



第一證券(香港)有限公司  
First Securities (HK) Limited

**Terms and Conditions of Securities Account**

證券賬戶章則及條款

## TERMS AND CONDITIONS OF SECURITIES ACCOUNT

### 1. Definitions

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

**“Account”** means any one or more accounts for trading securities (cash or margin), the Derivative and Structured Product now or hereafter opened in the name of the Client with the Company.

**“Account Mandate”** means the Account Opening Form, signature card(s) and all other documents for corporation, partnership, sole proprietorship, individual or joint account in the form prescribed by the Company in relation to giving instructions of the opening, operation, maintenance or closing of the Account and the other relevant documents.

**“Agreement”** means these Terms and Conditions, the Account Mandate and all such other agreements or contracts in respect of the Account.

**“Applicable Laws”** means all laws (whether statutory or otherwise), rules, regulations, guidance notes, guidelines, directives, circulars, codes of conduct, regulatory handbooks and disclosure requirements of any relevant jurisdiction, market or regulatory/competent authority which are applicable to the Client, the Company or the relevant transaction at all times and from time to time.

**“Assets Transfer Instruction”** means the instruction given by the Client or the Authorized Person (as the case may be) to the Company to transfer assets under the Account to another accounts in the name of the Client with other securities firms or banking institutions.

**“Associate”** means, in relation to the Company, a company or body corporate which is the Company’s direct or indirect holding companies, subsidiaries or affiliated companies, in Hong Kong or elsewhere.

**“Authorized Person”** means the persons or any of them designated in or pursuant to the Agreement to issue instructions in relation to Accounts or Transactions and initially the persons named in the Account Opening Form.

**“BO”** means the Banking Ordinance (Cap.155 of the Laws of Hong Kong).

**“Business Day”** means any day on which the Exchange opens for trading other than Saturdays, Sundays, public holidays and any other days declared by the Exchange to be non-business days.

**“Clearing House”** means HKSCC in relation to SEHK and, in relation to any other Foreign Stock Exchange, the clearing house providing services similar to those of HKSCC to such Foreign Stock Exchange.

**“Client”** means the client who opens and/or maintains the Account with the Company from time to time.

**“Collateral”** means all monies and assets of the Client which are now or which shall at any time hereafter be deposited with, transferred or caused to be transferred to or held by the Company or its Associates or nominees, or transferred to or held by any other person in circumstances where the Company accept as security for the Client’s obligations under the Agreement. The Collateral shall include those monies and securities that shall come into the possession, custody or control of the Company or its Associates from time to time for any purpose whatsoever (which shall include any additional or substituted securities and all dividends or interest paid or payable, rights, interest, monies or property accruing or offering at any time by way of redemption, bonus, preference, options or otherwise on or in respect of any such securities or additional or substituted securities).

**“Company”** means First Securities (HK) Ltd. and its successors and assigns.

**“Correspondent Agent”** means anyone who acts as the Company’s agent in effecting Transactions or clearing the same in Hong Kong or elsewhere, including any member of an Exchange or Clearing House.

**“Dealing Instruction”** means the instructions given by the Client or the Authorized Person (as the case may be) to the Company in respect of purchase, sale or otherwise disposition of Securities, the Derivative and Structured Product under the Account.

**“Derivative Product”** means any financial or other product which value is designed to track the return on or is derived from currencies, interest rates, bonds, financial instruments, securities, metals and other commodities, money market instruments, reference indices or any other benchmarks and includes, without limitation, warrants, options, futures and swaps.

**“Derivative Product Transaction”** means any transaction of the Derivative Product entered into by the Client pursuant to the Agreement.

**“Electronic Service”** means the electronic trading service provided by the Company to the Client for securities or other dealing in such manner and to such extents as the Company shall, in its absolute discretion, determine from time to time.

**“Exchange”** means SEHK and any Foreign Stock Exchange.

**“Facility”** means the margin facility granted by the Company to the Client for securities dealing subject to and upon the terms as the Company may at its absolute discretion determine.

**“FATCA”** means the Foreign Securities Trading Account Tax Compliance Act.

**“Foreign Stock Exchange”** means a stock exchange which is permitted to operate in a country or territory outside Hong Kong by the law of that country or territory.

**“HKSCC”** means Hong Kong Securities Clearing Corporation Limited.

**“Hong Kong”** means the Hong Kong Special Administrative Region of the People’s Republic of China.

**“Information”** means any transaction data, bid and ask quotations, news reports, third party analysts’ reports, research and other information relating to securities and the securities markets;

**“Instructions”** means any instructions or orders communicated by the Client or its Authorized Person to the Company in accordance with clause 5 and include instruction transmitted by the Client to the Company via the Electronic Service.

**“Instruction Acknowledgement”** means, in relation to an instruction, whether to buy or sell securities or to amend or cancel another prior Instruction, an acknowledgement by the Company of receipt of those Instructions.

**“Login ID”** means the Client’s identification, used in conjunction with the Password, to gain access to the Electronic Service.

**“OTC Market”** means the over-the-counter market.

**“Password”** means the Client’s password used in conjunction with the Login ID, to gain access to the Electronic Service.

**“Securities”** means shares, stocks, debentures, warrants, loan stocks, funds, bonds, notes and commercial paper of any description whatsoever and whosoever of or issued by anybody (whether incorporated or unincorporated) or any government or local government authority and includes (a)

rights, options, or interests (whether described as units or otherwise) in or for the shares, stocks, debentures, warrants, loan stocks, funds, bonds, or notes; (b) certificates of interest or participation in or temporary or interim certificates for, receipts for, or warrants to subscribe to or purchase, the shares, stocks, debentures, warrants, loan stocks, funds, bonds or notes; (c) options on stock indices; and (d) instruments commonly known as securities.

“**SEHK**” means Hong Kong Exchanges and Clearing Company Limited and includes its successors, assigns and any resulting or surviving entry into or with which it may consolidate, amalgamate or merge.

“**SFC**” means the Securities and Futures Commission of Hong Kong.

“**SFO**” means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong).

“**Structured Product**” means the financial product or instrument that combines two or more financial instruments, at least one of which is a Derivative Product.

“**Structured Product Transaction**” means any transaction of the Structured Product entered into by the Client pursuant to the Agreement.

“**Transaction**” means any transactions concerning the purchase, subscription, sale, exchange or other disposal of and dealings in any and all kinds of Securities including (but not limited to) safe-keeping of securities and the provision of nominee or custodian service therefore and other transactions effected under or pursuant to the Agreement as well as the Derivative Product Transaction and Structured Product Transaction.

“**Third Parties Ordinance**” means the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong).

“**US Person**” means any person who is defined as a United States person under the FATCA and include any one or more of the following:-

- (i) a citizen or resident of the United States;
- (ii) a person that is not a citizen or national of the United States and who meets either the “green card” test or the “substantial presence” test under the Internal Revenue Code of 1986, as amended, and/or any other applicable laws, rules and regulations for the calendar year;
- (iii) a person electing to be treated as a tax resident of the United States; and
- (iv) any other person that is subject to the United States federal income taxation on his worldwide income regardless of its source.

**1.2** The clause headings in these Terms and Conditions are for convenience only and shall not affect the interpretation or construction of these Terms and Conditions and have no legal effect.

**1.3** References in these Terms and Conditions to clauses, sub-clauses and annexure are, except where the context otherwise requires, to be construed respectively as references to clauses, sub-clauses and annexure to these Terms and Conditions.

**1.4** References in these Terms and Conditions to the singular shall include references to the plural and vice versa and references to genders shall include the other and the neutral genders as the context requires.

**1.5** References in these Terms and Conditions to any enactment shall be deemed to include references to such enactment as amended, extended or re-enacted from time to time and the rules and regulations thereunder.

**1.6** References in these Terms and Conditions to any party hereto shall be deemed to be references to or to include their respective successors and assigns.

## **2. Applicable Laws and Rules**

**2.1** All Transactions shall be effected in accordance with all the Applicable Laws, by-laws, customs and usage as amended from time to time of the Exchange and the Clearing Housing applicable to the Company as well as market practice and shall be binding on the Client.

**2.2** Each of the term of the Agreement is severable and distinct from the others. If any term in the Agreement is inconsistent with any present or future laws, rule or regulation of the Exchange, the Clearing House or any authority having jurisdiction over the subject matter of the Agreement such provision shall be deemed to be rescinded or modified in accordance with any such law, rule or regulation. In all other respects, the Agreement shall continue and remain in full force and effect.

## **3. Authority**

**3.1** The Client (in the case of a corporation) authorizes the Authorized Person to have authority to represent the Client in all matters in relation to all Transactions or the Account with the Company to the extent determined by the Client and to sign on the Client’s behalf all such agreements and documents relating to the Account, Transactions and the Agreement. All such documents, Instructions or orders which, if given or signed by the Authorized Person, shall be absolutely and conclusively binding on the Client provided that verbal orders or instructions from any one of the Authorized Person (if so accept by the Company) shall be valid and effective and, if in writing and requires manual signature, the same shall be signed in accordance with the signing arrangement specified in the Account Opening Form.

**3.2** If the Client is an individual who wishes to appoint the Authorized Person, the Client shall in addition to completing the Account Opening Form, furnish to the Company a duly executed Third Party Mandate or other similar instrument of appointment in a form prescribed by or acceptable to the Company.

**3.3** The Client authorizes the Company to instruct such Correspondent Agent as the Company may in its absolute discretion deem fit to execute Transactions and acknowledges that the terms of business of such Correspondent Agent and the rules of any Exchange and Clearing House on and through which such Transactions are executed and settled shall apply to such Transactions and shall be binding on the Client.

**3.4** The Company shall not be liable to any default, omission or negligence on the part of the Correspondent Agent. Further, the Company shall not give any guarantee as to the solvency of the Correspondent Agent.

## **4. Commissions, Charges and Interest**

**4.1** On all Transactions, the Company is authorized to deduct the Company’s commissions and charges in connection with any Transactions effected with any person for the Client (as notified to the Client from time to time), all applicable levies imposed by the Exchange or Clearing House, brokerage, stamp duty, bank charges, transfer fees, interest and nominee or custodial expense immediately when it is due.

**4.2** The Company shall be entitled to deposit all monies held in the Account and all monies received for or on the account of the Client into one or more trust account(s) at one or more authorized institution(s) as defined in the BO or as otherwise permitted by the SFO.

**4.3** The Client shall pay interest on all debit balances on the Account (including any amount otherwise owing to the Company at any time) at such rates and on such other terms as the Company notifies the Client from time to time.

Such interest shall accrue on a day-to-day basis and shall be payable on the last day of each calendar month or upon any demand being made by the Company. Overdue interest shall be compounded monthly and shall itself bear interest.

- 4.4 The Company shall pay interest on the credit balance in the Account at such rate and under such conditions as the Company will notify the Client from time to time. The Client acknowledges and agrees that interest rates are subject to fluctuation and may be different from the rate of interest paid by the bank on the trust account where such credit balance is held by the Company for and on behalf of the Client's behalf.

## 5. Instructions

- 5.1 All Instructions shall be given by the Client (or its Authorized Person) orally either in person or by telephone, or in writing, delivered by hand, by post or by facsimile transmission.
- 5.2 The Client acknowledges and agrees that any Instructions given or purported to be given by any means to the Company by the Client or by any Authorized Person and which are acted on or relied on by the Company shall at all times be irrevocable and bind the Client, whether or not such Instructions are in fact given or authorized by the Client. Under no circumstance, has the Company any duty to enquire or verify the identity or authority of the person giving Instructions by any accepted means.
- 5.3 The Client acknowledges that once an Instruction has been given it may not be cancelled or varied in whole or in part unless with the written consent of the Company.
- 5.4 The Company, may in its discretion and without assigning any reason therefore, refuse to act for the Client or its Authorized Person in any particular Transactions.
- 5.5 The Company may, in its absolute discretion, accept Dealing Instruction and Assets Transfer Instruction given by the Client or the Authorized Person (as the case may be).

## 6. Dealing Practices

- 6.1 Any day order to purchase, sell or otherwise dispose of Securities or Derivative Product or Structured Product placed by the Client that has not been executed before the close of business of the relevant Exchange, OTC Market or such other expiration date required by the Exchange or such other later time as the Client and the Company may agree shall be deemed to have been cancelled automatically.
- 6.2 The Client authorizes the Company, at any time and at the Company's absolute discretion, for the purpose of obtaining a better execution price and/or reducing the volume of instructions, to consolidate and/or disaggregate the Client's Instructions to purchase and/or sell Securities on the Client's behalf with similar instructions received from the Company's other Clients, provided that such consolidation or disaggregation shall not result in the execution of the Instruction at a price less favorable than could have been achieved had the Instructions been executed individually, and provided further that, in the event of there being insufficient Securities available to satisfy purchase orders so consolidated, the number of Securities actually purchased shall be given to each individual Instruction in the order in which those orders were received by the Company.
- 6.3 The Client acknowledges that due to the trading practices of the Exchange or other markets in which Transactions are executed, it may not always be able to execute orders at the prices quoted "at best" or "of market" and the Client agrees in any event to be bound by Transactions executed by the Company following Instructions given by the Client.
- 6.4 Subject to the Applicable Laws and market requirements, the Company may in its absolute discretion determine the priority in the execution of its Clients' orders, having due

regard to the sequence in which such orders were received, and the Client shall not have any claim of priority to another Client in relation to the execution of any order received by the Company.

- 6.5 Unless otherwise agreed, in respect of each Transactions, unless the Company is already holding cash or Securities on the Client's behalf to settle the Transactions, the Client shall pay the Company cleared funds (including payment in a currency other than Hong Kong dollars) or deliver the Company Securities which are fully paid with valid and good title and in deliverable form by such time as the Company has notified the Client in relation to the Transactions. The Client shall be responsible to the Company for any losses and expenses resulting from the Client's settlement failures.
- 6.6 The Account shall be in Hong Kong dollars or such other currencies as the Company may agree from time to time with the Client. In the event that the Client instructs the Company to effect any Transactions in a currency other than Hong Kong dollars, any profit or loss arising as a result of fluctuation in the exchange rate of the relevant currencies will be for the account of the Client solely. Any conversion from one currency into another required to be made for performing any action or step taken by the Company under the Agreement may be effected by the Company in such manner and at such time as it may in its absolute discretion decide.
- 6.7 The Client acknowledges that telephone calls or other forms of communication between the Client and the Company may be recorded or otherwise electronically monitored without any warning messages and that the record may be used as final and conclusive evidence of the instructions in case of disputes.
- 6.8 If the Company engages the services of Correspondent Agent, the Company shall be entitled to accept and keep, for its own account, any commission or rebate which the Company may receive in respect of any business the Company supplies to them on behalf of the Client.
- 6.9 In particular, the Client confirms and acknowledges that the Client is obliged to comply with all the Applicable Laws as well as market practice relevant to the traded shares listed in foreign countries.
- 6.10 Unless otherwise agreed between the Client and the Company, the Company shall not accept any instruction from the Client to withdraw or transfer monies or assets from the Account to the other account(s) except that the account(s) receiving such monies or assets are in the name(s) of the Client.

## 7. Short Selling

- 7.1 The Client acknowledges that the Applicable Laws may prohibit the Company from placing a sale order on the Client's behalf when the order relates to the Securities which the Client does not own (the "Short Sell Order"). The Client undertakes that:
- (i) prior to placing a Short Sell Order, it will have entered into an effective securities borrowing arrangement or other form of cover acceptable to the Company which will ensure that the Securities in question will be delivered on the designated settlement dates; and
  - (ii) prior to execution of such an order, it will provide the Company such documentary assurance that any such order is covered as the Company shall specify.
- 7.2 The Client acknowledges that the Company has the right to request delivery of a copy of documentary evidence relating to the relevant Securities borrowing transaction including but not limited to, the lender's confirmation.

## 8. New Listing of Securities

- 8.1 In the event that the Client requests and authorizes the Company to apply for Securities in respect of a new listing

and/or issue of Securities on the Exchange as its agent and for its benefit or for the benefit of any other person, the Client hereby warrants to and for the Company's benefit that the Company has authority to make such application on the Client's behalf.

**8.2** The Client shall familiarize himself and comply with all the terms and conditions governing the Securities of the new listing and/or issue and the application for such new Securities set out in any prospectus and/or offering document and the application form or any other relevant document in respect of such new listing and/or issue and the Client agrees to be bound by such terms and conditions in any such transaction the Client may have with the Company.

**8.3** The Client hereby gives the Company all the representations, warranties and undertakings on which application for Securities in a new listings and/or issue is required to give (whether to the issuer, sponsors, underwrites or placing agents of the relevant Securities, the Exchange or any other relevant regulator or person).

**8.4** The Client hereby further declares and warrants, and authorizes the Company to disclose and warrant the Exchange on any application form (or otherwise) and to any other person as appropriate, that any such application made by the Company as its agent is the only application made, and the only application intended to be made, by the Client or on the Client's behalf, to benefit the Client or the person for whose benefit the Client's applying. The Client acknowledges and accepts that the aforesaid declaration and warranty will be relied upon by the Company and by the issuer, sponsors, underwriters or placing agents of the relevant Securities, the Exchange or any other relevant regulator or person in respect of any application made by the Company as the Client's agent.

**8.5** The Client acknowledges that any application made by an unlisted company which does not carry on any business other than dealing in Securities and in respect of which the Client exercises statutory control shall be deemed to be an application made for the benefit of the Client.

**8.6** The Client recognizes and understands that the legal, regulatory requirements and market practice in respect of applications for Securities may vary from time to time as may the requirements of any particular new listing or issue of Securities. The Client undertakes to provide the Company such information and take such additional steps and make such additional representations, warranties and undertakings as may be required in accordance with such legal, regulatory requirements and market practice as the Company may in the Company's absolute discretion determine from time to time.

**8.7** In relation to a bulk application to be made by the Company or the Company's agent on the Company's own account and/or on behalf of the Client and/or the Company's other clients, the Client acknowledges and agrees:-

(i) that such bulk application may be rejected for reasons which are unrelated to the Client and the Client's application and neither the Company nor the Company's agent shall, in the absence of fraud, negligence or wilful default, be liable to the Client or any other person in consequence of such rejection; and

(ii) to indemnify the Company in accordance with clause 18 if such bulk application is rejected either in circumstances where the representations and warranties have been breached or otherwise because of factors relating to the Client. The Client acknowledges that the Client may also be liable in damages to other persons affected by such breach or other factors.

