

## CASH MANAGEMENT SERVICES – BULK SERVICES TERMS & CONDITIONS

### A. APPLYING FOR UOB CASH MANAGEMENT SERVICES – BULK SERVICES

- 1.1 In applying for the UOB Cash Management Services – Bulk Services, the Customer agrees to be bound by and to comply with all applicable terms and conditions, procedures and instructions as set out in any document or form issued by the Bank (whether on paper or in the UOBGroup.com Web Pages) including but not limited to the terms set out herein and as amended from time to time, the UOB Cash Management Services – Electronic Bulk Service User Guide, the UOB Cash Management Services – IBG Diskette Service User Guide, the UOB Cash Management Services – Bulk Services Registration Form and the Bank's various standard terms and conditions governing various banking facilities and services prevailing from time to time (together with any amendments, additions and variations thereof), and any instructional material provided by the Bank to the Customer, PROVIDED that in the event of any inconsistency between the terms herein and the terms in the other aforesaid documents in matters relating to the Cash Management Services – Bulk Services, the terms herein shall prevail. This Agreement is in addition to any other agreements which the Customer may have with the Bank.
- 1.2 The Cash Management Services – Bulk Services is a service under the Cash Management Services which adds to or supplements the banking and other facilities, services and products granted or provided by the Bank to the Customer through various media including the electronic medium of the Internet. The Customer accepts and agrees that the passwords and Log-in IDs issued to the persons authorised by the Customer to access the Cash Management Services – Bulk Services will enable any one of the authorised users to operate Customer's Accounts by himself. The Customer further agrees that any existing mandate or instruction to the Bank that the Customer's Accounts are to be operated by two or more authorised users will not apply when any of the Customer's authorised users issued with a password and login-ID operates the Accounts via the Cash Management Services – Bulk Services.

### B. DEFINITIONS

- 2.1 "Account" means an account maintained by the Customer from time to time with the Bank.
- 2.2 "Bank" means, as the context may require, (i) in relation to each transaction carried out or transmitted through the Cash Management Services – Bulk Services, the Bank to which the Customer Instructions for that transaction relate or has its closest connection, or (ii) the Bank to which the Customer is or may be indebted or otherwise liable, or (iii) the Bank at which the Customer maintains its Designated Account.
- 2.3 "CMS" means all the Cash Management Services which add to or supplement all banking facilities and services that the Bank may offer to its customers from time to time, including but not limited to additional services related to remittances, bulk cheque issuances, FAST and Inter-Bank GIRO payments.
- 2.4 "Customer Instructions" means any request or instruction given or purportedly given by the Customer to the Bank through the CMS.
- 2.5 "CMS Software" means all or any part of the computer software (stored in Diskettes or any other form or medium) licensed or sub-licensed by the Bank to the Customer for the operation and utilisation of the CMS including the software which authenticates the identity of the Customer.
- 2.6 "Designated Account" means the account which the Customer shall open as a new Account or designate from among its existing Accounts in the CMS Registration Form (and in default of such designation by the Customer, whether at the time of registration or in the event of the closure or termination of an Account previously designated as such, such Account of the Customer as the Bank may designate) in order to utilise the CMS and to and from which may be charged and deducted the fees, costs, charges, expenses and interest that the Bank may impose from time to time for the use of the CMS, including without limitation, subscription fees and any additional fees for selected transactions/services and in respect of which the Bank may require the maintenance in it of any prescribed minimum amount of funds.
- 2.7 "Digital Certificate" means the combination of codes used by the Bank to authenticate the identity of the Customer.
- 2.8 "Diskettes" includes the installation diskette and any other diskette necessary to enable use of the CMS.
- 2.9 "Bank" means United Overseas Bank Limited.
- 2.10 In the interpretation of this Agreement, words importing the singular include the plural and vice versa and words importing a gender include every gender. The headings in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement.

### C. CMS SOFTWARE

- 3.1 The Customer undertakes to properly install, maintain and use the CMS Software where applicable. The Bank may in its discretion assist the Customer in the installation of the CMS Software for a fee. The Bank does not make any warranty, express or implied, as to the merchantability of the CMS Software or its fitness for any purpose or that it is free of errors.
- 3.2 The Bank shall not be liable to the Customer for the loss of or damage to any database, information or statement that may arise, directly or indirectly, from the installation, maintenance or use of the CMS Software or for any loss or damage whatsoever suffered by the Customer arising from the installation or use of any software which is not supplied or approved by the Bank and if the Bank suffers any loss or damage arising from or connected to the use of such software, the Customer shall indemnify the Bank in full against such loss or damage.
- 3.3 The Customer undertakes to notify the Bank immediately if the CMS Software is defective, lost or stolen. Until such notification and the Bank has taken the relevant action in accordance with its prevailing practice in response thereto, the Customer shall remain liable for all liabilities incurred pursuant to any Customer Instructions received by the Bank (whether authorised or not) via the CMS.

