

「財富組合融資」透支授信申請表附件  
- 「財富組合融資」透支授信的條款  
(本附件為申請表之組成部分)

**重要通知：** 本「財富組合融資」透支授信的一般條款列載本行向借款人提供／延續／續期「財富組合融資」透支授信的條款。借款人在接受「財富組合融資」透支授信之前，應小心地詳閱並理解此等條款。

本「財富組合融資」透支授信的條款（不時經修訂及生效）（“本條款”）適用於中國銀行（香港）有限公司（包括其繼承人及受讓人，“本行”）現時或此後任何時間可能提供予借款人的「財富組合融資」透支授信（“授信”）。

第 I 部分：一般條款

第 II 部分：授信條款

第 III 部分：存款及證券的押記

**第 I 部分：一般條款**

**1. 定義**

在本條款、申請表及貸款通知書中，除非文意另有所指，否則下列用語應具有以下意義：

<b>申請表</b>	指就有關授信的「財富組合融資」透支授信申請表及其附件；
<b>營業日</b>	指香港的商業銀行開放營業的日子，但不包括星期六、星期日及公眾假期；
<b>借款人</b>	指獲本行批出或提供授信的任何人士；
<b>押記</b>	是指附於申請表的存款及證券押記；
<b>存款</b>	具有押記所賦予的含義；
<b>香港</b>	指中華人民共和國香港特別行政區；
<b>貸款通知書</b>	指本行不時向借款人發出 (a) 確認本行接受借款人授信申請及／或 (b) 載有授信的條款及／或 (c) 確認本行接受借款人解除任何存款及／或證券的請求，並經不時修訂、修改或補充的貸款通知書；及
<b>證券</b>	具有押記所賦予的含義。

所插入的條款標題僅為方便之用，在解釋條款時應予以忽略。

**2. 不可推翻的陳述**

- 2.1 經本行任何一名職員簽署確認為正確的與授信有關的任何帳戶結單（包括但不限於月結單）及任何證明借款人於任何時間根據授信及／或押記應付的到期金額（以其中所列一種或以上貨幣）及其任何利息，以及借款人對本行的到期、結欠或應付的任何其它款項的證明書，除非有明顯錯誤，否則應為借款人結欠本行債務的不可推翻證據，並且對借款人具有約束力。

- 2.2 經本行任何一名職員簽署確認為正確的與本行就授信的任何基本利率或替代或替換利率有關的任何證明書應為不可推翻的，並且對借款人具有約束力。
- 2.3 本行就任何重大性、效力或任何其它方面與本函提及或所述的任何事情有關的任何意見或決定應為不可推翻的，並且對借款人具有約束力。
- 2.4 借款人通過電話、傳真或電子郵件對本行傳達的指示對借款人有約束力，本行可以（但不是必須）在認為該指示合理時依此指示行事。本行可以隨時絕對酌情決定記錄或保存該指示。借款人同意該記錄和保存其指示，也同意本行出於任何目的在需要時使用該記錄，包括在對抗借款人或其他人的訴訟中作為證據。

### 3. 彌償保證

- 3.1 借款人須就本行由於或在維持或強制執行授予借款人的授信時或由於接受借款人通過電話、傳真或電子郵件傳達的指示/通知所蒙受、招致或承受的任何性質的所有法律行動、訴訟、法律程式、申索、要求、損失、損害賠償、成本、費用、開支及／或債務（不論實際或或然）向本行根據十足彌償基準作出彌償，但因本行疏忽或故意失責導致者除外。
- 3.2 在不影響授信條款第 4.1 條的前提下，如本行需支付任何本授信條款第 4.1 條所提及的該等預扣或扣減款項，或承擔任何有關該等稅項預扣或扣減的法律責任，借款人須儘快向本行彌償該付款或責任。

### 4. 開支

不論借款人是否提取或使用授信，本行就授信或就授信簽立的其它文件、或任何強制執行或試圖強制執行本行於申請表或貸款通知書或本條款或就授信簽立的其它文件項下的權利而招致的所有開支，包括但不限於本行合理地招致而金額合理的律師費、通訊及其它實付開支，均由借款人以完全彌償基準承擔。

### 5. 劃撥

借款人茲不可撤銷地放棄其可能擁有的任何撥付權利或權力，而本行擁有專有及絕對權利於借款人付款時或其後任何時間劃撥借款人向本行支付或本行以其它方式而管有或控制的任何款項，以清償借款人欠下本行債務的任何本行認為適當的部分。任何該等撥付均凌駕於借款人本意作出的任何撥付。

