of the Client or such other person (whether as an unfair preference or otherwise) or proves otherwise to have been invalid. In such event, the Client shall make good to the Bank upon demand such amount as shall have been set aside, avoided or invalidated as aforesaid, and the Bank shall be entitled to enforce these indemnities against the Client subsequently as if such discharge had not occurred.
- 8.7** In the event of any limitation on the use of funds or any unavailability or non-payment of funds due to Exchange restrictions, inconvertibility, governmental restriction or any other cause beyond the control of the Bank, the Bank may:
- 8.7.1 discharge its obligations by paying the Client or to the Client's order such funds at any time (whether before, on or after maturity), in any currency and in such manner as the Bank may determine in its discretion. For the purpose of this Clause 8.7.1, the funds shall be calculated at such exchange rate as the Bank may determine in its discretion; or
- 8.7.2 with notice to the Client, take action to appoint a successor in another jurisdiction, transfer the Client's assets to another jurisdiction, change the Governing Law(s) of this Agreement, terminate the Account, the provision of Services and/or Transactions at the Client's cost or take any other action that the Bank considers expedient.

## **9 FEES AND EXPENSES**

- 9.1** The Bank will charge fees and commissions in respect of the Account, Services and Transactions as specified in the fee schedule which may be varied from time to time or as otherwise agreed with the Client from time to time. The Bank will charge interest at the rate

or rates prescribed by the Bank from time to time, and may at any time debit any account the Client has with the Bank with any such fees, commissions or interest, as well as any taxes as may be required to be debited by Applicable Laws or as the Client may instruct. The Bank may vary any fees, commissions and, where applicable, interest rates payable in the same way it may vary any of this Agreement.

- 9.2** Without limitation to the Bank's rights under Clause 11, Clause 20, Clause 21 and Clause 22 of Part One of this Agreement, the Client shall on demand indemnify the Bank against, and the Bank may at any time debit the Account with, all costs and expenses incurred in connection with the operation of the Account, any Service provided or any Transaction effected (including costs and expenses incurred in unwinding any Transaction in accordance with an Instruction or this Agreement), and expenses incurred in the enforcement of the Bank's rights or the recovery of any amount due to the Bank.
- 9.3** The Client acknowledges and agrees that a member of the Standard Chartered Group may receive remuneration, fees, benefit in-kind, soft commissions, trailer commissions, and other selling or placing commission (howsoever designated) ("**Benefits**") from any person arising out of or in connection with the operation of the Account, any Transaction or any provision of Services to the Client (including representatives of any issuer of Securities or any other person whatsoever in respect of which it provides information to the Client), and such member of the Standard Chartered Group is entitled to retain such Benefits for itself and shall have no obligation to account to the Client for all or any part of such Benefits. A member of the Standard Chartered Group may also share charges and commission with its affiliates or third parties in respect of the Account, Transactions or Services.

## **10 CURRENCY**

- 10.1** The Bank may without prior notice to the Client, make any currency conversions it considers necessary or desirable for the purpose of complying with its obligations or exercising its rights under or in connection with this Agreement, the Account, any Transaction or Service. Any such conversions will be effected by it in such a manner and at such rates as it may at its discretion determine having regard to the prevailing rates for freely convertible currencies.
- 10.2** All foreign currency exchange risk arising from any Transactions with or for, or Services provided to, the Client or from the compliance by the Bank with its obligations or the exercise by it of its rights under this Agreement or in relation to the Account shall be borne by the Client. The Client acknowledges that the conversion of currency is ancillary to the Services only and the Bank shall not be liable for any Losses arising from such conversion.

## **11 COLLATERAL**

- 11.1** Collateral may be required by the Bank for the operation of the Account and/or certain Transactions or Services.
- 11.2** As security for the Liabilities, the Client shall maintain at all times sufficient Collateral as determined by the Bank in its discretion from time to time. The Bank may require, from time to time, additional Collateral to meet the requirements for security or collateral prescribed by the Bank from time to time (the "**Collateral Requirement**") for the operation of the Account and/or the relevant Transactions or Services.

- 11.3** Any such Collateral may be a combination of cash and/or securities or other forms of Collateral acceptable to the Bank in its discretion. Notwithstanding the foregoing, any discount formula applied or the acceptability of any Collateral may be changed at any time and from time to time at the Bank's discretion.
- 11.4** In the event that the Collateral provided is, in the sole opinion of the Bank, no longer acceptable or sufficient to meet the Collateral Requirement, the Bank may take such action as the Bank in its discretion deems fit, including realising such part or all of the Collateral as the Bank deems necessary to satisfy the Liabilities without notice to or consent from the Client. Without prejudice to the foregoing, if the Bank in its discretion deems appropriate, the Bank may (in addition to or instead of exercising, inter alia, its power of realisation aforesaid) require the Client to deposit, within such time as the Bank thinks fit, additional Collateral acceptable to the Bank to meet the Collateral Requirement.
- 11.5** The Client shall immediately upon demand by the Bank and at the Client's expense (including the payment of any legal charges and fees incurred by the Bank), make, execute, do and perform all such further assurances, instruments, acts or things as the Bank shall from time to time require to perfect, protect or enforce the Collateral or any part thereof and the Bank's title to the security thereby constituted or intended to be constituted by the Collateral, and to give effect to any of the rights conferred on the Bank, including any assignments and rights of subrogation.
- 11.6** The Client shall not sell, transfer, assign, encumber, pledge, create any mortgage or charge or other security interest (other than any security interest granted by the Client in favour of the Bank and/or its Affiliates under this Agreement or otherwise) over, dispose of or otherwise deal with the Collateral or any part thereof or any interest therein. The Client agrees that the Bank shall not be liable for any Losses due to or in connection with the restriction under this sub-clause on the Client from doing any of the foregoing acts.
- 11.7** The Bank may, upon the enforcement of its rights, sell, dispose of, realise or otherwise deal with the Collateral as the Client's agent or as mortgagee or pledgee thereof, as the case may be, as the Bank may at its discretion deem fit without incurring any liability whatsoever or howsoever.
- 11.8** Subject to the Applicable Laws the Client grants the Bank the right to pledge, repledge, hypothecate, rehypothecate, invest or loan, either separately or with the property of other clients, to either itself as broker or to others, any Securities or other assets held by the Bank on margin for the Account or as Collateral thereof, without notice to the Client and without any obligation to pay to the Client, or to account to the Client for, any interest, income, or benefit that may be derived therefrom.
- 11.9** Any Collateral provided by the Client may, at the Bank's discretion, be regarded as meeting the Collateral Requirement in respect of more than one Transaction or Service at any time.

## **12 STATEMENTS**

The Bank may provide the Client with statements of account or any other statements, transaction advices, confirmations and other documents (hereinafter in this Clause 12 referred to collectively as "**Statements**") by the means as agreed with the Bank from time to time, in which case the Client shall examine all Statements supplied by the Bank setting out or recording any balances and transactions on any Account. All Statements should be deemed to have been received by the Client at the date or time specified in Clause 30 of Part One of this Agreement. All Statements provided by the Bank shall, save for manifest error, be conclusive and binding on the Client unless he notifies the Bank within five

Business Days from the date of such Statement stating its objection to the content of such Statement in writing. The Bank may make any changes to such Statements it considers necessary in its discretion and shall not be liable for any errors reported in such Statements. The Bank may at any time correct any Statement to rectify any error therein which has been proved to its satisfaction or otherwise. Despite the features or options offered at the time a Client first registers to receive e-Statements, the Bank may stop issuing paper printouts of the statements at any time. However, upon request, the Bank will provide monthly paper statement for free and subsequent statements request for a fee.

## **13 APPOINTMENT OF AGENTS**

- 13.1** The Bank may employ or utilise Agents and delegate to any such Agent the performance of any of the Bank's duties and exercise of any of the Bank's rights under this Agreement.
- 13.2** Without limiting the generality of Clause 13.1 above, the Bank may appoint any Agent to take delivery and to be registered as nominee of any of the Client's assets in any part of the world.
- 13.3** The Bank will use reasonable care in the selection of the Agents, but will not otherwise be liable for any act or default of any Agent (including its bankruptcy or insolvency), non-delivery, loss or destruction of any Security or an item in transit or in the possession of others, or any Loss incurred by the Client in connection therewith.

## **14 CONFLICTS OF INTEREST**

- 14.1** The Client acknowledges that the Bank and/or any Affiliate may from time to time have an interest, relationship or arrangement that could be material and/or could give rise to a conflict of interest in relation to the Client. In particular, the Client acknowledges that the Standard Chartered Group may:
- 14.1.1** be the issuer of any Securities, including without limitation, Securities which are of the same type and/or class and are traded in the same market as any Securities held in or for the Account and Securities with the same underlying assets as any Securities held in or for the Account;
  - 14.1.2** combine the Client's orders with its own orders or the orders of other customers;
  - 14.1.3** effect Transactions for or provide Services to the Client through the agency of and/or with a counterparty which is a related organisation or a person otherwise associated with it;
  - 14.1.4** have a position or a direct or indirect interest in any Securities;
  - 14.1.5** have bought or sold or may buy or sell any Securities as principal or for its other Clients; or
  - 14.1.6** have other banking, advisory or any other business relationships with companies whose Securities are held for the Account or are purchased and sold for the Client or whose Securities form part of the underlying assets of Securities held for the Account or purchased and sold for the Client, and the Standard Chartered Group's officers and directors may be officers and directors of such companies.
- 14.2** Where permitted by Applicable Laws, the Client agrees and acknowledges that:
- 14.2.1** the Standard Chartered Group, its officers, employees and representatives shall be permitted to act in any capacity for any other persons and trade for their respective

own accounts provided that any such trading is done in accordance with the policies laid down from time to time by the Standard Chartered Group;

**14.2.2** the Bank may, at its discretion and without prior disclosure to the Client, make payments out of the fees, commissions and/or spreads which the Client pays to the Bank to any other members of the Standard Chartered Group and their respective officers, employees and representatives, including those who may be primarily responsible for managing the Account(s), effecting the Transactions, providing the Services or advising the Client; and

**14.2.3** the Bank may in its discretion determine the priority of execution of the Client's orders.

**14.3** The Bank shall not be under any obligation to disclose to the Client any fact or thing which may come to the notice of the Bank in the course of providing services to others in any other capacity or in any manner whatsoever.

## **15 JOINT ACCOUNTS**

**15.1** Unless the Bank agrees otherwise in writing, if an Account is opened in the name of more than one person, it shall be a joint Account with right of survivorship and each such person ("**Joint Account Holder**") shall be jointly and severally liable for all obligations or Liabilities incurred in respect of the Account, including without limitation, those under any Transaction entered into or Service provided in relation to such Account. The liability of each Joint Account Holder shall not be discharged or affected in any way by the death, incapacity, bankruptcy or liquidation of any other Joint Account Holder.

**15.2** Notwithstanding the above, in the event of the death of a Joint Account Holder, the Bank may restrict or refuse to permit operation of the Account, entry into of Transactions or provision of Services until it has received evidence that any duty or tax payable on such Account has been paid. Subject thereto, the Bank shall, in the event of the death of one or more signatories on a joint Account and notwithstanding any agreement between the signatories, regard the surviving signatory or signatories as being fully entitled to operate the Account, enter into Transactions and/or accept the provision of Services solely or jointly (as the case may be).

**15.3** Each Joint Account Holder shall be authorised to individually give Instructions to the Bank relating to the Account, Transactions and Services. Each Joint Account Holder acknowledges in advance that it is bound by the acts of the other Joint Account Holders in accordance with this authority and hereby releases the Bank from any responsibility or liability in relation to acts of the Bank effected on the Instructions of any other Joint Account Holder.

**15.4** A minor may be a Joint Account Holder if the main applicant is the parent/guardian of the minor and the minor is below the age of 18 years. The Bank is not obliged to act on the Instructions of any minor until the minor reaches the age of 18 years.

**15.5** The Bank's obligation to notify the Joint Account Holders in respect of any matter shall be discharged if the Bank notifies any one of the Joint Account Holders.

**15.6** The Bank may, without prejudice to any rights and remedies against any other Joint Account Holder, settle or vary the liability of or grant time or other indulgence to any of them.

