

## Bank of China (Hong Kong) iGTB Services

### GENERAL TERMS AND CONDITIONS FOR CASH MANAGEMENT SERVICES

#### 1. Scope of Application

- 1.1 These Terms apply to all of the Cash Management Services unless otherwise specified.
- 1.2 These Terms, together with the iGTB Services Terms and the Account Terms constitute the agreement between the Bank and the Customer relating to the Cash Management Services and supersede all prior communication or agreement (whether oral or written) between the Customer and the Bank, unless otherwise expressly preserved in these Terms. In case of any inconsistency between these documents, the iGTB Services Terms shall prevail over these Terms which, in turn, shall prevail over the Account Terms.

#### 2. Definitions and Interpretation

- 2.1 In these Terms, unless the context requires otherwise:

**"Account"** means any account maintained by the Customer with the Bank or any other Bank Group Member which is used in relation to the Cash Management Services;

**"Account Terms"** means the terms and conditions governing the accounts maintained with, and the basic banking and financial services provided by, the Bank or any other Bank Group Member from time to time;

**"Authorised Signatory"** means each individual appointed by the Customer with full authority to act on its behalf for all matters in relation to the Cash Management Services and the Accounts, and accepted by the Bank as such and:

- (a) if the Customer has contracted to use Electronic Services as defined in the Terms and Conditions for Corporate Electronic and Online Services then this definition shall include an Authorised Person as defined in the Terms and Conditions for Corporate Electronic and Online Services; and
- (b) if the Customer has contracted to use BOC Corporate Banking Services Online or BOCNET HK as defined in the Conditions for Services of the Bank then this definition shall include an authorised signatory, a primary user, a delegate user and any other authorised user of BOC Corporate Banking Services Online or BOCNET HK as mentioned in the relevant provisions of the Conditions for Services of the Bank regarding BOC Corporate Banking Services Online or BOCNET HK;

**"Authority"** means any regulatory authority, court or judicial body, governmental agency, tax authority, law enforcement agency, central bank, exchange, clearing house, or industry or self-regulatory body;

**"Bank"** means the Bank Group Member specified in the applicable Service Jurisdiction Addendum, and its successors and assigns;

**"Bank Group Members"** means collectively the Bank, any holding company of the Bank and any subsidiary, associated or affiliated company of the Bank;

**"Cash Management Services"** means the services, products, facilities and arrangements relating to bank accounts and cash management which the Bank may provide as part of the iGTB Services from time to time;

**"Customer"** means a customer to which the Bank provides the Cash Management Services and includes each of its Authorised Signatories where the context requires or permits;

**"Customer Information"** means all information relating to the Customer, its Accounts, Transactions, Authorised Signatories and activities held by the Bank from time to time, including information provided by or on behalf of the Customer to the Bank and information collected or compiled by the Bank;

**"Exchange Rate"** means the rate for converting one currency into another currency which the Bank determines to be prevailing in the relevant foreign exchange market at the relevant time, such determination to be conclusive and binding on the Customer;

**"iGTB Services"** means any and all of the transaction banking services, products, facilities and arrangements which the Bank may provide from time to time to its commercial banking customers, including the Cash Management Services;

**"iGTB Services Terms"** means the terms and conditions governing the respective iGTB Services and/or Transactions, whether in the form of contract, terms and conditions, or any other form;

**"Regulatory Requirements"** means any and all of the following requirements whether applicable in or outside the Service Jurisdiction to which the Bank or the Customer is subject or with which the Bank or the Customer is expected to comply from time to time:

- (a) any law, rule, regulation, ordinance, statute, subsidiary or subordinate legislation, court or judicial order having the force of law (including any rule of civil law, common law or equity), or any embargo or sanction regime; and
- (b) any guideline, code, policy, procedure, direction, request, condition or restriction issued by any Authority;

**"Service Jurisdiction"** means the jurisdiction or a location in the jurisdiction from which the Cash Management Services are provided, as the context may require or permit;

**"Service Jurisdiction Addendum"** means, in respect of a Service Jurisdiction, the addendum which sets out the provisions applicable to the Cash Management Services provided in that Service Jurisdiction and forms part of these Terms;

**"Signing Arrangement"** means the signing arrangement applicable to the Authorised Signatories designated by the Customer and accepted by the Bank, including their respective specimen signatures, and any conditions or restrictions on their signing authority and, where the context requires or permits, include the standing Signing Arrangement as contemplated in Clause 5.3; and

**"Transactions"** means any and all transactions which the Bank may arrange for or effect with or for the Customer from time to time in connection with the Cash Management Services or the Accounts.