## **D. OPERATION OF CASH MANAGEMENT SERVICES – BULK SERVICES**

### **Customer Instructions**

- 4.1 Save for enquiries made through the CMS, Customer Instructions to effect transactions through the CMS shall not be taken to have been received or executed by the Bank until the Customer receives the Bank's confirmation of receipt or execution.
- 4.2 The Customer shall be responsible for adhering to the Bank's stipulated deadlines for submission of instructions for remittances and Inter-Bank GIRO payments and shall solely bear the consequences of any Customer Instructions being submitted late, or deemed late by remittances and Inter-Bank GIRO systems or agents.
- 4.3 For Electronic Bulk Service: a) Customer Instructions shall be deemed irrevocable and binding on the Customer upon transmission by the Customer. b) The Customer shall notify the Bank immediately upon receipt of incomplete, garbled or inaccurate data or information from the Bank. c) The Customer shall notify the Bank immediately upon receipt of any data or information which is not intended for the Customer and shall delete all such data or information from the Customer's computer system immediately.
- 4.4 For IBG Diskette Service: a) The Customer shall ensure that every diskette containing transactions to be processed through IBG ("IBG Diskette") is sent to the Bank with the required information and authorisation attached, and according to the format and schedule as specified in the UOB Cash Management Services – IBG Diskette Service User Guide. b) The Customer shall give the Bank such particulars as the Bank may require of the persons authorised to deliver and collect the IBG Diskettes or any other correspondences relating to this service. c) Customer Instructions shall be deemed irrevocable and binding on the Customer upon delivery via IBG Diskette.
- 4.5 The Bank may in good faith regard any Customer Instructions received by it in the prescribed manner as authentic and duly authorised and shall be under no obligation to investigate the authenticity or authority of persons sending or purporting to send Customer Instructions or verify the accuracy and completeness thereof and may treat Customer Instructions as valid and binding on the Customer notwithstanding any conflict with any other Customer Instructions given by the Customer to the Bank or any error, fraud, forgery, lack of clarity or misunderstanding in the terms thereof.
- 4.6 The Bank shall be under no obligation to effect any Customer Instructions without incurring any liability whatsoever if :-
  - (a) the funds in the Designated Account are insufficient or if credit facilities granted to the Customer are inadequate;
  - (b) the funds in the Designated Account are insufficient or if credit facilities granted to the Customer are inadequate to meet future dated payments;
  - (c) the funds in the Designated Account are insufficient to pay for any fees, costs, charges, expenses and interest that may be imposed by the Bank from time to time for the use of the CMS;
  - (d) the Designated Account is frozen or if it is closed and a new or existing account with the Bank has not been opened or selected and designated as the Designated Account;
  - (e) the execution of the Customer Instructions will cause the balance in the Designated Account to exceed the credit limit; or
  - (f) the Bank knows or has reason to believe that a breach of security, fraud, criminal act, offence or violation of any law or regulation has been or will be committed.
- 4.7 The Customer shall be solely responsible for ensuring the accuracy and completeness of Customer Instructions. The Bank shall not be responsible for the consequences of any Customer Instructions being incomplete, garbled, erroneous, or inaccurate.
- 4.8 The Customer shall check regularly the status of Customer Instructions processed or being processed by the Bank.
- 4.9 Where the total value of the transactions in the Customer Instructions exceeds the credit balance in the Designated Account or the credit facilities made available to the Customer, the Bank shall be entitled, at its absolute discretion, to determine whether or not to execute the Customer Instructions and if so whether in whole or in part, irrespective of the dates or times of despatch and receipt of the Customer Instructions.

### **Countermand of Customer Instructions**

5. The Bank is not obliged to cancel or amend any payment made or to be made pursuant to Customer Instructions. If the Bank agrees to the Customer's request for any amendment or cancellation, the Bank shall be entitled to a reasonable period of time to execute the Customer's request and shall have no liability to the Customer if such cancellation or amendment is not effected in time or could not be made. The Bank shall not be taken to have received or have notice of any countermand of Customer Instructions until the Bank informs the Customer in writing that the countermand has been received or the Bank has taken action, whichever is earlier.

