



**PUBLIC BANK (HONG KONG) LIMITED**  
**PERSONAL NET BANKING SERVICES AGREEMENT (“Agreement”)**

**(Effective on and from 24 December 2011)**

**1. Interpretation**

1.1 In this Agreement, the following words and expressions shall have the following meanings:-

**"Accounts"**

means all accounts of the Customer maintained with the Bank, including lines of credit and overdraft facilities, which are designated by the Bank from time to time being accessible by the Customer through the Personal Net Banking Services;

**"Applicable Law"**

means, in relation to any person, action or thing, the following:

- (i) any law, rule or regulation of any country (or political sub-division of a country);
- (ii) any obligation under any license in any country (or political sub-division of a country); and
- (iii) any lawful and binding determination, decision, order, ruling, guidelines or direction of a regulator or competent court or authority in any country (or political sub-division of a country),

in each case, from time to time applicable to that person, action or thing.

**"Bank"**

means, collectively, Public Bank (Hong Kong) Limited, a company incorporated in Hong Kong whose registered address is situated at Public Bank Centre, 120 Des Voeux Road Central, Hong Kong, together with any or all of its subsidiaries and/or associated companies;

**"Bill Payment"**

means the Customer may from time to time instruct the Bank to effect payment to merchants, government, charity organization or any other third parties as pre-defined by the Bank from time

to time for bill settlement.

**"Content"**

means things that one may see, read, hear, download, install, modify or otherwise access on or via the Personal Net Banking Services and/or the Website (including but not limited to messages, files, Data, software, images, photographs, illustrations, expression, presentation, opinion, advice, form, format, mode or method of compilation, selection, configuration, text and other materials);

**"Computer System"**

means facilities (including, without limitation, any terminal, software, modem, computer equipment, electrical or wireless appliances and telecommunications facilities) for accessing and using the Personal Net Banking Services;

**"Customer"**

means any customer of the Bank who maintains any Account and who has successfully applied for the Personal Net Banking Services;

**"Data"**

means any representation of information (including any expression of opinion) in any Document;

**"Document"**

includes, in addition to a document in writing:

- (a) a disc, tape or other device in which Data other than visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced from the disc, tape or other device; and
- (b) a film, disc, tape or other device in which visual images are embodied so as to be capable,

with or without the aid of some other equipment, of being reproduced from the film, disc, tape or other device;

**"General Conditions"**

means, collectively, all the terms and conditions from time to time in force or as varied, amended or supplemented by the Bank governing the use of the Accounts and other related services of the Bank;

**"Hong Kong"**

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

**"Information"**

means any form of Data, news, report, information or material made available through the Personal Net Banking Services or the Website, which includes without limitation text, images, sound codes, computer programmes, software and databases, as well as any exchange rate, interest rate, price and computed amount (such as monthly repayment amount under a mortgage loan), whether or not given as a result of any Instructions;

**"Instructions"**

means any instructions given through the Website and/or the Personal Net Banking Services in accordance with the Bank's prescribed methods from time to time in force;

**"Login Name"**

means the name(s) or number(s) assigned by the Bank to the Customer or, if applicable, otherwise changed subsequently by the Customer and accepted by the Bank and to be used in conjunction with the PIN for obtaining authorised access to the Personal Net Banking Services;

**"One-time Password (OTP)"**

means a randomly generated password, valid for a particular transaction only, which will be transmitted to the Customer in accordance with Clause 3.6 for the purpose of additional security verification, as a means of identifying the Customer when he instructs the Bank to effect certain Transactions;

**" Personal Net Banking Services "**

means the services specified in Clause 2;

**"PIN"**

means the Personal Identification Number(s) and/or such other form(s) of login identification to be supplied by the Bank to the Customer or, if applicable, otherwise changed subsequently by the Customer and accepted by the Bank and to be used in conjunction with the Login Name of the Customer for obtaining authorised access to the Personal Net Banking Services;

**"Record"**

means information that is inscribed on, stored in or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form;

**"Transactions"**

means any deposit, transfers, Bill Payment, withdrawals, placements of fixed deposits or remittances of funds or currency, trading of stock, securities, notes, bonds, futures and financial instrument, or other transactions among, or (as the case may be) involving the operation of, the Accounts and any other accounts (whether held with the Bank or any other bank), and the service provider of Bill Payment ("JETCO") carried out through the Website or using the Personal Net Banking Services as the Bank may provide from time to time. While the Customer instructs the Bank to effect certain Transactions, the Bank may, in its sole discretion require the use of an OTP (One-time Password) for additional security verification. The Bank will notify the Customer of the Transactions which require OTPs from time to time.