2.2 In these Terms, unless the context requires otherwise:

- (a) a Clause is a reference to a clause of these Terms;
- (b) a person includes an individual, a corporation, company, partnership, sole proprietorship, trust, sovereign body or agency, government or municipal governmental agency, multilateral agency or organisation or unincorporated body of persons;
- (c) words importing the singular include the plural and vice versa and words denoting a gender includes all genders;
- (d) a business day means a day (other than Saturday or Sunday) on which the banks are open for general business in the applicable Service Jurisdiction and a time of a day is a reference to the time in that Service Jurisdiction, and time is of the essence of these Terms;
- (e) **"including"** or **"includes"** means including or includes, without limitation;
- (f) reference to a Regulatory Requirement is a reference to the relevant Regulatory Requirement as it is in force from time to time;
- (g) reference to an agreement, document or provision is a reference to the relevant agreement, document or provision as supplemented, extended, restated, amended or replaced from time to time; and
- (h) **"tax"** includes any tax, levy, duty, charge, impost, fee, deduction or withholding of any nature now or in the future imposed, levied, collected, withheld or assessed by any taxing or other authority, and **"taxation"** shall be construed accordingly.

2.3 The headings in these Terms are for convenience only and do not affect the interpretation of these Terms.

2.4 In these General Terms and Conditions, unless the context requires otherwise:

- (a) If the Customer has contracted for the use of Electronic Services as defined in the Terms and Conditions for Corporate Electronic and Online Services, the terms therein shall apply in respect of the provision of instructions, and the Terms and Conditions for Corporate Electronic and Online Services shall be read together with the terms herein in respect to the provision of Cash Management Services;
- (b) If the Customer has contracted for the use of BOC Corporate Banking Services Online or BOCNET HK as defined in the Conditions for Services of the Bank, the terms therein shall apply in respect of the provision of instructions, and the Conditions for Services of the Bank shall be read together with the terms herein in respect to the provision of Cash Management Services.

### **3. Cash Management Services**

- 3.1 The Bank has the right to set and vary the types and details of the Cash Management Services, and the conditions and procedures applicable to their availability and use from time to time, including setting or varying transaction limit or cut-off time.
- 3.2 For setting up, use, operation, variation or termination of any of the Cash Management Services, the Customer shall:
  - (a) sign or accept the forms and documents;
  - (b) supply the information and materials; and
  - (c) comply with the procedures and other requirements set out in any applicable user manual or reference,

in each case as the Bank may reasonably prescribe, review or supplement. These forms, documents, information and materials shall be signed, accepted, supplied and sent by the Customer in paper form unless the Bank specifies or accepts any other means.

- 3.3 The Cash Management Services are provided by the Bank, and shall be used by the Customer, subject to the Regulatory Requirements, these Terms, the iGTB Services Terms and the Account Terms. Accordingly, all Transactions shall be subject to the Regulatory Requirements and all the relevant terms and conditions in respect of the relevant Cash Management Services or the Accounts. The Bank has the right to take or refrain from taking any action having regard to the Regulatory Requirements. All decisions made by the Bank accordingly shall be binding on the Customer.
- 3.4 The Bank has the right to accept or refuse the use of any of the Cash Management Services by the Customer or any person related to the Customer at any time without giving notice or reason.
- 3.5 The Bank and the Customer will identify an Account by the account number or other proxy as the Bank may specify from time to time. In handling a request or instruction relating to an Account, the Bank is not required to check the account name or other particulars of the Account apart from the particulars specified by the Bank for identifying the Account.