### 6. 資料

- 6.1 為使本行可評估授信的批准、修訂和重檢，借款人同意有必要向本行提供有關借款人的或本行要求的資料。借款人授權本行，按《服務條款》（“《服務條款》”）所載的目的，使用任何借款人的資料（該使用將受本行不時發出及／或修訂的《資料政策通告》（下稱“該通告”）所限制，借款人茲確認已收到該通告及知悉其內容），並且借款人知悉本行持有的資料／資訊（包括申請表、貸款通知書或有關授信任何事情相關的）將保密處理，但容許本行向《服務條款》或該通告所列人士，或本行的任何分公司、子公司及控股公司，和本行的任何控股公司的分公司、子公司及關聯公司（合稱「本行的關連方」），或任何其他人士（包括但不限於任何經本行許可的任何人士、本行的專業顧問及任何其他向本行或任何本行的關連方提供服務的人士（包括但不限於信貸資料服務機構、收數代理、評級機構、保險人或保險經紀、信用保障提供者）、任何實際或準承讓人、受讓人、參予人或附屬參與人、或就授信而已抵押予本行的抵押品的其後的承押記人、抵押權人或產權負擔人）提供該等資料或文件。亦容許本行為符合對本行或任何本行的關連方有約束力或適用的任何法律、規例或證券交易所的指引或規則或按該等法規所要求，或按本行或任何本行的關連方所受管轄的任何法院、政府或監管機構或有關本行或任何本行的關連方的訴訟、仲裁、行政程序、調解或其他調查、法

律程序或爭議所要求，向任何該等人士提供該等資料或文件。借款人進一步授權本行聯絡借款人的任何僱主（如適用）、銀行、諮詢人、信貸資料服務機構或任何其它來源，以獲得或交換任何資訊及將借款人提供的資訊與本行收集得到的其它資訊進行比較，以作核對用途。本行有權使用上述比較的結果以採取可能不利於或針對借款人的任何行動。借款人同意本行將按多家個人信貸資料服務機構模式項下的信貸資料服務機構分享借款人的個人信貸資料，亦可能向第一類特別會員分享（即根據香港法律第 41 章《保險業條例》第 8(1)(a) 或 8A(1)(a) 授權開展保險業務的保險公司或其附屬公司，可在符合個人資料私隱專員發出並不時更新或取代的《個人信貸資料實務守則》所允許的用途下使用個人信貸資料），以便第一類特別會員向銀行提供保險保障。借款人亦同意借款人的資料／資訊可被傳送至香港以外的其它司法管轄區。

- 6.2 借款人承諾於所有時間就借款人的資料（包括但不限於借款人的地址、電話號碼及傳真號碼）的任何更改以書面通知本行。
- 6.3 借款人確認本行已向其提供以下資訊：
  - (a) 借款人的資料可能會被提供給信貸資料庫，及／或在發生違約事件時被提供給收數代理；
  - (b) 借款人可於提出要求後獲告知例行披露予上述信貸資料服務機構及／或收數代理的資料的權利，以及借款人獲提供進一步資料，以向相關信貸資料服務機構或收數代理（視所屬情況而定）提出查閱及更正資料要求的權利；
  - (c) 假如拖欠付款，除非拖欠金額在拖欠之日起計 60 天屆滿前悉數支付，否則借款人的帳戶資料須由信貸資料服務機構保存，直至拖欠金額最終償還之日起計五年屆滿為止；及
  - (d) 在全數還款後帳戶終止時，若在緊接帳戶終止前的五年內帳戶並無任何重大違約，借款人有權指示本行要求信貸資料服務機構自其資料庫中刪除與已終止帳戶有關的帳戶資料。
- 6.4 借款人盡速向本行提供或促使向本行提供就本行的合理要求或根據適用法例及法規下相關文件及其它證據。

## 7. 其它事項

- 7.1 應本行要求，借款人須向本行提供借款人最新的收入報稅表及銀行結單的核證副本，以及本行不時要求的其它資料。
- 7.2 在向借款人發出事先通知的前提下，本行保留絕對權利，可更改授信的條款，及隨時及不時增加、減少及／或取消任何授信或其任何部分，包括但不限於在申請表及／或貸款通知書及／或本條款項下應付的任何利息、收費、佣金、費用或違約利息及更改本條款（包括但不限於違約息差或違約行政費用）的計算基準、就已批出授信的每日未提取結餘實施承諾費，及／或按本行獨有酌情決定的利率徵收任何附加手續費。若借款人接獲該更改、修訂或補充條款的通知後，且未作出終止該等授信，則任何更改、修訂或補充對借款人具有約束力。
- 7.3 本行沒有、延遲或遺漏行使任何權利、權力、特權或補救，概不損害該權利、權力、特權或補救，或被詮釋為放棄該權利、權力、特權或補救；而任何單一或部分行使任何權利、權力、特權或補救，亦不妨礙任何進一步行使該權利、權力、特權或補救或行使任何其他權利、權力、特權或補救。本文規定的權利、權力、特權或補救可以累積，且不排除法律賦予的任何權利、權力、特權或補救。
- 7.4 除一般條款第 7.5 條的條文外，發給借款人的任何通知、要求或其它通訊須發送至借款人的最後為本行所知地址或借款人可能以書面通知本行的其它地址，並且 (i) 若以專人遞交，則于交付之時視為已被發出；(ii) 若以預付郵資的信件遞送，則於投寄後二十四 (24) 小時視為已被發出；及 (iii) 若以傳真或其它電子方式傳送，則于傳送之時視為已被發出，但本行可親身或透過電話給予借款人口頭通知，若借款人由多於一名人士組成，則可通知其任何一人，如此發出的任何口頭通知立即生效及對借款人具有約束力。發給本行的任何通知或通訊須待本行實際收到時方才生效。若借款人由多