## **16 TRUST ACCOUNTS**

- 16.1** Where the Client is acting in the capacity of a trustee of a trust (the “Trust”) the Bank will deal with the Client and be entitled to deal with the Client as the Bank’s customer as if there were no trust constituted or subsisting.
- 16.2** The Client is required to provide the Bank with such information on the Client, the Account, Transactions or Services, as may be required by the Bank or any regulatory or governmental authority. If the Client cannot disclose such information due to the confidential nature of such information, the Client must:
- 16.2.1** provide the Bank with undertakings in form and substance satisfactory to the Bank and in relation to such matters as the Bank may from time to time require; and
- 16.2.2** upon the Bank’s request, promptly provide the Bank with information and documents relating to the Client’s clients.
- 16.3** At the Bank’s written request, the Client shall provide the Bank with a certified copy of the most updated trust deed or other document(s) constituting the Trust. The Bank shall be deemed not to have knowledge whether actual or constructive or otherwise of provisions in the document constituting or evidencing the Trust.
- 16.4** The Client represents and warrants to the Bank (which representations and warranties shall be deemed repeated on each date the Client enters into a Transaction or accepts the provision of Service or otherwise provides an Instruction of any kind to the Bank and on a continuous basis for so long as the Client has any Account or any outstanding Transaction with, or is granted any Service by, the Bank) that:
- 16.4.1** the Trust is validly constituted in accordance with all Applicable Laws; and
- 16.4.2** all necessary steps have been taken, all discretions have been properly exercised and the Client has the power to:
- (i) open and operate each Account and apply for each Service; and
- (ii) enter into each Transaction, this Agreement, the Services Documents, under Applicable Laws and, where the Client is not an individual trustee, the Client’s constitution or the trust deed or instrument constituting the Trust (where applicable).
- 16.5** If required by the Bank, the Client will provide the Bank with a legal opinion (in form and substance acceptable to the Bank) to confirm the above.
- 16.6** Any liability of or indemnity given by the Client or any of the Client’s other obligations under this Agreement shall be on the basis that the Bank has full recourse to all the assets of the Trust as well as any and all amounts standing to the credit of the Account.
- 16.7** The Client agrees that, even though the Client is acting as trustee, the Client will be personally liable in respect of any Liabilities for which the Client has no right to be indemnified from the assets of the Trust or where the Bank has no right to be subrogated to such right of indemnity, or in respect of any breach by the Client of any of the Client’s representations or warranties above or any of the terms of this Agreement, any of the Services Documents.
- 16.8** The Bank will not be liable to the Client and the beneficiaries of the Trust for any Losses arising from or in connection with its having executed or otherwise relied on Instructions that were given by the Client, whether in breach of trust, duty or any lack of capacity, authority or power.

**16.9** The Client agrees that the Bank is entitled but not obliged to treat the Client as trustee of a trust and to treat the Account as a trust Account to be governed by this Clause 16 even if the Client has not opened the Account on the basis, or expressly instructed or informed the Bank, that the Account is held in trust.

## **17 INCAPACITY OF CLIENT**

**17.1** The Client's incapacity shall not terminate any Account or authority given to any of the Authorised Persons, or affect any Instructions until notice of the incapacity of the holder of the Account (or a Joint Account Holder) has been actually received by the Bank. Prior to actual receipt of such notice, the Bank shall be held harmless from acting in respect of the Account.

**17.2** The Bank will not be responsible for any Losses resulting from the disability or incapacity of whatever nature on the part of the Authorised Person or representative or other third party.

**17.3** The Bank may debit the credit balance in any Account for the amount of all costs and expenses (including legal fees on a full indemnity basis) reasonably paid or incurred by the Bank or its Agents with respect to:

**17.3.1** any of the Client's assets or Account (including its termination) or otherwise in respect of Transactions or Services; or

**17.3.2** the transfer of the assets and balance in the Account to:

- (i) the Client's successor(s) or personal representative;
- (ii) the survivor(s) of a joint Account; or
- (iii) any other person legally entitled to such balance or assets.

## **18 REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

**18.1** The Client represents and warrants to the Bank as follows (which representations and warranties shall be deemed repeated on each date the Client enters into a Transaction or accepts the provision of Service or otherwise provides an Instruction of any kind to the Bank and on a continuous basis for so long as the Client has any Account or any outstanding Service or Transaction with the Bank):

**18.1.1** the Client has full capacity, authority and legal right to open and maintain the Account, to enter into and engage in the Transactions and/or accept the provision of the Services and has taken or obtained all necessary action and consents to authorise the Client's entry into and performance of the Client's obligations in respect thereof in accordance with all Applicable Laws;

**18.1.2** no litigation, arbitration or administrative proceeding is currently taking place or pending or threatened against the Client or the Client's business or assets;

**18.1.3** this Agreement and any Services Documents constitute legal, valid and binding obligations of the Client enforceable against the Client in accordance with their respective terms;

**18.1.4** the opening and maintenance of each Account, the utilisation of the Services by the Client, the entering into of the Transactions by the Client, the Instructions given

to the Bank and the performance by the Client of the Client's obligations will not contravene any Applicable Laws applicable to the Client or of the location or market or local regulatory bodies where any Account is opened or any Services and investments and trading or other Transactions are effected nor constitute a breach of any of the Client's other contractual obligations (such as lock-up agreements);

- 18.1.5** the Client has the capacity to operate the Account and to evaluate each Transaction and Service (including decisions regarding the appropriateness or suitability of each Transaction and Service) and has made and will make its own decision to operate the Account and to enter into each Transaction and Service based upon its own judgment and upon advice from such professional advisers as he has deemed necessary to consult;
- 18.1.6** the Client is not relying on any advice (whether written or oral) of the Bank regarding the Account, any Transaction or Service, and the Bank is not acting as fiduciary or advisor to him in connection with the Account, any Transaction or Service;
- 18.1.7** no event or circumstances which constitute or which, with the giving of notice or lapse of time or both, would constitute an Event of Default has occurred;
- 18.1.8** all information supplied by the Client to the Bank in connection with this Agreement, the Account, the Services and the Transactions is true, complete and accurate in all respects;
- 18.1.9** save as otherwise agreed by the Bank in writing, the Client is the beneficial owner of the assets held in each Account and has maintained and will maintain unencumbered and absolute title to such property which is free from all charges, equities, liens and encumbrances (except as provided herein);
- 18.1.10** any monies held in each Account or used in connection with any Transaction or Service are not in any way derived from money laundering or criminal activities;
- 18.1.11** the Client will at all times maintain complete and exclusive control of the Account, and will exclusively give Instructions (where applicable, through the Authorised Person(s)) with respect to the purchase, sale and delivery of any assets in the Account, the acceptance and utilisation of the Services or the entry into of the Transactions and, unless otherwise expressly agreed with the Bank, the Client (where applicable, through its Authorised Person(s)) is the only person that is ultimately responsible for originating an Instruction in relation to the Account, any Transaction or Service and that stands to gain the commercial or economic benefit of the Account, any Transaction or Service and/or bear its commercial or economic risk;
- 18.1.12** the Client acknowledges that Applicable Laws of certain jurisdictions impose offer restrictions on individual clients who are either nationals of or are domiciled in certain countries, and/or prohibit the source of funds for investment in a foreign currency or transaction in which the underlying is foreign currency or certain types of Securities of certain countries. The Client also acknowledges that the selling restrictions mentioned above may also apply to foreign currency and transactions entered into by the Client's nominee or corporations that are controlled by the Client. The Client hereby expressly represents and warrants to the Bank that the Client shall be responsible for ensuring that each investment in foreign currency and Transaction is in compliance with the applicable requirements in respect of the Client's domicile/nationality and the source of funds; and

18.1.13 no deduction or withholding (whether on account of taxes or otherwise) will be required to be made under any Applicable Laws applicable to the Client from any payment or delivery to be made by the Client under any Securities.

18.2 The Client agrees and undertakes with the Bank as follows:

18.2.1 to effect or procure that there are effected all stamping, filing or registration of all documents which may be required under the laws of any relevant jurisdiction;

18.2.2 to furnish such financial information to the Bank promptly as it may request from time to time;

18.2.3 to immediately and in any event within one day of the occurrence of an Event of Default or Potential Event of Default notify the Bank of the occurrence of such Event of Default or Potential Event of Default, setting forth the details of the same and the action the Client proposes to take with respect thereto;

18.2.4 to immediately inform the Bank of any changes to the representations and warranties provided by the Client in this Agreement or in any Services Document, or in the event that such representations or warranties are no longer accurate or correct;

18.2.5 on request by the Bank, to do or procure the doing of all such acts and things and execute or procure the execution of all such instruments and documents as the Bank may in its discretion consider necessary or desirable for giving full effect to this Agreement or any Services Document, the operation of the Account, any Services, Instructions or Transactions or for securing to the Bank the full benefits of all rights, powers and remedies conferred upon the Bank thereunder;

18.2.6 to assume responsibility for any disclosure of any holdings or other interest in any Securities required under any Applicable Laws; and

18.2.7 where the Client is a company or a corporation, to provide a written mandate and a certified copy of a board resolution to the Bank in such form satisfactory to the Bank.

18.3 The Client agrees and undertakes to notify the Bank in the event of any material change to the information provided by him in, or pursuant to, this Agreement. Any change to the information provided by the Client shall only take effect upon receipt of such notification by the Bank.

## 19 DISCLOSURE OF CLIENT INFORMATION

19.1 Unless otherwise stated, the Client must supply information relating to the Client (including personal data), the Account, the Transactions and Services (collectively, the “**Client Information**”) as requested by the Bank. If the Client does not supply the Client Information, it may not be possible for the Bank to maintain the Account, provide the Services or enter into any Transaction.

19.2 The Client agrees and acknowledges that Client Information (whether provided by the Client or any other person) may be disclosed to and used by any of the following companies or persons (each, a “**User**”):

19.2.1 the Bank and any Agent of the Bank, or any Affiliate or any employees or agents of such Affiliate or any other person under a duty of confidentiality to the Bank;

19.2.2 any Agent, or any agent, contractor or third party service provider who provides administrative, telecommunications, computer, payment or securities clearing or

other services to the Bank in connection with the operation of its business (collectively, the “**Service Providers**”);

**19.2.3** any actual or proposed assignee or transferee (or their respective agents) of the Bank’s rights and obligations under this Agreement;

**19.2.4** any credit or rating agency, insurer of, or direct or indirect provider of credit protection to any Affiliate; and

**19.2.5** any person to whom (including all government agencies and authorities, regulators, Exchanges, clearing houses, markets or depositories) such disclosure is required by Applicable Laws, or pursuant to the directives of such entities and any other reputable third parties that the Bank consider appropriate for any reasonable purpose.

**19.3** The Client agrees and acknowledges that Client Information may be used by any User for any of the following purposes:

**19.3.1** daily operation of the services and facilities provided to the Client;

**19.3.2** new or existing customer verification procedures, ongoing account administration and marketing Standard Chartered Group products to the Client;

**19.3.3** transfer of such data to any place outside the country or territory where the Account is held;

**19.3.4** ensuring ongoing creditworthiness of the Client or any other person;

**19.3.5** enforcing of the Client’s obligations, including but not limited to the collection of amounts outstanding;

**19.3.6** enabling any actual or potential assignee or participant or sub-participant of the Bank’s rights to evaluate the Account, the Transaction or Service or intended Transaction or Service;

**19.3.7** comparison with the Client Information (irrespective of the purposes and sources for which such data were collected, and whether collected by a User or any other person) for the purpose of: (A) credit checking; (B) data verification; and (C) otherwise producing or verifying data which may be used for the purpose of taking such action that a User or any other person may consider appropriate (including action that may relate to the rights, obligations or interest of the Client or any other person);

**19.3.8** any purpose relating to or in connection with compliance with Applicable Laws or court order or order of a regulatory body; and

**19.3.9** any other purpose relating to or in connection with the business or dealings of the Bank and any Affiliates, including (without limitations) for the purposes of potential or actual reorganisations, acquisitions, disposals or mergers.

**19.4** The rights conferred on the Bank in this Clause 19 shall be in addition to and shall not be in any way prejudiced or affected by any other agreement, expressed or implied, between the Client and the Bank in relation to any information nor shall any such other agreement be in any way prejudiced or affected by this Clause 19.

**19.5** The Client agrees that the Bank may outsource services from time to time to a Service Provider (which may be an Affiliate or a third party). The Client agrees and acknowledges that in certain circumstances the Bank may be required to disclose certain information (including Client Information) to a Service Provider. The Client further agrees that any

Service Provider may disclose information (including Client Information) to any other third parties to whom such Service Provider has outsourced its operational functions.

- 19.6** The Client consents to and authorises the use by the Bank of any Client Information for the purposes of the sending of commercial messages to the Client in relation to financial products or services that may be of interest to the Client. The provisions of this Clause 19.6 shall constitute the Client's request and consent for the purpose of the provisions of any spam control laws. If the Client does not wish to receive such messages or would like to revoke this consent, the Client shall notify the Bank accordingly.
- 19.7** This Clause 19 shall survive the termination of this Agreement.

## **20 SET-OFF AND COMBINATION OF ACCOUNTS**

- 20.1** The Bank or its Affiliates shall be entitled to withhold or not repay any amount which is or may hereafter be owing from it or its Affiliates to the Client or any monies which it or its Affiliates may hold, now or hereafter, for the account of the Client, unless and until the Client shall have discharged in full the Liabilities.
- 20.2** The Bank or any Affiliates shall be entitled, without prior notice to the Client, to combine or consolidate any or all of the Account or accounts which the Bank or any Affiliates may hold for the Client, now or in the future, and set-off any Liabilities against any amounts due to the Client, any monies held on behalf of the Client or any outstanding Transaction or Service in which the Client is in the money, either individually or jointly with others, or to which the Client is beneficially entitled, including any monies held on trust or in the trust account for the Client, whether the debts are actual or contingent or joint or several and irrespective of any difference in currency. For the avoidance of doubt, where the Liabilities are not in the same currency as the relevant monies to be set off, the Bank may make any currency conversions it considers necessary or desirable.
- 20.3** The credit balance in the Account or any of the Client's accounts with the Bank or any Affiliates shall be deemed to have been automatically set-off against the Liabilities immediately prior to the occurrence (whether or not such occurrence is known to the Client or the Bank) of any event which may otherwise affect the Bank's right to effect a set-off including:
- 20.3.1** any assignment or charge on or any dealing in respect of the funds in the Account or accounts and the assets with the Bank and the Client's assets or undertaking with any of the Affiliates, except in the Bank's favour or in favour of any of the Affiliates;
  - 20.3.2** an order of any court directing payment by the Bank to a third party or attaching or garnishing the credit balance in any Account or accounts or the assets with the Bank or the Client's assets or undertaking with any of the Affiliates;
  - 20.3.3** a bankruptcy, judicial management or winding-up petition or other similar process is presented or a resolution is passed to effect the same, in relation to the Client; or
  - 20.3.4** upon the crystallisation of any floating charge created by the Client and/or over the Client's property, assets or undertaking.
- 20.4** If any obligation is contingent, unliquidated or unascertained, the Bank may set off in an amount estimated by the Bank in good faith to be the amount of that obligation. The Client agrees that the amounts estimated are reasonable pre-estimates and not a penalty and that the Client will not be entitled to recover any additional damages as a consequence of such estimates.