**"Website"**

means the Personal Net Banking Services website.

1.2 In this Agreement, including its Schedules:-

- (a) references to Clauses and Schedules are to clauses of and schedules to this Agreement; and
- (b) words importing the singular include the plural and vice versa, words importing gender or the neuter include both genders and the neuter and references to persons include bodies corporate or unincorporate.

1.3 In construing this Agreement :-

- (a) general words introduced by the word "other" shall not be given a restrictive meaning because they are preceded by words indicating a particular class of acts, matters or things; and
- (b) general words shall not be given a restrictive meaning by particular examples intended to be embraced by the general words.

## **2. Personal Net Banking Services**

2.1 The Bank shall provide an electronic service that permits the Customer to gain access to the Accounts, to carry out Transactions and make enquiries and to obtain other services which the Bank may provide from time to time at its sole discretion through the use of any computers, or other telecommunication, wireless or similar access devices on the terms of this Agreement.

2.2 The Bank reserves the right to determine and vary the scope of the Personal Net Banking Services to be provided from time to time with prior notice (where practicable) to the Customer at the Bank's sole discretion, including but not limited to the right:

- (a) to modify, expand or reduce the scope of the Personal Net Banking Services and/or the Website;
- (b) to impose or vary any limitation and/or condition on the use of the Personal Net Banking Services, including but not limited to minimum and maximum limitations as may be prescribed by the Bank from time to time; and
- (c) to impose or vary any restrictions on the availability of certain parts of the Personal Net Banking Services, including but not limited to the imposition of restrictive service hours on, and suspension and/or discontinuance of, any part of the Personal Net Banking Services.

2.3 The Personal Net Banking Services are offered for the sole and exclusive use of the Customer and only in such jurisdictions and to such extent where and when they may be lawfully offered and processed under the Applicable Law.

2.4 Each use of the Personal Net Banking Services on the Website is subject to the terms of this Agreement as amended and in force at the time of each such use. The Bank may revise any terms of this Agreement from time to time on reasonable notice by post or by posting such changes on the Website.

- 2.5 Personal details of the Customer currently held by the Bank and/or supplied to the Bank upon registration of the Customer for the Personal Net Banking Services are in all material respects up-to-date, true and accurate and not misleading by omission or otherwise. The Customer unconditionally and irrevocably undertakes to notify the Bank in writing of any changes to such details as soon as reasonably practicable.
- 2.6 The Customer warrants that he shall (i) properly maintain all Accounts, (ii) fully comply with this Agreement and the General Conditions, and (iii) fully pay upon demand all fees, costs and expenses as may be prescribed by the Bank from time to time and associated with the use of and/or maintenance of, including without limitation all commissions as may be prescribed by the Bank from time to time and arising from any Transactions made in connection with, the Accounts and the Personal Net Banking Services.
- 2.7 The Customer shall not use or permit the use of the Website or the Personal Net Banking Services in whole or in part for any purpose, whether legal or illegal, other than as specifically intended to gain access to the Accounts to carry out Transactions, to make enquiries relating to the Accounts and/or to obtain other services which the Bank may at its sole discretion provide from time to time. In particular, but without limitation, the Customer shall not procure or knowingly allow any other person to:
- (a) disrupt or interfere with the Website and/or the Personal Net Banking Services or servers or other software, hardware or equipment connected to or via the Website and/or the Personal Net Banking Services;
  - (b) violate any Applicable Law relating to the Customer's use of the Website and/or the Personal Net Banking Services; or
  - (c) collect or store any information or Data about other users or party of the Website and/or the Personal Net Banking Services and/or the Bank other than those of the Accounts of the Customer or as permitted by the Bank expressly.