- 於一名人士組成，則任何通知、要求或其它通訊僅於彼等各人均作出時方對本行有效，及在本行向彼等任何一人作出時對彼等所有人士有效。
- 7.5 本行保留可在本行的銀行大堂透過展示或張貼通知以通知借款人本條款或任何費用的任何更改或關於授信的標準收費、違約息差、授信條款第 6.2 條中所載的違約利息、違約行政費用或上述任何一項的計算基準的任何變更的權利。
- 7.6 本條款乃外加於及不損害本行在本行持有的所有現有或將來抵押及／或法律文件（如有）項下的權利。
- 7.7 若借款人由多於一名人士組成而該等借款人共同獲提供任何授信，則借款人在授信項下對本行的債務為共同及各別的債務，而申請表及貸款通知書的每一條文以及本條款的每一條文均應作相應詮釋。
- 7.8 申請表、貸款通知書及本條款的任何條文，若在任何方面屬於或被任何具司法管轄權的法院或審裁處根據任何適用法律宣佈為不合法、無效或不可強制執行，則應在該適用法律許可的最大限度下從申請表及／或貸款通知書及／或本條款（視所屬情況而定）中分割，申請表及／或貸款通知書及／或本條款（視所屬情況而定）其餘條文的合法性、有效性及可強制執行性不會因此以任何方式受影響，而應全部繼續具有十足效力及效用。
- 7.9 除非原意另有所指，否則表示單數的詞彙須包括複數，反之亦然；表示男性的詞彙須包括女性及中性。
- 7.10 凡是提及「規定」的，包括任何政府、跨政府或國際機構、代理人、部門或監管機構、自律機構、其他主管機構或組織所訂的任何規定、規則、官方指令、要求或指引（不論是否具有法律效力）。

## 8. 第三者權利

- 8.1 受限於本一般條款第 8.3 條，非一般條款的締約方在《合約（第三者權利）條例》（香港法例第 623 章）（“**第三者條例**”）之下無權執行或享受該貸款通知書、申請表和/或本條款帶來的利益。
- 8.2 無論貸款通知書、申請表和/或本一般條款如何規定，任何時間廢除或修改該貸款通知書、申請表和/或本一般條款都不需要非該貸款通知書、申請表的相關方和/或本條款的締約方的同意。
- 8.3 根據第三者條例的規定，本行的董事、職員、雇員、附屬公司、代理人或任何本行的關聯方可以行使貸款通知書、申請表和/或本條款中已明確授予其的權利。
- 8.4 本一般條款第 8 條自第三者條例生效之日（即 2016 年 1 月 1 日）起生效。

## 9. 語言

本條款的中文版本僅供參考，若英文與中文版本有任何抵觸，以英文版本為準。

## 10. 管轄法律

申請表、貸款通知書及本條款須受香港法律管轄及據其詮釋。借款人茲不可撤銷地接受香港法院的非專屬司法管轄權。

## 第 II 部分：授信條款

### 1. 定義

在本授信條款、申請表及貸款通知書中，除非文意另有所指，否則下列用語應具有以下意義：

<b>基本利率</b>	指港元最優惠利率或本行不時決定的該等其它利率（視所屬情況而定）；
<b>違約行政費用</b>	指第 6.5 條所提及的收費金額；
<b>違約息差</b>	<b>就港元透支而言，年息 10%</b> 或本行不時指定並於本行的銀行大堂展示或張貼的利率，或本行可能指定並通知借款人的其它利率；
<b>違約事件</b>	指下文第 13 條所述的任何一事件；“各違約事件”須作相應詮釋；
<b>資金成本</b>	指由本行不時絕對酌情決定按其資金成本來源選定的成本；
<b>香港銀行同業拆息</b>	就特定利息期而言及對於根據授信作出的任何港元墊款及／或提取，指本行在香港銀行同業港元市場所報的“香港銀行同業拆息”年利率；
<b>港元</b>	指港元，即香港的法定貨幣；
<b>港元透支</b>	指在以港元計值的往來帳戶向借款人提供的任何透支授信；
<b>港元最優惠利率</b>	指本行不時所報的港元最優惠利率，並隨市場情況作出調整；
<b>義務人</b>	指借款人、任何抵押文件的任何一方和授信函的任何一方（包括以副署簽名成為協議一方的人士），但不包括本行及任何由本行於授信函明文排除的任何一方；
<b>原本利率</b>	指貸款通知書所指定的適用利率；及
<b>抵押文件</b>	指為獲取授信而可能已簽立或此後可能簽立的押記及文件，以及補充、附屬於或衍生自任何該等文件的所有其它文件。