**20.5** The terms of this Clause 20 and all of the rights of the Bank in this Clause 20 shall apply to, and be conferred on, each member of the Standard Chartered Group, all of which shall be entitled to enforce and enjoy the benefit of this Clause 20 to the fullest extent permitted by Applicable Laws.

## **21 CHARGE**

**21.1** As a continuing security for the payment and satisfaction on demand of all monies and Liabilities and the performance of all obligations hereunder which may be due now or in the future, owing or incurred by the Client to the Bank or any of its Affiliates, the Client charges and agrees to charge in favour of the Bank and its Affiliates, with the intent that it shall take effect by way of first fixed charge, and assigns and agrees to assign absolutely to the Bank and its Affiliates all its present and future rights, title and interest in and to and pledges, the Charged Assets (the "**Charge**").

**21.2** The Client shall from time to time on demand by or on behalf of the Bank, deposit and/or lodge with and/or transfer to the Bank (or as it may direct) all certificates or other documents evidencing title or any other documents relating to or connected with the Charged Assets, including without limitation, share or other certificates in respect of Securities together with duly executed instruments of transfer in blank or in favour of the Bank or such other person as it may direct.

**21.3** During the continuance of the Charge, any withdrawal of the whole or any part of the Charged Assets by the Client shall be subject to the approval of the Bank. The Charge may be discharged or released only upon the Bank's prior written consent.

**21.4** The Charge shall be a continuing security and shall remain in full force and effect until the Liabilities have been paid in full, notwithstanding the insolvency or liquidation or any incapability or change in the constitution or status of the Client or any person or any intermediate settlement of account or other matter whatsoever. The Charge is in addition to, and independent of, any charge, guarantee or other security or right or remedy now or at any time hereafter held by or available to the Bank.

**21.5** The Client represents and undertakes that:

**21.5.1** the Charged Assets are and shall remain in the sole beneficial ownership of the Client free from all encumbrances and adverse interests;

**21.5.2** the Client has full power, authority and legal right to grant the Charge in favour of the Bank and/or its Affiliates;

**21.5.3** the Charge constitutes legal, valid and binding obligations of the Client enforceable in accordance with its terms;

**21.5.4** the Client shall not be entitled to and will not withdraw nor attempt to encumber, transfer, assign or otherwise deal with or dispose of the Charged Assets except with the Bank's prior written consent;

**21.5.5** the Client will not take any action which might prejudice the effectiveness and enforceability of the Charge;

**21.5.6** upon demand from the Bank, the Client shall deliver such further assets as shall be acceptable to the Bank for the purpose of further securing the Liabilities;

**21.5.7** the Charged Assets do not and will not include any property which the Client is not able to validly and properly charge to the Bank and/or its Affiliates hereunder; and

- 21.5.8** the Client will do all acts and things as are necessary to enable and effect the creation and perfection of the Charge (including without limitation filing or registering with any relevant authorities such statements of prescribed particulars and/or other documents as may be required by any Applicable Laws) and/or the exercise of the Bank's powers and rights under the Charge.
- 21.6** Neither the liability of the Client nor the validity or enforceability of the Charge shall be prejudiced, affected or discharged by:
- 21.6.1** the invalidity or enforceability of any obligation or liability of the Client to the Bank;
- 21.6.2** the insolvency or liquidation or any incapacity, disability or limitation or any change in the constitution, composition or status of the Client;
- 21.6.3** any change in the constitution or status of the Bank, any amalgamation or merger that may be effect by the Bank with any other company, or any transfer of the whole or part of the undertaking or assets of the Bank; or
- 21.6.4** any other act, omission, event or circumstance which would or may but for this provision operate to prejudice, affect or discharge the Charge or the liability of the Client hereunder.
- 21.7** In the event of the occurrence of any Event of Default specified in Clause 25, the Bank and any Affiliates shall be entitled to, without prior notice to the Client, sell, realise, dispose of, or otherwise deal with, at their absolute discretion (but without being in any way responsible or liable for any Loss occasioned by the disposal), any of the Charged Assets and to deduct from the sale proceeds such amount as is necessary to pay, discharge and satisfy the Liabilities, indebtedness and expenses due and owing to the Bank and any Affiliates. Such power of sale or other disposal shall operate as a variation and extension of the power of sale conferred by any Applicable Laws.
- 21.8** The Charge may be enforced without the Bank first having recourse to any other security or rights or taking any other steps against the Client or any other person.
- 21.9** A certificate made by any one or more of the officers of the Bank that a default has occurred and that the power of disposal has become exercisable shall be conclusive evidence of that fact in favour of any Purchaser. The Client agrees to indemnify the Bank and its Affiliates on a full indemnity basis against any claim which may be made against the Bank or any of its Affiliates by any Purchaser by reason of any defect in title to such Charged Assets. "**Purchaser**" for the purposes of this Clause means such person to whom the Charged Assets are transferred pursuant to the disposal referred to in Clause 21.7 above.
- 21.10** Neither the Bank nor its Affiliates or Agents shall be liable to the Client for any act, delay or failure to act on the part of the Bank and/or its Affiliates or Agents in respect of the Charge or the Charged Assets.
- 21.11** The Client shall indemnify the Bank, and its Affiliates against all Losses incurred by him and/or any of them in respect of any matter or thing done or omitted relating in any way whatsoever to the Charge or the Charged Assets.
- 21.12** The Client irrevocably and unconditionally appoints the Bank to be its attorney, and in its name or otherwise on its behalf, to sign, seal and deliver all deeds and instruments and do all things which may be required, or which the Bank shall think proper or expedient, for carrying out any obligations of the Client under this Clause 21, for exercising any of the Bank's powers under this Clause 21, or for giving to the Bank the full benefit of the Charge.

The Client ratifies and confirms, and agrees to ratify and confirm, any deed, instrument, act or thing which the Bank may execute or do pursuant to this Clause 21.12.

- 21.13** Nothing in this Clause 21 shall restrict the operation of any general lien or other rights or lien whatsoever which the Bank or its Affiliates may be entitled to under the general law.

## **22 LIEN**

The Client agrees that all Securities, monies and other assets and the proceeds thereof, which the relevant Standard Chartered Group entities (including the Bank and its Affiliates) or Agents may hold for the Client (whether in the possession of, or under the control or direction of, the Bank, its Affiliates or Agents) shall be subject to a lien in favour of the relevant Standard Chartered Group entities (including the Bank and its Affiliates) or Agents for the discharge of all or any Liabilities. The Client shall not be entitled to withdraw any monies, Securities or such other assets as held by the Bank, its Affiliates or Agents pending the repayment in full of the Liabilities.

## **23 SUSPENSION**

- 23.1** The Bank may, at its discretion, at any time without prior notice to the Client and for any reason whatsoever, suspend operation of the Account or any Service or Transaction without liability.
- 23.2** The Bank shall not be liable or responsible for any Losses suffered or incurred by the Client arising from any delay, failure or inability of the Bank or any Agent to discharge any of its obligations in connection with the Account and/or any Service or Transaction as a result of any reasons or causes beyond the Bank's or the Agent's control (including any breakdown of and/or failure of transmission of telecommunications or computer facilities, Exchange closure, industrial action, acts and regulations of any public, regulatory or governmental authorities or clearing houses or settlement systems or failure by any third party for any reason to perform its obligations, in the relevant market) or any suspension of the Account or Service or Transaction under Clause 23.1. In such circumstances, the Bank may extend the time for performance by the Bank by a period equal to that during which performance is so prevented or hindered.
- 23.3** Each of the Bank and the Client will take reasonable steps which in its sole opinion is available to mitigate any adverse effects on the other party of the circumstances listed in Clause 23.1 or Clause 23.2 above.

## **24 LIABILITY AND INDEMNITY**

- 24.1** Any action which the Bank may take or omit to take in connection with any Account, any Services, any Instructions or Transactions shall be solely for the account of the Client and at the Client's risk. None of the Bank, its Affiliates, Agents and any director, officer, employee or agent of any of the foregoing (each, an "**Indemnified Person**") shall be liable for any Losses or for the acts of any Agent appointed by the Bank in good faith, or any other persons through whom Instructions are effected, save where the same arises directly from the Bank's gross negligence, wilful misconduct or fraud. Indemnified Persons shall be entitled to every exemption from liability, every defence and every indemnity to which the Bank is entitled save in the event of the Bank's gross negligence, wilful misconduct or fraud. Notwithstanding any provision of this Agreement, the Bank shall not at any time be liable for any indirect, special or consequential Losses, loss of profits, goodwill or

reputation whether or not they were foreseeable or likely to occur and even if the Client may have advised the Bank of the possibility of such Losses.

**24.2** The Client further agrees to fully indemnify and keep indemnified each Indemnified Person against any and all Losses which any Indemnified Person may suffer or incur as a result of (directly or indirectly) or in connection with:

**24.2.1** any breach by the Client of any provision of this Agreement (including without limitation any representation or warranty under this Agreement);

**24.2.2** any breach by the Client of his obligations in connection with any Account, Transaction or Service;

**24.2.3** any failure by the Client to comply with any Applicable Laws in respect of any Account, Transaction or Service; and/or

**24.2.4** any Event of Default or any demand notice being given in connection with any Event of Default,

in each case, save for where the same arises directly from the Bank's gross negligence, wilful misconduct or fraud.

**24.3** Without limiting the generality of Clause 24.2 above:

**24.3.1** notwithstanding any other provision of this Agreement, the Bank shall have no responsibility in respect of the performance or outcome of any Securities, Transaction, or Service. The Client acknowledges that past performance of any investment or class of investments is no indicator of future performance;

**24.3.2** the Bank shall not be responsible for, nor have any liability for Losses attributable to, incorrect or incomplete information in any prospectus or other offering, transactional or marketing materials prepared or issued by third parties other than the Bank or derived from such third party materials; and

**24.3.3** the Client agrees to indemnify each Indemnified Person against any Losses arising from or as a result of acting on any Instruction or other communication received by the Bank by any means which the Bank reasonably believes to have been given by the Client or on the Client's behalf, and the Client agrees to be bound by and ratify any Transaction entered into, Service provided or action taken by the Bank as the result of such Instruction or communication.

**24.4** For the avoidance of doubt, this Clause 24 and all rights of the Bank hereunder shall apply and be available to each Indemnified Person regardless of whether the Losses or any part thereof were also caused by the Bank (other than Losses which result directly and solely from the Bank's gross negligence, wilful misconduct or fraud).

**24.5** For the avoidance of doubt, this Clause 24 shall not be construed to limit the Bank's liability to a greater extent than permitted by Applicable Laws.

## **25 EVENTS OF DEFAULT AND TERMINATION**

### ***Events of Default***

**25.1** Each of the following shall, as determined by the Bank in good faith, be an "**Event of Default**":

**25.1.1** the Client fails to comply with any provisions of this Agreement or any other agreement between the Client and any member of the Standard Chartered Group

- or any Services Document (including failure to provide sufficient or acceptable Collateral or margin when requested);
- 25.1.2** the Client fails to pay, or make any delivery to, the Bank or any other member of the Standard Chartered Group on the due date or on demand (as the case may be) any sums of money, or of any asset, outstanding in respect of the Liabilities;
  - 25.1.3** the Client has become insolvent or bankrupt, or generally fails or is unable to pay any of his debts as they mature; any action has been instituted or any step is taken by or against the Client for the purpose of the Client entering into winding-up, liquidation, judicial management, bankruptcy, any scheme or arrangement, or any similar arrangement under any bankruptcy or insolvency law; or any order has been made by any competent court or any resolution is passed or any step is taken for the appointment of a liquidator, receiver, custodian, executor, judicial manager, administrator or trustee of the whole or any part of the Client's assets or business; any warrant of attachment is issued or any step is taken for such issuance by any competent court in any jurisdiction against all or any part of the Client's assets or business; or the Client has entered into or any step is taken for the entry by the Client into any scheme or arrangement or composition with his creditors;
  - 25.1.4** in the case where the Client is an individual, the Client dies or becomes mentally incapacitated or suffers some other form of legal disability or a judicial declaration of incompetence is made in respect of the Client;
  - 25.1.5** in the Bank's opinion, a material adverse change occurs in the financial or other condition of the Client or any change in the operating environment or any event occurs or circumstances arise which causes the Bank to believe that the Client may not (or may be unable to) perform or comply with any one or more of his or their obligations;
  - 25.1.6** any representation or warranty made or deemed to be made by the Client (including without limitation the representations and warranties in Clause 7.2 and Clause 16.4 above) to the Bank is incorrect or misleading;
  - 25.1.7** the Bank reasonably believes that the Client or someone else is using any Account, entering into any Transaction or utilising any Service illegally or has otherwise breached any Applicable Laws;
  - 25.1.8** any Event of Default (as specified in any other Services Document) or any analogous event occurs as determined by the Bank in good faith;
  - 25.1.9** any event of default (howsoever described) with respect to the Client under any agreement, mortgage, indenture or instrument entered into by the Client with any party, which results in any of the Client's indebtedness or liability becoming or becoming capable of being declared due and payable before the date on which it would otherwise have become due and payable, or if the Client fails to pay any amount under any such arrangement when it falls due or upon demand;
  - 25.1.10** where the Bank determines in its discretion that the exercise by the Bank of any powers conferred by Clause 25.2 is necessary for compliance with any Applicable Laws;
  - 25.1.11** where the Bank in its discretion deems that (i) a situation has arisen which causes the Bank to believe that the Client may not (or may be unable to) perform or comply with any one or more of his obligations, or (ii) it is desirable or prudent for the Bank's own protection to take any action as referred to in Clause 26.2 below; and/or

**25.1.12** any other matter or event arises including any legal or regulatory requirement, which in the Bank's discretion renders the triggering of an Event of Default necessary or advisable in the Bank's interests.