## **9. Margin Account Trading**

**9.1** The Facility is extended to the Client in accordance with the provisions set out in these Terms and Conditions, any

facility letter from the Company to the Client and such other terms and conditions as may be specified by the Company from time to time (collectively called the "**Margin Facility Terms**").

**9.2** Subject to sub-clause 9.18 below, the Company may grant the Client Facility of such amount up to a limited percentage as may be notified to the Client from time to time (the "**Margin Ratio**") of the mark-to-market value of the Collateral. The Client shall from time to time upon the Company's request promptly and duly execute and deliver any and all such further instruments and documents as the Company may deem desirable for the purpose of obtaining the full benefit of the Margin Facility Terms and of the rights and powers granted under the same.

**9.3** The Company is instructed and authorized by the Client to draw on the Facility to settle any amounts due to the Company or its Associates in respect of the Client's purchase of Securities, margin maintenance obligations for positions required by the Company or its Associates, or payment of any commission or other costs and expenses owing to the Company or its Associates.

**9.4** The Company will not at any time be obliged to provide any Facility to the Client. In particular, the Client understands that the Company may not provide any Facility to the Client if any of the following circumstances arises:-

(i) if the Client is in default of any provisions of the Agreement; or

(ii) in the opinion of the Company there is or has been a material adverse change in the Client's financial condition or in the financial condition of any person which might adversely affect the Client's ability to discharge the Client's liabilities or perform the Client's obligations under these Terms and Conditions; or

(iii) making an advance would cause the applicable Margin Ratio to be exceeded; or

(iv) the Company in its absolute discretion considers it prudent or desirable for its protection not to do so.

**9.5** For so long as there exists any indebtedness to the Company on the Client's part, the Company shall be entitled at any time and from time to time to refuse any withdrawal of any or all of the Collateral and the Client shall not without the prior written consent of the Company be entitled to withdraw any Collaterals in part or in whole from the Client's Account.

**9.6** The Client shall on demand from the Company make payments of deposits or margin in monies, Securities and/or other collaterals in such amount and in such from and within such time as may be specified by the Company as the Company in its absolute discretion determines necessary to provide adequate security in respect of the Facility. Any payments to be paid by the Client shall be made into a designated account of the Company before 12:00 noon on the due date in same day funds.

**9.7** Any failure by the Client to comply with sub-clause 9.6 of these Terms and Conditions will constitute an Event of Default under clause 16 of these Terms and Conditions.

**9.8** The Client agrees to pay interest on a daily basis on the amount of credit extended to the Client, at the rates notified to the Client by the Company from time to time. Such interest charges may be deducted by the Company from the Account or any other account of the Client with the Company or its Associates.

**9.9** The Client, as beneficial owner, charges in favor of the Company by way of the first fixed charge all the Client's respective rights, title, benefits and interests in and to all Collateral as a continuing security ("Charge") for the payment and satisfaction on demand of all monies and liabilities absolute or contingent and performance of all obligations under the Margin Facility Terms which are now or at any time hereafter may be due, owing or incurred from or by the Client to the Company or its Associates, or for which the Client may be or become liable to the

Company or its Associates on any account or in any manner whatsoever (whether alone or jointly with any other person and in whatever name style or firm) together with interest from the date of demand to the date of repayment, and any commission, legal and other costs, charges and expenses as they appear in the records of the Company or its Associates.

**9.10** The Charge shall be a continuing security notwithstanding any intermediate payment or settlement of account or satisfaction of the whole or any part of any sum owing by the Client to the Company and/or its Associates and notwithstanding the closing of any of the Client's accounts with the Company and which are subsequently reopened or the subsequent opening of any account by the Client either alone or jointly with others and shall extend to cover all or any sum of monies which shall for the time being constitute the balance due from the Client to the Company or its Associates on any account or otherwise.

**9.11** The Client represents and warrants that the Collateral are legally and beneficially owned by the Client, that the Client has good right to deposit the Collateral with the Company or its Associates, that the same are and will remain free from any lien, charge or encumbrance of any kind and are not nor shall they be subject to any options and any stocks, shares and other securities comprised in the Collateral are and will be fully paid up.

**9.12** Upon irrevocable payment in full of all sums which may be or become payable under the Agreement and the full performance of the Client's obligations under the Margin Facility Terms, the Company will at the Client's request and expenses release to the Client all the rights, title and interests of the Company in the Collateral and will give such Instructions and directions as the Client may require in order to perfect such release.

**9.13** Until the Charge becomes enforceable, (i) the Company will have the right, subject only to giving the Client notice, to exercise voting rights and other rights relating to the Collateral to protect the value of the Collateral; and (ii) except as otherwise provided in the Agreement, the Client may direct the exercise of other rights attaching to or connected with, the Collateral, but not in any manner which is inconsistent with the Client's obligations under the Margin Facility Terms, or which in any way may prejudice the Company's rights in relation to the Collateral.

**9.14** The Client by way security irrevocably appoints the Company to be the Client's attorney on the Client's behalf and in the Client's name to do all acts and things and to sign, seal, execute, deliver, perfect and do all deeds, instruments, documents, acts and things which may be required for carrying out any obligation imposed on the Client by or pursuant to the Margin Facility Terms and generally for enabling the Company to exercise the respective rights and powers conferred on it by or pursuant to the Margin Facility Terms or by the Applicable Laws including (but without limitation):-

- (i) to execute any transfer or assurance in respect of any of the Collateral;
- (ii) to perfect its title to any of the Collateral;
- (iii) to ask, require, demand, receive, compound and give a good discharge for any and all monies and claims for monies due or to become due under or arising out of any of the Collateral;
- (iv) to give valid receipts and discharges and to endorse any checks or other instruments or orders in connection with any of the Collateral; and
- (v) generally to file any claims or take any lawful action or institute any proceedings which it considers to be necessary or advisable to protect the security created under the Margin Facility Terms.

**9.15** The Client agrees that in the event of any sale pursuant to these Terms and Conditions or the Margin Facility Terms,

any Collateral will be sold or disposed of in the absolute discretion of the Company and upon any sale by the Company, a declaration made by an officer of the Company that the power of sale has become exercisable shall be conclusive evidence of the fact in favor of any purchaser or other person deriving title to any of the Collateral under the sale and no person dealing with the Company or its nominees shall be concerned to inquire into the circumstances of the sale.

**9.16** Subject to the provisions of the SFO, the Client hereby authorizes and agrees that in respect of Collateral deposited with the Company by the Client (or on the Client's behalf) and for a period of 12 months from the date of the authorization, the Company shall be entitled to:-

- (i) deposit the Collateral with an authorized institution as collateral for any financial accommodation provided to the Company; or
- (ii) lend or deposit the Collateral to a person in accordance with the rules and regulations of the SEHK, HKSCC, or to a person of a class specified by relevant rules of the SFC; or
- (iii) deposit the Collateral with the HKSCC as collateral for the discharge and satisfaction of the Company's clearing obligations and liabilities; or
- (iv) deposit the Collateral with the SEHK Options Clearing House Limited as collateral in respect of the Company's transactions in or relating to options contracts.

Such authority may be renewed in writing for one or more further periods not exceeding 12 months at any one time.

**9.17** The Client acknowledges that by granting an authorization in sub-clause 9.16 of these Terms and Conditions, the Company can pool the Client's securities and deposit them as collateral for loans and advances. A third party may have rights to the Client's securities which the Company must satisfy before the securities can be returned to the Client. This may increase the risk of the Client's securities.

**9.18** The Facility is repayable on demand and may be varied or terminated in the absolute discretion of the Company. In particular the Facility will be terminated upon the occurrence:-

- (i) the withdrawal of the Client's authorization to the Company as contained in sub-clause 9.16 of these Terms and Conditions, or
- (ii) the non-renewal of such authorization in favor of the Company upon expiry or when called upon to do so; or
- (iii) any termination in accordance with sub-clause 9.18 and clause 17 of these Terms and Conditions, and any notice of termination for that purpose shall be deemed to be a notice of termination of the Facility.

**9.19** Upon termination of the Facility, any outstanding indebtedness by the Client shall forthwith be repaid to the Company.

**9.20** Repayment of all or any of the loan amounts owed to the Company will not itself constitute cancellation or termination of the Margin Facility Terms.

**9.21** Without prejudice to the generally of the foregoing, neither the Charge nor the amounts thereby secured will be affected in any way by: -

- (i) any other security, guarantee or indemnity now or hereafter held by the Company or its Associates under or in respect of the Margin Facility Terms or any other liabilities;
- (ii) any other variation or amendment to or waiver or release of any security, guarantee or indemnity or

other document (including, except to the extent of the relevant variation, amendment, waiver or release, of the Charge);

- (iii) the enforcement or absence of enforcement or release by the Company or its Associates of any security, guarantee or indemnity or other document (including the Charge);
- (iv) any time indulgence, waiver or consent given to the Client or any other person whether by the Company or its Associates;
- (v) the making or absence of any demand for payment of any sum payable under the Margin Facility Terms made on the Client whether by the Company or any other person;
- (vi) the insolvency, bankruptcy, death or insanity of the Client;
- (vii) any amalgamation, merger or reconstruction that may be effected by the Company with any other person or any sale or transfer of the whole or any part of the undertaking, property or assets of the Company to any other person;
- (viii) the existence of any claim, set-off or other right which the Client may have at any time against the Company or any other person;
- (ix) any arrangement or compromise entered into by the Company with the Client or any other person;
- (x) the illegality, invalidity or unenforceability of, or any defect in, any provision of any document relating to the Facility or any security, guarantee or indemnity (including the Charge) or any of the rights or obligations of any of the parties under or in connection with any such document or any security, guarantee or indemnity (including the Charge), whether on the ground of ultra vires, not being in the interests of the relevant person or not having been duly authorized, executed or delivered by any person or for any other reason whatsoever;
- (xi) any agreement, security, guarantee, indemnity, payment or other transaction which is capable of being avoided under or affected by any of the Applicable Laws relating to bankruptcy, insolvency or winding-up or any release, settlement or discharge given or made by the Client on the faith of any such agreement, security, guarantee, indemnity, payment or other transaction, and any such release, settlement or discharge shall be deemed to be limited accordingly; or any other thing done or omitted or neglected to be done by the Company or any other person or any other dealing, fact, matter or thing which, but for this provision, might operate to prejudice or affect the Client's liabilities under the Margin Facility Terms.

## 10. Derivative or Structured Product Transaction

**10.1** In effecting the Derivative or Structured Product Transaction, the Company may act either as the Client's agent or the principal subject to these Terms and Conditions contained herein. Unless otherwise provided in writing, the Company shall act as the principal to enter into transactions with the Client.

**10.2** In relation to any of the Derivative or Structured Product Transaction, the Company will make available to the Client a statement setting out the descriptions, the specifications, the features, the particulars and all other details relating to the relevant Derivative or Structured Product or the risk associated therewith (the "**Derivative or Structured Product Statement**"). Upon written request from the Client, the Company shall provide product specifications and any prospectus or other offering documents to the Client. The Client agrees and acknowledges that, subject to the Applicable Laws, the Company accepts no liability for the accuracy or correctness of any information, whether in the relevant specifications, descriptions, prospectus, offering, constitution documents or otherwise, obtained

or originated from third parties (including the issuer or counterparty of any of the Derivative or Structured Product) which may be provided to the Client.

**10.3** It is hereby agreed and declared that the Client will and are deemed to have read the Derivative or Structured Product Statement prior to the Client's entry into any Derivative or Structured Product Transaction and will fully understand the descriptions, specifications, features, particulars and other relevant details of the Derivative or Structured Product as well as the risks associated therewith.

**10.4** The Client acknowledges and agrees that the Client will seek independent and professional advice on the Derivative or Structured Product to be dealt with or the Derivative or Structured Product Transaction to be entered into by the Client where the Client considers fit and necessary.

**10.5** The Client agrees to ensure that, at the time when the Client gives its instructions to enter into the Derivative or Structured Product Transaction, the Client has deposited sufficient cleared funds in the Account or such other accounts for payment of such transaction value under the Derivative or Structured Product Transaction. Notwithstanding the foregoing, the Company may (but not obliged to) proceed to execute or effect the Client's instructions to enter into the Derivative or Structured Product Transaction despite that at the time when the Client gives its instructions, the Client does not have sufficient cleared funds in the Account or other accounts for payment of the transaction value without further notice to the Client. In that event, the Client shall place sufficient cleared funds into the Account or such other accounts as agreed by the Company as soon as possible for the purpose of payment of the transaction value subsequent to the Client's instruction given to the Company.

**10.6** Each of the Derivative or Structured Product Transaction entered into hereunder will be confirmed in writing by the Company for recording the agreed terms of the Derivative or Structured Product Transaction and which confirmation will set out sufficient details or particulars for identifying the Derivative or Structured Product Transaction (the "**Transaction Confirmation**"). The Transaction Confirmation constitutes a supplement to and forms an integral part of the agreement in relation to the Derivative or Structured Product Transaction. In respect of a particular Derivative or Structured Product Transaction, in the event of any inconsistency between the provisions of the relevant Transaction Confirmation and the other documents evidencing the terms and conditions thereof, the provisions of the Transaction Confirmation shall prevail.

**10.7** The Client has a duty to carefully examine all information, data, particulars and terms and conditions set out in the Transaction Confirmation and acknowledge the correctness of the Transaction Confirmation by countersigning the duplicate copies thereof and return them to the Company within 3 days of the date of issuance of the Transaction Confirmation or such other time limit as may be specified by the Company from time to time in the Company's absolute discretion. If no objection to the Company in writing is raised by the Client within 3 days of the date of issuance of the Transaction Confirmation or such other time limit as may be specified by the Company from time to time in the Company's absolute discretion, all information, data, particulars and terms and conditions in the Transaction Confirmation are deemed correct, conclusive and binding on the Client.

**10.8** The Client understands and acknowledges that the Client is obliged to settle the Derivative or Structured Product Transaction in cash or delivery of the specified underlying asset upon settlement on the specified settlement day (the "**Settlement Date**").

**10.9** Where the Derivative or Structured Product Transaction may expire unless appropriate action in connection with the redemption of the Derivative or Structured Product

Transaction is taken on the Settlement Date, the following provisions shall apply:-

- (i) it is the Client's sole responsibility to familiarize himself with the rights and terms of all of the Derivative or Structured Product Transaction and the Client is obliged to take appropriate action in connection with the redemption of the Derivative or Structured Product Transaction;
- (ii) if the Client fails or omits to instruct the Company at least 3 Business Days before the Settlement Date or within such specified period as the Company shall in the Company's absolute discretion determine:-
  - (a) where the redemption of the Derivative or Structured Product Transaction is not obligatory, it shall be conclusively deemed that the Client has irrevocably renounced all the Client's rights and entitlements regarding the redemption of such Derivative or Structured Product Transaction and the Company is entitled to deal with or otherwise dispose of such Derivative or Structured Product Transaction in the manner as the Company shall consider fit and appropriate; and/or
  - (b) where the redemption of the Derivative or Structured Product Transaction is obligatory, the Company is entitled to sell or transfer any specified underlying assets in the Account or all cash, assets, property otherwise deposited with or held by the Company and/or Associate to satisfy the Client's settlement obligations in the manner as the Company shall in the Company's absolute discretion determine. The Client shall fully indemnify and keep the Company indemnified from and against all losses, damages, interests, actions, demands, claims, legal proceedings whatsoever which the Company may suffer or sustain and all costs and expenses reasonably incurred by the Company as a result of effecting such a transferor sale and matters directly or indirectly relating thereto or otherwise to the Client's default in performance of the Client's settlement obligations hereunder; and
- (iii) should the Client instruct the Company at least 3 Business Days before the Settlement Date to take appropriate action for the redemption of the Derivative or Structured Product Transaction, the Company is not obliged to follow the Client's instruction to redeem unless and until sufficient cleared funds or specified underlying assets in an appropriate form (as the case may be) have been deposited with the Company when the Client gives its instruction and, in default thereof, the provisions of sub-clause 10.10(ii) above shall apply as if the Client has failed to give the Company punctual instruction.

**10.10** Where Derivative or Structured Product Transaction provides for settlement in cash or delivery of the specified underlying asset upon settlement on the Settlement Day, the Client represents and warrants to and undertakes with the Company that: -

- (i) where the Derivative or Structured Product Transaction provides for settlement in cash on the Settlement Date, the Client shall make available to the Company sufficient cleared funds to enable the Company to fully satisfy on the Client's behalf the Client's settlement obligations in respect of such Derivative or Structured Product Transaction before the Settlement Date. If the Client fails or omits to fulfil the Client's settlement obligations hereunder by the Settlement Date, the Company is authorized and empowered to sell or transfer any assets in the Account or all cash, asset or property otherwise deposited with or held by the Company and/or the Associate in satisfaction of the Client's settlement obligations. The Client shall fully indemnify and keep the Company indemnified from and against all losses,

damages, interests, actions, demands, claims, legal proceedings whatsoever which the Company may suffer or sustain and all costs and expenses reasonably incurred by the Company as a result of effecting such a sale and matters directly or indirectly relating thereto or otherwise to the Client's default in performance of the Client's settlement obligations; and/or

- (ii) where the Derivative or Structured Product Transaction provides for settlement by way of delivery of the specified underlying asset, the Client shall deliver the specified quantity of such assets in an appropriate form to the Company or otherwise settle such trade before the Settlement Date. If the Client fails or omits to fulfil the Client's settlement obligations by the Settlement Date, the Company is authorized and empowered to execute on the Client's behalf the purchase or acquisition of such assets as are necessary to satisfy the Client's settlement obligations hereunder. The Client shall fully indemnify and keep the Company indemnified from and against all losses, damages, interest, actions, demands, claims, legal proceedings whatsoever which the Company may suffer or sustain and all costs and expenses reasonably incurred by the Company as a result of effecting such a purchase or acquisition and matters directly or indirectly relating thereto or otherwise to the Client's default in performance of the Client's settlement obligations. The Company is also authorized and empowered to appropriate, withdraw and/or apply the relevant quantity of the appropriate assets from the assets the Client deposited with or held by the Company or the Associate so as to enable the Company to settle the Derivative or Structured Product Transaction.