#### 4. Customer Types

In these Terms, unless the context requires otherwise:

- (a) where the Customer is a corporation, reference to the "**Customer**" means the corporation and its successors and permitted assigns;
- (b) where the Customer is a sole proprietorship, reference to the "**Customer**" means the sole proprietor and its personal representatives, lawful successors and permitted assigns;
- (c) where the Customer is a partnership or any body other than a corporation, reference to the "**Customer**" means respectively, the present and future partners of the partnership, or the persons from time to time conducting business or affairs in the name of that body, and their respective personal representatives, lawful successors and permitted assigns. Any agreement or document entered into or executed by the Customer shall continue to bind the partnership or that body notwithstanding any change in its constitution, name or membership by reason of death, bankruptcy, retirement, disability or admission of partners or persons for conducting its business or affairs, or the occurrence of any other event which may dissolve the partnership or that body;
- (d) where an Account is in the name of, or where a Transaction is effected by, two or more Customers, all the Customers are jointly and severally liable for the relevant Account or Transaction;
- (e) in the case set out in paragraph (c) or (d) above, the Bank may exercise any of its rights against any one or more of the partners or persons mentioned in the relevant paragraph (including compounding, discharging or varying the obligations of, or granting time or other indulgence to, or dealing in any other way with, any of them) and payment or delivery to any of them will discharge the Bank's obligations to all of them, and any notice given by the Bank to any of them is effective notice to all of them whereas any notice given by any of them to the Bank will be effective for itself only unless otherwise agreed by the Bank; and
- (f) in the event of death of the sole proprietor or any partner or other individual mentioned in this Clause 4, any payment, act, thing or matter made or done by the Bank pursuant to the instructions of the Authorised Signatories after such death but before the Bank has actually received written notice of death shall be conclusive and binding on the Customer, the estate and personal representatives of the deceased, and any person claiming through any of them.

#### 5. Authorised Signatories

- 5.1 The Authorised Signatories have full authority on behalf of the Customer to deal with the Bank on any matter relating to the Cash Management Services, subject to any conditions or restrictions specified in the applicable Signing Arrangement, excluding the matters set out in Clause 5.3. The Authorised Signatories are authorised to give

instructions of any nature (whether standing instructions or other instructions) relating to the Cash Management Services and/or to enter into all types of agreements with the Bank in connection with such instructions or other arrangements and matters relating to the Cash Management Services. These may include instructions to apply for or terminate any of the Cash Management Services or instructions to vary the contact details of the Customer. Subject to Clause 5.3, the Authorised Signatories shall continue to have authority in accordance with the Signing Arrangement to deal with the Bank, and the Customer directs and authorises the Bank to act on the instructions given by the Authorised Signatories.

- 5.2 The Customer shall appoint the Authorised Signatories by resolutions of the board of directors or any other competent governing body of the Customer, or in such other manner as the Bank may specify or accept from time to time. The appointment of the Authorised Signatories, as notified by the Customer to the Bank, shall continue to be effective and binding on the Customer. The Customer authorises the Bank to treat the board resolutions or other evidence of the appointment of the Authorised Signatories as provided by the Customer to the Bank as having full force and effect until the Bank has received board resolutions or other evidence revoking or changing the Authorised Signatories or their authority, in form and substance satisfactory to the Bank.
- 5.3 Unless otherwise agreed by the Bank or otherwise expressly provided in the applicable iGTB Services Terms:
- (a) Any change of the Authorised Signatories, any change of the specimen signature of any Authorised Signatory, or any change to the Signing Arrangement shall only be effective after all of the following conditions are satisfied:
    - (i) the Bank has actually received a certified true extract of the minutes or resolutions of the board of directors or any other competent governing body of the Customer authorising the change in form and substance satisfactory to the Bank, or any other document or evidence authorising the change in form and substance satisfactory to the Bank; and
    - (ii) the Bank has been given reasonable time for processing the change.
  - (b) The Customer may designate the Signing Arrangement that is applicable to a particular Account or a particular iGTB Services as the standing Signing Arrangement that applies to the Cash Management Services. In this case:
    - (i) any change to the standing Signing Arrangement shall apply correspondingly to the Cash Management Services; and
    - (ii) if the Account or iGTB Services from which the standing Signing Arrangement originates is suspended or terminated for any reason whether by the Customer or by the Bank, the standing Signing Arrangement shall continue to apply in full force and effect to the Cash Management Services.