### **3. Access and Security**

- 3.1 The Bank will take such steps as it may deem reasonably practicable (i) to the intent that its systems in connection with the provision of the Personal Net Banking Services are installed with reasonably prudent security and designs and (ii) to control and manage the risks in operating the systems, taking into account the Applicable Law relating to the Bank.
- 3.2 Access to the Personal Net Banking Services may be provided through any premises as the Bank may designate including without limitation a private network connection or the World Wide Web. The Customer shall make available at his own cost a computer and other equipment and/or software with access to the Internet capable of viewing the Website and supporting his use of the Personal Net Banking Services at his own risks. For the avoidance of doubt, the Customer shall be solely responsible for obtaining access to the Internet and for all charges, costs and expenses charged by the

relevant internet service providers, including without limitation PNET charges and all other charges associated with the connection to the Website for the use of the Personal Net Banking Services.

- 3.3 The Website and the Personal Net Banking Services apply different advanced technologies to protect the data the Customer sends from the browser of the Customer via the server of the Bank and/or third party information and/or service providers to the ultimate product providers.
- 3.4 For security purposes, the Customer agrees to follow and adhere to guidelines and/or advice which the Bank may at its discretion, but not obliged to, issue from time to time in relation to the use of and access to the Website and/or the Personal Net Banking Services.
- 3.5 The Bank will issue the Customer with an assigned Login Name and a PIN as the Bank may from time to time specify, which must be used when obtaining access to the Personal Net Banking Services.
- 3.6 While the Customer is conducting certain transactions, the Bank may, at its sole discretion require the Customer to obtain from the Bank and use a One-time Password (OTP) for additional security verification. The Bank will transmit an OTP to the Customer either (a) by means of a SMS (Short Message Service) text message to the mobile phone number that the Customer has registered with the Bank; or (b) by such other means as the Bank may otherwise select or agree from time to time. Each OTP will only be valid for that particular Transactions and will expire in a short period of time.
- 3.7 The Customer agrees that he has sole responsibility for the safe custody and retention of his Login Name, PIN and OTP(s), and the Customer shall keep them strictly confidential at his own risks and must follow the precautions set out in the Bank's security notice to customers.
- 3.8 Upon receipt of the Login Name and the PIN and/or OTP(s) by the Customer, the Login Name, the PIN and/or OTP(s) shall be kept by the Customer at his own sole risk. If the Customer acts fraudulently or with gross negligence such as failing to properly keep the Login Name, PIN and/or OTP(s) secure and secret, the Customer shall be solely responsible for all costs and losses, whether directly or indirectly, arising out of or in connection with any unauthorised use of his Login Name, PIN and/or OTP(s) by a third party, including without limitation the consequences of any use of such information, the Content, the Personal Net Banking Services and the Website.
- 3.9 The Customer shall notify the Bank as soon as reasonably practicable by telephone at such telephone numbers or in writing to such address of the Bank as may be designated by the Bank from time to time, or in person at one of the Bank's branches if the Customer has reason to suspect or become aware of any disclosure or unauthorised use of the Login Name and/or the PIN of the Customer, or any loss or theft of the mobile phone SIM card with mobile phone number (or associated mobile phone handset) registered with the Bank for the purposes of receiving OTP transmissions. Otherwise, the Customer may be held liable for the losses.
- 3.10 The Bank is authorised (but not obliged) to act on any Instruction that the Bank, in its absolute discretion, believes to have been given or authorised by the Customer (whether or not such Instruction was in fact given or authorised by the Customer) relating to the use of the Personal Net Banking Services. The Bank shall be under no duty and liability to verify the validity and/or authenticity of any

Instructions once the correct Login Name, PIN and/or OTP(s) of the Customer have been inputted and accepted to gain access to and use the Personal Net Banking Services. The Bank is entitled to treat such Instructions as having duly authorised and approved by the Customer, even if they conflict with the terms of the mandates of the Accounts. If the Customer acts fraudulently or with gross negligence such as failing to properly keep the Login Name, PIN and/or OTP(s) secure and secret, the Customer shall indemnify and keep the Bank fully indemnified at all times of all losses and damage as it may suffer or sustain arising out of or otherwise in connection with complying with or executing any such Instructions.