**10.11** Without prejudice to the foregoing, the Company is not obliged to notify the Client of any upcoming Settlement Date from time to time or to take any action on the Client's behalf unless otherwise agreed by the Company in writing.

**10.12** Upon the Settlement Date, the Company shall be entitled to debit the entire amount payable for the Derivative or Structured Product Transaction (including, without limitation, the purchase price, all fees, commissions, stamp duties, taxes or levies incurred and all other reasonable expenses) from the Account or such other specified accounts.

**10.13** The net proceeds of the Derivative or Structured Product Transaction after deducting all brokerage, commissions, stamp duties and fees incurred and all other reasonable expenses shall first be applied towards payment and discharge (whether in whole or in part) of all indebtedness, if any, due and owing to the Company hereunder and the surplus, if any, shall be credited into the Account or such other specified accounts.

**10.14** The Client agrees that the Client is and remains fully responsible for all settlement and all other obligations arising in connection with any of the Derivative or Structured Product Transaction entered into in accordance with the Client's instructions, regardless of the amount of cleared funds in the Account or such other accounts. In addition, the Client agrees that the Company is at any time entitled to close out any or all contracts or agreements relating to the Derivative or Structured Product Transaction effected by the Company for or with the Client, cover any short position of the Client through the purchase of the underlying assets on SEHK, other relevant Exchange or the OTC Market or liquidate any of the Client's long position through the sale of the Derivative or Structured Product on SEHK, other relevant Exchanges or the OTC Market, or take any other action as the Company may in the Company's absolute discretion consider fit in relation to the relevant Derivative or Structured Product Transaction if, in the Company's reasonable opinion, the Company consider that the Client is or may be unable or unwilling to comply with any of the Client's settlement or other obligations in respect of the Derivative or Structured Product Transaction.



## 11. Electronic Service

- 11.1 On the issuance by the Company to the Client of its Login ID and Password, the Electronic Service shall be activated and the Company will notify the Client.
- 11.2 The Client agrees: -
- (i) that it shall use the Electronic Service only in accordance with these Terms and Conditions;
  - (ii) that it shall be the only authorized user of the Electronic Service;
  - (iii) that it shall be responsible for the confidentiality and use of its Login ID and Password;
  - (iv) that it shall be solely responsible for all Instructions entered through the Electronic Service using its Login ID and Password and any Instructions so received by the Company shall be deemed to be made by the Client at the time received by the Company and in the form received;
  - (v) that it shall immediately inform the Company if it becomes aware of any loss, theft or unauthorized use of its Login ID or Password;
  - (vi) that the Company has the right to suspend the Electronic Service if an incorrect Login ID and Password are entered on more than 3 occasions;
  - (vii) if the Client uses the Electronic Service that the Client accesses by computer, the Client agrees to provide the Company with the Client e-mail address, promptly provides the Company with any changes to the Client e-mail address and accepts electronic communications from the Company at the e-mail address the Client specified;
  - (viii) that it shall be bound by any consent the Client gives through the Electronic Service for the Company to provide any notices, statements, trade confirmations and other communications to the Client solely through Electronic Service; and
  - (ix) that it shall logoff the Electronic Service immediately following the completion of each Electronic Service session.
- 11.3 Upon such receipt of Instructions from the Client, the Company shall send an Instruction Acknowledgement. The Client agrees that its receipt of an Instruction Acknowledgement is not a guarantee that its Instructions will be executed. If the Client does not receive an Instruction Acknowledgement within 5 minutes following it entering Instructions into the Electronic Service, or if the Client receives an Instruction Acknowledgement with error, the Client is responsible for immediately contacting the Company to confirm that the Instructions were received. The Client further agrees that non-receipt by it of the Instruction Acknowledgement does not necessarily mean its Instructions will not be executed. In the event that the Client receives confirmation from the Company that the Instructions have been executed but not in Instruction Acknowledgement, the Client shall still be responsible for settling the trade.
- 11.4 Without limiting the generality of the foregoing, the Client acknowledges and agrees that it may not be possible to amend or cancel an Instruction after it has been given through the Electronic Service and that an Instruction may only be amended or cancelled if it has not been executed by the Company. In such circumstances the Company will use its best efforts to amend or cancel the Instruction but, notwithstanding any receipt by the Client of an Instruction Acknowledgement in relation to the amendment or cancellation, there is no guarantee that the amendment or cancellation will occur. If the amendment or cancellation does not occur, the Client shall remain liable for the original Instruction.
- 11.5 The Company may convey to the Client by the Electronic Service the Information. The Client may be charged a fee for the Information. The Company obtains the Information from Exchange and markets and from third-parties that transmit Information (collectively called the "Information Providers").
- 11.6 The Information is the property of the Company, the Information Providers or others and is protected by copyright. The Client shall not use the Information or any part thereof other than for its own use or in the ordinary course of its own business.
- 11.7 The Client agrees not to:-
- (i) reproduce, retransmit, disseminate, sell, distribute, publish, broadcast, circulate or commercially exploit the Information for any illegal purposes or in any manners without the express written consent of the Company and the relevant Information Provider(s);
  - (ii) use the Information for any unlawful purpose;
  - (iii) use the Information or any part thereof to establish, maintain or provide or to assist in establishing, maintaining or providing a trading floor or dealing service for trading in securities listed on the SEHK; and
  - (iv) disseminate the Information to third parties.
- 11.8 The Client agrees to comply with reasonable written requests by the Company to protect the Information Provider's and the Company's respective rights in the Information and the Electronic Service.
- 11.9 The Client shall comply with such reasonable directions as the Company may give from time to time concerning permitted use of the Information.
- 11.10 The Client acknowledges that the Electronic Service, and the software comprised in it, is proprietary to the Company. The Client warrants and undertakes that it shall not, and shall not attempt to, tamper with, modify, decompile, reverse engineer or otherwise alter in any way, and shall not attempt to gain unauthorized access to any part of the Electronic Service or any of the software comprised in it. The Client agrees that the Company shall be entitled to terminate the Electronic Service if at any time the Client breaches, or if the Company at any time reasonably suspects that the Client has breached, this warranty and undertaking.
- 11.11 The Client acknowledges that the Information or market data made available to it through the Electronic Service may be proprietary to third parties and the Client agrees that it will not upload, post, reproduce or distribute any Information, software or other material protected by copyright or other intellectual property right (as well as rights of publicity and privacy) without first obtaining the permission of the owner of such rights.
- 11.12 The Company, its Corresponding Agents and the Information Providers shall not be responsible for any losses, costs, expenses or liabilities suffered by the Client resulting from circumstances beyond the Company's reasonable control including, without limitation: -
- (i) delays, failure or inaccuracies in transaction of communications to or from the Company through telephone, electronic or other system that are not under the Company's control;
  - (ii) delays, inaccuracies or omission in or unavailability of research, analysis, market data and other Information prepared by third parties;
  - (iii) unauthorized access to communications systems, including unauthorized use of the Client access number(s), password(s) and/or account numbers; and
  - (iv) war or military action, government restrictions, labor disputes or closure of or disruption to orderly trading

on any market or Exchange, severe weather conditions and disaster.

**11.13** The Client agrees to defend, indemnify and hold the Company, its Corresponding Agents and the Information Providers harmless from and against any and all claims, losses, liability costs and expenses (including but not limited to attorney's fees) arising from the Client violation of the Agreement, the Applicable Laws or any third party's rights, including but not limited to infringement of any copyright, violation of any proprietary right and invasion of any privacy rights. This obligation will survive the termination of the Electronic Service.

**11.14** The Company reserves the right to terminate the Client's access to the Electronic Service or any portion of them in its sole discretion, without notice and without limitation, for any reason whatsoever, including but not limited to the unauthorized use of the Login ID, the Password and/or account number(s), breach of the Agreement or these Terms and Conditions, discontinuance of the Company's access to any Information from any Information Provider or termination of one or more agreements between the Company and Information Providers.

**11.15** In the event of termination by the Company, the Information Providers, and the Company shall have no liability to the Client; provided, however, that if the termination is without cause the Company will refund the pro rata portion of any fee that may have been paid by the Client for the portion of the Electronic Service not furnished to the Client as of the date of such termination.

**11.16** The Client acknowledges and accepts the risks of using the Electronic Service described below:-

- (i) if the Client undertakes Transactions via the Electronic Service, it will be exposed to risks associated with the Electronic Service system including the failure of hardware and software, and that the result of any system failure may be that its order is either not executed according to its Instructions or is not executed at all;
- (ii) that due to unpredictable traffic congestion and other reasons, the Electronic Service may not be reliable and that Transactions conducted via the Electronic Service are subject to delays in transmission and receipt of its Instructions or other Information, delays in execution or execution of its Instructions at prices different from those prevailing at the time its Instructions were given, transmission interruption or blackout, that there are risks of misunderstanding or errors in communication, and that there is also usually not possible to cancel an Instruction after it has been given. The Company accepts no responsibility for any loss which may be incurred by the Client as a result of such interruptions or delays or access by third parties. The Client should not place any Instruction with the Company by electronic means if the Client is not prepared to accept the risk of such interruptions or delays; and
- (iii) market data and other Information made available to the Client through the Electronic Service may be obtained by the Company from third parties. While the Company believes such market data or Information to be reliable, neither the Company nor such third parties guarantees the accuracy, completeness or timeliness of any such market data or information.

**11.17** In the case where the Company has entered into a licensing agreement with the Stock Exchange Information Service Limited ("**SEIS**"), the Client authorizes the Company to provide information on the Electronic Service supplied to the Client hereunder to SEIS, to enable the Company to comply with the license agreement between SEIS and the Company relating to market data feeds.

## 12. Conflict of Interest

**12.1** The Company and its directors, officers or employees may trade on its own account or on account of any of the Associates.

**12.2** The Company is authorized to buy, sell, hold or deal in any Securities or otherwise, or take the opposite position to the Client's order whether it is on the Company's own account or on behalf of the Associate or its other clients.

**12.3** The Company is authorized to match the Client's orders with those of other clients.

**12.4** The Company is authorized to effect Transactions in Securities where the Company or its Associate has a position in the Securities or is involved with those Securities as underwriter, sponsor or otherwise.

**12.5** In any of the events in this clause the Company shall not be obliged to account for any profits or benefits obtained.

## 13. Client Identification

**13.1** If the Client effects Transactions in Securities listed on the SEHK or derivatives related thereto for the account of clients, whether on a discretionary or non-discretionary basis, and whether as agent or by entering into matching transactions as principal with its clients, the Client hereby agrees that, in relation to a Transaction where the Company has received an enquiry from the SEHK and/or the SFC (the "**Hong Kong regulators**"), the following provisions shall apply.

**13.2** Subject as provided below, the Client shall, immediately upon request by the Company, inform the Hong Kong regulators of the identity, address, occupation and contact details of the Client for whose account the Transactions was effected and (so far as known to the Client) of the person with the ultimate beneficial interest in the Transactions. The Client shall also inform the Hong Kong regulators of the identity, address, occupation and contact details of any third party (if different from the Client/ultimate beneficiary) who originated the Transactions.

**13.3** If the Client effected the Transactions for a collective investment scheme, discretionary account or discretionary trust the Client shall, immediately upon request by the Company, inform the Hong Kong regulators of the identity, address and contact details of the scheme, account or trust and, if applicable, the identity, address, occupation and contact details of the person who, on behalf of the scheme, account or trust, instructed the Client to effect the Transactions.

**13.4** If the Client effected the Transactions for a collective investment scheme, discretionary account or discretionary trust, the Client shall, as soon as practicable, inform the Company when the Client's discretion to invest on behalf of the scheme, account or trust has been overridden. In the case where the Client's investment discretion has been overridden, the Client shall, immediately upon request by the Company, inform the Hong Kong regulators of the identity, address, occupation and contact details of the person(s) who has or have given the instruction in relation to the Transactions.

**13.5** If the Client is aware that its client is acting as intermediary for its underlying clients, and the Client does not know the identity, address, occupation and contact details of the underlying client for whom the Transactions was effected, the Client confirms that:-

(i) it has arrangements in place with its clients which entitle the Client to obtain the information set out in sub-clauses 13.2 and 13.3 from its client immediately upon request or procure that it be so obtained; and

(ii) it will, on request from the Company in relation to a Transaction, promptly request the information set out in sub-clauses 13.2 and [13.3 from the clients on whose Instructions the Transactions was effected, and provide the information to the Hong Kong regulators as soon as received from its clients or procure that it be so provided.

13.6 The Client confirms that, where necessary, it has obtained all relevant consents or waivers from clients, collective investment schemes, discretionary accounts or discretionary trust for whose account Transactions may be effected to release information to the Hong Kong regulators of the identity and contact details of such client, collective investment schemes, discretionary accounts or discretionary trusts, and of the person(s) with the ultimate beneficial interest in any such Transactions, and (if different from the client/ultimate beneficiary) of the person(s) who originated the Transactions.

13.7 The provisions of this clause shall continue in effect notwithstanding the termination of the Agreement.

#### 14. Confidentiality

14.1 The Company will keep information relating to the Account confidential but may provide any such information to the Exchange and the SFC or any other regulatory authority (including overseas regulatory authorities) to comply with their requirements or requests for information and to any of the Company's branches or Associates without any consent from or notification to the Client to the extent permitted by the Applicable Laws.

14.2 Where the Client is an individual, the Company is subject to the Hong Kong Personal Data (Privacy) Ordinance, which regulates the use of personal data concerning individuals. The Company's policies and practices relating to personal data are set out in annexure and annexed hereto and the Client acknowledges that it fully understands and accepts the provisions in annexure therein.

#### 15. Safekeeping and Disposal of Securities

15.1 The Client appoints the Company to act as Custodian for the Client to provide custody of Client's Securities. The Client agrees not to pledge, charge, sell, grant an option or otherwise deal in any Securities or money forming part of any Account without the prior written consent of the Company.

15.2 Any Securities held by the Company for safekeeping on behalf of the Client may, at the Company's discretion:-

- (i) (in the case of registrable Securities) be registered in the name of the Client or in the name of the Company's nominee; or
- (ii) deposited in safe custody in a designated account of an authorized institution as defined in the BO or with other institutions (in Hong Kong or elsewhere) which provides facilities for the safe custody of Securities. In the case of Securities in Hong Kong, such institution shall be acceptable to the SFC as a provider of safe custody service.

15.3 Where Securities are held by the Company for safekeeping pursuant to this clause, the Company shall itself, and shall procure any nominee or custodian appointed by it:-

- (i) collect and credit any dividends or other benefits arising in respect of such Securities to the Account or make payment to the Client as agreed with the Client. Where the Securities form part of a larger holding of identical Securities held for the Company's clients, the Client is entitled to the same share of the benefits arising on the holding as the Client's share of the total holding. Where the dividend is distributed either in the form of cash dividend or other forms, the Company is authorized to elect and receive on behalf of the Client cash dividend in the absence of contrary prior written Instruction from the Client; and
- (ii) comply with any directions received from the Client as to the exercise of any voting or other rights attaching to or conferring on such Securities provided that if any payment or expense is required to be made or incurred in connection with such exercise, neither the Company nor its nominee shall be required to comply with any directions received from the Client unless

and until it receives all amounts necessary to fund such exercise.

15.4 The Company and its nominee are not bound to redeliver to the Client the identical Securities received from or for the Client but may redeliver to the Client, at the office of the Company at which the Account is kept, Securities of like quantity, type and description.

15.5 Securities held by the Company for safekeeping pursuant to sub-clause 15.1 are held by the Company at the sole risk of the Client and the Company shall not be responsible for or liable in respect of any loss or damage suffered by the Client in connection thereof unless such loss or damage has been caused as a direct consequence of a gross act of negligence or fraud on the part of the Company.

15.6 Insofar as any such Securities do not constitute "Collateral" under the SFO and as defined in these Terms and Conditions, the Client hereby expressly authorizes the Company:-

- (i) to dispose of such Securities for the purpose of setting any liability owed by the Client (or who is the beneficial owner of such Securities) to the Company for dealing in Securities or financial accommodation provided by the Company to the Client which remains after the Company has disposed of all other assets designated as Collateral for securing the settlement of the liability; and
- (ii) for a period of 12 months from the date of authorization, to deposit or lend such Securities in accordance with the rules and regulations of the SEHK or the HKSCC, or to a class of persons specified in relevant rules of the SFC. Such authority may be renewed in writing for one or more further periods not exceeding 12 months at any one time.

15.7 The Client acknowledges and accepts that there are risks in leaving Securities in the custody of the Company, any nominee, custodian or institution or in authorizing the Company to deposit or lend the Securities, the Client agrees to accept these risks.

15.8 Any cash which are received or held by the Company on the Client's behalf, other than cash received by the Company in respect of Transactions and which is paid for settlement purposes or payable to the Client shall be credited to one or more segregated accounts, each of which shall be designated as a trust account or client account with the Client's bankers or with any other person approved by the SFC.

#### 16. Event of Default

16.1 Any one of the following events shall constitute an event of default (the "Event of Default"):-

- (i) the Client's failure to pay any deposits or any other sums payable to the Company or its Associates or submit to the Company any documents or deliver any Securities or property to the Company hereunder, when called upon to do so or on due date;
- (ii) default by the Client in the due performance of any of the terms of the Agreement and the observance of any by-laws, rules and regulations of the appropriate Exchange and/or Clearing House;
- (iii) the filing of a petition in bankruptcy, winding up or the commencement of other analogous proceedings against the Client;
- (iv) the death of the Client (being an individual);
- (v) the levy or enforcement of any attachment, execution or other process against the Client;

- (vi) any representations or warranties made by the Client to the Company in the Agreement or in any document being or becoming incorrect or misleading;
- (vii) any consent, authorization or board resolution required by the Client (being a corporation or a partnership) to enter into the Agreement being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;
- (viii) Client's failure to comply with sub-clause 9.6 of these Terms and Conditions; and
- (ix) the occurrence of any event which, in the sole opinion of the Company, might jeopardize any of its rights under the Agreement.