### **Confidentiality of Passwords and Login-IDs (for Electronic Bulk Service)**

- 6.1 The Customer shall keep confidential all passwords, login-IDs, security devices (including tokens) and other codes issued by the Bank or by any security software providers recognised by the Bank in order to enable the Customer to access the CMS and the Customer shall be responsible for all Customer Instructions effected (whether authorised or not) through the use of such passwords, login-IDs, security devices and codes.
- 6.2 The Bank reserves the right to issue any combination of letters and/or numerals for the passwords, login-IDs, Digital Certificates, security devices and codes.
- 6.3 The Customer agrees to take all precautions to safeguard the passwords, login-IDs, Digital Certificates, security devices and codes including (but not limited to) not disclosing them to unauthorised persons, memorising the passwords and login-IDs and codes promptly upon receipt of notification from the Bank and thereafter destroying the letter advising of the same, not writing down the passwords, login-IDs and codes, changing the passwords regularly or immediately upon becoming aware of unauthorised access thereto howsoever caused, and notifying the Bank immediately upon becoming aware of unauthorised access or possible unauthorised access to the same.

- 6.4 The Bank shall at its discretion be entitled to de-activate or revoke the use of any passwords, login-IDs, security devices, Digital Certificates and codes at any time without any reason or prior notice to the Customer. The Bank may also de-activate or revoke the Customer's use of the CMS in the event of unsuccessful attempts to access the CMS using the Customer's login-ID and an invalid password beyond a number determined at the discretion of the Bank.
- 6.5 The Customer shall bear all liabilities incurred pursuant to Customer Instructions which are effected whether with or without the Customer's authority through the use of any passwords, login-IDs, security devices, Digital Certificates, and/or codes and received by the Bank.
- 6.6 The Bank may send the passwords, login-IDs, security devices and codes to the Customer by ordinary post or other means and shall not be liable to Customer if the same fail to reach the Customer or are disclosed in transit.

#### **Hashing Function**

- 7.1 The Customer, in opting to hash its data before sending the data to the Bank via electronic transmission including the Internet, diskettes or other available means, fully understands that the hashing feature is provided as an added safety option to help ensure that the transaction files have not been tampered with during transmission. The Bank shall not be held responsible for any consequences arising from the use of the hashing function.
- 7.2 The Customer, in opting for the hashing feature, undertakes to keep confidential and take all precaution to safeguard the hashing algorithm issued by the Bank or as amended from time to time.
- 7.3 The Customer, in not opting for the hashing feature, shall indemnify the Bank for all and any loss, damage, expense, liability, claim or cost (including all legal cost on an indemnity basis) to which the Bank may be subjected in the event that the transaction files are tampered with during transmission.

#### **Payment Service**

- 8.1 The Bank is authorised to effect any payment including third party payment whatsoever pursuant to Customer Instructions.
- 8.2 The Bank's standard terms and conditions and general operating procedures, which are applicable to remittances and Inter-Bank GIRO transactions, will apply mutatis mutandis to all CMS transactions.
- 8.3 Where the Bank provides a list of payees to whom payment may be made through the CMS, the Bank has the discretion to and may without prior notice delete any payee or amend such list of payees.
- 8.4 The Bank is under no obligation to execute any Customer Instructions to effect payment without incurring any liability whatsoever upon the occurrence of any of the events set out in Clause 4.6.
- 8.5 Subject to the constraints in the CMS system, the Customer may instruct payments, schedule ad-hoc payments in advance or schedule instalment payments at regular intervals and subject to Clause 5 hereof, may cancel or change any scheduled payment (whether ad-hoc or instalment) PROVIDED that the Customer complies with all directions, terms or requirements that the Bank may impose from time to time in respect thereof, including but not limited to deadlines, cut-off time and specified period of prior notice before which Customer Instructions must be conveyed to the Bank to effect a transaction. The Bank reserves the right at any time without prior notice or liability to Customer to change the procedure or manner in which Customer Instructions for such payment service may be transmitted.
- 8.6 In the event that the Customer shall elect for payment service by bulk issuance of cheques, the following provisions shall apply in addition to the prevailing UOB Terms and Conditions Governing Accounts and Services:-
  - (a) the Customer shall open a new current Account with the Bank in such currency as the Bank may permit to be designated as an "Imprest Account" in the name of the Customer, such Imprest Account to be used for the purpose of making payment on cheques or other forms of bills of exchange or similar instrument as the Bank may from time to time specify (collectively, "Cheques") issued pursuant to Customer Instructions and drawn against the Bank.
  - (b) the Customer shall nominate two authorised signatories with maximum operating mandates for the purpose of the Imprest Account and furnish to the Bank the specimens of the signatures of these signatories as the Bank may require.
  - (c) in the event of a change of the authorised signatories of the Imprest Account, the Customer shall forthwith notify the Bank in writing of the change at the branch where the Imprest Account is maintained or such other address as the Bank may from time to time notify the Customer, furnishing the specimens of the signatures of the new signatories, failing which the Bank shall not be deemed to have notice of any change of such authorised signatories and shall be entitled to act on Customer Instructions given by the authorised signatories on its records.
  - (d) Customer Instructions to issue Cheques shall be deemed irrevocable and binding on the Customer once transmitted by the Customer and shall be in a format acceptable to the Bank and shall include such information as the Bank may prescribe and the Customer shall ensure the correctness of all information provided.
  - (e) all Cheques issued shall be "crossed" and made out to named payees.
  - (f) upon receipt of Customer Instructions to issue Cheques, the Bank shall transfer funds of an amount equivalent to the total value of the Cheques to be issued in accordance with those Customer Instructions from the Designated Account to the Imprest Account to meet payments under the Cheques.
  - (g) the Customer shall ensure that the Designated Account is adequately funded before issuing any Customer Instructions to issue Cheques to enable the Bank to effect the transfer of funds therefrom to the Imprest Account and the Customer acknowledges that the Bank shall be entitled to refuse to act on such Customer Instructions if the funds in the Designated Account are inadequate or for any reason cannot be transferred and shall not be liable to the Customer for any consequence whatsoever suffered, incurred or sustained by the Customer as a result of such refusal to act.
  - (h) the Bank shall debit funds in the Imprest Account against presentation of the Cheques.
  - (i) the Customer shall be responsible for reconciling the entries made in respect of the Imprest Account and shall promptly (and in any case, within fourteen (14) days of the date of the posting of such entries in the Imprest Account) notify the Bank of any irregularity, discrepancy, inaccuracy,