### 2. 提款

- 2.1 受限於貸款通知書所載港元透支限額，本行擬向借款人提供港元透支授信，最多為就本行於任何有關時間可接受的所有存款所批出總額，其中就各筆存款批出的港元透支限額須按以下所載方式計算：
- $$n = \text{以港元計價的存款估值} * \text{於任何有關時間適用於該筆存款的貸款比例}；$$
- 上述公式中的“n”是代表於任何有關時間就該筆存款批出的港元透支限額；及於任何有關時間就所有存款批出的港元透支限額為就所有存款的各港元透支限額之總額。
- 2.2 受限於貸款通知書所載最高港元透支限額，本行擬向借款人提供的港元透支授信最多為就本行於任何有關時間可接受的所有證券所批出總額，其中就各發行人的證券批出的港元透支限額須按以下所載方式計算：
- $$n = \text{以港元計價的相關發行人證券估值} * \text{於任何有關時間適用於該發行人證券的貸款比例}；$$
- 上述公式中的“n”是代表於任何有關時間就該發行人證券批出的港元透支限額；及於任何有關時間就所有證券批出的港元透支限額為就所有證券的各港元透支限額之總額。
- 2.3 受限於借款人接納及完全遵循申請表及貸款通知書所載的條款、並以本行滿意的方式提供和（如適用）簽立在本條款、申請表及貸款通知書內所述的所有適當文件，以及支付所有規定的費用和收費後，借款人將可使用在申請表及貸款通知書內所述的授信，直至本行另行書面通知借款為止。
- 2.4 作為本行同意向借款人提供授信的先決條件，借款人須以本行為受益人為押記中所載資產設定押記。就此而言，借款人同意並確認（i）借款人不時存入本行載於貸款通知書中客戶號碼項下的所有定期存款及（ii）載於貸款通知書中借款人證券帳戶號碼項下的所有證券（中國銀行（香港）有限公司的股份及本行不時指定的其它證券除外）構成存款及／或證券的一部分，按照押記的條款擔保借款人於任何時間及不時就有關「財富組合融資」透支授信所產生的對本行的所有或任何負債。
- 2.5 一旦本行在相關授信項下作出付款或招致債務，借款人即被自動視為已提取授信及／或該授信已由

- 本行墊付。為免生疑問及受本行凌駕性酌情權限制，就任何透支授信設定信貸額只會於營業日進行。
- 2.6 本行保留絕對權利，可 (i) 拒絕借款人要求獲提供或提用授信的任何申請，及 (ii) 有專有及絕對的酌情權隨時檢討及對授信作出調整。
- 2.7 本行保留凌駕性權利，可定期檢視授信，當本行向借款人發出終止通知時，授信應立即終止。本行保留凌駕性權利，可於任何時間行使專有及絕對酌情權增加、減少及／或取消授信或其任何部分，並通過向借款人發出通知而立即生效。此外，如付款會導致授信的未償還總額（不論實際還是或然）超過以本條款所載方式計算的相關港元透支限額，則本行可於任何時間拒絕執行借款人的支票或付款指示。然而，為免生疑問，本行無須為上述任何增加、減少及／或取消授信或其任何部分或任何不執行支票或付款指示所引致或相關的任何損失或其它後果承擔責任。
- 2.8 在確定於任何有關時間受限於貸款通知書所述最高港元透支限額的港元透支限額時，本行將評估股份的市場價值，及於任何時間及不時與相關貸款和證券有關的用於釐定適用貸款比例各種標準。本行可不時酌情決定不同類型存款和證券的貸款比例及釐定該等貸款比例的標準。詳情請參閱本行網頁及就有關存款和證券類型及貸款比例所不時發出的相關資料，或本行向借款人不時發送的其它通訊。此外，基於該等標準及證券的市場價值釐定的適用於任何存款或證券的貸款比例，除非有明顯錯誤，否則應為不可推翻的，並且對借款人具有約束力。在無損上述一般性原則的前提下，本行可不時決定以若干貨幣計價的存款（現時為烏拉圭央行貨幣、挪威克朗及泰銖）、零碎證券及若干發行人的證券適用零估值。本條款項下賦予本行的權利和特權乃外加于及不應取代本行于押記項下的任何權利和特權。
- 2.9 借款人向本行保證、聲明並承諾，本行批出的任何授信並無任何部分旨在或將為借款人或任何人士直接或間接購買中銀香港（控股）有限公司的任何股份提供融資（無論是已經作出或建議作出），或用作減少或解除借款人或任何人士有關任何該等購買的負債。本行在批出授信時，倚賴本條款所載借款人的保證、聲明及承諾。
- 2.10 借款人向本行聲明並確認，借款人並非《銀行業條例》第 83 條所指的 (i) 中國銀行有限公司或其附屬公司的董事或經理或 (ii) 以任何方式與本行董事或雇員相關聯的人士。借款人承諾，如上述情況變為不實或借款人在簽立申請表後變為如此相關聯人士，則應及時以書面告知本行。