**16.2** If an Event of Default occurs, without prejudice to any other rights or remedies that the Company may have against the Client and without further notice to the Client, the Company shall be entitled to: -

- (i) immediately close the Account;
- (ii) terminate all or any part of the Agreement;
- (iii) cancel any or all outstanding orders or any other commitments made on behalf of the Client;
- (iv) close any or all contracts between the Company and the Client, cover any short position of the Client through the purchase of Securities on the relevant Exchange(s) or liquidate any long positions of the Client through the sale of Securities on the relevant Exchange(s);
- (v) dispose of any or all Securities held for or on behalf of the Client and to apply the proceeds thereof and any cash deposit(s) to settle all outstanding balances owing to the Company or its Associates including all costs, charges, legal fees and expenses including stamp duty, commission and brokerage properly incurred by the Company in transferring or selling all or any of the Securities or properties in the Account or in perfecting title thereto;
- (vi) borrow or buy any Securities required for delivery in respect of any sale effected for the Client;
- (vii) combine, consolidate and set-off any or all accounts of the Client in accordance with sub-clause 19.2; and
- (viii) terminate the Facility forthwith.

**16.3** All amounts due or owing by the Client to the Company under the Agreement shall become immediately due and payable if an Event of Default occurs.

**16.4** In the event of any sale pursuant to this clause:-

- (i) the Company shall not be responsible for any loss occasioned thereby howsoever arising if the Company has already used reasonable endeavors to sell or dispose of the Securities or any part thereof at the available market price;
- (ii) the Company shall be entitled to appropriate to itself or sell or dispose of the Securities or any part thereof at the available market price to any of the Associates without being in any way responsible for loss occasioned thereby howsoever arising and without being accountable for any profit made by the Company and/or any of the Associates; and
- (iii) the Client agrees to pay to the Company any deficiency if the net proceeds of sale shall be insufficient to cover all the outstanding balances owing by the Client to the Company.

## 17. Termination

**17.1** Either party may terminate the Agreement at any time by giving the other party no less than 5 Business Days notice

in writing. In particular, the Company may (but not obliged to) terminate the Agreement upon the occurrence of any one or more of the following events:-

- (i) the withdrawal or non-renewal upon expiry (or when called upon to do so) of the Client's authorization to the Company as contained in sub-clause 15.6 of these Terms and Conditions;
- (ii) the withdrawal of the Client's appointment of the Company as the Client's custodian in sub-clause 15.1;
- (iii) the Company genuinely believe that the Account is being operated or used for criminal or other unlawful activities; or
- (iv) such other cause as the Company shall consider appropriate.

Termination under this clause shall not affect any transactions entered into by the Company pursuant to the Agreement before the termination.

**17.2** Upon termination of the Agreement under this clause, all amounts due or owing by the Client to the Company under the Agreement shall become immediately due and payable. The Company shall cease to have any obligations to purchase or sell Securities, the Derivative Product and Structured Product on behalf of the Client in accordance with the provisions of the Agreement, notwithstanding any Instructions from the Client to the contrary.

**17.3** As soon as and in so far as is practicable upon termination of the Agreement, the Company shall sell, realize, redeem, liquidate or otherwise dispose of all or part of the Securities, the Derivative Product and Structured Product for such consideration and in such manner as the Company shall in its absolute discretion consider necessary to satisfy all indebtedness of the Client to the Company, at the Client's sole risk and cost and without any liability accruing to the Company for any loss or damage incurred by the Client.

**17.4** Any cash proceeds received by the Company pursuant to a sale, realization, redemption, liquidation or other disposal under this clause shall be credited to the Account and, as soon as is practicable after such cash proceeds have been credited, the net credit balance on the Account (if any) shall be returned to the Client, after first deducting or providing for all costs, charges, fees and expenses, (including legal expenses) incurred by the Company in such sale, realization redemption, liquidation or other disposal and all other monies and sums due or owing and other liabilities accrued or accruing due to the Company and outstanding (whether actual or contingent, present or future or otherwise). All Securities, the Derivative Product and Structured Product not realized or disposed of together with any relevant documents of title in the Company's possession shall be delivered to the Client at the Client's sole risk and expense, and the Company is not obliged to deliver the same by electronic means. The Company shall have no liability for any loss or damage incurred by the Client arising from such delivery.

**17.5** If a debit balance on the Account exists after application of the cash proceeds and deduction of any sums pursuant to this clause, the Client shall immediately pay to the Company an amount equal to such debit balance together with the Company's cost of funding such amount as notified to the Client by the Company up to the date of actual receipt of full payment by the Company (after as well as before any judgment).

**17.6** The Company may effect such currency conversions as are necessary for the purposes of this clause in each case at the spot rate of exchange (as determined by the Company in its absolute discretion) prevailing in the relevant foreign exchange market (as determined by the Company in its absolute discretion) on the relevant rate.

## 18. Liability and indemnity

**18.1** The Company will use all reasonable endeavors to comply with and carry out instructions given by the Client and

accepted by the Company concerning the Accounts or Transactions but neither the Company nor any of its directors, employees or agents (save where it has been established that they or any of them have acted negligently, fraudulently or in willful default) shall have any liability whatsoever (whether in contract, tort or otherwise) for any loss, expenses or damages suffered by the Client as a result of:-

- (i) any inability, failure or delay on the part of the Company to comply with or carry out any such instruction or any ambiguity or defect in any such Instruction; or
- (ii) the Company in a good faith acting or relying on any instruction given by the Client, whether or not such Instruction was given following any recommendation, advice or opinion given by the Company or any Associate or by any of its or their directors, employees or agents; or
- (iii) the Company failing to perform its obligations hereunder by reason of any cause beyond its control, including any governmental or regulatory restriction, closure of or ruling by any Exchange (or any division thereof), suspension of trading, breakdown or failure of transmission or communication or computer facilities, postal or other strikes or similar industrial action, or the failure of any Exchange, Clearing House, Correspondent Agent, other company or person whatsoever to perform its obligations; or
- (iv) any Exchange, Clearing House, Correspondent Agent or other company ceasing for any reason to recognize the existence or validity of Transactions entered into by the Company on behalf of the Client, or failing to perform or close out any such contract provided that such cessation or failure shall not affect the Client's obligation hereunder in respect of any such contracts or other obligations or liabilities of the Client arising therefrom; or
- (v) the mis-understanding or mis-interpretation of any instruction given or placed verbally or electronically or delays or errors in transmission owing to electronic traffic congestion or any other causes, or any mechanical failure, malfunction, suspension or termination of the continual operation or availability and mechanical failure or inadequacy of the Company's telephone or telecommunication system or installation in connection with the receipt and processing of Instructions transmitted by telecommunication devices and all other related equipment, facilities and service.

**18.2** The Client agrees to fully indemnify and keep indemnified the Company and its Associates and its Correspondent Agents and their directors, officers, employees and agents (collectively called the "Indemnified Persons") against any loss, cost, claim, liability or expense, including legal fees, that may be suffered or incurred by any and/or all of the Indemnified Persons, arising out of or in connection with any Transactions, or otherwise arising out of any action or omission by the Company in accordance with the terms of the Agreement (save where it has been established that the Company has acted negligently, fraudulently or in willful default) or arising out of any breach by the Client of any of its obligations under the Agreement, including any costs reasonably incurred by the Company in collecting any debts due to the Company or any unpaid deficiency in the Account, in enforcing the rights of the Company hereunder or in connection with the closure of the Account, and any penalty charged to the Company by any Exchange and/or Clearing House.

## 19. Set-off, Lien and Combination

**19.1** In addition and without prejudice to any general liens, rights of set-off or other similar rights to which the Company may be entitled under the Applicable Laws or the Agreement, all Securities, receivables, monies and other property of the Client (held by the Client either individually

or jointly with others) held by or in the possession of the Company at any time shall be subject to a general lien in favour of the Company as continuing security to offset and discharge all of the Client's obligations, arising from the Transactions, to the Company and its Associates.

**19.2** In addition and without prejudice to any general liens or other similar rights which the Company may be entitled under the Applicable Laws or the Agreement, the Company for itself and as agent for any of its Associates, at any time without notice to the Client, may combine or consolidate any or all accounts, of any whatsoever and either individually or jointly with others, with the Company or any of its Associates and the Company may set off or transfer any monies, Securities or other property in any such accounts to satisfy obligations or liabilities of the Client to the Company or any of its Associates, whether such obligations and liabilities are actual or contingent, primary or collateral, secured or unsecured, or joint or several.

**19.3** Without limiting or modifying the general provisions of the Agreement, the Company may, without notice, transfer all or any such or properties interchangeably between any Accounts and any other accounts of its Associates.

**19.4** All Securities and properties held for the Client's account shall be subject to a general right of disposal in the Company's favour, for the performance of the Client's obligations to the Company arising in respect of dealing in Securities for the Client. The Company may at any time, without prior notice to the Client, apply any credit balances (including amount payable to the Client arising from the sale of Securities) in any currencies to which the Client is at any time beneficially entitled on any accounts opened with the Company to set off against any liabilities owed to the Company (including amount payable to the Company arising from the purchase of Securities).

**19.5** If the Company fails to meet the Company's obligations to the Client pursuant to the Agreement, the Client shall have a right to claim under the Investor Compensation Fund established under the SFO, subject to the terms of the Investor Compensation Fund from time to time.

## 20. Joint and Several Liability/Successors

**20.1** Where the Client comprises two or more individuals:-

- (i) each such individuals shall be jointly and severally liable for all obligations under the Agreement;
- (ii) the Company may accept Instructions from, give receipts to and for all purposes deal with any one of such individuals unless the Company has received written instructions to the contrary;
- (iii) any payments made to any one of such individual shall be a valid and complete discharge regardless of whether such payments are made before or after the death of any one of more of such individuals;
- (iv) on the death of any of such individuals (being survived by any other such individuals), the Agreement shall not be terminated and the interest in account of the deceased will thereupon vest in and ensure for the benefit of the survivor(s) provided that any liabilities incurred by the deceased Client shall be enforceable by the Company against such deceased Client's estate. The surviving Client(s) shall give the Company written notice immediately upon any of them becoming aware of any such death.

**20.2** The Agreement shall be binding on the Client's heirs, executors, administrators, personal representatives, successors and assigns, as the case may be.

## 21. Transaction Notices and Reports

**21.1** The Company will report to the Client executions of Transactions (i) promptly by telephone calls or facsimile and (ii) by sending to the Client hard copy of the

transaction confirmation and account statement on the following Business Day.

- 21.2** The Client shall have a duty to examine the transaction confirmation, account statement and the monthly statement carefully and to notify the Company in writing of any alleged error or irregularity therein within 10 Business Days or such other period of time as may be specified by the Company generally or in any particular case, after either the date of dispatch of such confirmation or statement. Otherwise, the transaction confirmations, account statement and monthly statement shall be conclusive and the Client shall be deemed to have waived any such error and the Company will be released from all claims by the Client in connection with the statement or any action taken or not taken by the Company regarding the Account.

## **22. Representations and Warranties**

The Client represents, warrants and undertakes that:-

- (i) Its all-necessary consents or authorization which may be required for the Agreement have been obtained and are in full force and effect; and
- (ii) The Client has the authority and legal capacity to enter into and perform its obligations under the Agreement and the Agreement constitutes the valid and legally binding obligations of the Client.

## **23. Notices and Communications**

**23.1** All notices, reports, statements, confirmations and other communications shall be in written form which may be personally delivered or transmitted by post or facsimile if to the Client, at the address, facsimile number or electronic mail address given in the Account Opening Form or at such other address, facsimile number or electronic mail address as shall be designated by the Client in a written notice to the Company

**23.2** All such notices, reports, statements, confirmations and other communications shall be deemed to have been duly served:-

- (i) at the time of delivery or transmission, if delivered personally, by facsimile or Electronic Service as described in clause 11; or
- (ii) 2 Business Days after the date of posting, if sent by local mail; or
- (iii) 5 Business Days after the date of posting, if sent by overseas mail.

## **24. Amendments**

The Client agrees that the Company may amend the terms of the Agreement by giving the Client a notice of the changes in writing at any time. Any amendment to the Agreement shall be deemed to have been accepted by the Client unless written notice of objection is received by the Company within 30 Business Days after the date of dispatch of the notification by the Company.

## **25. Assignment**

The Client agrees that the Company may transfer its rights and obligations under the Agreement without prior consent from the Client. The rights and obligations of the Client under the Agreement may not be assigned without the Company's prior written consent.

## **26. Suitability**

**26.1** If the Company solicits the sale of or recommend any of the Financial Product to the Client, the Financial Product must be reasonably suitable for the Client having regard to

the Client's financial situation, investment experience and investment objectives. No other provision of these Terms and Conditions or any other document the Company may ask the Client to sign and no statement the Company may ask the Client to make derogates from this clause.

**26.2** For the purpose of clause 26.1, Financial Product means any securities, any futures contract or any leveraged foreign exchange contract as defined in the SFO.

## **27. General**

**27.1** Time shall in all respect be of essence in the performance of all of the Client's obligations under the Agreement.

**27.2** A failure or delay in exercising any right, power or privilege in respect of the Agreement by the Company will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or future exercise of that right, power or privilege.

**27.3** In the event of any difference in interpretation or meaning between the Chinese and English version of the Agreement, the Client and the Company agree that the English version shall prevail.

## **28. Third Party Rights**

**28.1** Without prejudice to clause 28.3, a person who is not a party to the Agreement has no right under the Third Parties Ordinance to enforce the rights under or to enjoy the benefit of any term of the Agreement.

**28.2** Notwithstanding any provision contained herein, the consent of any person who is not a party to the Agreement is not required to rescind or vary the Agreement at any time.

**28.3** Any director, officer, employee, affiliate or agent of the Company may, by virtue of the Third Parties Ordinance, rely on any provision herein (including without limitation any indemnity, limitation or exclusion of liability) which expressly confers rights or benefits on that person.

## **29. Tax Status**

The Client hereby certifies and acknowledges that, unless otherwise notified to the Company, the Client is not a US Person and is not subject to the tax of the United States of America. In particular, without limitation, the Client is also not an entity taxable as a corporation, or a partnership created or organized in or under the laws of the United States of America or any state or political subdivision thereof or therein, including the District of Columbia or any other states of the United States of America. The Client hereby consents to and authorizes the Company or any of the Associate to share or release the Client's information and data with or to domestic and overseas regulators, tax or other competent authorities (if necessary) to establish the Client's tax liability in any jurisdiction. The Client acknowledges and agrees that the Company or any of the Associate is authorized to withhold from the Account such amounts as the domestic or overseas regulators, tax or other competent authorities may from time to time determine in accordance with the Applicable Laws including, and without limitation, the FATCA. In the event of any change of the tax status, the Client hereby undertakes to notify the Company or any of the Associate in writing forthwith.

## **30. Governing Law and Jurisdiction**

The Agreement and all rights, obligations and liabilities hereunder shall be governed by and construed in accordance with the laws of Hong Kong and may be enforced in accordance with the laws of Hong Kong. The parties to the Agreement irrevocably submit to the non-exclusive jurisdiction of the Hong Kong Courts but the Company shall be entitled to enforce the Agreement in courts of other competent jurisdiction as the Company may select.

## PENSONAL DATA PRIVACY POLICY STATEMENT

### 1. DEFINITION

- 1.1 The defined terms used in the Terms and Conditions of Securities Account are adopted herein unless otherwise stated.

### 2. PURPOSE

- 2.1 This statement is issued under and pursuant to Personal Data (Privacy) Ordinance (the “**Ordinance**”).
- 2.2 The Company shall from time to time collect personal data (“**Data**”) from individual clients. The purposes for which Data relating to the clients may be used are as follows:-
- (i) the daily operation of the services and facilities provided to the clients;
  - (ii) to conduct credit check;
  - (iii) to assist other institutions to conduct credit checks;
  - (iv) to ensure clients’ ongoing credit worthiness;
  - (v) to design services or products for the clients’ use;
  - (vi) to market financial services or related products to clients;
  - (vii) to determine the amount of indebtedness owed to or by the clients;
  - (viii) to meet the requirements to make disclosure under the requirements of any applicable laws, codes, rules and regulations; and
  - (ix) any purposes relating to any of the foregoing.

### 3. DISCLOSURE

- 3.1 The Company may disclose and it is a condition of the Company providing services, products and information to the clients that each of the clients consents to the disclosure of all Data (and other information) to:-
- (i) any officer, employee, agent, servant, contractor or third party who provides administration, credit information, debt collection, telecommunication, computer, payment or other services to the Company in connection with the operation of its business;
  - (ii) any financial institution with which the clients have or proposes to have dealings;
  - (iii) regulatory authorities and other relevant government bodies; and
  - (iv) any other person under a duty of confidentiality to the Company including the Associate which has undertaken to keep such information confidential.
- 3.2 The Company shall share information regarding the clients among the Company and the Associate in accordance with strict internal security standards and confidentiality policies and with applicable laws.
- 3.3 Without prejudice to the generality of the foregoing, the Company does not share information about the clients with other companies except in order to conduct business, comply with applicable laws, rules and regulations, protect against fraud or make available special offers of products and services that may be of interest to the Client. The Company may also provide information to regulatory authorities and law enforcement officials in accordance with applicable laws, codes, rules and regulations.

### 4. MATCHING

- 4.1 The Company may, in accordance with the Ordinance and any other applicable laws match, compare or exchange any of Data or other information provided by, or in respect of the clients with Data or other information held by the Company or any other person for the purpose of:-
- (i) credit checking procedures;
  - (ii) Data verification;
  - (iii) otherwise producing or verifying Data which may be used for the purpose of taking adverse action against the clients or any other person at any time; and
  - (iv) transfer such Data to any place outside Hong Kong (whether for the processing, holding or use of such Data outside Hong Kong).