incorrectness, omission, error, or unauthorised transaction in respect thereof, and if the Bank does not receive such notification within such time, each of such entries shall be conclusively deemed to be in good order, regular, valid, correct, accurate, true and duly authorised and the Customer shall be deemed conclusively to have accepted the same and be bound thereby and to have ratified or confirmed the same, and the Customer shall have no claim against the Bank howsoever arising from, in connection with or as a result of any transaction or entry referred to therein.

- (j) the Customer shall maintain sufficient funds in the Imprest Account to meet payment against any Cheque issued pursuant to Customer Instructions.
- 8.7 The Bank may impose fees in respect of payment service rendered at such rates, on a regular or per transaction basis and if on a regular basis, at such intervals as the Bank deems fit from time to time.
- 8.8 Where the payment service to be provided by the Bank involves the delivery or collection of physical instruments of payment, the Customer shall abide by such procedure as the Bank may prescribe for security or other purposes and the Bank shall have no liability whatsoever to the Customer arising from the Customer's non-compliance with such procedure. The Customer agrees and accepts that the risks associated with the delivery or collection of such instruments by the Bank, in accordance with Customer Instructions, at all times lie with the Customer.
- 8.9 The Bank shall not be liable for any claim, demand, action, proceeding, damage, liability, loss or expense which may be made against the Customer or which the Customer may incur or suffer arising from or in connection with:-
  - (a) any late payment due to the Customer's non-compliance with the Bank's directions, terms and requirements for effecting such payments through the use of CMS;
  - (b) any failure whatsoever of any third party or agent or the Bank's nominated correspondent bank through whom any such payment is made to transmit payment to the intended payee;
  - (c) any refusal or failure by the Bank to effect any payment by reason of an order of court or a notice, request, directive or order issued pursuant to any statute, regulation, or bye-law (whether or not having the force of law).
- 8.10 The termination of the CMS shall not in any way affect any outstanding Customer Instructions for such payment service received prior to the termination, which Customer Instructions shall survive, and the Bank is entitled to continue to execute and the Customer shall honour such Customer Instructions unless a countermand has been received in accordance with Clause 5 hereof.

#### **Collection Service**

- 9. The Bank's standard terms and conditions and general operating procedures, which are applicable to collections processed through the Inter-Bank GIRO system, will apply mutatis mutandis in connection with all CMS transactions including (but not limited to) the following:-
  - (a) the Direct Debit Authorisation forms of the Customer's clients shall be in a format acceptable to the Bank.
  - (b) the Customer shall be responsible for ensuring the validity of the Direct Debit Authorisation and the correctness of the bank account numbers of its clients.
  - (c) all unsuccessful collections will be returned to the Customer and its Designated Account debited accordingly.
  - (d) if the Customer's Designated Account is over-credited or under-debited for whatever reason, the Bank reserves the right to recover the over-credited/short-debited amount by debiting that Account accordingly.
  - (e) the Customer agrees to hold the Bank harmless and to indemnify the Bank against all actions, proceedings, liabilities, claims, damages and expenses including legal costs between solicitor and client whatsoever arising out of or in connection with the Bank accepting and acting upon such claims at the Customer's request, and the Customer hereby authorises the Bank to admit, compromise or reject any such claims without reference to the Customer.
  - (f) the Customer agrees to handle any claim or dispute with its client without joining the Bank as a party to the dispute.
  - (g) the termination of the CMS shall not in any way affect any outstanding Customer's Instructions under the arrangement.