#### **4 Information and Transactions**

- 4.1 The Bank does not in any way warrant that (i) any services provided in connection with or any of the Customer's use of the Personal Net Banking Services and/or the Website will be free of errors, interception or interruption; or that (ii) the Information, Content, or other materials provided, used or accessible in connection with the Personal Net Banking Services and/or the Website will be free of viruses, disabling devices or other contaminants. The Customer acknowledges that all Information is for reference only and shall not in any circumstances be binding or intended for trading or any other purposes. The Customer further acknowledges that the Bank's internal Records of the Accounts, Transactions and Information shall be conclusive save for obvious error or unless the contrary is established by the Customer to the Bank's satisfaction. For the avoidance of doubt, the Bank may use such updated Information as may be available at the time of executing any Instructions of the Customer for any Transactions, and such Transactions shall be binding on the Customer notwithstanding different Information may have been quoted by the Bank via the Personal Net Banking Services and/or the Website.
- 4.2 Instructions shall not be deemed executed unless so stated in the Bank's regular statements of the Accounts and/or confirmation of execution given by the Bank online and/or other means of advice. The Customer agrees and acknowledges that it is his sole responsibility to keep records of such statements, confirmation and/or advice given by the Bank, and save for manifest error or unless proved to the contrary by the Customer to the Bank's satisfaction, the Bank's record shall be deemed as conclusive and binding.
- 4.3 Without prejudice to any other terms of this Agreement, the Customer agrees that he is under a duty to promptly check and verify the contents of each of the Bank's regular statements of the Accounts and/or confirmation of execution given by the Bank online and/or other means of advice, and report to the Bank any discrepancies if necessary, in accordance with the provisions of the General Conditions as soon as possible. Such online advice and/or confirmation shall be deemed received by the Customer after transmission by the Bank. For the avoidance of doubt, the Customer agrees that it is his duty to notify the Bank if the Customer does not receive the Bank's regular statements of the Accounts or such online confirmation and/or other means of advice given by the Bank in respect of any Transactions within the

time usually required for receipt of similar statements, confirmation and/or advice.

- 4.4 Unless the Bank otherwise agrees in writing, the Customer agrees that any Instruction shall be binding and irrevocable once given provided that the correct Login Name and PIN of the Customer were used, whether such Instructions were given by the Customer or by a third party purporting to be the Customer. For the avoidance of doubt, any Instruction shall not be deemed given and/or received by the Bank unless given in such manner as prescribed by the Bank from time to time and actually received by the Bank.
- 4.5 The Customer authorises the Bank to (but the Bank is not obliged to) withdraw or otherwise deduct such sums of money, including any related costs and expenses, from the relevant Accounts (regardless of there being a debit balances, credit balances or otherwise in those Accounts) as shall be necessary to complete any Transactions. The Customer further agrees that he shall give Instructions only if there are sufficient funds and/or credit facilities in the relevant Accounts to complete a Transaction. The Bank shall not be liable for any consequence arising out of its failure to carry out the Instructions due to the inadequacy of funds and/or credit facilities in the relevant Accounts, provided that if the Bank shall at its absolute discretion decide to carry out the Instructions notwithstanding such inadequacy, the Bank may do so without seeking prior approval from or notice to the Customer and the Customer shall forthwith upon demand return the fund shortfall and shall be fully liable for all reasonable costs and expenses incurred properly together with accrued interest at such rate as prescribed by the Bank as a result of the overdraft, advance or credit thereby created. For the avoidance of doubt, any Instruction given to the Bank shall operate only as a request to the Bank to act on such Instruction, and the Bank, in its absolute discretion and without giving any reason or assuming any liability, may refuse to act on such request or any part thereof immediately or at all.
- 4.6 Notwithstanding Clause 4.5, the Customer hereby authorises the Bank to withdraw or otherwise deduct such sums of money, including all related interest, costs and expenses, from any or all of the Accounts (regardless of there being a debit balances, credit balances or otherwise in those Accounts) as shall be necessary to execute any Instructions and other standing and/or auto-pay instructions.

## 5. **Links and Advertisements**

- 5.1 The Bank does not endorse and is not responsible for the content or accuracy of any off-Website pages or any other websites linked to the Website (including without limitation any websites linked through advertisements or through any search engines). The Bank expressly disclaims any liability for any loss or damage of any kind arising under or in connection with any reliance or otherwise use of such websites.
- 5.2 The Customer's correspondence or dealings with, or participation in promotions of, advertisers on the Website are solely between the Customer and such advertisers. The Bank is not responsible for any loss or damage of any kind incurred as a result of any such dealings or as a result of the presence of

advertisements on the Website.