### 5. CLIENTS’ RIGHT

- 5.1 Under and pursuant to the provisions of the Ordinance, the clients have a right to:-
- (i) check whether the Company hold Data about the clients and has the right of access to such Data;
  - (ii) require the Company to correct any Data relating to the clients which is inaccurate; and
  - (iii) ascertain the Company’s policies and practices in relation to Data and to be informed of the kind of Data relating to the clients held by the Company.
- 5.2 Request for access and/or correct any Data that the clients have supplied shall be sent to the following address:-
- First Securities (HK) Limited  
Room 1708-10, 17/F., China Insurance Group Building,  
141 Des Voeux Road Central, Hong Kong  
Attn: The Data Protection Officer
- 5.3 In accordance with the provisions of the Ordinance, the Company has the right to charge a reasonable fee for the processing of any Data access request.

### 6. GENERAL

- 6.1 The Company has established high standards for protecting information regarding the clients from unauthorized alteration or destruction.
- 6.2 The Company shall hold its employee fully accountable for adhering to those standard, policies, laws, codes, rules and regulations relating to personal data privacy.
- 6.3 The Company shall continue to maintain its dedication to ensure that Data is properly used and appropriately safeguarded.

Date: November 2022

# 證券賬戶的章則及條款

## 1. 定義

**1.1** 在本章則及條款中，除非在上下文另有規定，否則下述的文字及詞語將具有下列所述的含意：-

“賬戶”指客戶現在或將來以自己名義在本公司開設的任何一個或多個證券（現金或保證金）、衍生及結構性產品交易賬戶。

“賬戶指令”指由本公司指定的有限公司、合夥人、獨資、個人或聯名賬戶開戶表格、印鑑卡及其他關於給予賬戶的開立、操作、保持或結清的指令及其他所有相關文件。

“協議”指就本章則及條款、賬戶指令及其他關於賬戶的約定或協定。

“適用法律”指所有時候及不時適用於客戶、本公司或相關交易的任何相關司法管轄區、市場或監管機構/主管機構之法律（不論是成文法或其他法律）、規則、規例、指引照會、指引、指令、通函、守則、監管手冊及披露要求。

“資產調度指示”指客戶或授權人（視屬何情況而定）指示本公司將賬戶項下資產調度至以客戶名義於其他證券公司或銀行開立的其他賬戶之指令。

“聯營公司”指有關本公司位於香港或其他地方的直接或間接控股公司、附屬公司或關聯公司。

“授權人”指協議中所指定的或依據可以發出關於賬戶或交易指示的人士而在開設賬戶時其姓名被客戶載於開戶表格中。

“銀行業條例”指香港法例第 155 章《銀行業條例》。

“營業日”指交易所開市進行買賣的任何一天（星期六、星期日、公眾假期和任何其他交易所宣佈的非營業日除外）。

“結算所”就香港聯交所而言，是指香港結算有限公司；就任何外地證券交易所而言，則指為向該外地證券交易所提供類似於香港聯交所提供服務的結算所。

“客戶”指於本公司不時開立及 / 或維持賬戶的客人。

“抵押品”指現時或此後存放在，或轉讓予，或促使轉讓予本公司、其聯營公司或代理人、又或由本公司、其聯營公司或代理人持有屬於客戶的全部款項和資產，或轉讓予或由其他人持有的款項和資產，而該等款項和資產為本公司接受作為客戶在協議產生的義務項下的擔保。抵押品應包括由本公司或其聯營公司就任何目的不時持有、保管或控制的款項及證券（其中包括任何附加或替代證券；就任何此等證券或附加證券或替代證券所支付或應付的股息或利息，以及在任何時候通過贖回、紅利、優惠、期權或以其他方式累計或提供的權利、利息、款項或財產）。

“本公司”指第一證券（香港）有限公司及其承繼人及受讓人。

“業務代理”指擔任本公司在香港或其他地方執行交易或結算的代理人，包括交易所或結算的任何成員。

“交易指示”指客戶或授權人（視屬何情況而定）指示本公司購買、出售或以其他方式處置證券、衍生及結構性產品之指令。

“衍生性產品”指金融或其他產品，其價值反映貨幣、利率、債券、金融工具、證券、金屬及其他商品、貨幣市場工具、參考指數或任何其他基準的回報或收益，包括但不限於，認股權證、期權、期貨及掉期。

“衍生性產品交易”指協議下進行的衍生性產品項下的交易。

“電子服務”指由本公司向客戶提供作證券或其他交易用途的電子交易服務，該服務的形式及範圍按本公司的絕對酌情權決定。

“交易所”指香港聯交所和任何外地證券交易所。

“融資”指由本公司就證券買賣向客戶提供的受本公司絕對酌情決定的條款所規管的保證金融資。

“外地證券交易所”指位於香港以外的某一個國家或地區，並依據該國家或該地區法律下獲准運作的證券交易所。

“FATCA”指《海外證券交易帳戶稅收合規法案》。

“香港結算”指香港中央結算有限公司。

“香港”指中華人民共和國香港特別行政區。

“資訊”指任何交易資料、叫價和賣盤價、新聞報導、第三方的分析報告、研究資訊及與證券和證券市場有關的其他資料。

“指示”指由客戶或其授權人向本公司按第 5 條款規定發出的任何指示或命令，包括客戶通過電子服務向本公司發出的指示。

“指示認收”指就一項指示而言（不管是指購買或出售證券或修訂或取消另一項先已發出的指示），指本公司就收到該項指示所作出的認收。

“登錄名字”指為存取電子服務而與密碼共同使用的客戶名字。

“場外交易市場”指櫃檯交易市場。

“密碼”指為存取電子服務而與登錄名字共同使用的客戶密碼。

“證券”指任何團體（不論是註冊公司或非註冊公司）或任何政府或任何地方政府當局的股份、股票、債權證、認股權證、債權股額、基金、債券和任何性質的票據，包括 (a) 該等股份、股票、債權證、認股權證、債權股額、基金、債券或票據的權利、選擇權或利益（不論是以單位還是以其他方法計算），(b) 關於該等股份、股票、債權證、認股權證、債權股額、基金、債券或票據的權益或參與證書、臨時或中期證書、收據或承諾認購或購買的證明書，(c) 股票指數的期權，和 (d) 一般稱為證券的文件。



“香港聯交所”指香港聯合交易所有限公司，包括其繼承人、受讓人以及因與其合併、結合或併後而產生或繼續存在的任何機構。

“證監會”指香港證券及期貨事務監察委員會。

“該條例”指香港法例第 571 章《證券及期貨條例》及其項下之所有規則及規例。

“結構性產品”指結合兩項或多項金融產品或工具，其中最少一項為衍生性工具。

“結構性產品交易”指協議下進行的結構性產品項下的交易。

“交易”指關於購入、認購、出售、交換或以其他方式處置任何種類或所有種類證券的買賣，包括（但不限於）證券保管、提供相關代理人或託管服務及在協議下或依據協議而施行的其他交易及衍生性產品交易及結構性產品交易。

“第三者條例”指香港法律第 623 章《合約(第三者權利)條例》。

“美國人士”指任何被 FATCA 被定義為美國人的人士，及包括下述任何一類或多類的人士：-

- (i) 美國公民或居民；
- (ii) 並非美國公民或國民，但已符合《1986 年國內收入法》(經修訂)及/或任何其他適用的法律、規則及規例規定下的「綠卡」測試或在相關曆年「在境內逗留相當長時間」的測試的人士；
- (iii) 選擇作為美國稅務居民的人士；及
- (iv) 不論其入息來源，須就其全球範圍內的入息繳納美國聯邦入息稅的任何其他人士。

**1.2** 本章則及條款之標題僅為方便閱讀而添加，並不影響本章則及條款的解釋及無法律效力。

**1.3** 除非另有說明，凡提及條款、分條款及附件，即指本章則及條款內的條款、分條款及附件。

**1.4** 在本章則及條款中，除非上下文文字有不同的要求，否則表示單數之詞語同時亦含複數之意思，反之亦然。表示其單一性的詞語包括任何性別之意思。

**1.5** 在本章則及條款中所指的任何法例，均被視作包括不時修訂、延展或重新制定以取代該法例之條文及其規則和規例。

**1.6** 在本章則及條款中所指之任何一方當事人均被視作包括其繼承人及受讓人。

## 2. 應用法律及規則

**2.1** 所有交易在執行時均應遵守應用於本公司的所有適用法律、交易所和結算所的慣例和做法（可經不時修訂）及市場實務，而所有交易對客戶均有約束力。

**2.2** 協議任何條款均是獨立而可與其他條款分開的。如協議任何條款與現行或未來的法律或與交易所、結算所或對協議擁有司法管轄權的任何當局的法律、規則或規例有衝突，該條款

將被認為已根據有關法律、規則或規例被刪除或修訂。在所有其他方面而言，協議均繼續保持完全有效。

## 3. 權限

**3.1** 客戶（若是公司）授權其授權人在涉及與本公司進行交易的一切事務上於客戶規定的範圍內代表客戶，並代表客戶簽署與賬戶、交易及協議有關的協議和文件。凡由授權人發出或簽署的文件，指示或買賣指令將對客戶有絕對而不可推翻的約束力，但前提是任何授權人發出的口頭指令或指示（如為本公司接納）都是真確的和具效力的，若以書面指令或指示而經親手簽署，則按照開戶表格指明的簽署安排。

**3.2** 如個人客戶欲指定授權人，除填妥開戶表格外，客戶還應向本公司呈交妥為簽署且格式是本公司所指定或可接受的第三方委託書或其他類似委任文件。

**3.3** 客戶授權本公司按其絕對酌情向其業務代理發出指示執行交易。客戶承認，該業務代理的業務經營條款、進行該交易的任何交易所的規則以及為該交易進行結算的任何結算所的規則，均應適用於該交易，且對客戶具有約束力。

**3.4** 本公司不會就業務代理的任何錯失、遺漏，疏忽承擔任何責任。再者，本公司不就業務代理的償還能力作任何保證。

## 4. 佣金、費用及利息

**4.1** 對於所有交易，凡與本公司代表客戶與任何人進行的任何交易有關的本公司佣金和收費（經不時通知客戶）、有關交易所或結算所徵收的所有適用稅費、經紀費、印花稅、銀行收費、轉讓費、利息以及代理人服務費或保管費，本公司獲授權在其到期應付時予以扣除。

**4.2** 本公司有權將賬戶內所有資金，及代客戶收取的或因客戶而收到的所有資金存入銀行業條例所界定的或該條例所批准的某個或多個認可金融機構的某個或多個信託賬戶。

**4.3** 客戶應按本公司不時通知客戶的利率及其他條款的規定，就賬戶項下所有結欠餘額（包括在任何時候欠本公司的任何款項）支付利息。利息逐日孳生，並應在每個公曆月的最後一天或在本公司提出付款要求時支付。逾期利息按月以複利每月計算一次。

**4.4** 本公司應按本公司不時通知客戶的利率及規定，就賬戶項下所有結存餘額支付利息。客戶承認並同意，這利率是會波動的，會不同於銀行就本公司代客戶持有的信託賬戶項下結存餘額所支付的利率。

## 5. 指示

**5.1** 所有客戶（或其授權人）指示應親自或通過電話以口頭方式，或以書面方式利用專人遞送、郵件或傳真發出所有指示。

**5.2** 客戶承認並同意，所有客戶或任何授權人以任何方式向本公司發出或意圖發出的而且本公司已據此行事或視之為依據的指示，無論任何時候都是不可撤銷的、對客戶有約束力的，且不論前述指示事實是否由客戶或是經客戶授權發出的。在任何情況下，本公司均無義務以任何已接受的方式對前述指示的人的身份或權力作出查詢或核實。

- 5.3** 客戶承認，除非本公司書面同意，客戶發出指令後可能不可全部或部份地取消或更改。
- 5.4** 本公司可以行使其酌情權，在不說明任何理由的情況下拒絕就任何特定交易代客戶或其授權人行事。
- 5.5** 本公司可以其絕對酌情權接受由客戶或授權人（視屬何情況而定）向本公司發出的交易指示及資產調度指示。

## 6. 交易常規

- 6.1** 凡客戶在任何一天發出購入或出售或處置證券、衍生性產品或結構性產品的買賣指令，若在有關交易所、場外交易市場營業時間結束時，或在該交易所規定的其他期限屆滿時，或在客戶和本公司雙方約定的其他較後時限結束時仍未執行，應被視為已自動取消。
- 6.2** 客戶授權本公司在任何時候按本公司的絕對酌情權，為了取得較好的買賣價格和 / 或減少指示數量而將關於代客戶購入和 / 或出售證券的客戶指示，與本公司收到的來自本公司其他客戶的類似指示，進行合併和 / 或分拆處理，但前提是這類合併或分拆不會導致以差於前述指示單獨分別執行時原可得到的價格來執行這類指示，而且在可獲得的證券數量不足以滿足合併後買盤數量時，實際所購證券的數量將按本公司接到這些買盤時每一指示的先後順序而定。
- 6.3** 客戶承認，由於交易所或其他市場在執行有關交易上的買賣慣例，要按“最佳”或“市場”報價執行買賣指令有時是不可能的。客戶同意，凡本公司按客戶指示執行的交易，客戶在任何情況下均受該交易的約束。
- 6.4** 在受適用法律以及市場要求約束的前提下，本公司可行使絕對酌情權，在適當考慮其接到各客戶買賣指令的先後順序後，決定其執行這些買賣指令的優先次序，而客戶不得就本公司執行它所接到的任何買賣指令提出關於其買賣盤優先於其他客戶的任何要求。
- 6.5** 除另有約定外，就每項交易而言，如非本公司已代客戶持有現金或證券而完成交易的結算，否則客戶應在本公司就該交易已通知客戶的有關時間，將經過清算的資金（包括非港元付款）支付給本公司，或向本公司交付價款已付清、所有權有效、形式符合交收要求的證券。客戶應承擔其對本公司就其未完成結算所造成損失和費用的責任。
- 6.6** 賬戶應為港元或本公司和客戶不時約定其他貨幣的戶口。如客戶指示本公司以港元以外的其他貨幣執行任何交易，凡因有關貨幣的匯率波動而造成的利潤或損失，均應由客戶獨自享有或承擔。依據協議進行任何貨幣兌換而必須採取的任何行動或措施，可由本公司按其絕對酌情權所定出的方式、時間來實施。
- 6.7** 客戶承認，客戶和本公司之間的電話或其他形式的通訊可以被錄音，或以其他電子方式予以監控而不發出任何警告，且在發生爭議時，有關錄音可被用作關於該指示的最終確鑿無疑之證據。

**6.8** 如本公司使用業務代理服務，本公司所收到以客戶名義向前述業務代理提供的任何商業服務有關的任何佣金或回扣，本公司有權接受並有權保留。

**6.9** 特別是，客戶承認及確認，客戶如需就外地上市的股票進行交易，必須符合所有適用法律。

**6.10** 除非客戶與本公司另有協議，本公司不會接受客戶發出的於賬戶提取款項或撥轉資產至其他賬戶的指示，除非該（等）賬戶是以客戶的名義開立。

## 7. 賣空

**7.1** 客戶承認，適用法律可能禁止本公司以客戶名義落盤出售客戶並不擁有的證券（下稱“賣空指令”）。客戶承諾：-

- (i) 在發出賣空指令前，其已訂立了確保有關證券於指定交收日交付的有效證券借貸或本公司可以接受的其他形式安排；及
- (ii) 在執行前述賣空指令前，其將向本公司提供關於保證前述賣空指令已有如本公司所明確規定的證券借貸安排文件。

**7.2** 客戶承認本公司有權要求其交付關於有關證券借貸安排的證明文件（包括但不限於貸款人的確認書）的副本。

## 8. 新上市證券

**8.1** 如客戶要求並授權本公司以其代理人身份為客戶或任何其他人的利益而申購在交易所新上市和 / 或新發行的證券，客戶茲向本公司及為了本公司利益而作出保證，即本公司有權以客戶名義提出前述申請。

**8.2** 凡是管轄新上市和 / 或新發行的證券及其申請的，而在該新上市和 / 或新發行的證券的招股章程和 / 或發售文件以及申請表或任何其他相關文件中已載明的條款和條件，客戶本人須熟悉了解並予以遵守，且客戶同意在其與本公司進行的任何有關交易中均受前述條款和條件的約束。

**8.3** 客戶茲向本公司在申請新上市和 / 或新發行的證券時必須作出（不論是向有關證券的發行機構、保薦人、承銷商或配售代理人，還是向交易所或任何其他有關監管機構或人士）一切陳述、保證和承諾。

**8.4** 客戶茲進一步聲明並保證，且授權本公司在申請表（或其他文件）中向交易所及其他人（若適當的）披露並保證：凡是本公司以代理人身份提出的申請，是客戶或以客戶名義為了客戶利益或客戶申請時所指定人士的利益而提出和擬提出的唯一一份申請。客戶承認並接受，本公司和有關證券的發行機構、保薦人、承銷商或配售代理人，以及與本公司以客戶代理人身份提出申請的有關交易所或任何其他有關監管機構或人士，均可信賴前述聲明和保證。

**8.5** 客戶承認，凡是除證券買賣外並無任何其他業務且受客戶法定控制的非上市公司，其所提出的申請應被視作為了客戶的利益而提出的申請。

**8.6** 客戶承認並理解，關於證券申請的法律和監管要求及市場慣例均會不時作出變更，如同任何特定的新上市和 / 或新發行證券要求的變更那樣。客戶承諾，為了遵守前述法律和監管要求及市場慣例（如本公司行使其絕對酌情權所不時決定的），其將向本公司提供必要的資料，採取必要的額外行動，作出必要的額外陳述、保證和承認。

**8.7** 對於本公司或其代理人為本公司自己提出的和 / 或代表客戶和 / 或本公司其他客戶提出的大批申請，客戶承認並同意：

- (i) 前述大批申請可能會因與客戶及客戶申請無關的原因而被拒絕接受，本公司和其代理人若無欺詐、疏忽或故意失責，則均不會就該拒絕接受的後果對客戶或任何其他人負有任何責任；及
- (ii) 在前述大批申請因違反陳述和保證或涉及客戶其他原因而被拒絕的情形下，依照第 18 條款向本公司作出賠償。客戶承認其應對前述違反或其他原因而令其他人受到的損害承擔責任。