#### **Limits**

- 10.1 The Bank reserves the right at any time to introduce, determine, vary or cancel limits for any transaction types, facilities, services and products that may be carried out through the CMS, whether in monetary or numerical terms or otherwise, and to vary their frequencies and availability period.
- 10.2 The Bank may limit, cancel or suspend the CMS in whole or in part at any time without prior notice or liability to Customer and may add, withdraw or change the types of transactions that may be available or carried out through the CMS.

#### **No Warranty**

- 11.1 Where the Bank provides the Customer with any third party information, Customer acknowledges and agrees that the Bank does not thereby warrant the accuracy or completeness thereof.
- 11.2 Neither the Bank nor any of its affiliates or subsidiaries, any relevant Internet service provider, information provider or any other software supplier makes any express, implied or statutory warranties relating to the CMS, the direct access software or services or browser including but not limited to any warranty of merchantability, fitness for a particular purpose or non-infringement of third party proprietary rights or that they are free of errors unless disclaiming such warranties is prohibited by law.
- 11.3 The Bank does not warrant the accuracy, adequacy or completeness of the information and material (including all text, graphics and links to other websites) contained in the UOBGroup.com website.

- 11.4 Although the Bank shall use reasonable endeavour to prevent unauthorised access by third parties to the CMS, the Bank does not warrant the security or confidentiality of any information transmitted through any electronic media including the Internet, network system or such other equivalent system in any jurisdiction via the CMS.

#### **Electronic Mail Service**

- 12.1 The Bank makes no representation or warranty as to the security of any information or Customer Instructions transmitted to the Bank through electronic mail service on the UOBGroup.com web pages which are not in a form prescribed or approved by the Bank as being secure ("Non-secured E-mail").
- 12.2 The Bank shall not be obliged to act on any Customer Instructions (whether digitally signed or not) or to answer any queries received through Non-Secured Email.
- 12.3 The Bank shall not be responsible for any loss of security or information regarding the Customer's Accounts or any loss or damage suffered or incurred by the Customer arising from or in connection with the Customer not following the Bank's instructions, procedures and direction for using the electronic mail service or not using electronic mail forms which are prescribed or approved by the Bank ("Secured E-mail").
- 12.4 The Bank makes no representation or warranty as to the correctness or accuracy of any advice or information (whether financial or otherwise) that may be transmitted by the Bank to the Customer through the UOBGroup.com web pages or the electronic mail service. The Customer agrees to take independent steps to verify the correctness or accuracy of any such advice or information before acting on the same. The Bank shall not be liable for any loss or damage whatsoever and howsoever caused and in any way arising from or in connection with the Customer's reliance on such advice or information.
- 12.5 All queries on the Customer's Accounts may be sent to the Bank by Secured E-mail in the manner specified by the Bank.
- 12.6 All communications through Secured E-mail that meet the operating standards and requirements of the Bank shall be deemed to be valid, accurate and authentic and as good as, and given the same effect as, written and/or signed documentary communications.

#### **Evidence**

- 13.1 The Customer agrees not to dispute the validity, accuracy or authenticity of any evidence of Customer Instructions and communications transmitted electronically between the parties, including such evidence in the form of the Bank's computer records of transaction logs, magnetic tapes, cartridges, computer printouts, copies of any communication, or any other form of information storage.
- 13.2 The Customer also agrees to refer to and to treat all such records or logs, tapes, cartridges, computer printouts, copies or other form of information storage as conclusive evidence of all Customer Instructions and other communications received or sent by the Bank.
- 13.3 All such Customer Instructions and communications that meet the operating standards and requirements of the Bank shall be deemed to be as good as, and given the same effect as, written and/or signed documentary communications.

#### **Rates**

14. Foreign exchange, interest and other rates and other information, including but not limited to stock quotes, made available under the CMS are only indicative of the actual rates, quotes or information and are subject to change without prior notice.

#### **Availability of CMS**

15. The Bank reserves the right to vary, add or withdraw any feature of the CMS at any time without prior notice or liability to the Customer. The hours of operation of the CMS are subject to change without prior notice. The Bank shall use reasonable endeavours to ensure that the CMS will be available during the times set out in the CMS User Guide or elsewhere PROVIDED that nothing herein shall be considered or be deemed as a warranty by the Bank that the CMS will be available (whether uninterrupted or available at all) during such specified times. The Bank shall at any time, in its discretion and without prior notice, be entitled to temporarily suspend the operations of the CMS for updating, maintenance and upgrading purposes or any other purposes whatsoever that the Bank deems fit, without incurring liability to anyone for any loss, cost, expense, delay, inconvenience or otherwise that may be incurred, suffered or sustained thereby.