### 3. 利息

- 3.1 本行對在授信項下墊付／提取的所有款項，會按在申請表及貸款通知書所指定的利率、或本行不時刊載的任何收費表指定的標準利率、或本行不時絕對酌情決定的其它利率徵收利息（判決之前及之後，並隨市場情況作出調整）、佣金及／或其它收費。收費表須應要求隨時提供予借款人。如果基本利率低於零，那麼在計算可適用的授信應計利率時該基本利率將被視為零。另外，如果可適用的授信應計利率低於零（在負的基本利率已被視為零之後），那麼該可適用的授信應計利率將被視為零。
- 3.2 除非本條款、申請表或貸款通知書另有指明，否則授信利息將按日及按實際過去日數累計，就港元而言，以一年 365 天的基準計算，或根據本行不時絕對酌情決定採納的市場慣例計算並且，最優惠利率的變動將被立即反映到需要運用最優惠利率來計算的利率之中。
- 3.3 所有累計利息須應要求支付；若未作出要求，則於有關授信的各應付供款到期日支付；若授信的本金並非以定期供款方式償還，則於本行在申請表及／或貸款通知書中指定或根據本行慣常做法不時通知借款人的期間支付；若未依時支付，本行有權將該等到期未付的利息化為貸款本金，使其須按相同的利率計息。
- 3.4 本行有權徵收：(i) 適用於該授信的原本利率；或 (ii) 香港銀行同業隔夜拆息（以最高者為準）。
- 3.5 其應計利息須於每月最後一個曆日支付。

- 3.6 若授信的本金以定期供款以外的方式償還，而本行在申請表及／或貸款通知書內指定授信的累計利息須在每月期末支付，則首次利息支付日為相關授信的提取日期的下月的同一日，其後各利息支付日為其後每月的同一日（“利息支付日”），但利息支付日概不得延至申請表及／或貸款通知書所載的相關授信最終到期日之後。
- 3.7 無論何種原因，當銀行同業拆息利率包括香港銀行同業拆息 (1) 短期或者永久不存在，(2) 在本行看來不再具有代表性 或 (3) 在本行看來不再適合用以計算利息，本行保留絕對權力去審視及變更相關利率且無需事先通知。本行在利率變更後會儘快通知借款人。
- 3.8 無論何種原因，銀行同業拆息利率包括香港銀行同業拆息或本行確定的修正利率未反映本行為辦理該等授信而發生或將要發生的資金成本，或者本行無法獲得資金，在沒有預先通知借款人的情況下，辦理該等授信的利率可按本行單方面合理決定的任何替代或替換利率收取。本行確定該利率後會儘快通知借款人。

#### 4. 付款

- 4.1 借款人向本行作出的所有付款或還款，須使用本行在申請表及貸款通知書項下付款或招致債務的貨幣或本行行使其於第 4.3 條下的權利所轉換的貨幣（“**適用貨幣**”）以即時可動用的資金作出，而不得有抵銷或反申索，亦不得附帶任何或所有現時或未來稅項、關稅或其它收費的預扣或扣減。若為申請表及／或貸款通知書及／或抵押文件項下的任何付款需作出該等預扣或扣減，其須對該付款作出必要的增加，致使該付款等同于需付予本行未被扣減的實際款項。借款人必須立即通知本行或應當在所容許的時限內支付該等款項。當借款人已支付該預扣／扣減的款項後 30 天內，借款人應提供可令本行滿意的相關付款證明文件。
- 4.2 若任何法例、法規或指引的任何改變，或該等法例、法規或指引的解釋的任何改變，或在申請表或／及貸款通知書簽署之後該授信函與該等法例、法規或指引的解釋的合規性的任何改變：
  - (a) 增加本行提供貸款安排或維持有關貸款的成本；或
  - (b) 減少本行按申請表或／及貸款通知書及／或抵押文件應收到的任何款項，借款人須按要求向本行支付所有賠償該等增加的費用或減少的收益所需的金額。
- 4.3 向本行支付的任何款項（不論根據任何判決、法庭命令或其它），除非本行已收到以適用貨幣支付的全部付款，否則概不會解除借款人就該付款的債項或債務；若任何該等付款實際轉換為適用貨幣時少於以適用貨幣表示的債項或債務，本行對借款人有進一步獨立的訴因。
- 4.4 本行茲明確保留權利，可隨時絕對酌情決定作出下列各項而無需給予借款人任何理由：
  - (a) 將借款人在授信項下以申請表及貸款通知書指定的相關授信貨幣計值的全部或任何到期、結欠或招致的未償還負債、債務及／或債項轉換為港元；或
  - (b) 將借款人在授信項下並非以申請表及貸款通知書指定的相關授信貨幣計值的全部或任何到期、結欠或招致的未償還負債、債務及／或債項，按本行絕對酌情認為適當而轉換為相關授信所指定的貨幣或港元。上述轉換須按本行不可推翻地決定的通行匯率進行。為免生疑問，本行有權於上述轉換後，以港元或（視所屬情況而定）申請表及貸款通知書指定的相關授信貨幣計值的基準，重新決定該等經轉換負債、債務及／或債項的適用利率。  
本行可能不時在未實際轉換的情況下，按相關授信貨幣且根據由本行不可推翻地決定的通行匯率確定未償還的授信總額。如果基本貨幣項下的未償還金額超過了授信的原始基本貨幣總額，本行將根據本行的貨幣需求要求借款人償還超出部分的金額。
- 4.5 以適用貨幣以外的貨幣（“**現有貨幣**”）向本行作出的任何付款，本行可絕對酌情決定按當時用現有貨幣購買適用貨幣的現行即期匯率（由本行不可推翻地決定）將之轉換為適用貨幣，以償付借款