## 9. 保證金賬戶交易

**9.1** 融資乃根據本章則及條款、本公司向客戶發出的任何授信書以及本公司不時指定的其他條件及條文載明的條款（統稱“保證金融資條款”）提供予客戶。

**9.2** 在符合下文第 9.18 分條款規定下，本公司可向客戶提供融資，其金額最高可達本公司不時通知客戶按市值折算的抵押品價值之一個限定百分比（下稱“保證金比率”）。客戶應不時按本公司要求，從速及正式簽署及交付本公司認為適宜的文書和文件，以便客戶能充份行使保證金融資條款下所授予的權利和權力以及盡享條款所帶來的全部利益。

**9.3** 客戶將指示和授權本公司從融資中提款，以便客戶就所購買的證券付款，或確保客戶能履行對本公司或其聯營公司就任何持倉量要求之維持保證金的義務，結清客戶欠本公司或其聯營公司的任何款項，或支付客戶欠本公司或其聯營公司的任何佣金及其他費用和開支。

**9.4** 本公司並不是在任何時候均會向客戶提供任何融資的義務。客戶尤其明白，如發生下列任何情況，本公司可不向客戶提供融資：

- (i) 若客戶不履行協議的任何條款；或
- (ii) 本公司認為客戶或任何人士的財務狀況有或已有嚴重不利變化，而導致客戶對履行其在本章則及條款項下的責任或義務的能力有負面影響；或
- (iii) 提供墊款將會超出適用的保證金比率；或
- (iv) 本公司按其絕對酌情認為，為了保障本公司，不提供融資是審慎或適宜的做法。

**9.5** 只要客戶對本公司仍有任何負債存在，本公司有權任何時候或不時拒絕提取任何或所有抵押品，而客戶不應在未經本公司事先書面同意下從客戶賬戶中提取部份或全部抵押品。

**9.6** 客戶應根據本公司的要求，按本公司指定金額、形式及時間，交付本公司按絕對酌情決定權確定為必要的訂金、保證金、證券及 / 或其他抵押品，以便就其融資提供足夠的擔保。客戶應將所需支付的任何款項在資金到期日同日中午 12 時前以即時可用現金的方式存入本公司指定的賬戶。

**9.7** 客戶若未能遵守本章則及條款第 9.6 分條款將構成本章則及條款第 16 條款下的失責事件。

**9.8** 客戶同意按本公司不時通知客戶的利率，就本公司給予客戶的融資金額按日付息。本公司可將此項利息費用從客戶在本公司或其聯營公司所開立的賬戶或其他賬戶中扣除。

**9.9** 作為實益擁有人，客戶為惠及本公司以第一固定押記方式對客戶在全部抵押品中的有關權利、所有權、利益和權益設定抵押（下稱“押記”），以便持續地擔保客戶按要求而須支付和清償現在或此後任何時候應由客戶向本公司或其聯營公司應付的、或客戶對本公司或其聯營公司所招致在保證金融資條款項下的所有絕對或未確定款項和負債，以及履行現在或此後任何時候應由客戶向本公司或其聯營公司履行在保證金融資條款下的所有義務；或支付和清償客戶就任何賬項或以任何方式（不管單獨或連同任何其他人士及不管以什麼名義、形式或商號名義）可能須向或將向本公司或其聯營公司負責支付的該等款項和負債，以及履行客戶就任何賬項或以任何方式（不管單獨或連同任何其他人士及不管以什麼名義、形式或商號名義）可能須向或將向本公司或其聯營公司負責履行的該等義務；並擔保客戶按要求而須支付和清償自該要求提出日期起至還款日期止的應計利息以及在本公司或其聯營公司的記錄中載明的任何佣金、法律費及其他費用、收費和開支。

**9.10** 儘管客戶有中途支付或結算賬款或清償客戶欠本公司及 / 或其聯營公司的全部或部份款項，以及儘管客戶取消其在本公司開立的賬戶並隨後重新單獨或連同其他人士開立賬戶，抵押應為一項持續性的擔保，該抵押將包括客戶目前就有關其任何賬戶中欠付本公司及 / 或其聯營公司的全部或任何結餘款項。

**9.11** 客戶說明並保證：抵押品乃由客戶合法和實益地擁有；客戶有充份權利將抵押品存放給本公司或其聯營公司；抵押品現時及將來均不會被設定任何種類的留置權、抵押或產權負擔，並且不會受制於任何認購權；並會及將會繳付抵押品中所包含任何股票、股份及其他證券有關的款項。

**9.12** 當客戶不可撤銷地繳足協議項下可能或將須支付的所有款項以及完全履行保證金融資條款下的義務後，本公司將應客戶要求並在客戶支付所需費用的情況下，解除本公司在抵押品中的所有權利、所有權和權益，並會應客戶要求發出指示和指引，以便能成功地解除擔保。

**9.13** 在可執行押記之前，(i) 本公司將有權在僅給予客戶通知的情況下行使與抵押品有關的投票權及其他權利，以保障抵押品的價值；及 (ii) 除協議另有規定，客戶可指示行使附於抵押品或抵押品有關連的其他權利，但其作出該項指示所採取的方式不得與客戶在保證金融資條款項下的義務相抵觸或在任何情況下可能影響本公司有關於抵押品的權利。

- 9.14** 客戶擔保不可撤銷地委任本公司為客戶的授權人，代表客戶並以客戶名義作出所有行為及辦理所有事情，以及簽署、蓋印、簽立、交付、完成及辦理所有可能需要的契據、文書和文件以及作出所有可能需要的行為及辦理所有可能需辦的事情，以便客戶可以履行保證金融資條款訂明的任何義務，並使本公司可一般地行使以或根據保證金融資條款或適用法律向其授予的有關權利和權力，包括（但不限於）：
- (i) 就任何抵押品執行任何轉讓或轉易；
  - (ii) 完成其對任何抵押品的所有權；
  - (iii) 請求、要求、索求、收取、了結及徹底清償在抵押品項下或因抵押品而引起的到期或將到期的任何及所有款項及申索的款項；
  - (iv) 提供有效的收據和解除書，並加簽與任何抵押品有關的任何支票或其他文書或指令；及
  - (v) 一般地提出任何申索或採取其認為必要和合宜的任何法律行動或法律程序，以保障在保證金融資條款項下設定的擔保。
- 9.15** 客戶同意，本公司可根據本章則及條款或保證金融資條款按其絕對酌情權決定銷售或處置任何抵押品；而本公司高級職員在銷售時將會聲明本公司可行使銷售權，而此聲明將是用以證明任何購買人或其他人士取得該出售的任何抵押品的所有權之確鑿證據；而與本公司或其代理人進行買賣的任何有關人士不得查究該項銷售的情況。
- 9.16** 在符合該條例的條文下，客戶特此授權並同意，就客戶（或代表客戶）存放在本公司的抵押品，本公司有權自授權生效的 12 個月期限內：
- (i) 將抵押品存放在一家經認可的機構，作為本公司取得任何財務融通的抵押品；或
  - (ii) 根據香港聯交所和香港結算的規則和規例將抵押品借給或存放在任何人士，或根據證監會的有關規則將其借給或存放在某一類別的人士；或
  - (iii) 將抵押品存放在香港結算，作為履行本公司結算義務和清償本公司結算責任的抵押品；或
  - (iv) 將抵押品存放在香港聯交所屬下的期權結算有限公司，作為本公司進行期權合約的交易或與期權合約有關交易的抵押品。
- 此項授權可以書面方式予以延續一個或多個期限而每次延續期不得超過 12 個月。
- 9.17** 客戶明白其根據本章則及條款第 9.16 分條款載明授權本公司之後，本公司可將客戶的證券匯集，將該等證券作為融資和墊款的抵押品存放。第三方可能對客戶的證券擁有權利，而在證券可交回客戶之前，本公司必須清償第三方根據其擁有權利而作出的索求。這樣可能會增加客戶的證券的風險。
- 9.18** 融資須按要求予以償還，而本公司可按其絕對酌情權決定權更改或終止融資。尤其在發生下述任何一項或多項事件，融資將終止：
- (i) 客戶撤回其根據本保證金賬戶協議第 9.16 分條款而向本公司授予的授權；或
  - (ii) 在本公司授權期限屆滿後或被要求對該項授權予以續期時不予以續期；或
  - (iii) 根據本章則及條款第 9.18 分條款及 17 條款作出任何終止；而該項終止的任何通知應視為終止融資的通知。
- 9.19** 融資終止後，客戶應立即償還所有未償還的融資給本公司。
- 9.20** 向本公司償還欠本公司的所有或任何融資金額，將不構成取消或終止保證金融資條款。
- 9.21** 在不損害前述條文的一般性原則下，其押記或所擔保的款項在任何情況下均不受以下各方面影響：
- (i) 現在及此後由本公司或其聯營公司根據保證金融資條款或任何其他負債持有的任何其他擔保、保證或賠償保證；
  - (ii) 對任何擔保、保證或賠償保證或其他文件（包括押記；但對抵押作出有關更改、修訂或予以放棄或解除者除外）作出任何其他更改或修訂或予以放棄或解除；
  - (iii) 本公司或其聯營公司強制執行或不予強制執行或解除任何擔保、保證或賠償保證或其他文件（包括押記）；
  - (iv) 由本公司或其聯營公司給予客戶或任何人士的任何時間寬容、豁免或同意；
  - (v) 本公司或任何人士有否要求客戶支付保證金融資條款下任何的應付款項；
  - (vi) 客戶無力償債、破產、死亡或精神錯亂；
  - (vii) 若本公司與任何其他人士進行合併、[重]併或重組；或若本公司將全部或任何部分的承諾、財產或資產售予或轉讓予任何人士；
  - (viii) 客戶在任何時候對本公司或任何人士存有申索權、抵銷權或其他權利；
  - (ix) 本公司與客戶或任何人士作出的任何安排或妥協；
  - (x) 與融資或任何擔保、保證或賠償保證（包括押記）有關的任何文件條款不合法、無效或不能予以強制執行或有任何欠妥之處；或任何根據或有關此等文件或任何擔保、保證或賠償保證（包括押記）下任何一方的權利或義務不合法、無效或不能予以強制執行或有任何欠妥之處，不管是否基於越權行為、是否合乎有關人士的利益或是否由任何人士正式予以授權、執行或交付或是否基於任何其他原因；
  - (xi) 任何協議、擔保、保證、賠償保證、付款或其他交易根據關於破產、無力償債或清盤的任何適用法律可能無效

或受到該法律影響；或客戶因相信該等任何協議、擔保、保證、賠償保證、付款或其他交易而作出任何讓予、結算或解除，而對任何此等讓予、結算或解除均視為有限的；或本公司或任何其他人士辦理、不辦理或疏忽辦理任何其他事情；或若沒有訂明此項條款，任何其他買賣、事實、事宜或事情可能不利於或影響客戶在保證金融資條款項下的負債。

## 10. 衍生或結構性產品交易

**10.1** 於所有衍生或結構性產品交易中，本公司可根據本章則及條款以代理人或當事人身份與客戶進行交易。除本公司另以書面聲明外，本公司會以當事人身份與客戶進行交易。

**10.2** 就任何衍生或結構性產品交易，本公司會向客戶提供產品說明書，載明有關衍生或結構性產品的描述、規格、特性、詳細資料及其他有關細節或其風險（下稱“衍生或結構性產品摘要”）。當客戶提出書面要求，本公司將向客戶提供衍生或結構性產品的規格或章程或其他要約文件。客戶同意及確認，受限於適用法律的情況下，本公司毋須對從第三者（包括但不限於任何衍生或結構性產品的發行機構或交易對手）處獲得或發放並提供予客戶的衍生或結構性產品的規格、描述、招股書、要約書、組成文件或其他文件的準確性及正確性承擔任何責任。

**10.3** 客戶將會及被視作於進行衍生或結構性產品交易前已細閱有關的衍生或結構性產品摘要，同時充分明白衍生或結構性產品的描述、規格、特性、詳細資料及其他有關細節以及涉及的風險。

**10.4** 客戶確認及同意，客戶如認為有需要，會就衍生或結構性產品交易尋求獨立及專業的意見。

**10.5** 客戶同意在客戶發出指示執行衍生或結構性產品交易時，須確保賬戶或指定賬戶中有足夠的已結算款項支付交易價值。即使上文另有規定，本公司有權（但非必要）在毋須再行通知客戶的情況下，按客戶的指示進行或執行該項衍生或結構性產品交易，儘管在客戶發出指示時，賬戶或其他賬戶的已結算款項不足以支付交易價值。在此等情況下，客戶在發出有關指示後應儘快將足夠的款項存入賬戶或由本公司同意的其他戶口以支付交易價值。

**10.6** 客戶根據協議通過本公司進行的每項衍生或結構性產品交易，將獲本公司發給確認書（下稱“交易確認書”），以確認衍生或結構性產品交易的條款。交易確認書載有足夠的詳細交易資料、條款及細則。交易確認書將構成協議就有關衍生或結構性產品交易的補充及組成部份。就特定的衍生或結構性產品交易而言，如交易確認書的條文或細則與其他證明有關交易條款及細則的文件存在差異，以交易確認書的條款及細則為準。

**10.7** 客戶有責任小心審閱所有載列於交易確認書的資料、資訊、詳細資料、條款及細則。在本公司發出交易確認書 3 日或由本公司不時酌情指定的期限內簽署交易確認書副本並將之送回本公司以確認有關衍生或結構性產品交易的準確性。倘若本公司在 3 日或由本公司酌情指定的期限內未收到客戶簽回交易確認書或就交易確認書內的衍生或結構性產品交易的條款或細則提出異議，則客戶將視為確認及接受交易確認

書內所有資料、資訊、詳細資料、條款及細則的準確性。同時，客戶此後不容否認交易確認書或其任何部份的準確性。

**10.8** 客戶明白及確認，衍生或結構性產品交易可規定於交收日（下稱“交收日”）以現金或相關資產交收。

**10.9** 就任何會到期的衍生或結構性產品交易，除非於交收日就衍生或結構性產品交易採取適當的贖回行動，否則以下規定將適用：-

(i) 客戶有全責了解客戶在衍生或結構性產品交易中的權利及交易條款，以及就衍生或結構性產品交易的贖回採取適當行動。

(ii) 如客戶未能在交收日前至少 3 個營業日或由本公司酌情指定的期限內發出指示給本公司：-

(a) 如衍生或結構性產品交易的贖回並非強制性的，則視客戶已不可撤銷地放棄與衍生或結構性產品交易的贖回有關的一切權利及應佔權益；及 / 或

(b) 如衍生或結構性產品交易的贖回是強制性的，本公司可全權酌情轉讓或出售賬戶中任何特定的相關投資或所有款項、資產、財產或其他存放於或由本公司及 / 或聯營公司代客戶持有的上述各項，以履行客戶的交收責任。如本公司因出售證券、資產或財產；或因與此直接或間接有關的事情；或因客戶未有履行交收責任，以致招致、蒙受或承受任何損失、損害、利息、行動、要求、申索、法律程序等及所有本公司合理招致的一切費用及支出，客戶須對本公司作出全數彌償；及

(iii) 如客戶在交收日前至少 3 個營業日或由本公司酌情指定的期限內，指示本公司就衍生或結構性產品交易的贖回採取適當行動，本公司毋須執行指示，除非本公司在客戶發出指示時，收到足夠的已結算款項或資產（視情況而定），否則上述第 10.10 (ii) 條的規定將適用，猶如客戶未有及時發出指示予本公司一樣。

**10.10** 如衍生或結構性產品交易規定以現金或相關資產進行交收，則於交收日進行交收時，客戶陳述、保證及承諾：-

(i) 如該衍生或結構性產品交易規定在交收日以現金進行交收，客戶須在交收日前，向本公司提供足夠的已結算款項，令本公司得以代客戶完全履行交收責任。如交收日已屆，但客戶未有履行交收責任，本公司獲授權出售或轉讓賬戶中任何的資產或所有款項、資產、財產或其他存放於或由本公司及 / 或聯營公司代客戶持有的上述各項，以履行客戶的交收責任。如本公司因出售證券；或因與此直接或間接有關的事情；或因客戶未有履行交收責任，以致蒙受或承受任何損失、損害、利息、行動、要求、申索、法律程序等及所有本公司合理招致的一切費用及支出，客戶須對本公司作出全數彌償；及 / 或

(ii) 如衍生或結構性產品交易規定以交付相關資產的形式進行交收，客戶須在交收日前，向本公司交付指定數量的資產或以其他本公司同意的方式進行交收。如客戶未

有在交收日或之前履行交收責任，本公司獲授權代客戶買入必需的資產以履行客戶的交收責任。如本公司因買入資產；或因與此直接或間接有關的事情；或因客戶未有履行交收責任，以致蒙受或承受任何損失、損害、利息、行動、要求、申索、法律程序等及所有本公司合理招致的一切費用及支出，客戶須對本公司作出全數彌償。本公司獲授權自客戶交付本公司及 / 或聯營公司或存放於本公司及 / 或聯營公司的資產或財產中，撥用、提取及 / 或應用有關數量的適當資產或財產，以就衍生或結構性產品交易進行交收。

**10.11** 在不影響上文規定下，除非本公司與客戶另有協議，本公司毋須不時通知客戶交收日將屆，或代客戶採取任何行動。

**10.12** 於交收日，本公司有權自賬戶或其他指定賬戶中支取衍生或結構性產品交易的整筆應付款項，包括但不限於買入價、一切費用、佣金、印花稅、稅項、徵費及其他所有合理招致的支出。

**10.13** 衍生或結構性產品交易在扣除一切經紀佣金、佣金、印花稅、費用及其他合理招致的支出後的所得淨款項，應首先用於償還（不論全部或部份）在協議下結欠本公司的一切債項，如有餘款，則存入賬戶或指定賬戶。

**10.14** 客戶同意，不論客戶的賬戶或指定賬戶有多少已結算款項，客戶仍須對本公司根據客戶的指示執行的任何衍生或結構性產品交易所產生的一切交收及其他承擔責任。此外，客戶同意倘若本公司按照本公司合理的意見認為或懷疑客戶現在或可能無法或不願意履行客戶對衍生或結構性產品交易的交收或其他責任，本公司有不受約束的酌情權，隨時結清本公司代客戶執行的任何或一切衍生或結構性產品交易合約，在聯交所、其他有關交易所或場外交易市場買入相關資產以平短倉，或在聯交所、其他有關交易所或場外交易市場賣出衍生或結構性產品以平掉長倉，或就有關衍生或結構性產品交易採取本公司酌情認為適當的其他行動。