**25.2** At any time after the occurrence of an Event of Default, the Bank may (but is not obliged to) with or without notice to the Client do any one or more of the following in its absolute discretion:

**25.2.1** terminate this Agreement;

**25.2.2** suspend or terminate any Account and/or the provision of any of the Services to the Client;

**25.2.3** close out and unwind any outstanding Transaction and cancel any outstanding order or other commitments made on behalf of the Client;

**25.2.4** borrow or purchase any Securities or assets required to make delivery on behalf of the Client; and

**25.2.5** in any manner sell, realise, dispose of or otherwise deal with, in such manner as the Bank may determine in its discretion, any Charged Assets or other assets held on behalf of the Client by the Bank, its Affiliates or Agents (whether in the possession of, or under the control or direction of, the Bank, its Affiliates or Agents), and to cover any potential or actual expenses, legal fees and or claims brought by the Client or any third party against the Bank, its Affiliates or Agents in connection with the Account, Transactions or Services.

For the avoidance of doubt, the occurrence of an Event of Default or the Bank's exercise of the rights in this Clause 25.2 shall not in any way affect the rights of the Bank under Clause 8.6, Clause 20 and Clause 22 above and the security interest granted by the Client in favour of the Bank and the Affiliates under Clause 21 above.

**25.3** Upon the occurrence of any Event of Default, all Liabilities shall become immediately payable on demand, the Collateral and all other rights, powers and remedies of the Bank shall become immediately enforceable and the Bank shall become immediately entitled to exercise any and all of the same.

**25.4** The Bank's obligations under this Agreement to make a payment or delivery is subject to the condition precedent that no Event of Default or Potential Event of Default with respect to the Client has occurred and is continuing.

**25.5** Notwithstanding Clause 25.4, the Bank may at its absolute discretion elect to apply the net proceeds (after deduction of all fees, costs and expenses incurred in connection with the exercise of the powers hereinbefore conferred on the Bank) actually received by the Bank pursuant to the exercise of powers under Clause 25.2 in reduction of the Client's then outstanding Liabilities in such order or manner as the Bank considers fit.

**25.6** The Client hereby waives all claims and demands (if any) against the Bank in respect of any Loss, involuntary or otherwise, directly or indirectly arising from the exercise by the Bank of the powers conferred by the Agreement, howsoever such Loss may have been caused (other than through the gross negligence, wilful misconduct or fraud of the Bank), whether in relation to the timing or manner of the exercise of powers or otherwise.

### **Termination**

- 25.7** Notwithstanding any other provision of this Agreement, the Bank may at any time and from time to time vary or terminate any or all of the Transactions or the Services for any reason (whether there is an Event of Default or not) without prior notice to the Client and the Bank reserves the right to require the Client to repay immediately all outstanding amounts owed to the Bank (as determined by the Bank) under such Transactions or Services which have been terminated. The Bank may in addition close any Account with immediate effect upon giving the Client notice.
- 25.8** Unless otherwise provided in this Agreement, the Client may terminate any Account, Transaction or Service upon giving the Bank prior written notice, provided such termination shall not discharge or affect any accrued, existing or contingent Liabilities and obligations of the Client (including without limitation the obligation of the Client to complete a Transaction or Service initiated prior to the date of termination).
- 25.9** Termination shall not terminate or affect any of the representations, warranties and indemnities made by the Client under this Agreement.
- 25.10** The termination by the Client or by the Bank of any of the Transactions, Services or Account provided pursuant to this Agreement shall not affect the provision of the remaining Transactions, Services and/or Account.

## **26 THE CLIENT'S RESPONSIBILITY**

- 26.1** The Client shall at all times exercise due care to prevent payment or other orders or instruments, Instructions, electronic aids, passwords, tests, codes or digital signatures from coming into the possession of unauthorised persons and to prevent alteration in a manner which may facilitate fraud or forgery. The Client shall notify the Bank immediately on discovering that any such items have been stolen, lost, misappropriated or mislaid, but such notification shall not relieve the Client from his liability to assume and bear the consequences of the same. It is the Client's duty to ensure Instructions are clear, correct and intelligible, and that they have been received and/or read, as applicable, by the Bank's officer designated to deal with the Account, to enter into the Transaction or provide the Service.
- 26.2** The Client undertakes to consult with the Client's own independent legal, regulatory, tax, financial, accounting and other advisors to the extent the Client deems necessary in respect of the Account, any Transaction or Service (or any Transaction or Service that the Client proposes to enter into with or through the Bank).
- 26.3** The Client shall be responsible for all taxes, duties and charges (including but not limited to tax reporting and withholding obligations) of any kind arising pursuant to the Account, Transactions or Services conducted with or through the Bank. For the avoidance of doubt, in no event shall the Bank or any of its Affiliates and Agents or any director, officer, employee or agent of any of the foregoing be liable for any adverse tax implications in respect of the Account, any Transaction or Service.

## **27 RISK DISCLOSURE**

- 27.1** The Client accepts all risks arising from its opening and maintenance of the Account, the entry into of any Transactions and the acceptance of any Services. The Client's attention is drawn to and the Client acknowledges that he has read and fully understood the Risk Disclosure Statement and all documents referred to therein. By opening and maintaining

the Account, in accepting any Services and/or entering into any Transactions, the Client acknowledges that he has made his own assessment and has relied on his own judgement.

## 28 AMENDMENT

**28.1** The Bank may vary or amend this Agreement and any Services Document at any time at the Bank's discretion by notifying the Client of such variations or amendments at the address provided by the Client to the Bank or by such other means as the Bank may deem fit. Any such variation or amendment shall take effect from such date as the Bank shall stipulate or, in the absence of express stipulation, upon notice being given to the Client, without the need for any further consent or agreement by the Client and shall be binding on the Client even if the Client has not received the notification from the Bank.

## 29 NOTICES AND COMMUNICATIONS

**29.1** Without prejudice to any other effective mode of dispatch, any report, statement, written confirmation, notice, demand or any other communication from the Bank to the Client shall be deemed to have been sufficiently dispatched, given or made if:

**29.1.1** left by personal delivery addressed to the Client, at the address last known to the Bank at the time of delivery;

**29.1.2** by prepaid post similarly addressed, five days after posting;

**29.1.3** communicated or transmitted to the Client by telephone, telex, cable, telegraph or facsimile transmission at the respective numbers last known to the Bank, at the time of communication/transmission; and

**29.1.4** communicated by e-mail, on the date and time of transmission by the e-mail server operated by the Bank and/or its service provider, notwithstanding any non-delivery or "returned mail" reply message or any error message indicating that the e-mail was not successfully sent to the Client's mailbox. The Client will bear the risk of any non-delivery of e-mails from the Bank.

**29.2** Any communication from the Client to the Bank shall only be effective upon actual receipt thereof by the Bank.

**29.3** All notices and other communication sent by the Bank to the Client or vice versa are to be sent at the Client's risk, and the Bank does not assume any responsibility for any inaccuracy, interruption, error or delay or total failure in transmission or delivery by any form of communication or other cause beyond the control or anticipation of the Bank. The Bank shall not be obliged to preserve any documents which may be returned undelivered.

## 30 MISCELLANEOUS

**30.1 Assignment:** The Client shall not in any way encumber, charge, declare a trust over, assign or transfer all or any of his Liabilities, rights, interest or benefit in or to any Account, Service or Transaction or any assets kept in the custody of the Bank, or any Agent without the Bank's prior written consent. The Client hereby agrees that the Bank may assign and transfer all or any of its rights and obligations under any Account, Service or Transaction to any person at the Bank's discretion and without the need for any further consent or agreement on the part of the Client. This Agreement shall be binding and enure to the

benefit of the Bank and the Client and their respective successors-in-title and permitted assigns, and shall continue to be binding on the Client notwithstanding:

- 30.1.1** any change in name or constitution of the Bank; or
- 30.1.2** any consolidation or amalgamation of the Bank into or with any other entity. In the event of such consolidation or amalgamation, such entity shall be substituted for the Bank in relation to this Agreement, all written confirmations and all assets placed with the Bank, and this Agreement and all written confirmations, correspondence, acknowledgements, directions, instructions and authorisations shall continue in full force and effect as between the Client and such entity.
- 30.2 Destruction of documents:** The Bank may in its discretion destroy any cheques or other records and documents relating to any Account, Service or Transaction after the same have been processed by microfilm or any other form of electronic media. Production of the microfilm or other form of electronic media shall be binding on and shall be conclusive evidence against the Client. The Bank may destroy any records after the retention period required by law.
- 30.3 Monitoring of correspondence:** The Client agrees that all telephone conversations and electronic message correspondence (including electronic message correspondence delivered by e-mail and instant messaging services) between the Bank or an Affiliate and the Client may be recorded and may, to the fullest extent permitted by Applicable Laws, be used as conclusive evidence of the content of the calls or electronic messages and will be admissible in evidence in any proceedings. The Client waives any right to challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records.
- 30.4 Severability:** If any of this Agreement is or becomes illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining provisions shall not be affected or impaired.
- 30.5 Time of the essence:** The Client agrees that time shall be of the essence in respect of his responsibilities and Liabilities in all matters arising under this Agreement.
- 30.6 No waiver of rights:** No indulgence or forbearance granted by the Bank, no failure to exercise and no delay in exercising on the part of the Bank of any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 30.7 Remedies cumulative:** Any rights and remedies of the Bank under this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.
- 30.8 Successors:** The Client's rights and obligations under this Agreement shall be binding on the Client's heirs and successors, subject to Clause 30.1.
- 30.9 Signing Authority:** The Client hereby authorises the Bank to sign on behalf of the Client and in the name of the Client any customer agreement or other document to enable or better enable the Bank to carry out the Instructions, to operate the Account, to enter into Transactions and/or to provide Services.
- 30.10 Standard Chartered Bank's intellectual property:** The Client will not use the "Standard Chartered Bank" name, logo or trademark or any other intellectual property belonging to the Standard Chartered Group for marketing or publicity purposes without the prior written consent of the Bank.

**30.11 Conclusive evidence:** For all purposes, including without limitation, any legal proceedings against the Client, a certificate by any of the Bank's officers as to any amount due from the Client to the Bank or as to any other determination, notification or opinion or the like of the Bank shall, in the absence of manifest error, be binding and conclusive evidence.

**30.12 Governing law and jurisdiction:** This Agreement and all relations between the parties shall be governed by and construed in accordance with the laws of the Governing Law. Any legal action or proceedings in connection with the Agreement, or any dispute thereunder, may be brought in the courts of Nigeria and the Client irrevocably submits to the jurisdiction of Nigeria courts. The Bank reserves the right to institute proceedings in the Client's domicile or in any other appropriate jurisdiction.

## **PART TWO PRODUCT/SERVICE TERMS**

### **A. Securities dealing**

**WHERE A SECURITY IS A COLLECTIVE INVESTMENT SCHEME, IF THERE IS ANY INCONSISTENCY BETWEEN THE PROVISIONS OF SECTION A OF PART TWO OF THIS AGREEMENT AND SECTION C OF PART TWO OF THIS AGREEMENT, THE LATTER WILL PREVAIL.**

## **1 Instructions**

- 1.1** The Client may instruct the Bank and the Bank may on the Client's behalf purchase, sell and/or otherwise deal in Securities subject (if applicable) to the rules of the relevant Exchange, clearing house or depository or customs and the right of the Bank under Clause 5.6 of Part One of this Agreement.
- 1.2** Any Instruction for dealing in Securities shall only be accepted if it is received before such cut off time as the Bank may from time to time prescribe. Where for whatever reason such Instruction has not been executed (or any unexecuted part of any such Instruction in the case of a partially executed Instruction), it shall be deemed to lapse at the expiry of the trading date specified in any such Instruction. Any Instruction for dealing in Securities for execution on the date of the Instruction must also be received before any relevant cut-off time in respect of any relevant Exchange or market, as determined by the Bank. All other Instructions shall be given so as to allow the Bank sufficient time within which to comply.
- 1.3** The Client shall provide additional information as may be required under any such documents signed by the Bank on the Client's behalf. Failure to provide such information may, among other things, lead to an Instruction not being effected or, where relevant, may cause the redemption of an investment or suspension of redemption rights of an investment.