## **6. Fees and Costs**

- 6.1 The Bank reserves the right to charge fees in relation to the execution of Instructions and/or the use, availability and/or termination of the Personal Net Banking Services and to revise such fees from time to time in such form and manner as the Bank may deem fit by giving reasonable written notice to the Customer provided such written notice shall be given to the Customer in accordance with the manner as permitted under the Code of Banking Practice. The Customer shall be notified of the effective date of any such revised fees and shall become bound and liable for such revised fees upon the Customer's continued use of the Personal Net Banking Services, or maintenance of Accounts to which the Personal Net Banking Services shall remain available, after such effective date.
- 6.2 All costs and fees, including without limitation the fees mentioned in Clause 6.1 above, associated with the use of and/or maintenance of the Accounts, the Personal Net Banking Services shall be paid and collected in such manner as the Bank may from time to time determine at its sole discretion.

## **7. The Personal Net Banking Services Privacy Policy**

- 7.1 When using the Website and/or the Personal Net Banking Services, the Customer may provide the Bank with certain of the personal data ("Personal Data") of the Customer, as defined in the Personal Data (Privacy) Ordinance ("Ordinance"), such as the name(s), address(es), date(s) of birth and bank account information of the Customer. The Customer has certain rights in relation to the Personal Data of the Customer. By accessing or using the Website and/or the Personal Net Banking Services, the Customer consents to the capture and use of the Personal Data of the Customer in accordance with the Bank's Privacy Policy posted on the Website (as amended from time to time by the Bank).
- 7.2 Unless otherwise required by or in accordance with the prevailing laws and regulations or court of competent jurisdiction and except as referred to in their respective privacy policies, the Bank will take reasonably practicable steps to maintain and keep the Personal Data of the Customer confidential and shall not reveal such Personal Data to any individual or party without the authorisation of Customer save as provided in the Bank's Privacy Policy (as amended from time to time) and/or the General Conditions. The Customer understands and agrees that he should refer to the Bank's Privacy Policy as to how the Bank protects the Personal Data of Customer.
- 7.3 When the Customer visits the Website and/or the Personal Net Banking Services, "cookies" may be issued to and stored in the web browser of the Customer's computer for the Website and/or the Personal Net Banking Services retrieval later. ("Cookies" are small pieces of data automatically stored on the hard disk of the Customer's computer.) These "cookies" do not collect or store any personal information of the Customer while information is collected for improving the Website and/or the

Personal Net Banking Services, thus enabling the Bank to provide more useful features for the Customer. Moreover, the information collected is on an anonymous and aggregated basis that the Customer cannot be identified from such information collected.

- 7.4 The Customer may choose to disable the "cookies" in the web browser. However, subsequently, the Customer may not be able to enjoy full features of the Website and/or the Personal Net Banking Services.

## **8. Intellectual Property**

- 8.1 The Customer acknowledges that any part of the Content is a trade secret, confidential and proprietary property of the Bank and the relevant information providers. The Customer further acknowledges that such Content is subject to copyright and/or other intellectual property rights of the Bank or any third party ("**Intellectual Property Rights**").
- 8.2 Unless the Customer is expressly authorised by the Bank in writing or compelled by law and with prior written notice to the Bank, the Customer shall not himself, and shall not participate in or permit any third party to:
- (a) sell, transfer, disclose, assign, publish, convey, lease, sub-lease, share, loan, transmit, duplicate, reproduce, distribute, broadcast, cablecast, display, publicly perform, download, put in circulation, prepare derivative works based on, repost or otherwise use, provide or disseminate any of the Content in any way for any purpose without the prior written consent of the Bank; or
  - (b) remove, obliterate, erase, relocate or modify in any way any proprietary marking on or appearing with the Content including, without limitation, any trademark or copyright notice; or
  - (c) use any Content on any other website or in a networked computer environment for any purpose; or
  - (d) decompile or attempt to decompile, reverse engineer, translate, convert, adapt, alter, modify, enhance, add to, delete, or in any way tamper with, or gain unauthorised access to, any part of the Content, the Personal Net Banking Services or any software incorporated into the Website; or
  - (e) contravene any Applicable Law or otherwise infringe the Intellectual Property Rights of any party in using the Content, the Personal Net Banking Services and/or the Website.
- 8.3 The Customer agrees that all rights, benefits, title and interest in and relating to the Content and any and all related copyright, patent, trademark, service mark, proprietary property, trade secrets and exclusive works are and shall remain the exclusive property of the Bank and the relevant information providers. Nothing in this Agreement or in the Customer's use of the Personal Net Banking Services or the Website shall confer or transfer any Intellectual Property Right to the Customer or provide the Customer with a licence to exercise any Intellectual Property Right or otherwise enable the Customer to acquire any right with respect to the Website and/or Content unless it is expressly stated to the contrary.