5.4 Revocation of the existing authority of the Authorised Signatories will not affect any instructions (including cheques and bills of exchange) received by the Bank before the revocation takes effect. Any instructions (including cheques and bills of exchange) received by the Bank on or after the effective date of revocation will be revoked, whether they are dated before, on or after the effective date of revocation.

## **6. Customer Instructions**

6.1 The Customer shall ensure that the instructions given by the Authorised Signatories are complete, correct, clear and unambiguous and in accordance with any applicable Signing Arrangement. The Bank has the right to decline to act on any instruction which the Bank reasonably considers to be incomplete, incorrect, unclear or ambiguous.

6.2 The Bank may regard an instruction received by it as being intended and authorised by the Customer. The Bank has the right to act on each instruction received by it as a separate instruction unless the Bank actually knew before execution that the instruction was a duplicate of another instruction.

6.3 If an instruction is received by the Bank after its daily cut off time or outside its business hours, the relevant Account may be debited on the same day but the instruction may not be processed until the next business day.

6.4 The Bank is not required to notify the Customer of the execution of an instruction or if any instruction or part of it cannot be executed. The Bank has the right to execute an instruction partially if it cannot be fully executed, or to reject any instruction for any reason. An instruction or any part of an instruction that is not executed by the end of the business hours of the day will lapse, unless otherwise agreed by the Bank.

6.5 Once given, an instruction may not be revised, cancelled or withdrawn by the Customer without the written consent of the Bank.

6.6 The Bank may, at its discretion, accept an instruction believed by it to have emanated from the Authorised Signatories. If the Bank acts in good faith on the instruction, the Customer shall be bound by the instruction and the resulting Transactions and consequences, whether the instruction is given with or without the Customer's authority, knowledge or consent and whether or not the Bank receives the original signed instruction or written confirmation of the instruction from the Customer. Unless otherwise expressly provided in these Terms or the iGTB Services Terms, the Bank is not under any duty to verify the authenticity of the signature on any instructions or the identity or authority of the individual giving or purporting to give any instructions.

6.7 The Customer is responsible for taking appropriate measures having regard to its circumstances:

(a) to monitor and control the appointment and change of the Authorised Signatories, and notify each Authorised Signatory of the scope and limits on his authority in giving instructions to or dealing with the Bank;

(b) to ensure that each Authorised Signatory acts within the scope of his authority in a proper and responsible manner and complies with these Terms; and

- (c) to safeguard against instructions being given by unauthorised persons or for unauthorised purposes.

## **7. Information and Disclosure**

- 7.1 The Customer shall ensure that all information provided by or on behalf of the Customer to the Bank from time to time is true, complete and up-to-date. The Customer shall notify the Bank of any material change to the information as soon as reasonably practicable. The Customer authorises the Bank to verify any information provided by or on behalf of the Customer with any source or person as the Bank may consider appropriate.
- 7.2 The Customer consents to the following:
  - (a) the Customer Information being used, processed, disclosed, transferred and stored, within or outside the Service Jurisdiction for the purposes relating to the iGTB Services, by the Bank and any other person providing services or support to the Bank or the Customer. These other persons may include the Bank Group Members, agents, contractors and third party service providers which provide services or support for the iGTB Services or for the general operation of the Bank or any Bank Group Member; and
  - (b) the use, disclosure or transfer of any Customer Information by the Bank or any Bank Group Member in compliance with Regulatory Requirements.
- 7.3 Before providing the Bank with any personal data of an individual related to the Customer (including any shareholder, director, officer, employee or representative of the Customer), the Customer shall obtain the individual's consent for providing his personal data to the Bank and the use and handling of his personal data as contemplated by these Terms.

## **8. Interest, Fees, Costs and Expenses**

- 8.1 Any amount owing by the Customer shall bear interest at the rate on unarranged overdraft or such other rate as specified by the Bank from time to time, in each case accruing from the date on which the indebtedness is incurred up to and including the date on which repayment is actually received by the Bank (as well after as before judgment).
- 8.2 Interest accrued but unpaid shall bear default interest at the same rate and shall form part of the principal due to the Bank and bear interest accordingly unless otherwise specified by the Bank.

The Customer shall pay the Bank the fees, commissions and charges in connection with the Cash Management Services or Transactions at the rate and in the amount and manner specified by the Bank from time to time. The Bank may vary the fees and charges from time to time after notice to the Customer. Paid fees and charges are not refundable, except for the refund of fees for services not rendered or fully rendered as a result of the Bank's wilful misconduct or negligence.