## 11. 電子服務

**11.1** 本公司向客戶發給其登錄名字及密碼後，即可啟動電子服務，而本公司將會通知客戶。

**11.2** 客戶同意：-

- (i) 根據本章則及條款使用電子服務；
- (ii) 其為電子服務的唯一授權用戶；
- (iii) 對其登錄名字和密碼保密性和使用負責；
- (iv) 對使用其登錄名字和密碼而通過電子服務輸入的所有指示單獨負責；而本公司對所收到的任何指示，均會假定是由客戶以本公司所收到時間及形式；
- (v) 若得悉其登錄名字或密碼遺失、盜用或未經授權而被使用，將會立即通知本公司；
- (vi) 若其錯誤地輸入登錄名字和密碼超過三次，本公司有權終止其電子服務；

(vii) 若客戶以電腦使用電子服務，客戶同意將其電郵地址提供予本公司，並同意若其電郵地址有任何改變，將會從速通知本公司，以及在其指定的電郵地址接收本公司向其發出的電子通訊；

(viii) 客戶同意通過電子服務就本公司僅以電子服務向客戶提供任何通知、報表、交易確認書及其他通訊所作出的同意，是對客戶具有約束力的；及

(ix) 在電子服務的各個期間結束後，客戶應立即退出電子服務。

**11.3** 在收到客戶的指示後，本公司會發出一項指示認收。客戶同意，其收到一項指示認收並不保證其指示將獲得執行。若客戶將其指示輸入電子服務後 5 分鐘內仍未收到指示認收，或倘若收到指示存有誤差，客戶應負責立即聯絡本公司，以確認本公司收到其指示。客戶進一步同意，其未能收到指示認收並不一定表示本公司不會執行其指示。倘本公司向客戶確認已執行其指示但未有發出指示認收，客戶仍須負責結算該項買賣。

**11.4** 在不損害前述條文的一般性原則下，客戶承認並同意其通過電子服務發出指示後，將難以修訂或取消該指示，且僅在本公司尚未執行指示的情況下，才可修訂或取消該項指示。在這情況下，本公司將盡最大努力修訂或取消該項指示，但儘管客戶收到關於修訂或取消指示的一項指示認收，也不保證本公司將會作出該項修訂或取消。若本公司沒有修訂或取消客戶原本的指示，客戶仍須對該項指示負責。

**11.5** 本公司可通過電子服務向客戶傳遞資訊。客戶須就資訊支付費用。本公司會從交易所、市場及傳遞資訊的第三方（統稱“資訊提供者”）取得資訊。

**11.6** 資訊屬本公司、資訊提供者或其他人士的財產，且受版權保護。客戶除自用或在自己業務的正常過程中使用資訊外，不得在其他方面使用資訊或其任何部份。

**11.7** 客戶同意：-

- (i) 未經本公司及有關資訊提供者事先以書面方式明確表示同意，不會複製、再傳遞、傳播、出售、分發、發佈、廣播、傳閱或在商業上利用資訊作非法用途；
- (ii) 不會就任何非法目的使用資訊；
- (iii) 不會將資訊或其任何部份用於設立、維持或提供或協助設立、維持或提供買賣場地或買賣服務，以便買賣在香港聯交所上市的證券；及
- (iv) 不會向第三方傳播資訊。

**11.8** 客戶同意遵守本公司以書面發出合理要求，以保障資訊提供者和本公司在資訊及電子服務中的有關權利。

**11.9** 客戶應遵守本公司不時就批准使用資訊而合理地發出的指示。

- 11.10** 客戶確認，電子服務和其中包含的軟件屬本公司專有財產。客戶保證並承諾，其不應且不應試圖篡改、更改、取消編纂、逆轉設計或以其他方式更改電子服務的任何部份或其中包含的任何軟件，亦不應在未獲批准的情況下試圖存取電子服務的任何部份或其中包含的任何軟件。客戶同意，若客戶在任何時候違反本保證和承諾，或本公司在任何時候合理地懷疑客戶已違反本保證和承諾，本公司有權終止本電子服務。
- 11.11** 客戶確認其通過電子服務取得的資訊或市場資料可能是第三方專有的資訊或資料。客戶同意，除非事先取得此等權利的擁權人的批准，客戶不會上傳、錄製、複製或分發受版權或其他知識產權（以及宣傳和私隱權）保護的任何資訊、軟件或其他材料。
- 11.12** 對於客戶在本公司不能合理地控制的情況下所招致的任何損失、費用、開支或責任，本公司、其相關代理人及資訊提供者概不負責。該情況包括但不限於：-
- (i) 在不受本公司控制之電話、電子或其他系統而延遲、未能或不準確地處理向本公司發出的或從本公司收到的通訊；
  - (ii) 第三方所進行的研究和分析以及其已準備的市場資料及其他資訊有延誤、不準確或遺漏之處，或其未能進行該等研究和分析，及未能準備該等市場資料及其他資訊；
  - (iii) 未經授權進入通訊系統，包括未經授權使用客戶的存取號碼、密碼及 / 或賬戶號碼；及
  - (iv) 戰爭或軍事行動、政府限制、勞資糾紛、任何市場或交易所關閉或其正常交易秩序中斷、惡劣天氣狀況以及天災。
- 11.13** 對於因客戶違反協議、適用法律，或侵犯任何第三方的權利，包括但不限於侵犯任何版權、所有版權權利及私隱權而引起的任何及所有索償、損失、責任費用和開支（包括但不限於律師費），客戶同意為本公司、其相關代理人及資訊提供者抗辯，並向其作出賠償，使其免受損失。此項義務在電子服務終止後仍然有效。
- 11.14** 本公司保留可基於任何原因全權酌情決定終止客戶存取電子服務或其任何部分的權利，而無須向客戶發出通知及受任何限制；該等原因包括但不限於未經授權使用客戶的登錄名字、密碼及 / 或賬戶號碼、違反協議或本章則及條款、本公司未能繼續從任何資訊提供者取得任何資訊或本公司與資訊提供者所簽訂的一項或多項協議受到終止。
- 11.15** 倘本公司終止電子服務，資訊提供者及本公司對客戶將不會負上任何法律責任；但若本公司在沒有基於任何原因而終止電子服務，本公司將按比例向客戶退回自作出該項終止日期起客戶可能未向其提供的某部份電子服務所付的任何費用。
- 11.16** 客戶承認並接受使用電子服務須承擔下述風險：-
- (i) 若客戶通過電子服務進行交易，客戶須承擔與電子服務系統有關的風險，其中包括硬件和軟件故障、因任何系統發生故障而導致未能根據客戶的指示執行其買賣盤，或未能完全執行其買賣盤；
  - (ii) 基於難以預計的通訊擁塞及其他原因，電子服務可能不可靠；而通過電子服務所進行的交易可能受制於在傳遞和收取客戶指示及其他訊息方面出現延誤、在執行客戶指示方面出現延誤、或執行客戶指示時的證券價格不同於發出指示時的當時價格、傳遞中斷或訊號消失；須承擔的風險是在通訊上可能出現誤解或錯誤的情況；以及在一般情況下難以取消經已發出的指示。對於客戶因該等中斷或延誤或第三方存取資訊而可能招致的損失，本公司概不負責。若客戶並不準備承擔該等中斷或延誤的風險，客戶不應向本公司透過電子途徑發出任何指示；及
  - (iii) 通過本公司的電子服務向客戶提供市場資料及其他資訊可由本公司從第三方取得。雖然本公司相信此等市場資料或資訊可以信賴，但本公司和該第三方均不保證此等市場資料或資訊是準確、完整或適時的。
- 11.17** 倘本公司與香港聯交所資訊服務有限公司（下稱「聯交所資訊公司」）已簽訂特許權協議，客戶授權本公司向聯交所資訊公司提供與根據協議向客戶提供電子服務有關的資訊，使本公司可遵守本公司與聯交所資訊公司就市場資料饋送所簽訂的特許權協議。
- 12. 利益衝突**
- 12.1** 本公司及其董事、高級職員或僱員均可為其或任何聯營公司的利益而進行買賣。
- 12.2** 本公司獲授權購入、出售、持有或買賣任何證券或其他，或建立與客戶買賣指令相對的持倉，而不論本公司是自營買賣還是代聯營公司或其他客戶買賣。
- 12.3** 本公司獲授權將客戶的買賣指令與其他客戶的買賣指令進行對盤交易。
- 12.4** 凡本公司或其聯營公司持倉的證券，或以承銷商、保薦人或其他身份涉及其中的證券，本公司均獲授權執行前述證券的交易。
- 12.5** 在本條款所述任何情形下，本公司都無義務就賺取任何利潤或利益承擔責任。
- 13. 客戶鑑別**
- 13.1** 如果客戶為其委託人（不論是全權委託還是非全權委託）進行在香港聯交所上市的證券或相關衍生產品之交易，不論是以代理人身份進行買賣還是以受託人身份與其委託人進行對盤交易，客戶茲同意，就本公司收到來自香港交易所和 / 或證監會（下稱「香港監管機構」）查詢的某宗交易而言，以下條文將適用：
- 13.2** 如下述所規定，客戶應在本公司提出要求時，立即將所進行交易的委託人以及該交易的最終實益擁有人（只要客戶知

- 道)的身份、地址、職業以及聯絡方法詳情通知香港監管機構。客戶還應將促成該交易的任何第三方(如果不是客戶/最終的實益擁有人)的身份、地址、職業及聯絡詳情通知香港監管機構。
- 13.3** 如客戶為某一集體投資計劃、全權委託賬戶或全權委託信託進行交易，則客戶應在本公司提出要求時，立即將該集體投資計劃、全權委託賬戶或全權委託信託的身份、地址以及聯絡方法詳情通知香港監管機構，如適用的話，還應將代表該集體投資計劃、全權委託賬戶或全權委託信託的身份向客戶發出指示進行交易的人士之身份、地址、職業以及聯絡詳情通知香港監管機構。
- 13.4** 如果客戶為某一集體投資計劃、全權委託賬戶或全權委託信託進行交易，一旦客戶代表該集體投資計劃、全權委託賬戶或全權委託信託進行投資的酌情權被廢止，客戶應盡快通知本公司。如果客戶代表前述計劃、賬戶或信託行使的酌情權已被廢止，則客戶應在本公司提出要求時，立即將發出有關交易指示的人士之身份、地址、職業以及聯絡詳情通知香港監管機構。
- 13.5** 如果客戶知悉其委託人是以中介人身份為該委託人的有關客人行事，而客戶不知道該有關客人(代其進行交易)的身份、地址、職業以及聯絡詳情時，客戶應確認：-
- (i) 客戶與其委託人已達成安排，令客戶有權在有關要求提出後立即從其委託人處取得(或立即取得)第13.2分條款和第13.3分條款所規定的資料；以及
  - (ii) 在本公司就某項交易提出要求時，客戶將從速要求其委託人(交易是按該委託人指示執行的)提供第13.2分條款和第13.3分條款所規定的資料，並在收到或取得後將這些信息資料提供給香港監管機構。
- 13.6** 客戶確認(如需要的話)其已取得了其委託人、集體投資計劃、全權委託賬戶或全權委託信託(代他們進行交易)，就向香港監管機構披露前述委託人、集體投資計劃、全權委託賬戶或全權委託信託以及該交易權益最終的實益擁有人和促成該交易的任何人士(如不是委託人/最終的實益擁有人)之身份和聯絡詳情所發出的所有必要同意書或豁免書。
- 13.7** 即使協議終止，本條文將繼續生效。
- 14. 保密**
- 14.1** 本公司應對涉及賬戶的資料予以保密，但可在未經客戶同意或未通知客戶的情況下，將任何這類資料提供給交易所和證監會或任何其他監管當局(包括海外監管當局)以遵守關於資料的規定或要求，又或於適用法律容許的範圍內，提供給本公司的任何分支機構或聯營公司。
- 14.2** 若是個人客戶，本公司受到私人資料使用《香港個人資料(私隱)條例》的規管約束。附件列明了本公司在個人資料方面的政策和慣例並已附載於本章則及條款中，客戶承認其已完全了解並接受附件的條文。
- 15. 證券的保管與處理**
- 15.1** 客戶委任本公司為客戶的保管人從而給客戶證券提供保管服務。客戶同意，在未經本公司事先書面同意前，其將不會把任何賬戶項下之任何證券或任何資金抵押、押記或出售給他人，也不會授予他人關於前述證券或資金的選擇權或以其他方式處置前述證券或資金。
- 15.2** 凡是本公司代客戶保管的證券，在本公司行使酌情權時，本公司可以：-
- (i) (若是可登記證券)以客戶名義或以本公司代理人名義進行登記；或
  - (ii) 以代管方式存放在某一符合銀行業條例規定的認可金融機構或(在香港或其他地方的)經辦證券保管業務的其他機構。如果是香港的證券，則應是證監會認可的提供保管服務機構。
- 15.3** 凡本公司依照本條款規定予以保管的證券，本公司自己應當，且應當促使其所指定的任何代理人或保管人均：-
- (i) 將凡來自前述證券的股息或其他利益收集及貸記入賬戶，或將有關付款按客戶的約定給予客戶。凡屬於本公司代其他委託人持有同一種證券的持倉量一部分時，客戶有權享有的利益份額為客戶所持倉量佔該總持倉量的份額。當股息以現金股息或其他方式派發時，本公司獲授權在沒有客戶事前書面反對下，選擇代客戶收取現金股息；並且
  - (ii) 遵從客戶任何指令行使前述證券所附有的或授予前述證券的任何投票權或其他權利，但若行使前述權利將須支付或發生任何償付或費用時，除非且直至本公司已收到行使前述權利所繳付的款項，否則本公司或其代理人不會遵從客戶發出的任何前述指令。
- 15.4** 本公司及其代理人均無義務將其從客戶處收到或代客戶收到的原來相同證券重新交付給客戶，但可在賬戶開戶的那間本公司辦事處向客戶交付同樣數量、種類及形式的證券。
- 15.5** 凡本公司依據第15.1分條款予以保管的證券，均是在客戶獨自承擔風險的前提下由本公司代為持有，對於客戶因此而蒙受的任何損失或損害，本公司不承擔任何責任，除非前述損失或損害是因本公司單方面嚴重錯誤、失責或欺詐所直接造成。
- 15.6** 只要不屬該條例所界定的，且符合本章則及條款所定義的“抵押品”，客戶茲明確授權本公司：-
- (i) 為了償付客戶(或該等證券的實益擁有人)在買賣證券或由本公司向客戶提供財務融資時欠下本公司的任何債務(在本公司為了確保該債務的履行而已作為抵押品的所有其他資產在處置完畢後仍留下的債務)而處置該等證券；並且
  - (ii) 在授權之日起的十二個月內，依照香港聯交所或香港結算的規則和規例，將該等證券存放或貸予證監會有關規則所指明的一類人士。這授權可以書面方式單次或多次續期，但任何一次續期時間均不得超過12個月。



**15.7** 客戶承認並接受，讓本公司或讓任何代理人、保管人或機構保管證券或者授權本公司代為存放或貸出證券均存在風險，而客戶同意接受這些風險。

**15.8** 由本公司代客戶收取或持有的現金（此等現金不包括本公司就交易取得，而且須為交收而轉付或轉付予客戶的現金），須存入本公司在往來銀行或在任何獲證監會核准的人士處所開立一個或多於一個的獨立賬戶內，而每個該等賬戶均需指定為信託賬戶或客戶賬戶。

## 16. 失責事件

**16.1** 任何下列事件均會構成失責事件（下稱“失責事件”）：-

- (i) 在本公司提出要求或在到期日時，客戶未支付協議項下任何應付給本公司或其聯營公司的任何存款或其他款項，或者未向本公司呈交協議項下任何文件，或者未向本公司交付協議項下任何證券或財產；
- (ii) 客戶未適當履行協議任何規定，或者未遵守有關交易所和 / 或結算所的任何附屬條例、規則和規例；
- (iii) 提出客戶破產或清盤的申請，或啟動其他針對客戶的類似法律程序；
- (iv) 客戶（若是個人）去世；
- (v) 對客戶施加或強制執行任何扣押令、執行令或其他法庭命令；
- (vi) 客戶在協議中或在任何文件中向本公司作出的任何陳述或保證，是或將會變成不實或誤導的；
- (vii) 簽訂協議所需的客戶（若是公司或合夥商行）內部任何同意、授權或董事會決議已全部或部分被撤銷、中止、終止或不再完全有效；及
- (viii) 客戶未能遵循本章則及條款的第 9.6 分條款。
- (ix) 發生依本公司獨自判斷認為是會危及本公司在協議中任何權利的事件。

**16.2** 若發生失責事件，本公司將有權在不影響本公司所享有對客戶的任何其他權利或補償及不再通知客戶的情況下採取下列行動：-

- (i) 立即結束賬戶；
- (ii) 立即終止協議全部或部分條款；
- (iii) 取消任何或所有尚未執行的買賣指令或已以客戶名義作出的任何其他承諾；
- (iv) 結束任何或所有本公司與客戶間的合同，在短倉時向有關交易所購入證券為客戶平倉或有關交易所出售證券以結清客戶持有的長倉；
- (v) 處置其代客戶持有的或以客戶名義持有的任何或所有證券，並將處置證券所得資金以及任何結存現金用於償

付本公司或其聯營公司的所有尚未償還的欠款餘額，包括本公司的轉讓或出售賬戶項下全部或任何部份證券或財產，及完善所有權過程中所適當發生的全部成本，收費、法律費用以及諸如印花稅、佣金和經紀費等開支；

- (vi) 借入或購入應付交收所需已代客戶出售的任何證券；
- (vii) 依據第 19.2 分條款將客戶的任何或所有賬戶予以結合、合併和抵銷；
- (viii) 即時終止融資。