### **E. FEES, CHARGES AND RIGHT OF DEBIT**

- 16.1 The Customer shall pay the Bank such subscription fee and other cost, charge, expense and interest for the use of the CMS as the Bank may determine from time to time.
- 16.2 All other agreements between the Customer and the Bank for the payment of fees, costs, charges, expenses and interest shall continue to be in force and shall be in addition to and not be affected by the agreement herein to pay fees, costs, charges, expenses and interest in relation to the CMS.
- 16.3 The Customer agrees to be responsible for all charges incurred in accessing the Accounts through or otherwise using the CMS (including but not limited to any telephone charges and Internet service provider's charges).
- 16.4 All fees, costs, charges, expenses, interest and other amounts payable to the Bank under this Agreement shall be in Singapore currency unless otherwise specified.
- 16.5 The Customer shall pay any goods and services tax or any other taxes levies or charges whatsoever (collectively "the Taxes") now or hereafter imposed by law or required to be paid in respect of any transaction on the CMS and the Customer shall indemnify the Bank for any payment of such Taxes made by the Bank on the Customer's behalf.
- 16.6 All fees, costs, charges, expenses, interest and other amounts which are payable to the Bank or recoverable from the Customer under this Agreement will be charged to and/or deducted from the Designated Account at such times as the Bank may determine. If there are insufficient funds in the Designated Account, the Bank may (but is not obliged to) debit the Customer's other Accounts without prejudice to the Bank's right to refuse to carry out all unperformed Customer Instructions and terminate this Agreement.

#### **F. BANK'S RIGHT OF SET OFF**

17. The Bank shall be entitled to set-off any payment due from the Bank to the Customer against any amount due from the Customer to the Bank. The Customer authorises the Bank to debit the Customer's Accounts whether in debit or in credit (including but not limited to time deposit Accounts belonging to the Customer whether or not matured) which the Customer may now or hereafter have with the Bank in Singapore or elsewhere to pay the amount due and owing by the Customer to the Bank under this Agreement.

#### **G. NEW SERVICES**

18. The Bank may introduce new services and/or new products through the CMS at any time. By utilising such new services and/or products as and when they become available, the Customer shall be bound by the terms and conditions in force governing such new services and/or products.

#### **H. SOFTWARE & HARDWARE UPGRADE**

- 19.1 If new or different versions of the CMS Software or the web browser or other software necessary for the operation of the CMS are available, the Bank reserves the right not to support any prior version of the CMS Software or the web browser or other software. If the Customer fails to upgrade the relevant software or to use the enhanced version of software as required by the Bank, the Bank may reject Customer Instructions sent by the Customer and terminate this Agreement forthwith.
- 19.2 The Bank reserves the right to change the type or versions or specifications of any hardware or equipment that the Customer may be required to use for the CMS, and in the event such requirements are not met by the Customer, the Bank may reject Customer Instructions sent by the Customer and terminate this Agreement forthwith.

#### **I. TERMINATION**

- 20.1 The Bank may in its absolute discretion terminate this Agreement or de-activate or revoke the CMS at any time without prior notice or liability to the Customer. Without prejudice to the foregoing, the Bank shall be entitled (but is not obliged) to terminate this Agreement upon the termination or closure of any of the Accounts. The Customer may only terminate this Agreement upon the giving of two months' notice in writing to the Bank.
- 20.2 The Customer's obligation to pay all fees, costs, charges, expenses and amounts accrued up to the date of termination shall survive the termination of this Agreement or the deactivation or revocation of the CMS.
- 20.3 The Customer undertakes to return to the Bank all CMS Software or other software or equipment supplied by the Bank and destroy any copies thereof in the Customer's possession, and erase all copies of the CMS Software or other software supplied by the Bank in the Customer's computer system, immediately upon termination of this Agreement.

#### **J. OWNERSHIP OF CMS SOFTWARE AND DIGITAL CERTIFICATE**

- 21.1 Any CMS Software and other software and all documentation (including the CMS User Guide) provided to the Customer by or through the Bank belong to the Bank. The Bank grants to the Customer a non-exclusive non-transferable licence to use the CMS Software (including the Digital Certificate) only for the purposes described in the CMS User Guide. The Customer shall not disassemble or reverse engineer any CMS Software and shall not cause any portion thereof or the Digital Certificate or part thereof to be copied (save for back-up copies allowed under law), removed, modified, transferred, adapted or translated in any form, in whole or in part, and shall not allow any third parties to have access to the CMS Software and/or the Digital Certificate or any documentation relating to CMS or any part thereof without the prior written consent of the Bank. The Customer undertakes to return to the Bank the CMS Software, the Digital Certificate and all other software and documentation provided to the Customer immediately upon request by the Bank.
- 21.2 The CMS Software and the Digital Certificate shall at all times remain the exclusive property of the Bank.