- 8.3 The Customer shall reimburse the Bank on all costs and expenses reasonably incurred by the Bank in connection with the Cash Management Services. These costs and expenses may include those incurred by the Bank in providing the services or in preserving, exercising and/or enforcing its rights towards the Customer or any other person, including expenses for engaging agents, debt collection agents and service providers, fees payable to any Authority, and taxes. Any costs and expenses for handling the Customer's applications to the Bank shall be payable even if an application is withdrawn for any reason and irrespective of the result of the application. These applications may include the Customer's applications for services, or approval or consent relating to the Cash Management Services.
- 8.4 The Customer authorises the Bank to debit any amount payable by the Customer to the Bank pursuant to this Clause 8 to any Account.
- 8.5 The Customer agrees that the Bank may, without further consent from the Customer, accept from any person engaged in executing the Transactions, any rebate, allowance or soft commission as may be authorised or permitted from time to time by Regulatory Requirements.

## **9. Payments and Gross-up**

- 9.1 All payments by the Customer to the Bank shall be made without any set-off, counterclaim, deduction, withholding or condition of any kind. If the Customer is compelled by law to make any withholding or deduction, the sum payable by the Customer shall be increased so that the amount actually received by the Bank is the amount it would have received if there were no withholding or deduction. The Customer shall upon request of the Bank provide an official receipt of the relevant tax authority for the withholding or deduction.
- 9.2 Payment by the Customer to the Bank shall be in the currency of the relevant liability or, with the Bank's written consent, in a different currency, in which case the conversion to that different currency shall be made at the Exchange Rate.
- 9.3 No payment to the Bank pursuant to any judgement, court order or other arrangement shall discharge the obligation of the Customer in respect of which it was made unless and until payment in full has been received in the currency in which it is payable. If the amount of any payment shall, on actual conversion into the currency in which it is payable at the Exchange Rate, fall short of the amount of the obligation expressed in that currency, the Customer shall be liable for the shortfall.

The Bank may, at any time at its discretion without giving notice or reason, convert any or all outstanding indebtedness owing by the Customer in connection with a Transaction into (i) the lawful currency of the Service Jurisdiction, (ii) the currency designated by the Bank for the Transaction, or (iii) such other currency as the Bank may consider appropriate. The conversion shall be made at the Exchange Rate. The Bank may, after such conversion, adjust the applicable interest rate having regard to the prevailing market conditions.

- 9.4 The Bank has the right to apply any amount paid to the Bank in respect of the Customer's obligations and liabilities in or towards satisfaction of the same (in such order and manner as the Bank may determine) or to place it to the credit of a suspense account with a view to preserving the Bank's rights to prove for the whole of the Customer's outstanding obligations and liabilities.
- 9.5 If any amount paid to the Bank in respect of the Customer's obligations and liabilities are required to be repaid due to any law relating to insolvency, bankruptcy or liquidation or for any other reason, the Bank has the right to recover such amount from the Customer as if payment had not been made.
- 9.6 If as a result of (i) the introduction or any change of any law or regulation (or in its interpretation, administration or application) or (ii) the compliance with any Regulatory Requirement:
- (a) the Bank is unable to obtain the rate of return on its capital which it would otherwise be able to obtain; or
  - (b) the Bank incurs additional or increased cost for providing the Cash Management Services or the iGTB Services,

then the Customer will on demand pay to the Bank an amount sufficient to compensate the Bank for such reduced return or increased cost.

- 9.7 The Bank has the right to recover any payment to the Customer by mistake.
- 9.8 The Bank is under no obligation to recover a payment made by or on behalf of the Customer to any other person or to handle or resolve a dispute between the Customer and any other person.