The Customer shall not make any representation or do any act which may be taken to indicate or otherwise imply that the Customer have any such rights, benefits, title or interest.

- 8.4 The Customer acknowledges that the Bank and any information or service provider may from time to time, subject to reasonable prior notice (where practicable), impose certain conditions upon the availability of any part of the Content that they supply. The Customer agrees that his continued access to, or the availability to the Customer of, such Content after the relevant effective date of such conditions constitute the acceptance of those conditions of the Customer.

## **9. Liability of the Bank**

- 9.1 Without prejudice to Clauses 3.8 and 3.10 and save for the gross negligence or wilful default of the Bank, its officers or employees and only to the extent of direct and reasonably foreseeable loss and damage (if any) arising directly and solely therefrom or the amount of the relevant Transaction (whichever is less), the Bank shall not assume any liability or responsibility whatsoever to the Customer or any other person for the consequences arising from or in connection with:

- (i) use of the Personal Net Banking Services and/or access to any Content as a result of such use by the Customer or any other person whether or not authorised;
- (ii) any interruption, interception, suspension, delay, loss, unavailability, mutilation or other failure in providing the Personal Net Banking Services, in transmitting Instructions or Content relating to the Personal Net Banking Services or in connecting with the Website caused by any acts, omissions or circumstances beyond the reasonable control of the Bank including, without limitation, failure of any communication network, act or omission of any third party information or service providers, mechanical failure, power failure, malfunction, breakdown, or inadequacy of equipment, installation or facilities, or any law, rules, regulations, codes, directions, regulatory guidelines or government order (whether or not having the force of law); and
- (iii) transmission, posting and/or storage of any Content and/or Data relating to the Customer, the Personal Net Banking Services and/or Transactions or dealings conducted by the Customer in relation or pursuant to the Personal Net Banking Services through or in any system, equipment or instrument of any communication network provider.

- 9.2 Without prejudice to Clause 4.1, the Customer agrees that neither the Bank nor any information provider shall be deemed an investment adviser or other professional to the Customer. It is the sole responsibility of the Customer to seek or determine market information and seek independent professional advice on financial, investment, technical, legal, tax and other issues in connection with the use of the Personal Net Banking Services and/or the Website.

- 9.3 All Content and Information shall be made available on an "as is" basis and for reference purposes only. The Bank does not endorse or express any comment on any Content or Information supplied by

third party information providers nor does it assume any duty to check or verify such Content or Information.

- 9.4 Without prejudice to Clauses 4.1, 9.2 and 9.3, neither the Bank nor any information or service provider warrants, represents or guarantees the accuracy, reliability, adequacy, timeliness and completeness of any Content or whether any Content is fit for any purpose. The Bank and all such information or service providers expressly disclaim all liabilities whatsoever arising from or in connection with any reliance on any Content or Information.
- 9.5 Without prejudice to Clauses 3.8 and 3.10, and save for the gross negligence, wilful default or fraud of the Bank, its officers or employees, the Bank expressly disclaims all liabilities arising from and in connection with the validity, integrity and/or authenticity of any Instructions once the correct Login Name and PIN of the Customer have been inputted and accepted to gain access into the Personal Net Banking Services.
- 9.6 The Customer is solely responsible for implementing all such procedures and checkpoints to satisfy the particular requirement of the Customer for accuracy and security of Data input and output, and for maintaining a means external to the Website or the Personal Net Banking Services for the reconstruction of lost Data. If the Customer's use of the Website or the Personal Net Banking Services results in the need for servicing or replacing property, material, equipment or Data, the Customer agrees that the Bank shall not be liable for any such costs.
- 9.7 The Customer acknowledges and understands that the Bank has endeavoured to ensure the Personal Data of the Customer shall be secured and confidential. The Bank shall not be liable for all consequences arising from or in connection with any loss, interception or misuse of the Personal Data of the Customer by any person beyond the reasonable control of the Bank without prejudice to Clause 10.3(a).
- 9.8 Notwithstanding any other provisions of this Agreement, neither the Bank nor any other information or service provider shall in any circumstances be liable for any incidental, indirect, special, consequential or exemplary damages including, without limitation, any loss of use, revenue, profits or savings suffered by the Customer.