## **2 Transactions**

### ***Nature of Relationship***

- 2.1** Unless the Bank notifies the Client otherwise:
- 2.1.1** in respect of Transactions in Securities which are bonds, securitised structured products such as notes, warrants or certificates or such other Securities as notified to the Client from time to time, the Bank will transact with the Client as principal; and
- 2.1.2** in respect of Transactions in Securities other than Securities which are bonds, securitised structured products such as notes, warrants or certificates or such other Securities as notified to the Client from time to time, the Bank will act as the Client's execution agent in effecting such Transactions (notwithstanding that the Bank may be deemed to be transacting as principal under the rules or regulations of the relevant Exchange or clearing house).

The Client acknowledges and agrees that the Bank owes no fiduciary or other equitable duties to the Client with respect to Transactions.

**Execution**

- 2.2** The Bank will execute orders for Transactions in Securities on the Client's behalf, at the Client's risk and upon the Client's specific Instructions, provided that the Bank is prepared at its discretion to transact such Securities.
- 2.3** The Bank may, on the Client's Instructions, effect Transactions in Securities on any market or with such counterparty, negotiate and execute counterparty and account opening documentation on the Client's behalf.
- 2.4** Without limiting the generality of Clause 5.6 of Part One of this Agreement:
- 2.4.1** the Bank may refuse to carry out an Instruction to deal in Securities if there are insufficient monies held in cleared funds or due to be received to the credit of the Account to meet any purchase price (or any other amount payable by the Client under the relevant Transaction) together with any estimated expenses to be incurred in connection with the relevant Transaction. Where the Client has placed several orders or Instructions and there are insufficient monies or available credit facilities to meet the resulting obligations, the Bank may in its discretion decide which of the orders or Instructions will be executed, irrespective of the order in which, or dates on which the Bank received them. The Bank shall be entitled to debit any account that the Client has opened with the Bank with the amount payable for any Transaction in Securities on or (at the Bank's discretion) at any time before the settlement date; and
- 2.4.2** the Bank may refuse to carry out any Instruction to sell or deliver any Securities if insufficient Securities are held in or for the Account or are due to be credited to the Account under any purchase transactions. The Bank will only place orders for the sale of Securities provided such Securities are in the Account free of all liens and other encumbrances whatsoever. On receipt of any Instruction to sell the Securities, the Bank shall be entitled to debit any account that the Client has opened with the Bank with the relevant Security on or (at the Bank's discretion) at any time before completion of the said sale. The Client acknowledges that the Client shall not be entitled to withdraw or in any way deal with all or any part of such Securities until completion of the said sale.
- 2.5** The Client should note that certain products (including collective investment schemes and securitised structured products) may have deadlines for making subscriptions, redemptions or withdrawals and that the Bank may also need to comply with its own internal deadlines for taking such actions for customers. When giving the Bank Instructions in relation to such products, the Client should ensure that he allows reasonable time for the Bank to process his Instructions and communicate them to the product provider in order to meet the relevant deadlines. The Bank will not be liable for any failure to meet a deadline for any reason (whether clear instructions are not received from the Client within a reasonable time prior to the deadline or otherwise) except where such failure is directly due to the Bank's gross negligence, wilful misconduct or fraud. In relation specifically to payment orders, the Bank sets cut-off times by which instructions must be received by the Bank on a working day in order for the Bank to process them on the same day. All other instructions shall be given so as to allow the Bank sufficient time within which to process the Client's instructions.
- 2.6** The Client agrees that:
- 2.6.1** the Bank may aggregate any order received from the Client with the Bank's own orders or with the orders of any Affiliate or with those of the Bank's other customers, and the Client acknowledges that such aggregation may on some

occasions operate to the Client's disadvantage and on other occasions to the Client's advantage;

- 2.6.2 the Bank may execute any order received from the Client in a series of Transactions in Securities over a period of time and report to the Client an average price for such Transactions in the series instead of the actual price for each Transaction;
- 2.6.3 the Bank or an Affiliate may from time to time at the request of the Client guarantee the execution quantity and prices of certain Transactions in Securities based on an agreed market reference price and the Client agrees and acknowledges that in such circumstances regardless of whether the actual executions, in respect of the entirety of the Transactions, could have achieved a price more favourable to the Client than the guaranteed price, the Client will only be entitled to the guaranteed price and accordingly any amount, benefit, advantage or profit over and above such guaranteed price shall pass to the Bank or its Affiliates for its respective account; and
- 2.6.4 without limitation to Clause 5.5 of Part One of this Agreement, if the Client chooses to withdraw any order before execution is completed (and notwithstanding that the Bank did not inform the Client that the Client's order has been partially executed), the Client shall remain liable for all Transactions in Securities which were done for the Account until the Bank accepts the Client's withdrawal.

#### ***Trading/Position Limits***

- 2.7 The Client undertakes to comply with any trading restrictions or position limits under Applicable Laws, including those imposed by any relevant Exchange or market or clearing house, and irrespective of whether the Client trades through one or more banks or brokers. If any such trading restriction or position limit is exceeded, the Bank is authorised to disclose the Client's identity and its positions, and/or liquidate any of the Client's positions, if the Bank is requested to do so by any regulatory authority, Exchange, market or clearing house. The Bank may, upon request and the payment by the Client of relevant processing fees, provide the Client with information with respect to any of the Client's positions.
- 2.8 In addition to any trading restrictions or position limits under Applicable Laws, the Bank may, at any time in its discretion, impose upon the Client any position or transaction limits, or any trading or transaction restrictions. Such limits may include minimum sizes for transactions, specified times or procedures for communicating orders to the Bank or otherwise. The Bank may, at any time in its discretion, vary any such limits or restrictions. No previous limit or restriction shall set a precedent or bind the Bank. In placing orders with the Bank, the Client shall not exceed any such limits or breach any such restrictions, whether imposed by the Bank, any relevant Exchange or market or clearing house or otherwise imposed under Applicable Laws.

#### ***Settlement***

- 2.9 The Client acknowledges that the Bank's sole responsibility with regard to the proceeds of any sale of Securities pursuant to Instructions or any authority otherwise conferred on the Bank is to receive payment by way of cheque, bank draft or any other appropriate form of such proceeds from the purchaser (or its agent) of the relevant Securities, provided that the Bank will not be liable to pay to the Client any such proceeds of sale or be liable to the Client in any other way if such payment to the Bank by any purchaser (or its agent) is not honoured by the banker upon whom that payment is drawn or otherwise not good and valid payment by that purchaser. The Client further acknowledges that the Bank may make

delivery of the relevant Securities contemporaneously with the receipt of such payment or purported payment in any case.

- 2.10** If the Bank or its correspondent broker shall for any reason whatsoever and howsoever fail to receive payment of all or any part of any amount due to be paid, or fail to receive delivery of any Securities (whether from the relevant Exchange, clearing house, and/or any other person) due to be delivered to the Client, in respect of any sale or purchase entered into by the Bank or its correspondent broker (as the case may be) on behalf of the Client on the due date for payment or delivery in accordance with the rules and regulations of the relevant Exchange or clearing house and/or any Applicable Laws, the Bank's obligations to make payment or to deliver Securities to the Client in respect of such sale or purchase shall at such time, and by virtue of such failure, become obligations to make payment of such amount or delivery of such quantity of such Securities as is equal to such payment or such quantity as is actually received by the Bank or its correspondent broker (as the case may be) in respect thereof.
- 2.11** If the Bank credits the Account with the receipt of investments, cash or other assets before their actual receipt, the Bank may reverse such credit at any time before actual receipt.
- 2.12** The Bank may debit the Account with investments, cash or other assets on or before the date they are due to be transferred to a third party even though actual settlement has not yet occurred. The Bank may reverse such debit at any time before actual settlement.
- 2.13** The Client accepts that he may not rely on any such debit or credit referred to at Clause 2.11 and Clause 2.12 above until actual settlement. The procedures described at Clause 2.11 and Clause 2.12 above are of an administrative nature and do not amount to an agreement by the Bank to make loans or investments available to the Client.

### **3 Cessation of Trading**

The Client acknowledges and agrees that the Bank shall cease trading on behalf of the Client in the event that the Bank is notified that the Client's account with any member of the relevant Exchange on which a Transaction in Securities is executed has been classified as a delinquent or disputed account.

### **4 Limitation of Liabilities and Indemnities**

- 4.1** The Client retains full responsibility for making all investment decisions to buy or sell or otherwise deal in the Securities and will not hold the Bank liable for any Losses as a result of the Client's investment or dealing.
- 4.2** The Client acknowledges that the Client will be liable and that the Bank shall have no responsibility for any liabilities in respect of unpaid calls or any other sums, costs or expenses payable in respect of any Securities held by the Bank on the Client's behalf.
- 4.3** The Client agrees and acknowledges that the Bank shall not be liable to the Client for any Loss arising in whatever manner directly or indirectly from, or as a result of, any act or omission of or delay by the seller/issuer (or its agent) of the Securities to make valid or timely delivery of the relevant Securities to the Bank, or as the case may be, effect valid or timely payments/payouts to the Bank.
- 4.4** The Bank shall act on Instructions as soon as reasonably possible but shall not be liable for any Losses suffered by the Client (including any Loss suffered or incurred as a result of any change in the price of any Security or other assets between the time of giving or receipt of any instruction to or by the Bank and the time at which any such Instruction is

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acted on) by virtue of any delay in acting on any Instruction or any partial completion of or failure or inability to act on any Instruction for whatever reason (including any failure or error of any computer or electronic system or equipment).

**4.5** Where any jurisdiction restricts foreign ownership of Securities, the Bank shall have no duty to ascertain the nationality of the owner of the Securities or whether Securities deposited or received by the Client are approved for foreign ownership.

**4.6** The Client shall indemnify the Bank and keep the Bank indemnified in full against any Loss of any kind or nature whatsoever which may be made against the Bank by a purchaser or any other person by reason of any defect in the Client's title (or lack thereof) to any of the Securities or by reason of any of the Securities not being genuine.

## **5 Security Interest**

The Client agrees and acknowledges that (apart from the Bank's Charge and right of set-off as set out in the Agreement), any Agent appointed by the Bank as nominee or sub-custodian may claim a security interest over any of the Client's Securities held by it.

**B. Custody services**

## **1 Provision of Custody Services**

- 1.1** Unless agreed otherwise, the Bank shall be responsible for the safekeeping of all Securities held in the Account including all Securities that the Client acquires through the Bank hereunder (including holding any cash) ("**Custody Property**") and the settlement on the Client's behalf of any dealings in Securities.
- 1.2** No Custody Property may be deposited with the Bank for custody unless it is:
- 1.2.1** beneficially owned by the Client and registered in the Client's name; or
  - 1.2.2** accompanied by such transfer documents and/or Instructions as the Bank may require to transfer the beneficial ownership to the Client.

## **2 Scope of Authority**

- 2.1** The Client authorises the Bank, and the Bank may (but is not obliged to) exercise the following powers (whether directly or by or through the Agents) in the Bank's discretion without prior reference or notice to the Client:
- 2.1.1** to surrender any of the Custody Property against receipt of monies payable at maturity or on redemption if called prior to maturity or against other Custody Property delivered upon any exchange of Custody Property;
  - 2.1.2** where monies are payable in respect of any of the Custody Property in more than one currency, to collect them in such currency as may be permissible by Applicable Laws and as the Bank may in its discretion determine;
  - 2.1.3** where monies are payable in respect of any of the Custody Property in any currency, to carry out any foreign exchange transaction at the prevailing rates of the Bank or its Agents to convert such foreign currency to the currency of the Account and to make any necessary withholding or deduction as may be required by applicable law;
  - 2.1.4** to consolidate any odd lots of Securities held by the Client with securities of other Clients in order to qualify for any rights offered in respect of a specified block of securities and at the Bank's discretion to take up, call for, receive, hold and sell any shares or rights accruing by reason of such consolidation;
  - 2.1.5** to exchange any of the Securities in interim or temporary form for securities in definitive form and (where applicable) to deliver the physical scrips to a central depository or other similar system set up for the purpose of scripless trading;
  - 2.1.6** at the Bank's discretion, to take up, call for, receive, hold, sell, or dispose of fractional shares which may accrue from the holding of the Securities without limiting the generality of any other provision in this Agreement;
  - 2.1.7** to charge the Client a gross commission (including any commission charged by an Agent) for any of the above services provided that the Bank shall not be liable in any way whatsoever for any act, default, omission or failure of any Agent;
  - 2.1.8** in the case of scripless Securities, to deposit the Custody Property with, and hold the Custody Property through, any centralised securities depository, clearing house or securities depository agencies on such terms as such systems customarily operate, and to effect the purchase or sale or transfer of such Securities through

the Account or any account of the Bank's custodian or nominee maintained with any centralised securities depository or other similar system set up for the purpose of scripless trading; and

2.1.9 to take any action as the Bank thinks fit including:

- (i) any act which the Bank determines to be necessary to preserve the integrity of the Custody Property and/or to protect the Client's interests and the Bank's interests; and
- (ii) splitting of the Securities into marketable lots to enable delivery of the Securities and certificates evidencing the Securities.