#### **K. CURRENCY EXCHANGE INDEMNITY**

- 22.1 The Customer agrees that any conversion from one currency into another in connection with the CMS may be effected in such manner as the Bank may in its sole discretion determine and at the Bank's then prevailing rate of exchange. The Customer agrees that any loss, cost, charge and risk resulting from the conversion of one currency into another in connection with the CMS shall be borne by the Customer and any such loss, cost or charge may be debited by the Bank from any of the Customer's Accounts (whether such account is designated for the CMS or not).
- 22.2 Where the Account (whether designated for the CMS or not) assigned by the Customer to be debited for transactions involving foreign exchange has insufficient funds, the Bank reserves the right to liquidate the foreign exchange position and treat the transactions as cancelled and the Customer shall be liable for any loss (including exchange loss), damage, charge (including replacement cost) and fee incurred therein.

#### **L. FORCE MAJEURE**

- 23.1 In the event that the Bank is rendered wholly or partly unable to observe or perform the terms of this Agreement by reason of causes beyond its control including (but not limited to) equipment, system or transmission link malfunction, failure or sabotage, fire, flood, explosion, acts of elements, acts of God, accidents, epidemics, strikes, lockouts, power blackouts or failure, labour disputes, acts, demands or requirements of any Government or regulator of competent jurisdiction, or by any other causes which it cannot reasonably be expected to avoid, the performance of the obligations of the Bank as they are affected by such causes shall be excused for the continuance of such causes.
- 23.2 The Bank shall not be liable for any delay, loss, damage or inconvenience whatsoever caused by or arising from or in connection with any one or more of the above-mentioned causes.

#### **M. DISCLOSURE OF INFORMATION**

- 24.1 The Customer agrees that the Bank may disclose any information whatsoever regarding the Customer or the Accounts to:-

- (a) the Bank and/or any of the subsidiaries thereof, or any other person for any purposes whatsoever as the Bank considers appropriate, necessary or desirable and including but not limited to purposes of upgrading or maintenance of the CMS, maintenance of the CMS Software, printing of any documents or for effecting or executing Customer Instructions or for provision of the CMS;
  - (b) any person or organisation providing any service to the Bank's customers, whether within or outside Singapore for the purpose of providing the said service including but not limited to investigating discrepancies, errors or claims;
  - (c) the police, regulators of competent jurisdiction or any public officer conducting investigations in connection with any offence or alleged offence;
  - (d) credit card companies in connection with credit card enquiries;
  - (e) banks, financial institutions or credit reference agents for the purpose of assessing the Customer's creditworthiness; and
  - (f) any person (whether or not related to the Bank) for purposes of that person or entity marketing any product or service to the Customer, whether by electronic means or otherwise.
- 24.2 The Customer agrees that in the event of any claim arising from the use, loss or misuse of the Digital Certificate, passwords and login-IDs, or the CMS Software, the Bank may disclose to parties who are privy to the Customer Instructions or the appropriate authorities any information in respect of the Accounts which the Bank considers necessary in investigating the claim.
- 24.3 The Customer agrees that the Bank shall not be liable for any loss or damage that the Customer may incur due to the negligence, act or omission of any third party referred to in Clauses 24.1 and 24.2 above.
- 24.4 The Customer agrees that for the avoidance of doubt, the Bank shall not be liable to the Customer for the disclosure to any person of any information whatsoever regarding the Customer, the Accounts arising in any way as a result of or from or in connection with the Customer's neglect or failure to keep the password, login-ID, and Digital Certificates confidential.

#### **N. INDEMNITY BY CUSTOMER**

- 25 The Customer shall indemnify the Bank for all and any loss, damage, expense, liability, claim or cost (including all legal cost on an indemnity basis) to which the Bank may howsoever be subjected in relation to the Bank's functions with respect to the CMS and including but not limited to:
- (a) any unauthorised Customer Instructions or other instructions of the Customer that might be transmitted through CMS or any Customer Instructions or such other instructions being inaccurate, garbled or incomplete;
  - (b) the recovery of or attempt to recover by the Bank from the Customer any monies due to the Bank or the enforcement by the Bank of the terms of this Agreement;
  - (c) any change in any law, regulation or official directive which may have a material adverse effect on this Agreement or the Bank; and
  - (d) any breach by the Customer of any of the Customer's obligations provided for in this Agreement.