## **10. Set-off and Consolidation**

- 10.1 The Bank may, at any time without notice, combine or consolidate all the Customer's accounts with the Bank, its subsidiary or holding company and apply any credit balance to which the Customer is entitled, either alone or jointly, in or towards satisfaction of any obligation (whether or not matured, actual, future, contingent, unliquidated or unascertained) owed by the Customer to the Bank, regardless of the currency of the respective obligations, the place of payment or the office through which the Bank is acting.
- 10.2 The Bank may, at any time without notice or demand, set off any obligation owed by the Customer to the Bank against any obligation (whether or not matured) owed by the Bank to the Customer, regardless of the currency of the respective obligations, the place of payment or the office through which the Bank is acting.
- 10.3 The Bank is authorised to purchase, at the Exchange Rate, such other currencies as may be necessary to effect the application of the monies standing to the credit of the Customer's accounts as contemplated in Clause 10.1. If the respective obligations referred to in Clause 10.2 are in different currencies, the Bank is also authorised to

convert either obligation at the Exchange Rate for the purpose of exercising its set-off right.

- 10.4 If any of the obligations referred to in Clauses 10.1 and 10.2 is unliquidated or unascertained, the Bank may set off an amount estimated by it in good faith to be the amount of that obligation.

## **11. Limitation on Liability**

11.1 Unless caused by its wilful misconduct or negligence, the Bank is not liable for:

- (a) any delay of or interruption to the availability of the Cash Management Services;
- (b) any loss, error, delay, misdirection, corruption or unauthorised alteration or interception of an instruction or message, or any unauthorised use of the Cash Management Services;
- (c) any delay or failure to execute, or error in executing, the Customer's instructions;
- (d) any error, malfunction or failure of any software, equipment or system; or
- (e) any factor, including any computer virus, which may impair the functions of a computer system.

11.2 The Bank is in any event not liable for the following:

- (a) its inability to execute any instruction or the manner or timing of execution of any instruction due to prevailing market conditions;
- (b) imposition or change of any Regulatory Requirements, market disruption or fluctuation, or restriction or suspension of trading imposed by any Authority, or the bankruptcy, insolvency or liquidation of any relevant bank, exchange, clearing house or government;
- (c) any loss, claim or other consequences arising from or in connection with (i) any delay or refusal in handling any instruction, transaction or payment or in returning any documents, or (ii) any step or action taken by the Bank in light of any Regulatory Requirements;
- (d) any loss arising from or in connection with any event beyond the Bank's reasonable control, including government action, industry action, strike, war and other force majeure events;
- (e) any loss of business or business opportunity, loss of profit, indirect, special, incidental or consequential damages; and
- (f) inaccuracy of any materials or information contained on the pages of any other websites linked to the Bank's website via hyperlinks, or any loss arising directly or indirectly from any defects with such websites. Hyperlinks to the other websites are provided by the Bank for the Customer's convenience only and

should not be taken as the Bank's endorsement of the other websites. The Bank has not verified the contents of any of the other websites.

11.3 The Bank's liability for any damages in respect of any Transaction shall be limited to the amount of the fees received by the Bank in connection with the relevant Transaction.

11.4 The provisions in this Clause 11 shall operate to the fullest extent permitted by Regulatory Requirements.

## **12. Indemnity**

12.1 The Customer shall indemnify the Bank, its officers and employees against any claim, liability, loss, damage, cost or expense (including legal fees on a full indemnity basis and other expenses reasonably incurred) which may be incurred or suffered by any of them and all actions or proceedings which may be brought by or against any of them in connection with:

- (a) the Bank acting on the Customer's instructions, effecting Transactions or providing any Cash Management Services to the Customer;
- (b) any failure of the Customer or any Authorised Signatory to perform or observe any provisions of these Terms, the iGTB Services Terms or the Account Terms (including any representation or undertaking given by the Customer); or
- (c) the preservation, exercise or enforcement of the Bank's rights, including in recovering sums from the Customer or in obtaining any professional advice as the Bank may consider appropriate.

12.2 The indemnity in this Clause 12 shall continue to have effect notwithstanding the termination of any or all of the Cash Management Services.

12.3 The provisions in this Clause 12 shall operate to the fullest extent permitted by Regulatory Requirements.

## **13. Representations and Undertakings by the Customer**

13.1 The Customer represents to the Bank that:

- (a) it has full legal capacity and authority to perform each Transaction and its obligations under these Terms, the iGTB Services Terms and the Account Terms, and these obligations are legal, valid and enforceable;
- (b) it is duly incorporated or established, validly existing and is not subject to any action to be wound up or dissolved;
- (c) it is solvent; and
- (d) it enters into each Transaction and uses the Cash Management Services as principal and not as agent, trustee or nominee for any other person.