2.2 The Bank shall be entitled to appoint, without the further consent of the Client, any bank, trust company or member firm of any Exchange or market or clearing house or any other person (whether as a member of the Standard Chartered Group or any third party) to act as a sub-custodian or nominee (each, a "**Nominee**") of any of the Custody Property on such terms as the Bank may, in its discretion, consider appropriate, and to pay the fees, costs, commissions and other expenses of such Nominee. The Bank shall exercise reasonable care in the appointment of any Nominee. The Nominee in turn shall be entitled to appoint, without the further consent of the Client, any other person to act as sub-custodian or nominee of the Custody Property.

2.3 The Bank shall be authorised but shall not be obliged to register the Custody Property and hold the same in its own name and/or in the name of a Nominee, or any other nominee or sub-custodian, and/or to deliver the Custody Property to any authority as now or hereafter required by Applicable Laws on the Client's behalf. The Bank may delay in procuring any such registration or delivery for such period as the Bank in its discretion thinks fit. The Client shall sign and execute all instruments of transfer and other documents and give all such instruments and things that may be required by the Bank or any Nominee in its dealings with the Custody Property.

2.4 Securities which are traded exclusively or primarily outside the jurisdiction where the Account is opened ("**Home Jurisdiction**") may, where the Bank considers appropriate, be held in custody abroad or, if they are delivered elsewhere, shall be transferred, at the Client's sole risk and expense. Securities held in custody outside of the Home Jurisdiction are subject to the Applicable Laws of the relevant overseas jurisdiction. Consequently such Securities may not enjoy the same protection as that conferred on Securities held in custody in the Home Jurisdiction.

2.5 Where the Client has instructed the Bank to open additional sub-accounts for the Client, the Bank reserves the right not to do so in its discretion and/or to transfer Custody Property between such sub-accounts.

### 3 Segregation/Pooling

3.1 The Bank shall, or shall procure that a Nominee shall, keep a separate record in its books of all Custody Property received and held by it from time to time for the Client's account and shall arrange for all Custody Property to be held in safe custody in such manner and in such name as the Bank may in its discretion determine. Custody of the Custody Property may be held on the basis that it is capable of being separately identified as belonging to or being attributed to the relevant Client or otherwise (as solely determined by the Bank or a Nominee).

3.2 If custody is held on the basis that it is not capable of being so separately identified, the Custody Property will be pooled, such that any Custody Property which in the opinion of

the Bank is of the same nature or category are held together on a commingled basis. In this situation:

- 3.2.1 the Client's interest in the Custody Property may not be identifiable by separate certificates, or other physical documents or equivalent electronic records;
- 3.2.2 in the event of an irreconcilable shortfall after the default of the Bank, any Nominee or their respective sub-custodians, nominees or agents, the Client may not receive the Client's full entitlement and may share in that shortfall pro-rata among the Bank's other customers or those of the sub-custodian;
- 3.2.3 any distribution of entitlements to any benefits or entitlements arising as a result of corporate action will be allocated pro rata provided that (i) fractions of entitlements that arise as a result of this process will be rounded down to the nearest whole unit or share and (ii) the accumulated amount of any undistributed entitlements arising as a result of this process will be sold and the proceeds allocated on a pro rata basis;
- 3.2.4 where there is an allocation or share issue with rights weighted towards smaller investors, the Client's allocation may be less than it otherwise would have been; and
- 3.2.5 the Bank or the relevant Nominee shall maintain a record of the Client's interest in the Custody Property.

#### ***Corporate Actions/Voting rights***

- 3.3 The Bank shall not be required to inform the Client of the dates on which any shareholders' or bondholders' meetings in respect of any Custody Property will be held, nor of the items on the agendas of such meetings, nor of any notices, proxies or proxy soliciting materials in relation to the Custody Property. The Bank shall not be required to attend any such shareholders' or bondholders' meetings. In addition, the Bank shall not be obliged to forward to the Client, after receipt by the Bank, of any letters, notices, circulars, reports and announcements relating to any Custody Property.
- 3.4 To the extent relevant, the Bank shall not exercise any voting rights attached to any Custody Property, either directly or through a proxy designated by the Client, unless the Client has given, and the Bank has accepted, Instructions to this effect.

## **4 Payments and distributions**

- 4.1 The Bank shall claim all amounts in respect of interests, dividends (whether in cash or in other form of payment) and other payments or distributions pertaining to the Custody Property held in custody which are known to the Bank to be payable. Such amounts, payments or distributions shall be paid or delivered to the Client as and when they are actually received by the Bank, but the Bank shall not be responsible for claiming any other distribution or entitlement or benefit the Client may have on the Client's behalf, or for taking up or exercising any conversion rights, subscription rights or other rights of any nature attached to or arising from the Custody Property.
- 4.2 The Bank may execute in the Client's name whenever the Bank deems it appropriate such documents and other certificates as may be required to obtain the payment of income from the Custody Property or the sale thereof.

## **5 Reports and Valuations**

The Bank will send to the Client a report and valuation of Custody Property held by the Bank each month. In preparing the reports and valuations the Bank will use the most up-to-date information available to the Bank or its Agents from sources reasonably believed to be reliable. However, the Bank accepts no liability for any Loss arising from inaccuracies in the data provided to the Bank or its Agents except to the extent it arises as a result of the Bank's own gross negligence, willful misconduct or fraud. Variations in market conditions will mean that the prices shown in the statements do not necessarily reflect realisable values.

## **6 Legal/Administrative proceedings**

The Client does not intend to be a party to legal or administrative proceedings in which the Client may have an interest as the holder of Securities and the Bank shall therefore not provide the Client with any information about such proceedings unless specifically instructed to do so. The Bank shall not be a party to such proceedings in any capacity whatsoever.

## **7 Security Interest**

For the avoidance of doubt, any Custody Property held by the Bank or the Nominee as custodian shall be subject to the Bank's rights under Clause 22 of Part One of this Agreement, the Charge under Clause 21 of Part One of this Agreement, and may also be subject to other similar rights or security interests of the Bank under other agreements between the Bank and the Client.

## **8 No interest**

The Bank will not pay any interest to the Client on any Custody Property held in custody regardless of the rate of interest (if any) paid by any third party sub-custodian or nominee or bank at which such Custody Property may be deposited or held. The Bank may, in its discretion, from time to time, pay interest to the Client but any such payment of interest shall not oblige the Bank to continue making such payments on any other occasion.

## **9 Limitations of Liabilities**

- 9.1** The Bank shall not be liable or responsible for any act or omission of, or any insolvency fraud, default, negligence or dissolution of, any such Nominee or any of its officers, employees, servants or agents in connection with the Custody Property in its custody and any Losses which the Client may suffer or incur arising from or in connection therewith. The Bank may accept for safe custody such other Securities that are delivered by the Client provided they are delivered at the Client's own risk and the Bank has discretion not to accept or to return any Securities which are not acceptable to it in such manner as it sees fit.
- 9.2** The Client acknowledges that prior to the Bank becoming the registered owner of the Custody Property, the Bank may not be in a position to carry out all of its obligations as custodian under this Agreement, and the Bank shall not be liable for any loss that the Client may suffer or incur as a result of the Bank not being the registered owner.

- 9.3** The Bank shall have no duty or responsibility to return to the Client, Securities or other Custody Property bearing serial numbers identical with those delivered to the Bank so long as the Securities or other Custody Property returned are of the same class, denomination and nominal amount and rank *pari passu* with those accepted by the Bank, subject always to any capital re-organisation or adjustment or exchange which may have occurred.
- 9.4** The Client agrees that any and all Custody Property held by or deposited with the Bank, any Nominee or their respective sub-custodians, nominees or agents is at the Client's sole risk.

## **10 Termination of Custody Services**

- 10.1** The Bank may in its discretion terminate the custody services at any time, in which case the following shall apply:
- 10.1.1** the Client shall arrange for the transfer of the Custody Property from the Bank to the Client or some other person designated by the Client in writing; and
- 10.1.2** if the Client fails to complete such arrangements, the Bank (at the cost of the Client) may transfer or redeem all of the Custody Property held in such manner as the Bank may think fit and the Client irrevocably authorises the Bank to give necessary instructions to third parties on behalf of the Client to execute documents and to do all such other things as the Bank shall deem fit in its discretion and pay the realisation proceeds (with any costs and expenses incurred by the Bank deducted) to the Client by crediting to the Account. In this case, the Bank shall not be liable for any Losses incurred or suffered by the Client.

## **11 Definitions**

For the purpose of this Section B of Part Two of this Agreement:

**"Custody Property"** has the meaning ascribed to it in Clause 1.1 of Section B of Part Two of this Agreement.

**"Home Jurisdiction"** has the meaning ascribed to it in Clause 2.4 of Section B of Part Two of this Agreement.

**"Nominee"** has the meaning ascribed to it in Clause 2.2 of Section B of Part Two of this Agreement.

## **C. Collective investment schemes**

### **1 Bank as agent**

The Client acknowledges that in respect of any Transaction of interests in a fund/collective investment scheme (the “**Fund**”), the Bank acts as agent on the Client’s behalf for the execution of Instructions. The Bank does not owe the Client any fiduciary or other equitable duties in respect of any dealings in the Fund above or beyond its obligations as the Client’s agent.

### **2 Acknowledgement by the Client**

#### **2.1** The Client is aware and acknowledges that:

**2.1.1** he is responsible for obtaining from the Bank or the relevant representative of the Fund an up-to-date version of the offering document, the subscription agreements and any other additional material (including fact sheets and annual reports) in relation to the Fund (the “**Fund Documentation**”) and he will read and ensure that he understands the Fund Documentation, and his application to subscribe for interests in the Fund is made on the basis of information set out in the Fund Documentation;

**2.1.2** his investment in the Fund may not be principal protected and is further subject to the risk factors as described in the Fund Documentation and the Client is willing to accept such risks;

**2.1.3** the Bank has no liability whatsoever to the Client for any error, misstatement or omission in the Fund Documentation or any Loss suffered or incurred by the Client in connection with any transaction entered into or steps taken or omitted to be taken by the Client on the basis of the Fund Documentation;

**2.1.4** the Fund will be investing in the assets as described in the Fund Documentation;

**2.1.5** all his investments in the Fund shall be issued, distributed, switched and redeemed and cancelled pursuant to the provisions set out in the Fund Documentation and the constitutional documents of the Fund;

**2.1.6** there may be limited liquidity to an investment in the Fund. The Fund may suspend the redemption rights of holders. Interests in the Fund may only be redeemed or transferred subject to restrictions and other requirements set out in the Fund Documentation and the constitutional documents of the Fund; and

**2.1.7** Instructions from the Client to purchase, sell and/or otherwise deal in collective investment schemes may be executed in accordance with the usual practice of the Bank and as such may not be effected on the same day the Instructions are placed. The Bank shall not be responsible for any price difference as a result of executing the Instruction in accordance with its usual practice.

#### **2.2** The Client represents and/or warrants that (which representations and warranties shall be deemed repeated in relation to each Instruction in relation to the Fund and on a continuous basis so long as the Client maintains an Account with the Bank):

**2.2.1** he will comply with all sale and/or transfer restrictions, undertakings, representations, warranties and indemnities set out in the Fund Documentation and the constitutive documents of the Fund, and he agrees to be bound by the terms thereof;

- 2.2.2 he has sufficient knowledge and experience to make his own evaluation of the investment (including the merits and risks of entering into investment) and is not relying on any representation of the Bank and/or, to the extent that the Bank or any of the Affiliates has agreed separately in writing to provide investment advice, such investment advice provided by the Bank or any of the Affiliates or any employee or agents of any of them. The Client acknowledges that he is capable of accepting any and all risks associated with such investment and that he has taken/will take advice from independent professional advisers as he deems necessary;
  - 2.2.3 he is an eligible investor of the Fund;
  - 2.2.4 he has/will have full power, authority and legal right to purchase, sell, switch, transfer or otherwise deal in an interest in the Fund and such purchase, sale, switching, transfer or action does not/will not contravene any Applicable Laws, any Fund Documentation, (where the Client is an entity) any constituent documents and (where the Client is a trustee) the trust deed or instrument constituting the trust of which he is acting as a trustee;
  - 2.2.5 the Bank may rely upon valuations from the Fund and/or other third parties for the purposes of reporting to the Client the value of the Client's beneficial interest in the Fund. The Bank shall not be under any duty to seek to verify the accuracy of such valuations;
  - 2.2.6 representations made by the Bank and/or its nominees in relation to the Client (if any, relying on information provided by the Client) are accurate and correct and the Client shall not do any act which may as a consequence cause a breach of such representations;
  - 2.2.7 he shall indemnify the Bank and/or its nominees for any Losses that it/they may incur as a consequence of acting on the Client's behalf in subscribing, selling, transferring, switching or otherwise dealing in an interest in the Fund; and
  - 2.2.8 the Bank and/or its nominees shall have no responsibility for the performance of the Client's investment in the Fund.
- 2.3 The Bank shall not be liable for any inability to execute, or delay in executing, the Client's investment in part or full.