#### **O. EXCLUSION OF LIABILITY**

- 26.1 The Bank shall not be liable for any loss or damage whatsoever and howsoever caused on the part of any person whether or not arising from or in connection with and including but not limited to the following:
- (a) any loss or damage caused by equipment, software, Internet browser providers (such as Netscape or Microsoft) or by the Internet service providers or their agents or sub-contractors;
  - (b) the installation, maintenance or operation of the CMS Software;
  - (c) any computer or system virus interferences, "trojan horses" or other harmful components that may interfere with the CMS, the CMS Software, the web browser or the Bank's, the Customer's or the Internet service provider's computer system;
  - (d) any breakdown or malfunction of any of the software or equipment used in connection with the CMS, whether belonging to the Bank or not, including but not limited to any electronic terminal, telecommunication device or any part of the electronic funds transfer system;
  - (e) any loss, theft, or use (whether actual, purported, authorised or unauthorised) of the Digital Certificate, password and login-ID, the CMS Software, or the CMS;
  - (f) any destruction or alteration or error in transmission of Customer Instructions or any other instructions, data or information transmitted by the Customer or by the Bank through the CMS;
  - (g) any inaccurate, garbled or incomplete Customer Instructions and other instructions of the Customer transmitted through the CMS;
  - (h) any failure by the Customer to follow the latest instructions, procedures and directions for using the CMS;
  - (i) any delay in delivery or non-delivery of any documents or materials whatsoever under this Agreement;
  - (j) any delay or refusal to execute Customer Instructions or other instructions of the Customer transmitted through the CMS; or
  - (k) any direct, indirect or consequential loss or damage (whether foreseeable by the Bank or not) arising out of or related to the use of the CMS.
- 26.2 No action, regardless of form arising out of or in connection with the CMS or this Agreement, may be brought by the Customer against the Bank more than one year after the cause of action has accrued.
- 26.3 The Bank's liability arising for any reasons whatsoever, shall be limited to and shall not under any circumstances exceed the sum equivalent to the prevailing annual subscription fee for the CMS.

#### **P. COMMUNICATION**

- 27.1 All notices and communications to the Customer may be sent by post, personal delivery, cable, facsimile transmission, electronic mail or such other manner as the Bank may in its discretion deem fit, to the Customer's last known address, telex or cable or facsimile number or electronic mail address in the Bank's records.
- 27.2 All notices and communications sent shall be conclusively deemed to have been received by the Customer on the day following such posting if sent by post, notwithstanding that the same be returned unclaimed; upon delivery if delivered personally; and at the time and day of despatch by the Bank if sent by telex, cable,

facsimile transmission or electronic mail, despite any evidence of non-delivery and to be effective service for the purpose for which such notice, communication and/or other instrument was sent. A written statement by an officer of the Bank confirming the despatch of any notice or communication from the Bank shall be binding and conclusive evidence of this fact as against the Customer.

**Q. AMENDMENTS**

- 28.1 The Bank reserves the right from time to time and without notice to impose such further terms and conditions and make such changes to this Agreement as well as to any of the Bank's terms and conditions applicable to each of the services available under the CMS, as the Bank may in its discretion deem fit. The Customer's continued use of the CMS shall be deemed to be acceptance of the amendments or changes.
- 28.2 Notice of amendments or changes to this Agreement or any terms and conditions shall be deemed to have been given to the Customer by displaying notice thereof in the Bank's premises, advertising notice thereof in Singapore's main daily English and Chinese newspapers or via radio or television broadcasts or any other media chosen by the Bank, or posting notice thereof by ordinary mail to the last known address of the Customer in the Bank's records, or transmitting notice thereof by electronic mail service through the CMS.
- 28.3 The Customer shall be bound by any amendments or changes to this Agreement or any terms and conditions referred to herein from the date determined by the Bank or in the event no date is specified, from the date of such display, publication, advertisement, broadcast, posting or transmission.

**R. ENGLISH VERSION TO PREVAIL**

29. If there are differences in meaning between the English version and any translation of any terms and conditions hereof, the English version shall prevail.

**S. INVALIDITY OF ANY PROVISION**

30. If any of the provisions of this Agreement or any part thereof shall be adjudged invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected.

**T. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT, CAP. 53B**

31. Unless expressly provided to the contrary in this Agreement, a person who is not a party to this Agreement has no right under The Contracts (Rights of Third Parties) Act, Cap.53B to enforce any terms of this Agreement. Notwithstanding any term herein, the consent of any third party is not required for any subsequent amendments or changes to this Agreement.

**U. APPLICABLE LAW AND PROCEEDINGS**

32. This Agreement shall be governed by the laws of the Republic of Singapore. The Customer irrevocably submits to the non-exclusive jurisdiction of the courts of Singapore and consents to the service of process (whether personal or otherwise) by prepaid post (ordinary or registered) to the last known address of the Customer in the Bank's records which shall be conclusively deemed to be received by the Customer on the day following such posting despite any evidence to the contrary. Any proceedings whatsoever for the recovery and/or enforcement of any monies claimed to be due from the Bank shall be instituted by the Customer solely in the courts of Singapore unless the Bank otherwise agrees in writing and any judgement or order of court made against the Bank shall not be enforceable or executed against any overseas branch of the Bank.