The above representations shall continue to have effect notwithstanding the termination of any or all of the Cash Management Services.

13.2 In using the Cash Management Services, the Customer undertakes that:

- (a) it will comply with the Regulatory Requirements including, in particular, any applicable sanction or embargo regime. The Bank has the right to delay or refuse to handle any instruction, transaction or make any payment having regard to the Regulatory Requirements without notice to or consent from the Customer; and
- (b) it will not disclose to any other person any information relating to the Cash Management Services, these Term and the iGTB Services Terms, except for disclosure (i) of such information which at the time of disclosure is publicly known, (ii) of such information where the Customer is compelled by law or by a relevant regulatory authority to disclose, or (iii) of such information by the Customer to its auditors or other professional advisers who owe a duty of confidentiality to the Customer.

#### **14. Bank's Statements and Records**

- 14.1 Any statement, advice, certificate, notice, confirmation or determination by the Bank relating to any amount owing or payable by the Customer or the particulars of any Transaction or any other matters relating to the Cash Management Services shall be conclusive and binding on the Customer save for any manifest error.
- 14.2 The Bank's account and records (in any form) are conclusive and binding on the Customer as evidence of the facts or matters recorded in them save for any manifest error. They will be admissible in any court or tribunal as evidence of the facts and matters recorded in them. Any dispute as to the accuracy, completeness or authenticity of the Bank's records and accounts will only be considered if it is conclusively proved that there is a genuine error. Messages and information relating to Transactions shown on or printed out from the Customer's computer are for the Customer's reference only.
- 14.3 The Bank has the right to amend any document or record to remove any error. The Bank will notify the Customer of a correction in writing within 30 days after the correction is made.
- 14.4 The Bank reserves the right to destroy any document or record when it is no longer needed having regard to the Regulatory Requirements.
- 14.5 Information and messages (including any pricing, interest rate, exchange rate or other quotations) in relation to the iGTB Services including the Cash Management Services are for the Customer's reference only and shall not be binding on the Bank unless confirmed by the Bank to that effect.

#### **15. Delegation by the Bank**

- 15.1 The Bank may, at its discretion, appoint any other person as its agent or nominee (including any other Bank Group Member), to support, provide or perform any of the

Bank's obligations for providing the Cash Management Services, and delegate its powers to such person.

- 15.2 The Bank is authorised to disclose any information about the Customer, its Authorised Signatories, instructions and Accounts, and the Transactions to any other person appointed by it pursuant to Clause 15.1.

## **16. Variation**

- 16.1 The Bank may, at any time at its discretion, by notice to the Customer vary, amend or supplement these Terms. Any such variation, amendment or supplement shall take effect on the date of the notice informing the Customer of it or any later date specified in the notice. The Bank may give notice by display in the Bank's banking hall, publication in newspaper or on the Bank's website or by any other reasonably practicable means. Any variation, amendment or supplement shall be binding on the Customer if the Customer does not terminate the iGTB Services before the effective date of the variation, amendment or supplement, or if any indebtedness remains outstanding from the Customer to the Bank on or after the effective date.

## **17. No Waivers**

- 17.1 The rights of the Bank in connection with the Cash Management Services:
- (a) may be exercised as often as it considers appropriate;
  - (b) are cumulative and not exclusive of its rights under the general law or any other agreement; and
  - (c) may be waived only in writing and specifically by the Bank at its discretion.
- 17.2 Delay in exercising any right or not exercising any right does not amount to a waiver of the relevant right.

## **18. Assignment**

The Customer may not assign or transfer any of its rights or obligations in connection with the Cash Management Services. The Bank may assign and transfer all or any of its rights and obligations in connection with the Cash Management Services to any person without notice to or consent from the Customer.

## **19. Notices and Communications**

- 19.1 All notices or other communications in connection with the Cash Management Services are sent at the Customer's risk. The Bank does not assume any responsibility for any inaccuracy, interruption, error or delay or total failure in transmission or delivery by post, facsimile or other electronic communication.