## **10. Liabilities of the Customer**

- 10.1 Without prejudice to Clauses 3.8 and 3.10, the Customer shall be fully responsible and liable for all consequences arising from and in connection with the access to and use of the Personal Net Banking Services (including but not limited to any Transactions) and/or the Website and/or access to any Content by any person, whether or not authorised by the Customer.
- 10.2 Without prejudice to the generality of other provisions of this Agreement, if in the reasonable opinion of the Bank, there is no gross negligence, breach or fraud on the part of the Customer, the Customer shall not be liable for loss or misplacement of funds caused by unauthorised Transactions conducted through

the use of the Personal Net Banking Services.

10.3 Customer shall not be liable for loss or misplacement of funds caused by unauthorised Transactions conducted through the use of the Personal Net Banking Services as a result of:

- (a) a computer crime which should have been prevented by the risks control and management measures had the Bank adopted such measures in accordance with Clause 3.1; or
- (b) a missed or mis-directed payment caused by the gross negligence or wilful default of the Bank, its officers or employees; or
- (c) a human or system error of the Bank.

10.4 Without prejudice to any other provision of this Agreement and save for the gross negligence or wilful default of the Bank, the Customer shall fully indemnify and keep indemnified the Bank and its subsidiaries, affiliates, officers, employees and agents against all liabilities, claims, demand, losses, damages, costs, charges and expenses of any kind (including, without limitation, legal fees on a full indemnity basis) which may be incurred and all actions or proceedings which may be brought by or against the Bank in connection with the provision of the Personal Net Banking Services and/or the Website and/or access to the Content, and/or the exercise or preservation of the Bank's powers and rights under this Agreement.

## **11. Termination**

11.1 Subject to Clause 11.2, this Agreement shall become effective on the date hereof and shall continue in force until terminated by the Customer by giving not less than 3 business days' written notice to the Bank or such other longer period as the Bank may reasonably require.

11.2 Notwithstanding Clause 11.1, the Bank may, at any time and without notice and/or reason to the Customer, suspend, vary or terminate all or any of the Personal Net Banking Services and/or their use by the Customer.

11.3 Notwithstanding any provisions in this Agreement, the termination of this Agreement pursuant to this Clause 11 shall not affect any antecedent liabilities of the parties hereunder or any Instructions given prior to such termination. Specifically, this Clause 11.3 and Clauses 8, 9, 10, 13, and 16 shall survive even after termination of this Agreement.

## **12. Delegation of Personal Net Banking Services**

12.1 The Bank may, in its absolute discretion and on such terms and conditions as it may consider appropriate, delegate any services in relation to the operation of the Personal Net Banking Services to the Bank's agents or any third parties which the Bank may select from time to time without prior consent of or notice to the Customer. The Bank shall be under no obligation to notify the Customer of the

existence of any such delegation or any matters in connection therewith.

### **13. Severability**

13.1 In the event that any of the provisions of this Agreement shall for any reason be held to be illegal, invalid or unenforceable under the Applicable Law, the remaining provisions shall remain valid and enforceable in accordance with their respective terms.

### **14. Variation and Supplements**

14.1 The provisions of this Agreement may be unilaterally amended by the Bank from time to time with reasonable prior notice to the Customer. Such amendments will be sent to the Customer by post and/or posted on the Website or otherwise and shall become effective at such effective date and time as stipulated by the Bank and shall be binding on the Customer if the Customer continues to maintain the Accounts to which the Personal Net Banking Services are made available or use the Personal Net Banking Services after the effective date of such amendments. Each access to and use of the Website and/or the Personal Net Banking Services shall be subject to the provisions of this Agreement then in force.

14.2 The provisions of this Agreement are in addition to those of the General Conditions and the General Conditions shall continue to apply in respect of the dealings and operation of the Accounts, provided that in the event of any inconsistencies between the two, the provisions of this Agreement shall prevail over those of the General Conditions for the purposes of the Personal Net Banking Services save as expressly provided to the contrary in this Agreement.