人以現有貨幣計算的債項及債務。

- 4.6 借款人向本行作出的所有付款須在受本行的慣例、條款及條件以及（如適用）當時及不時有效的任何有關結算系統的規則的限制下由本行接受，惟該等付款須被視為並未被作出，直至有關的資金已被結算及由本行以有值代價收取。
- 4.7 如果一國的貨幣發生改變且此貨幣的改變是有關授信或授信函項下項目的貨幣，本一般條款和授信函在本行（合理行事）認為必需的範圍內也要做相應修改，反映貨幣的改變並且與相關銀行同業市場普遍接受的行業慣例的實踐相一致。

## 5. 還款

- 5.1 即使申請表、貸款通知書及本條款有任何相反規定，本行保留**凌駕性權利**，可要求借款人立即償還根據或就授信而到期、結欠或令本行招致（不論實際或或然）的所有未償還負債、債務及／或債項（包括其利息及違約利息）。
- 5.2 授信的本金應於申請表及／或貸款通知書所載的最終到期日全額償還。
- 5.3 若借款人在償還授信或支付利息上預期會有或遇到任何困難，借款人應儘快通知本行。

## 6. 違約利息／收費

- 6.1 時間為借款人作出任何付款或還款的要素。
- 6.2 本行保留可就下列任何到期未付款項按日徵收違約利息的權利（不論判決之後或之前），利率為 (i) 港元最優惠利率加適用的違約息差；或 (ii) 隔夜香港銀行同業拆息，以最高者計算；不論到期未付的透支是否於本行先前許可的透支限額之內，前述違約利率及計算方法仍適用。
- 6.3 本行有權按 (i) 本第 6.2 條所載的違約利率及計算方法，對超過適用的預先議定透支限額的任何透支款項（不論本行因行使酌情權、應借款人要求或其它原因准許該超額透支）；或 (ii) 原本利率，以較高者徵收違約利息。
- 6.4 若供款或付息逾期未付，將自相關供款或付息到期日起按日計算違約利息，直至實際全數支付之日為止。本第 6.4 條的規定並不損害或影響本行根據上述第 6.2 條徵收違約利息的權利。
- 6.5 除違約利息外，本行還保留在借款人每次未能在到期日付款時徵收**港幣 500.00 元**或本行不時決定的其它金額作為違約行政費用的權利。此外，如本行絕對酌情決定需要聘用律師，以在借款人未能於到期日付款時向借款人發出付款通知書或向借款人採取其它追討行動，本行則有權收回本行合理招致而金額合理的所有法律費用，且借款人須應要求向本行支付該等費用。
- 6.6 為免生疑問，若就逾期金額應計的原本利率超出第 6.2 條所指明的違約利率，即使該金額已逾期，本行亦有權繼續採用該原本利率。
- 6.7 本行有權按本行認為適當的相隔期間複合計算違約利息。

## 7. 授信的終止

- 7.1 儘管申請表或貸款通知書有任何規定（包括當中所載的任何檢討日期），本行保留以下凌駕性權利：
  - (a) 隨時檢討授信（如適用，可早於申請表或貸款通知書注明的檢討日期），而授信須在本行向借款人發出終止通知時立即終止（如適用，甚至可早於上述檢討日期）；及
  - (b) 隨時運用專有及絕對酌情以增加、減少及／或取消授信或其任何部分或更改或修訂其條款，並於向借款人發出書面通知後立即生效（如適用，甚至可早於上述檢討日期）。
- 7.2 借款人須在授信或其任何部分被續期、延展或以其它方式修改時向本行支付續期費。

## 8. 抵銷及留置權

8.1 除本行可享有的任何一般銀行留置權、抵銷權或類似權利外及在不損害該等權利的前提下，本行還有權並茲不可撤銷及無條件地獲授權在法律所容許的最大限度內，不時及隨時無需通知借款人（任何該等通知茲明文豁免）而：