- 19.2 All notices or other communications from the Bank to the Customer must be given in writing and unless otherwise stated, may be made by letter, facsimile, electronic mail or SMS messages. Any such notice will be deemed to be given as follows:
- (a) if by letter, when delivered personally or if sent by prepaid post, two or seven business days following that on which it was so posted to an address in the Service Jurisdiction or overseas respectively; and
  - (b) if by facsimile, electronic mail or SMS messages, when confirmed by the Bank's records that such notice was successfully sent.
- 19.3 The address, facsimile number, electronic mail address and/or telephone number of the Customer for all notices are as last known to the Bank.
- 19.4 Any notice or other communication in connection with the Cash Management Services given to the Bank must be given in writing, and shall be effective only on actual receipt by the relevant branch of the Bank. For the avoidance of doubt, this Clause 19 does not apply to the Customer giving instructions (including payment instructions) to the Bank.
- 19.5 The Customer consents that telephone calls may be recorded by audio recording device and/or in writing.

## **20. Severability**

If any provision of these Terms is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of these Terms; or
- (b) the legality, validity or enforceability in any other jurisdiction of that or any other provision of these Terms.

## **21. Termination**

21.1 Subject to Clause 21.2, either the Customer or the Bank may at any time terminate any or all of the Cash Management Services by giving to the other party prior written notice of at least 30 days or such other period as the parties may agree, provided that termination by the Customer is subject to the Customer having complied with the requirements and paid the fees as the Bank may prescribe.

21.2 The Bank has the right:

- (a) to terminate or suspend any or all of the Cash Management Services and Accounts with immediate effect without liability by giving notice to the Customer. The Bank has the right to pay the credit balance in the Accounts to the Customer by sending a cashier order to the Customer by post whereupon the Bank's obligation in relation to the credit balance shall be discharged; and

- (b) to terminate the Cash Management Services by giving notice to the Customer if all Accounts relating to the Cash Management Services are closed whether by the Customer or by the Bank.

21.3 Termination or suspension of any or all of the Cash Management Services and Accounts will not affect any accrued rights or obligations or subsisting Transactions. The Bank remains authorised to settle any outstanding Transactions.

## **22. Tax**

The Customer is responsible for filing any tax or other returns or reports on the Transactions which the Bank handles for the Customer.

## **23. Third Party Rights**

23.1 Subject to Clause 23.3, a person who is not a party to these Terms or the iGTB Services Terms has no right to enforce or to enjoy the benefit of any provision of these Terms or the iGTB Services Terms.

23.2 Notwithstanding any provision of these Terms or the iGTB Services Terms, the consent of any person who is not a party is not required to rescind or vary these Terms or the iGTB Services Terms.

23.3 Any director, officer, employee, affiliate or agent of the Bank may rely on any provision of these Terms or the iGTB Services Terms (including any indemnity, limitation or exclusion of liability) which expressly confers rights or benefits on that person.

## **24. Governing Law and Jurisdiction**

These Terms are governed by and shall be construed in accordance with the laws of the Service Jurisdiction. The Customer submits to the non-exclusive jurisdiction of the courts of the Service Jurisdiction.



## **Service Jurisdiction Addendum – Hong Kong**

### **1. Applicability**

- 1.1 This Service Jurisdiction Addendum applies to the Cash Management Services provided by the following Bank to the Customer from time to time:

Name of Bank: Bank of China (Hong Kong) Limited

Address of registered office or principal place of business: Bank of China Tower, 1 Garden Road, Hong Kong

- 1.2 In this Service Jurisdiction Addendum:

**"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China.

### **2. Privacy Policy Statement**

The Bank focuses on its duty of confidentiality to its customers. Please refer to the "Data Policy Notice" and "Privacy Policy Statement" relating to the Bank's general policies on collection, use, disclosure and transfer of customer data, a copy of which is available at <http://www.bochk.com>.

### **3. Language**

The English version of these Terms and the iGTB Services Terms is the governing version. The Chinese version is for reference only. If there is any inconsistency between these the English and Chinese versions, the English version shall prevail for all purposes.

### **4. Product Specific Terms and Conditions**

The Customer agrees to be bound by any further terms and conditions which the Bank may reasonably prescribe for performing certain banking transactions and activities using any Cash Management Services. These further terms and conditions are available from the Bank's website.