**16.3** 協議項下客戶應付給或欠本公司的所有款項，在失責事件發生時將立即轉成到期應付款。

**16.4** 若依據本條款出售時：-

- (i) 如本公司已盡一切合理的努力以當時可得到之市場價格出售或處置全部或任何部份證券，則本公司對因此而產生的任何有關損失（不論是怎樣產生）不承擔任何責任；
- (ii) 本公司有權以當時可得到之市場價格將全部或任何部份證券沖銷欠本公司的債務，或者出售或處置予任何聯營公司，而不對因此而產生的任何相關損失（不論是怎樣產生的）承擔任何責任，也不對本公司和 / 或任何聯營公司賺得的任何利潤承擔責任；以及
- (iii) 客戶同意，如出售所得資金不足以償還其欠本公司所有尚未償還的餘額，差額部分將由其支付給本公司。

## 17. 終止

**17.1** 任何一方均可在任何時候以至少五個營業日前書面通知另一方的方式終止協議。再者，本公司可以（但非必要）在下列任何一項或多項事件發生時終止協議：-

- (i) 客戶根據本章則及條款第 15.6 分條款所載，於授權本公司事宜期滿時（或當被要求執行時）被撤銷或不予以續期；
- (ii) 客戶根據第 15.1 分條款所載撤銷委任本公司為客戶的保管人；
- (iii) 本公司真誠地相信賬戶可能被操作或用作刑事或其他非法活動；或
- (iv) 其他本公司認為合適的原因。

依據本條款終止時將不會影響任何於協議終止前本公司根據協議所達成的任何交易。

**17.2** 協議依據本條款終止時，協議項下客戶應付給或欠本公司的所有款項將立即成到期應付款。本公司不再有任何義務按協議條文代客戶購入或出售證券、衍生及結構性產品，即使客戶另有相反意思的指示。

**17.3** 協議終止後，本公司應在實際可行的情況下，行使絕對酌情權償付客戶欠本公司的所有債務，以必須的交易代價和方式，儘快出售、變現、贖回、清算或以其他形式處置全部或

任何部分證券、衍生及結構性產品。前述處置風險和成本由客戶獨自承擔，本公司對客戶所遭受的任何損失或損害均不承擔任何責任。

**17.4** 本公司依據本條款出售、變現、贖回、清算或以其他方式處置所得到的任何現金均應貸記入賬戶，並應在此後儘快（在實際可行情況下）將賬戶的淨結存餘額（若有的話），先扣除本公司在前述出售、變賣、贖回、清算或其他形式處置中招致的所有成本、收費、用戶費、開支（包括法律費用），應付給或欠本公司的所有其他款項及金額，及已計或應計予付給本公司而尚未償付的所有其他債務（不論是實有的還是或有的，不論是現有的、將來的還是其他性質的）。或為前述各項作出撥備後退還給客戶。凡未變現或處置的證券、衍生及結構性產品，連同在本公司手中任何相關所有權的文件均應交付給客戶，而有關風險和費用則由客戶獨自承擔，而本公司並沒有責任把該等證券、衍生及結構性產品以電子方式交付。本公司對因前述交付而產生的任何損失或損害均不承擔任何責任。

**17.5** 依照本條款，如使用前述所得現金並在扣除所有款項後賬戶出現結欠餘額，客戶應立即向本公司支付金額等於該結欠額另加本公司籌集這筆資金成本的款項，而集資成本則按本公司已通知客戶的方法計算至本公司已實際全數收到（不論是在判決前還是在判決後）該欠款之日。

**17.6** 本公司可以為了本條款的目的，在上述每一個案下，按相關日期當時（本公司依其絕對酌情權決定）外匯市場之（本公司依其絕對酌情權決定）現貨匯率進行必要的貨幣兌換。

## 18. 責任與賠償

**18.1** 本公司將盡一切合理努力遵從並執行客戶發出而本公司已接受的有關於賬戶或交易的指示，但凡因下列原因而令客戶蒙受的任何損失、費用或損害，本公司或其董事、僱員或代理人均不負有任何性質（不論是合約責任、侵權責任還是其他責任）的任何責任（證實是由他們或他們之中任何一人的疏忽、欺詐或故意失責所造成的除外）：

- (i) 本公司無能力遵守或執行，或者沒有遵守或執行，或者延遲遵守或執行任何上述指示，或任何上述指示不明確或有瑕疵；
- (ii) 本公司真誠地依循客戶所發出的任何指示行事或信賴客戶所發出的任何指示，不論這些指示是否得到本公司或任何聯營公司或兩者的任何董事、僱員或代理人所提出的建議、諮詢或意見後發出的；
- (iii) 本公司因任何非其能控制的原因而未能履行其在協議中的義務，包括任何政府或監管方面的限制，任何交易所（或其任何部門）的關閉或裁定，買賣中止，傳輸或通訊或電腦設施事故或故障、郵政或其他系統的罷工或類似工業行動，交易所、結算所、業務代理、任何其他公司或人士未能履行其義務；
- (iv) 任何交易所、結算所、業務代理或其他公司以任何原因不再承認本公司以客戶名義達成的交易之存在或有效性，或者不履行或停止履行任何相關合同，但前述之終

止承認或不履行不應影響與任何前述合約有關協議項下客戶義務，也不應影響因任何前述合約而產生之客戶負有的其他義務或債務；

- (v) 錯誤理解或錯誤解釋任何口頭或電子形式發出的指示，或因電子傳輸線路阻塞或任何其他原因而導致的延遲傳輸或錯誤傳輸，或任何持續運作系統的機械性故障、機能失常、暫停或終止運作，或是與通過電訊設備傳輸的指示的接收和處理有關的本公司電話或電訊系統或裝置及其他相關設備、設施及服務的可用率不足、機械性故障或不足夠。

**18.2** 客戶同意，對於因任何交易而導致的或與之有關的，或因本公司依照協議規定而採取或不採取任何行動而導致的（證實是由本公司的疏忽、欺詐或故意失責所造成的除外），或因客戶違反其在協議中任何義務而導致的，且是本公司和其聯營公司、其業務代理及他們各自的董事、高級職員、僱員和代理人（統稱‘受償人’）中任何一個和/或全體所蒙受或發生的損失、成本、索賠、責任或費用（含法律費用），包括本公司在追收欠本公司的任何債務或賬戶項下任何尚未支付的不足款額過程中，及在強制執行協議項下本公司權利或與賬戶結束有關本公司權利過程中所合理發生的任何費用，還包括任何交易所和/或結算所對本公司徵收的任何罰款，客戶都將對受償人作出充分賠償，並維持對受償人作出賠償。

## 19. 抵銷、留置或賬戶合併

**19.1** 除了凡是本公司依據適用法律或協議享有的一般留置權、抵銷權或其他類似權利，且在不影響前述一般留置權、抵銷權或其他類似權利的前提下，凡本公司在任何時候持有的或在本公司手中的（由客戶獨自擁有或與他人共同擁有的）客戶的任何證券、應收款、資金及其他財產，均已以持續擔保方式在其上設定了有利於本公司之一般留置權，以抵銷及履行因交易而產生的客戶對本公司及其聯營公司之所有義務。

**19.2** 除了凡是本公司依據適用法律或協議享有的一般留置權或其他類似權利，且在不影響前述一般留置權或其他類似權利的前提下，本公司為了其自己（並以代理人身份為其任何聯營公司），在任何時候均可在不通知客戶的情形下，將客戶在本公司或其聯營公司處開設之任何性質的任何或所有賬戶（不論是個人的還是與其他人聯名的）進行合併或整合，本公司可以進行抵銷或轉移任何前述賬戶項下任何資金、證券或其他財產，以履行客戶對本公司或其聯營公司的義務或債務，不論這些義務和債務是實有還是或有的，不論是主義務、主債務還是從義務、從債務，不論是有抵押的還是無抵押的，不論是共同的還是各別的。

**19.3** 在既不限制也不修改協議一般性條文前提下，凡屬任何賬戶和其聯營公司任何其他賬戶間可以互換的任何或所有的證券或財產，本公司可不發出通知就予以轉移。

**19.4** 所有為客戶持有的戶口內的證券及其他資產均受制於本公司的全面處置權，以確保客戶履行對本公司代客戶買賣證券而產生的責任。本公司可於任何時間而無須通知客戶，運用客戶於本公司開設之任何戶口的任何幣值結餘（包括客戶因

賣出證券而需支出的款項)抵銷任何客戶對本公司之負債(包括買入證券而應向本公司支付的款項)。

**19.5** 倘本公司沒有依照協議的規定履行客戶的責任，客戶有權根據該條例成立的投資者賠償基金索償，惟須受投資者賠償基金不時的條款制約。

## 20. 共同及各別法律責任 / 繼承人

**20.1** 凡由兩個或多個人組成的客戶：-

- (i) 每人均對協議項下所有義務負有共同及各別責任；
- (ii) 本公司可接受由上述任何一人發出的指示發出收據並可就所有事項與上述任何一人交涉，除非本公司已收到意思與之相反的指示；
- (iii) 不管付款是在上述任何一人或多個人去世之前還是去世之後支付，向上述任何一人作出的付款均屬有效且全面履行的；
- (iv) 上述任何一人去世(但上述個人中任何其他人在世)時，協議是不可終止的，而賬戶項下去世者的權益將因此歸在世者，成為在世者的權益，但條件是本公司可以對該去世者的遺產執行該去世者所招致的所有債務。一旦任何在世者得悉上述任何一人去世時，各在世者均應立即以書面方式通知本公司。

**20.2** 協議對客戶的承繼人、執行人、管理人、私人代表、繼任人及受讓人(視乎情況而定)均具有約束力。

## 21. 交易通知和報告

**21.1** 本公司將向客戶報告交易的執行情況，報告方式為(i)立即以電話或傳真通知客戶，和(ii)在下一個營業日向客戶發出交易確認書和賬單。

**21.2** 客戶有義務仔細審閱交易確認書、賬單及月結賬單，並在有關交易確認書、賬單及月結賬單發出後的10個營業日內或本公司一般性地或就任何特定情況而訂明的其他時限內，以書面方式將前述確認書、賬單及月結賬單中任何指稱錯誤或異常的記錄通知本公司。否則的話，有關交易確認書、賬單及月結賬單應為結論性的，且客戶已放棄追究上述任何錯誤，而本公司也被免除了客戶提出的關於賬單的或關於本公司採取或未採取與賬戶有關的任何行動之所有索賠。

## 22. 陳述與保證

客戶作出以下各項陳述、保障和承諾：-

- (i) 協議指定應取得的一切必要同意或授權均已取得且具有完全效力；以及
- (ii) 客戶擁有權力並具有法律行為使其具能力簽訂協議並履行協議中的義務，且協議構成了客戶所負有的有效及有法律的約束力的義務。

## 23. 通知與通訊

**23.1** 所有通知、報告、賬單、確認書及其他通訊文書均應是書面的，可用專人遞送方式交付，或以郵件或傳真方式傳送，若是發給客戶的，應按開戶表格中列明的地址、傳真號碼或電子郵件地址，或按客戶在發給本公司書面通知中所指定的其他地址、傳真號碼或電子郵件地址發送。

**23.2** 所有上述通知、報告、賬單、確認書及其他通訊文書應被視為在下列時間正式送達：-

- (i) 若以專人遞送或以傳真或根據第11條條款以電子郵件方式發送的，則在交付或傳真時送達；
- (ii) 若以本地郵件發送的，則在郵寄日後第二個營業日起送達；或
- (iii) 若以海外郵件發送的，則在郵寄日後第五個營業日送達。

## 24. 修訂

客戶同意，本公司可在任何時候以書面通知客戶有關修改內容的方式，修訂協議條款。協議的任何修訂應被視為已獲得客戶的接受，除非本公司在發出有關通知後的30個營業日內收到不予接受的書面通知。

## 25. 轉讓

客戶同意，本公司可不經客戶事先同意就將其協議中的權利和義務轉讓他人。未經本公司事先書面同意，客戶在協議中的權利和義務不得轉讓。

## 26. 合適性

**26.1** 假如本公司向客戶招攬銷售或建議任何金融產品，該金融產品必須是本公司經考慮客戶的財政狀況、投資經驗及投資目標後而認為合理地適合客戶的。本章則及條款的其他條文或任何其他本公司可能要求客戶簽署的文件及本公司可能要求客戶作出的聲明概不會減損本條款的效力。

**26.2** 以第26.1條款為目的，「金融產品」指任何該條例所界定的證券、期貨合約或槓桿式外匯交易合約。

## 27. 一般事項

**27.1** 對於客戶履行協議項下的所有義務而言，在任何方面時間性均是最根本因素。

**27.2** 本公司未行使或延遲行使與協議有關的任何權利、權力或特權不會被視為棄權，且單次或部分行使任何權利、權力或特權不會妨礙該權利、權力或特權的任何後續行使或將來行使。

**27.3** 如協議中英兩種語文版本的釋義或涵義之間有不一致，客戶和本公司均同意以英文版本為準。

## 28. 第三方權利

**28.1** 於不損害第28.3條款的情況下，當一名人士並非協議的當事人，則其於第三者條例項下並無權力執行或享有協議項下任何條文的利益。

**28.2** 儘管協議的任何條文，於任何時候撤銷或修訂協議毋須取得非協議的當事人之同意。

**28.3** 所有本公司的董事、主管人員、員工，附屬機構或代理可以，憑藉第三者條例，依賴明確賦予該等人士的權利或權益之任何協議項下的條文(包括但不限於，任何彌償、限制或責任的豁免)。

## **29. 稅務狀況**

客戶謹此核證及確認，客戶並非美國人士(另已通知本公司者除外)，亦並非需繳交美國稅項的人士。特別是但不限於，客戶亦非一所根據美國或其州份或其政治分支(包括哥倫比亞特區或任何其他美國州份)的法律成立或組成的可課稅法團或合夥公司。客戶謹此同意及授權本公司或任何聯營公司於必要時分享或發放客戶的資料及訊息予本地及海外監管、稅務或其他主管當局以確立客戶於任何司法管轄區的稅務責任。當本地及海外監管機構或稅局要求時，客戶知悉及同意，本公司或任何聯營公司被授權可應本地及海外監管、稅務或其他主管當局的不時決定，並根據適用法律，包括但不限於，FATCA，從賬戶中預扣款項。如稅務身份有任何變動，客戶謹此承諾即時以書面告知本公司或任何聯營公司。

## **30. 適用法律及司法管轄權**

協議以及協議項下的所有權利、義務和債務均受香港法律管轄，並按香港法律進行解釋和強制執行。

# 個人資料私隱政策聲明

## 1. 定義

1.1 除非在上下文另有規定，本聲明採納證券賬戶章程及條款的專用詞。

## 2. 目的

2.1 此聲明是根據《個人資料（私隱）條例》（下稱“該條例”）而發出。

2.2 本公司可以於任何時候向個人身份的客戶收集其個人資料（下稱“個人資料”）。使用個人資料的目的如下：-

- (i) 向客戶提供服務及設施之日常運作；
- (ii) 進行信貸審查；
- (iii) 協助其他機構進行信貸審查；
- (iv) 確保客戶的信用維持良好；
- (v) 設計供客戶使用之服務或產品；
- (vi) 向客戶推廣金融的服務或有關產品；
- (vii) 釐定拖欠客戶或客戶拖欠之債務金額；
- (viii) 遵守適用的法律、守則、規則及規例的披露要求；及
- (ix) 與任何前述部份有關之任何用途。

## 3. 披露

3.1 本公司可向以下人士披露所有個人資料，而客戶同意披露所有個人資料（及其他資料）是本公司向客戶提供服務、產品及資訊的條件：-

- (i) 任何向本公司提供關於其業務運作上的行政管理、信貸資料、債務追討、電訊、電腦、繳款或其他服務的機構的高級職員、僱員、代理人、受僱人、承辦商或第三者；
- (ii) 客戶已與其進行或擬與其進行業務之任何金融機構；
- (iii) 監管當局及其他有關政府機構；及
- (iv) 任何有責任為本公司保密並已承諾對資料予以保密的其他人士，包括聯營公司。

3.2 本公司可根據嚴格的內部安全標準、保密政策及適用法律與聯營公司分享客戶資料。

3.3 在不損害上述條文的一般性的情況下，除為了進行業務、遵守適用法律、規則及規例，保護免受欺詐或向客戶提供本公司認為可能符合客戶利益之產品及服務優惠外，本公司不會將有關客戶的資料與其他公司共享。本公司亦可根據適用法律、守則、規則及規例向監管機構及執法機構人員提供資料。

## 4. 配對

4.1 本公司可根據該條例及其他適用法律將客戶提供或有關客戶的個人資料或其他資料，與本公司或任何其他人士持有之個人資料或其他資料進行配對、比較或交換，作以下用途：-

- (i) 信貸審查程序；
- (ii) 個人資料核對；
- (iii) 出示或核對個人資料，該等個人資料可能於任何時候對客戶或任何其他人士採取對其不利的行動時被使用；及
- (iv) 將此等個人資料轉往香港以外的任何地方（不論在香港以外處理、持有或使用此等個人資料）。

## 5. 客戶權利

5.1 根據該條例之條款，客戶均有權：-

- (i) 檢查本公司是否持有個人資料，及是否有權使用此等個人資料；
- (ii) 要求本公司更改有關客戶之任何錯誤的個人資料；及
- (iii) 確定本公司有關個人資料之政策及做法，以及獲告知本公司持有有關客戶之個人資料的種類。

5.2 查閱及 / 或改正客戶已提交之任何個人資料的要求請送交以下地址：-

第一證券（香港）有限公司  
香港中環德輔道中 141 號，  
中保集團大廈 17 樓 1708-10 室  
資料保護主任 啟

5.3 根據該條例之條款，本公司有權就處理任何個人資料的索取或查閱之申請收取合理費用。

## 6. 一般

6.1 本公司訂立了極高標準，以保護關於客戶的資料免受未經授權之更改或破壞。

6.2 本公司將約束僱員完全遵守關於個人私隱資料的標準、政策、法律、守則、規則及規例。

6.3 本公司會繼續竭力確保個人資料會被正確使用及受到適當保護。

日期：2022 年 11 月