- (a) 將借款人在本行任何分行或支行開立的任何貨幣的任何帳戶的任何貸項結餘及／或存款（不論以其個人的名義或與他人聯名開立）（不論是否須給予通知及是否到期）抵銷、劃撥及應用於償還借款人到期、結欠及令本行招致的任何債項及債務（不論實際或或然、將來或現有）；及
- (b) 應用借款人在本行任何分行或支行開立的任何貨幣的任何帳戶的任何貸項結餘及／或存款（不論以其個人的名義或與他人聯名開立）（不論該貸項結餘原本是在本行（前稱寶生銀行有限公司）或中國銀行（香港分行）、廣東省銀行（香港分行）、新華銀行（香港分行）、中南銀行（香港分行）、金城銀行（香港分行）、國華商業銀行（香港分行）、浙江興業銀行（香港分行）、鹽業銀行（香港分行）及華僑商業銀行有限公司（統稱“合併銀行”）於2001年10月1日（“合併日期”）合併前於上述任何一家或多家銀行開立的帳戶中）（不論是否須給予通知及是否到期），及／或以本行到期或結欠借款人（不論單獨或與他人共同）的任何債務（不論實際或或然），包括但不限於任何一家或多家合併銀行在合併日期前原本到期或結欠借款人（不論單獨或與他人共同）的任何債務（不論實際或或然）作為抵銷，以償還借款人到期、結欠或令本行招致的任何債項及債務（不論實際或或然、將來或現有），包括但不限於借款人在合併日期前原本到期、結欠或令任何一家或多家合併銀行招致的任何債項及債務。

本行於行使其於第 8.1 條下的權利後須即時通知借款人。

8.2 就上述目的而言，本行可按本行所報及決定的適用匯率將借款人的上述貸項結餘或存款的全部或任何部分轉換為其它所需貨幣。

8.3 在根據授信及／或本條款有任何到期未付的款項時，本行可隨時無需進一步知會借款人而扣留所有或任何（不論為安全保管或其它目的）存放於本行或以其它方式由本行或以借款人的名義持有的抵押品、有價物品或任何其它財產（不論位於任何地方），及按本行決定的價格透過公開拍賣、私人條約或招標出售該等抵押品、有價物品或其它財產或其任何部分，而本行可聘請代理或經紀進行上述事情，及在扣除本行合理地招致而金額合理的所有費用與開支後，應用所得款項來償還根據授信及／或本條款拖欠的任何或所有款項，且除非因本行的疏忽或故意失責造成外，本行無需就任何該等抵押品、有價物品或其它財產的出售或其它處置所產生的任何損失負責。

8.4 本條款授予本行的權利為外加於及不損害根據任何隨時及不時由本行所持有的任何抵押文件授予本行的任何權利。

## 9. 帳戶扣帳授權

本行有權隨時及不時無需事先通知借款人而從借款人的任何帳戶中扣除借款人根據授信到期應付的所有或任何利息、費用、收費、佣金、支出、開支及其它款項。該等款項須視為由借款人從帳戶中妥為提取或透支。

## 10. 追收債項

本行有權僱用收數代理追收借款人根據授信到期應付但未付的任何款項。借款人同意及確認，借款人已被忠告，借款人須就本行可能因僱用收數代理而合理招致的所有費用及開支向本行以完全彌償基準作出全額賠償。本行有權向該等收數代理披露與借款人、授信、申請表或貸款通知書有關的任何及所有資料。

## 11. 轉讓

本行可隨時無需借款人同意或通知借款人，而向任何人士轉讓或轉移本行於授信、本條款及相關的擔保、附屬抵押品及支持文件項下的所有或任何權利、利益、責任及債務，但在進行該轉讓或轉移的任何時間，借款人無需支付高於在並無作出該轉讓或轉移時本應支付的金額。除非本行事先書面同意，否則借款人不得將其於授信及／或本條款項下的任何權利、利益、責任及／或債務轉讓或轉移予任何人士。

## 12. 聲明、保證及承諾

12.1 借款人於其簽立相關申請表及／或貸款通知書的日期向本行作出下列聲明及保證：

- (a) 其具有權力及授權及法律行為能力履行及遵守其於申請表、貸款通知書、本條款、抵押文件及以本行為受益人簽立的其它附帶文件項下的責任；
- (b) 本條款、申請表、貸款通知書、抵押文件（如適用）及任何其它附帶文件構成根據其條款具有效力及法律約束力的借款人的責任；
- (c) 其並無逾期未償還任何借款負債的任何本金或利息，亦無違反或違背借款人為一方且據之或在其限制下發出而未償還的該等借款負債的任何契約、信託契據、協議或其它文書的任何其它條文，亦無發生或持續發生因發出通知及／或時間流逝而會構成任何該等契約、信託契據、協議或其它文書項下的違約事件而並未據之適當地被豁免或補救的任何事件、條件或行為；
- (d) 借款人簽署本一般條款、相關授信函、抵押文件（如適用）和任何其他附帶文件及履行該等文件，及該等文件所述的任何事宜並未亦不會抵觸適用於借款人的任何法律或規定、其組織文件或對借款人或其任何資產具有約束力的協議或文書；
- (e) 其向本行所提供的一切資料，於其提供或作出聲明（如有）的日期在各重大方面是真實、完整和準確的，並無任何誤導；
- (f) 借款人並無受制於針對借款人或其任何財產或資產的在任何法院、審裁處、仲裁員或政府機構的任何現有訴訟、仲裁、行政程序或破產呈請及針對借款人或其任何財產或資產的待決的訴訟、仲裁、行政程序或破產呈請，及借款人亦不知道（在作出所有合理查詢後）有威脅借款人或其任何財產或資產的任何訴訟、仲裁、行政程序或破產或清盤呈請，而該等程序可能會導致借款人業務、資產或狀況上有重大不利變動（不論有關財務或其他方面）或前景上有重大不利變動或影響；
- (g) 並未亦不會因為簽立申請表、貸款通知書、抵押文件及其它附帶文件及／或動用任何授信，而發生並未根據申請表、貸款通知書及／或本條款妥為補救或豁免的任何違約事件；
- (h) 於授信項下的貸款的任何部分仍未償還期間，以上聲明及保證須藉參照當時存在的事實及情況而言須繼續生效及具有十足的效力；及
- (i) 以上聲明及保證須於每次墊付或提取授信時重複（如適用）。