### 3 Fund subscription

- 3.1 The Client may from time to time instruct the Bank to make subscription in relation to the Fund, by any means as required by the Bank from time to time (which may include providing Instructions by phone or filing in and signing the application form and delivering the application form (together with payment) in person at, or by mail to, any of the Bank's branches). The Client authorizes the Bank, on the Client's behalf and as the Client's agent, to place a subscription for such number of units or shares in the Fund (the "**Purchase Order**") as the payment amount made by the Client shall allow and give representations and/or make confirmations as any of the Fund Documentation may require.
- 3.2 The Bank may consolidate the Purchase Order with its own orders and those of its other clients. The Client acknowledges that the aggregation of his Purchase Order with those of the Bank's or of the Bank's other clients may operate on some occasions to his advantage and other occasions to his disadvantage.
- 3.3 The Bank is authorised to:

- 3.3.1 debit the investment amount and all other charges, costs and expenses that may arise out of the Client's Instruction to subscribe to the Fund from the Account as the Bank considers appropriate; and
    - 3.3.2 take such actions (including execution of documents) as the Bank considers necessary or appropriate to subscribe to the Fund on the Client's behalf.
  - 3.4 The Client undertakes at all times to maintain sufficient funds in his Account for the purpose of making payment for any purchase of interests in the Fund and for payment of any fees, costs or other expenses which the Client is liable under this Agreement. The Client acknowledges and agrees that if at any time there are in the Bank's opinion insufficient funds in the Account for these purposes, the Bank may:
    - 3.4.1 decline to place the Purchase Order on the Client's behalf; or
    - 3.4.2 (in the Bank's discretion and without any obligation to do so on the Bank's part and without notice to the Client) transfer funds as necessary from any other bank accounts maintained by the Client with the Bank.
  - 3.5 The Bank has the discretion to purchase interests in the Fund on behalf of the Client based on the price of such interests as designated by the Fund from time to time.
  - 3.6 No certificate will be issued in respect of the interests in the Fund but the Client shall receive:
    - 3.6.1 a confirmation statement from the Bank in respect of any subscription of interests in the Fund by the Client; and
    - 3.6.2 a statement of holdings indicating the number of interests in the Fund issued to the Bank as nominee for the Client, periodically.
  - 3.7 Dividends declared by the Fund will be disbursed according to any valid dividend Instruction from the Client. If the Client:
    - 3.7.1 has a "cash" dividend instruction, all dividends will be credited to the Client's bank account provided to the Bank;
    - 3.7.2 has a "reinvestment" dividend instruction, all dividends will be automatically reinvested in the Fund through the subscription of additional interests in the Fund and the Bank will hold the same for the account of the Client as nominee for the Client; and
    - 3.7.3 has not provided any Instruction within the timeframe specified by the Bank, the Bank may disburse the dividends in the manner as it considers appropriate.

## **4 Fund switching**

- 4.1 Where switching is permitted by a Fund, the Client may from time to time instruct and authorise the Bank on his behalf, and as his agent, to place a switching order and switch interests in the Fund to interests in another fund provided that such other fund is distributed by the Bank and the Client has complied with all relevant requirements under the Fund Documentation and the constitutional documents of the Fund in relation to such switching.
- 4.2 The provisions of Clauses 3.1 to 3.3 shall apply as if all references therein to the "Purchase Order" and other purchase or subscription order were references to an application to switch an interest in the Fund.

## 5 Fund redemption

- 5.1 If, at any time the Client wishes to redeem all or any of the interests in the Fund acquired pursuant to this Agreement, the Client shall instruct the Bank to apply to the Fund for the redemption of such interests.
- 5.2 Upon any redemption of interests in the Fund held pursuant to this Agreement, the Bank will credit to the Account such monies (net of any fees, charges or expenses incurred in connection with the redemption) as may be received in consideration for the redemption of the interests in the Fund. The Bank has no duty to ascertain, nor will it be responsible for, the adequacy of the consideration received.

## 6 Transfer

- 6.1 After the Bank receives the transfer Instructions from the Client, the Bank may (but will not be obliged to) act upon any further Instructions from the Client relating to the interests in a Fund subject to its discretion and within the timeframe permitted by the Fund.
- 6.2 Any Instruction given by the Client to the Bank to transfer interests in a Fund shall be deemed to be an Instruction to transfer all the Client's interests in that Fund unless otherwise agreed by the Bank at its discretion.

## 7 Acceptance of Instructions

The Client acknowledges that the Fund is not obliged to accept any order received from the Bank in part or whole. The Bank shall not be liable or responsible for any action, rejection or delay on the part of the Fund or agents of the Fund in respect of any such order, or for any Loss which the Client may suffer or incur as a result of the foregoing.

## 8 Definitions

For the purpose of this Section C of Part Two of this Agreement:

“**Fund**” has the meaning ascribed to it in Clause 1 of Section C of Part Two of this Agreement.

“**Fund Documentation**” has the meaning ascribed to it in Clause 2.1.1 of Section C of Part Two of this Agreement.

“**Purchase Order**” has the meaning ascribed to it in Clause 3.1 of Section C of Part Two of this Agreement.

## **PART THREE RISK DISCLOSURE STATEMENT**

### **Part A - Risks relating to Transactions and Services**

#### **1 General**

**1.1** This Risk Disclosure Statement does not explain all the risks and other significant aspects of entering into a Transaction or accepting the provision of a Service. Such risks can be substantial. The Client should consult his advisors on the nature of the Transaction or Service. In addition, the Client should carefully consider the risks specific to the Transaction or Service and whether the particular Transaction or Service is appropriate and suitable for him in the light of his experience, objectives and personal and financial circumstances.

**1.2** In particular, each Client should:

- 1.2.1** have sufficient knowledge and experience to make a meaningful evaluation of a Transaction or Service, including the merits and risks of such Transaction or Service;
- 1.2.2** have access to, and knowledge of, appropriate analytical tools to evaluate a Transaction or Service and the impact the Transaction or Service will have on his overall investment portfolio;
- 1.2.3** have sufficient financial resources and liquidity to bear all relevant risks;
- 1.2.4** understand thoroughly the terms and conditions of the Transaction or Service; and
- 1.2.5** be able to evaluate (either alone or with the help of an independent financial adviser) possible scenarios for economic, interest rate and other factors that may affect the Transaction or Service and his ability to bear the applicable risks.

By entering into a Transaction or agreeing to the provision of a Service, the Client acknowledges that he makes his own assessment and relies on his own judgement in relation to any and all investment or trading or other decisions in respect of such Transaction or Service and accepts any and all risks associated therewith and any Losses suffered as a result. The Bank is not responsible for any Losses whatsoever or howsoever arising from the Transaction or Service. In addition, the Client confirms that he has read and fully understood this Risk Disclosure Statement and all offering documents, term sheets, and documentation pertaining to the Transaction or Service, and that he fully understands the nature and terms and conditions of the Transaction or Service.

#### **2 Risk of Securities trading**

The prices of Securities fluctuate, sometimes dramatically. The price of a Security may move up or down, and may become valueless. It is as likely that losses will be incurred rather than profit made as a result of buying and selling Securities. In addition, any representation of past performance is not necessarily a guide to future performance.

#### **3 Liquidity risks**

At certain times, or under certain market conditions, the Client may find it difficult or impossible to liquidate a position, to assess the value or to determine a fair price. This is particularly so for unlisted Securities where there is no formal market for such Securities

and are often thinly traded. In addition, there can be no certainty that market traders will be prepared to deal in Securities, in particular in relation to unlisted Securities, and proper information for determining their current value may not be available. Whilst generally it may be easier to liquidate a position or to assess the value or determine a fair price for listed Securities, there is no assurance that there will be a liquid market for such Securities or that the value or fair price can be obtained.

#### **4 Trading of listed Securities on certain stock exchanges**

There are certain stock exchanges which have been established as markets designed to accommodate companies to which a high investment risk may be attached, such as the Growth Enterprise Market in Hong Kong and the Catalist in Singapore. In particular, companies may list on these stock exchanges with neither a track record of profitability nor any obligation to forecast future profitability. There may be risks arising out of the emerging nature of companies listed on these exchanges and the business sectors or countries in which the companies operate (see paragraph 14 “Emerging Markets” below). Further, there is a risk that companies traded on such exchanges may be susceptible to market volatility and there is no assurance that there will be a liquid market in the Securities of such companies.

#### **5 Trading of listed Securities outside the home jurisdiction**

Trading of listed Securities in jurisdictions other than the jurisdiction where the Account is opened may expose the Client to additional risks. Such markets may be subject to regulation which may offer different or diminished investor protection. Before the Client trades in such markets, the Client should enquire about the relevant rules as the Client’s local regulatory authority may not be able to enforce such rules. The Client should ask the Bank for details on, and understand, the redresses available in his local jurisdiction as well as the relevant overseas jurisdictions.

#### **6 Custodial services**

There may be risks in depositing Securities in the safekeeping of the Bank or the Nominee, including the risk of loss of all of the Securities. The Bank may appoint foreign custodians/sub-custodians to provide custodial services. Additional risks in relation to such foreign custodians/sub-custodians may arise from the operation of foreign law, rules and regulations. The Client’s ability to withdraw the Securities may be affected if the Bank or the Nominee defaults or becomes insolvent.

#### **7 Credit risks**

The Client should satisfy himself that the credit risk of the issuer of a Security or the counterparty to a Transaction or Service is acceptable to him, including but not limited to the failure by the issuer or counterparty to make good, valid or timely delivery or payment to the Client. Further, an issuer to a Security may experience adverse changes to its financial condition which may result in an increased volatility in the price of the Security (including in the case of a debt security, a possible downgrade to any credit rating assigned to such security), negatively affect the liquidity of the Security and thereby make it more difficult to sell the Security. In addition, changes in the economic and political conditions in general, or changes in

economic and political conditions specific to an issuer of a Security or a counterparty a Transaction or Service, may have an adverse impact on the creditworthiness of the issuer or the counterparty. There is no assurance of protection against a default of its obligations by the issuer or counterparty. A Client who has received delivery of such Securities would be adversely impacted.

## **8 Currency risk**

Where the Client engages in a Transaction involving one currency to hedge an original investment in another currency, or where the Transaction entered into by the Client references two different currencies, fluctuations of the currencies against each other or against the other underlying elements of the Transaction may affect the Client's net profit on the Transaction or increase the Client's loss. In addition, where the Client's home currency differs from the currency in which payments pursuant to the Transaction are made, foreign currency fluctuations may affect the Clients who intend to convert profits or losses pursuant to the Transaction to their home currency. Foreign exchange rates may fluctuate significantly and suddenly and are determined by (among other things) the supply and demand for currencies in the international foreign exchange markets, inflation rates in the countries concerned, interest rate differences between the respective countries, currency convertibility and measures (e.g. exchange controls) taken by government and monetary authorities.

## **9 Exchange traded instruments**

For Transactions involving underlying contracts or instruments which are traded on Exchanges, disruption of the normal market operation or conditions of such Exchanges and/or the rules of operation of such Exchanges (e.g. discretion on the part of the exchange to suspend or limit trading of certain contracts or instruments under certain market conditions) may increase the risk of loss by making it difficult or impossible to close out the Transactions. The Client should inform himself of exercise and expiration procedures and his rights and obligations upon exercise or expiry of Transactions.

For Transactions in which the underlying contracts or instruments are supported by electronic trading facilities at Exchanges (e.g. computer-based component systems for order-routing, execution, matching, registration, or clearing of trades), any temporary disruption or power/system failure of such electronic trading facilities could result in a disruption in the trading activities at the Exchange and an unavailability of reference prices for the relevant Transaction. In such circumstances, the Client's order may not be executed according to his Instructions or at all, which may lead to losses. It is likely that such losses will not be recoverable from the relevant Exchanges as the rules thereof invariably exempt them from such liabilities.

## **10 Clearing House Protections**

On many Exchanges, the performance of a Transaction on such Exchange is "monitored" or "administered" by the Exchange or clearing house. However, this protection is unlikely to directly extend to the Client, and may not protect the Client if the Bank defaults on its obligations to the Client.

## **11 Insolvency**

In the event of the insolvency of the issuer of a Security or the counterparty to a Transaction or Service, the Client may experience delay in liquidating his investment and may suffer losses, including a decline in the value of his investment (which may be zero). Further, the insolvency of the issuer of a Security or the counterparty to a Transaction or Service may lead to positions being liquidated or closed out without the Client's consent. The Client could lose his entire investment, including any monies held in the Account, any payment to be made or Securities to be delivered to the Client, and any assets lodged by the Client as collateral. In the event of the insolvency of the issuer of a Security or the counterparty to a Transaction or Service, the Client's claims for recovery will generally be subordinated to the claims of the preferred or secured creditors of the issuer or counterparty.

## **12 Risk of margin trading**

The risk of loss in depositing collateral for the purposes of margin trading in a Transaction or pursuant to a Service can be significant. The Client may sustain losses in excess of the Client's assets deposited as collateral. The Client may be called upon at short notice to provide additional margin and this amount could be substantial. If the required margin is not provided within the prescribed time, the Client's collateral may be liquidated without his consent. The high degree of leverage resulting from a relatively small margin requirement can work against the Client as well as in the Client's favour. The use of leverage may also result in large losses as well as gains.

## **13 No investment advice or recommendations**

The Bank is not obliged to, and does not, give investment advice or make recommendations. Whilst it may provide recommendations on request by the Client, such investment advice or recommendations are given or made (and the Client acknowledges and agrees that it is so given or made) without any responsibility on the part of the Bank unless otherwise agreed in writing by the Bank and on the basis that the Client will nevertheless make his own assessment and rely on his own judgment in respect of all Transactions executed or Services rendered under this Agreement.