14.3 Any use of the Personal Net Banking Services, or the maintenance of the Accounts to which the Personal Net Banking Services are available, shall be deemed the Customer's acceptance of the Agreement as prevailing from time to time.

### **15. General**

15.1 For the purposes of the Personal Net Banking Services, each notice and communication sent by post to the last known address of the Customer on the Bank's Record shall be deemed to have been duly delivered to the Customer 2 business days (in the case of local address) or 7 business days (in the case of overseas address) after it has been posted, and if sent by electronic mail or facsimile to the designated electronic mailing address or facsimile number of the Customer respectively, upon it being sent unless it is otherwise shown to the contrary by the Bank's internal Records. In proving delivery of posted notices and communications, it shall be sufficient to prove that the notice and/or communication was properly addressed and mailed, with postage prepaid. For the avoidance of doubt, any notice given

by the Bank to the Customer shall be deemed to have been duly delivered by the posting of such notice on the Website.

15.2 For the purposes of the Personal Net Banking Services, any communication made by the Customer to the Bank shall either be:

- (i) delivered by hand or sent by post to:  
the branch(es) or such other address(es) as designated by the Bank from time to time and in the latter case such communication shall be deemed to have been duly delivered to the Bank 2 business days (in case of mail sent locally) or 7 business days (in case of mail sent from overseas) after it has been posted; or
- (ii) sent by facsimile to:  
such facsimile number(s) or electronic mail address(es) as designated by the Bank from time to time in which case such communication shall be deemed to have been delivered to the Bank upon it having been sent provided that, if required by the Bank, a facsimile transmission report showing such successful transmission shall be made available to the Bank.

15.3 The Customer acknowledges and agrees that this Agreement and/or any other agreements pertaining to the Personal Net Banking Services made with the Bank may be amended and/or updated unilaterally by the Bank from time to time with reasonable prior notice to the Customer. For the avoidance of doubt, the Customer's continued use of the Personal Net Banking Services or maintenance of the Accounts to which the Personal Net Banking Services are made available after such amendments and/or updates becoming effective shall constitute the Customer's acceptance to them. The Customer further acknowledges and agrees that it is his sole responsibility to be conversant with such amended and/or updated versions for the own interest and protection of the Customer.

15.4 Where this Agreement is entered into by the Customer jointly as joint account holders, each of the Customer agrees, represents and warrants that:

- (i) the liabilities and obligations of each of the Customer shall be joint and several;
- (ii) any Customer shall have full authority to give any Instruction and to receive communication or confirmation from the Bank, except that the Bank will follow the online signing arrangement given by the Customer for approving Transactions, even if it conflicts with the terms of the mandates of the Accounts. Notwithstanding of the foregoing, the Bank may at any time insist that either Customer to give Instructions or approve Transactions as it may see fit and prudent.

15.5 References herein to the Customer shall include, if applicable, the personal representative and successors of the Customer. Reference herein to the Bank shall include its successors and assigns.

15.6 To protect both the Customers and the Bank's staff, and to help resolve any disputes between the Customers and the Bank, the Customers acknowledge that:

- (i) telephone conversations between the Bank and the Customers of the Personal Net Banking Services may be recorded; and

- (ii) the Bank will keep a record of all instructions given by the Customers via the Personal Net Banking Services and telephones; and
- (iii) the Bank may listen to telephone calls (and recordings thereof) made in respect of the Personal Net Banking Services in order to assess and improve the quality of the service.

15.7 Neither party will be liable for the delay in performing or failure to perform any of its obligations under this Agreement which is caused by circumstances beyond its reasonable control, including, but not limited to, the failure, malfunction or unavailability of telecommunications, data communications and computer systems and services, war, civil unrest, government action, strikes, lock-outs, or other industrial action or trade disputes (whether involving either party or those of a third party), earthquakes, floods or any other natural disasters. Any delay or failure of this kind will not be deemed to be a breach of this Agreement and the time for performance of the affected obligation will be extended by a period which is reasonable in the circumstances.

15.8 The Chinese version of this Agreement is for reference only and in the event of any discrepancy between the English and Chinese versions of these terms and conditions, the English version shall prevail over that of the Chinese version.

## **16. Jurisdiction**

16.1 This Agreement shall be governed by and construed in accordance with the laws of Hong Kong. The Customer hereby agrees to submit to the non-exclusive jurisdiction of the Hong Kong courts for any matters relating to this Agreement.