## **14 Emerging markets**

Transactions or Services related to emerging countries (e.g. Securities which are listed in or linked to emerging countries), including those located in Asia, Latin America and eastern Europe, may carry high investment risks. Such risks include political risks (including confiscation of assets, restriction of the Client's rights of disposal, or declines in the value of assets as a result of state intervention or the introduction of state monitoring and control mechanisms), risks of economic instability, greater prevalence of illegitimate market practices (e.g. insider trading) and laws and regulations which afford inadequate protection and safeguards to investors.

## **15 Risks associated with unsecured e-mail communication**

The Client acknowledges that e-mail is sent via public and private data transfer networks and providers which are accessible worldwide, and available to anyone. It is therefore

impossible to control the transmission route of an e-mail. The Client acknowledges and agrees that a multitude of risks are inherent in unsecured e-mail, for example, e-mail from the Bank can be faked as a result of e-mail or computer infections created or spread by third parties. The Bank accepts no responsibility for any losses arising from such risks.

## **16 Risks associated with Instructions via facsimile**

Non-original signatures on the facsimile may be forged and such instructions may be transmitted to, and received at, wrong numbers, may never reach the Bank and may be disclose to third parties at the wrong number thereby losing their confidential nature.

## **17 Other Related Documentation**

The Bank may, in appropriate cases, furnish the Client with term sheets and other documentation (whether issued by the Bank or third parties) setting out the material terms, associated obligations, underlying assumptions, pricing basis and sensitivity analysis to illustrate the impact of market movements on the proposed financial investment and/or such other information as the Bank may think relevant. Any sensitivity analysis which may be provided are for the purposes of illustration only. The provision of such term sheet or other documentation shall not detract from the Client's duty to take all such steps and make all such enquiries as may be necessary or desirable prior to making any investment decision and the Bank takes no responsibility or liability for the accuracy and completeness of such term sheet or other documentation or any information set out therein.

## **18 Commissions, Fees and Charges**

Before the Client enters into any Transaction or accepts any Service, the Client should obtain a clear explanation of all commissions, fees and other charges for which the Client will be liable. These charges will affect the Client's net profit (if any) or increase the Client's loss.

## **19 Taxation**

The Bank does not provide tax advice and the Client has full responsibility for any tax implication of entering into a Transaction or accepting the provision of a Service. Any tax treatment depends on a Client's individual circumstances and may be subject to change in the future. The Client should consult his tax adviser about his own tax situation.

### **Part B - Specific financial products or services**

## **1 Equity securities and debt securities**

In buying equity securities, the Client will become a member of the company and participate fully in its economic risk. The Client will be entitled to receive any dividend distributed each year (if any) out of the company's profits made during the reference period.

Buying debt securities means that the Client is, in effect, a lender to the company or the entity that has issued the securities. The Client is entitled to receive specified periodic interest payments, as well as repayment of the principal at maturity.

Both holders of equity and debt securities will be exposed to the specific risks associated with the individual securities (and the financial soundness of their issuers), as well as the systemic risks of the equity and debt securities markets.

In the case of shares of smaller companies, there is an additional risk that there may be a greater risk of loss as there may proportionately be a large difference between the buying and selling prices to these shares. If they have to be sold immediately, the Client may get back much less than the amount that the Client has originally paid.

## **2 Structured products**

Generally structured products are financial instruments whose investment returns are linked to the performance of reference underlying(s). Examples include (but are not limited to) equity-linked notes, interest rate-linked notes and credit-linked notes. Structured products can come in a variety of forms and linked to a wide range of reference underlying(s) and can be complex financial instruments. The Client should read the offering document, term sheet, and documentation pertaining to the particular structured product carefully and fully understand the nature, terms and risks of such product.

## **3 Collective investment schemes**

### **3.1 General**

Collective investment schemes invest the funds paid in by the subscribers of units or shares in the collective investment schemes in different types of investments provided for in their offering documents or constitutional documents. The Client will therefore be exposed to the risks and returns associated with the nature of the financial instruments in which the collective investment scheme invests, including without limitation:

- 3.1.1** Market risk – the value of an investment will decrease due to moves in market factors, and this will impact on the net asset value of the collective investment scheme.
- 3.1.2** Risk relating to investment in equity – the equity markets may fluctuate significantly with prices rising and falling sharply, and this will impact on the net asset value of the collective investment scheme.
- 3.1.3** Risk relating to investment in debt securities – the value of the investments will depend on (among others) market interest rates, the credit quality of the issuer and liquidity considerations. Some collective investment schemes may invest in high yielding debt instruments where the level of income may be relatively high (compared too investment grade debt instruments), however, the risk of depreciation and realisation of capital losses on such instruments will be significantly higher than on lower yielding debt instruments.
- 3.1.4** Currency risk – since the investments held by a collective investment scheme may be denominated in currencies different from its base currency, the collective investment scheme may be affected adversely by exchange control regulations or changes in the exchange rates between such reference currency and other currencies. Changes in currency exchange rates may influence the value of the units in a collective investment scheme, and also may affect the value of dividends and interests earned by the collective investment scheme.

- 3.1.5 Investment grade risk – some collective investment schemes invest in investment grade debt securities, which, like other types of debt securities, involve credit risk of the debt security issuer and may be subject to ratings downgrades by the rating agencies.
- 3.1.6 Investment in derivative instruments – some collective investment schemes invest in derivative instruments which can involve additional material risks such as counterparty risks or credit and liquidity risk. Some derivative instruments may employ leverage which can cause greater volatility.
- 3.1.7 Country concentration – collective investment schemes which invest in one country or limited countries will have greater exposure to market, political, legal, economic and social risks of that country/countries than a scheme which diversifies country risk across a number of countries.
- 3.1.8 Holdings concentration – collective investment schemes which invest in a relatively small number of investments or may be concentrated in a specific industry sector are subject to higher concentration risk.
- 3.1.9 Emerging market risk – some collective investment schemes invest in part or in whole via the methods detailed above in emerging markets which may be more volatile and subject to greater political and economic risks.
- 3.1.10 Liquidity risk
- 3.1.11 Investments held by a collective investment scheme may need to be sold if insufficient cash is available to finance redemptions of the scheme by investors. If the size of the disposals is sufficiently large, or the market is illiquid, there is a risk that the investments might not be sold or the price at which they are sold may adversely affect the net asset value of the scheme.

### **3.2 Exchange traded funds**

Exchange traded funds (“**ETFs**”) are closed-ended collective investment schemes, traded as shares on stock exchanges, and typically replicate a stock market index, market sector, commodity or basket of assets.

ETFs can broadly be grouped into two types. Traditional ETFs track, replicate and correspond to the performance of an underlying index. Synthetic ETFs mimic the behavior of traditional ETFs through the use of derivatives such as swaps and performance-linked notes.

ETFs are subject to tracking error risk, namely the disparity between the performance of the ETF as measured by its net asset value and the performance of the underlying index. Tracking error may arise due to various factors. These include, failure of the ETFs tracking strategy, the impact of fees and expenses, foreign exchange differences between the base currency or trading currency of an ETF and the currencies of the underlying investments, or corporate actions such as rights and bonus issues by the issuers of the ETFs underlying securities.

Trading on an Exchange does not, in and of itself guarantee that a liquid market exists for an ETF. A higher liquidity risk is also involved if an ETF invests in financial derivative instruments that not actively traded in the secondary market and where price transparency is not as easily accessible as physical securities. This may result in a bigger bid and offer spread. Further, an ETF is exposed to the economic, political, currency, legal and other risks of a specific sector or market related to the underlying equity, commodity, asset or index that the ETF is designated to track. Synthetic ETFs typically invest in over-the-

counter derivatives issued by counterparties. Such a synthetic ETF may suffer losses potentially equal to the full value of the derivatives issued by the counterparty upon its default. Synthetic ETFs are therefore exposed to both the risks of the securities that constitute the index as well as the credit risk of the counterparty that issues the financial derivative instruments for replicating the performance of the index.

### **3.3 Non-traditional funds (hedge funds)**

Non-traditional funds (which may take a variety of legal forms such as investment companies or partnerships) differ from traditional investment funds such as equity or fixed income funds in respect of their investment style. A common type of a non-traditional fund is a hedge fund. Some of the common features of, and risks of investing in, a non-traditional fund include the following:

- 3.3.1 non-traditional funds have variable liquidity and tradeability, and may have limited subscription and redemption rights with lengthy notice periods (e.g. fund issues and redemptions are often allowed only on a monthly, quarterly or annual basis). Fixed holding periods are common, and liquidations may stretch out over a period of years;
- 3.3.2 the fund often aims to make an absolute return, under varying market conditions;
- 3.3.3 sometimes, the fund takes on very high levels of risk and may have significant leverage from the investment of borrowed capital;
- 3.3.4 the fund often uses derivatives, whether for hedging or for investment or speculation;
- 3.3.5 the fund may be able to carry out short sales;
- 3.3.6 the fund may not be subject to any restrictions on investment categories, markets or trading methods, and the strategies adopted by the fund may be speculative in nature;
- 3.3.7 the fund may require a high minimum investment amount; and
- 3.3.8 many non-traditional funds are located in “offshore” jurisdictions, and are subject to less stringent laws and supervision, which in turn provides relatively weaker investor protection relative to a traditional fund. There is no assurance that an investor's legal rights will be enforceable. There may be other risks associated with weaker regulation of such funds; for example, the fund may have poor or unsuitable operating systems and checking procedures.

Non-traditional fund investments involve a high degree of risk. Before making any investments, the Client should seek independent advice about the particular risks involved and carefully study the relevant information memorandum, subscription agreement and other information on the investments.

## **4 Renminbi (“RMB”) denominated Securities**

### **4.1 RMB currency risks**

RMB is currently not a freely convertible currency. It is subject to foreign exchange control policies of Mainland China. The exchange rate of RMB may fluctuate from time to time. Any devaluation of RMB may adversely affect the value of the Client's investment in RMB denominated assets.

### **4.2 Repatriation and conversion limitations**

The relevant authorities in Mainland China have imposed restrictions on the repatriation of RMB out of Mainland China, which may limit the amount of RMB available outside Mainland China and reduce the liquidity of the Client's investment. In addition, the Mainland China's government policies on repatriation restrictions may be subject to change, which may adversely affect the Client's investment.

Further, conversion of RMB through banks outside Mainland China may be subject to restrictions (including limitations on the amount that can be converted). The Client may have to allow time for the conversion of RMB from/to another currency of an amount exceeding such limit and is subject to further currency risk in the interim.

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

Where RMB denominated Securities are referenced to underlying investments denominated in RMB, it may not have access to invest directly in Mainland China. The pool of underlying investments denominated in RMB outside Mainland China ("**Offshore RMB Instruments**") may be limited, which may adversely affect the return and performance of RMB Securities. Further, the Offshore RMB Instruments may not be regularly traded and there may not be an active secondary market. The bid and offer spread of the price of Offshore RMB Instruments may be large. Trading in RMB Securities may therefore incur significant trading and realisation costs.

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

Where the offering documents, term sheet or documentation pertaining to the RMB Securities contain a statement of illustrative return of the products which is not guaranteed, the Client should note that the return is not guaranteed and should pay attention to the assumptions on which the illustrations are based.

#### **4.5** Long term commitment to investment

Some RMB denominated Securities involve a long period of investment. If the Client wishes to redeem his investment before the maturity date or during the lock-up period (if applicable), the Client may incur a significant losses if the proceeds are substantially lower than the amount invested. In addition, heavy penalties or charges may be payable for the early termination or surrender of such products.

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

Where RMB denominated Securities invest in underlying instruments, such product is exposed to the counterparty risks associated with the issuers of or counterparties to such instruments. In particular, RMB denominated Securities may invest in instruments whereby the investment is not supported by any collateral, such RMB products will be fully exposed to the credit/insolvency risk of the relevant counterparties. Further, where RMB products invest in derivative instruments, counterparty risk may arise as the default by the derivative counterparty may adversely affect the performance of the RMB products and result in substantial losses.

#### **4.7** Interest rate risk

Where RMB denominated Securities invest in RMB debt instruments, such instruments are susceptible to interest rate fluctuations, which may adversely affect the return and performance of the RMB denominated Securities.

#### **4.8** Liquidity risk

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It is possible that the RMB denominated Securities may suffer losses in liquidating the underlying investments, especially if such investments do not have an active secondary market and their prices have large bid/offer spreads.

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

For RMB denominated Securities with a significant portion of non-RMB denominated underlying investments, the Client may not receive the full amount in RMB upon redemption or sale of his investment. Even if a product aims to deliver RMB, it may not be able to pay the Client in RMB if the product has to sell non-RMB-denominated investments to meet the Client's redemption or sale request or if it encounters conversion restriction when converting the proceeds in non-RMB currencies to RMB. Even if the investments are denominated in RMB, there may not be sufficient RMB to satisfy the redemption or sale requests due to repatriation or other controls on RMB. As a result, the Client may not receive RMB when the Client redeems or sells his investments.

**THIS RISK DISCLOSURE STATEMENT DOES NOT DISCLOSE ALL THE RISKS AND SIGNIFICANT ASPECTS OF THE INVESTMENTS. THE CLIENT IS ADVISED TO STUDY CAREFULLY THE TERMS AND CONDITIONS OF THE RELEVANT INVESTMENT AND SEEK INDEPENDENT FINANCIAL, TAX, LEGAL OR OTHER ADVICE, AS APPROPRIATE, BEFORE ENTERING INTO ANY INVESTMENT.**