12.2 借款人向本行承諾，借款人將會（如適用）：

- (a) 在知悉發生任何違約事件或潛在違約事件，或可能對借款人的營運、前景、業務或狀況（財務或其它方面）或借款人履行其於申請表、貸款通知書、其它抵押文件或任何其它附帶文件下的責任的能力有重大及／或不利影響的任何其它事件或情況時，及時以書面通知本行；
- (b) 即時及妥為支付或促使支付所有向借款人徵收的稅款、稅項或其它政府收費；
- (c) 應本行不時的要求（包括就一單或以上授信項下的交易的淨風險）向本行提供或促使向本行提供其接納及當時的市值不低於當時未償還授信的進一步現金或抵押擔保；
- (d) 確保借款人于本文及申請表及貸款通知書下的責任（不論實際或或然）在付款優先次序及所有其它方面均不從屬於並於所有時間最少與借款人的任何其它無抵押債務享有同等權益（但僅因法律的施行而優先的責任除外）；

- (e) 必須遵守在各方面可能受其約束的所有法例及規例，否則將嚴重損害借款人履行此授信及抵押文件義務的能力
- (f) 就借款人及借款人債務的第三方抵押品提供者的資料（包括但不限於其地址、電話號碼及／或傳真號碼）的任何變動盡速以書面通知本行；
- (g) 即時向本行提供或促使向本行提供本行不時要求的其它文件或資料。

### 13. 違約事件

- 13.1 在不影響本條款中其它條文的原則下，一旦發生以下任何違約事件，借款人的所有到期或拖欠本行的金額（包括本金及利息）將無需付款通知而變為即時到期及應由借款人予以償還，而且本行無需再根據授信作出進一步墊款：
- (a) 任何義務人未能於到期日向本行支付任何與授信相關的本金、利息、收費或其它費用及開支；
  - (b) 借款人因任何原因未能及時解除關於授信的任何責任，或遵守以任何方式及於任何時間向本行作出的任何承諾（正面或反面）或契諾；
  - (c) 借款人未能支付以任何方式、因任何原因作為主事人或擔保人、單獨或與其他人士、商號或法團共同結欠或令本行招致的任何到期未付款項、債項及債務；
  - (d) 任何義務人根據申請表及／或貸款通知書及／或本條款／或抵押文件及任何其他附帶文件作出的任何聲明、保證、承諾或陳述，或任何義務人向本行交付的任何資料或文件在任何方面不正確或具誤導性，或借款人違反任何該等聲明、保證、承諾或陳述；
  - (e) 任何義務人的資產因徵收、強制執行或訴訟被扣押、扣留、執行其它法律程序；
  - (f) 發生本行認為已對或會對任何義務人的業務、資產、狀況（財務或其他方面）或前景上產生重大不利變動或影響，或影響或妨礙其履行其於申請表及／或貸款通知書及／或抵押文件項下責任的能力的事件；
  - (g) 發生證明或擔保任何義務人的任何財務負債的任何協議或文書的條文下有關於付款的違約事情，或任何該等財務負債在其注明的到期日前變為應付或可予宣佈為應付但到期未付；
  - (h) 已就任何義務人的破產或清盤、或就任何義務人或其所有或任何業務或資產委任清盤人、接管人、遺產管理官或類似人員而提交呈請、展開法律程序、作出命令或通過有效決議案，或任何義務人以其它方式在任何法院變為無力償還或破產；
  - (i) 在不損害上述(a) 項的前提下，任何義務人未能符合任何於本一般條款、授信函及／或抵押文件及任何其他附帶文件下的任何條文，而該情況不能補救，或可以補救但未於本行發出要求補救的通知後七天內或任何義務人知悉該等條文不符合的較早的時間內補救；
  - (j) 任何義務人根據申請表、貸款通知書或抵押文件須獲得的任何政府、稅務、金融或其它批准被撤銷或以不利於本行於授信、本一般條款、 授信函或任何抵押文件項下的利益的方式被更改；
  - (k) 發生任何構成或因時間流逝及／或發出通知而會構成借款人或有關方為一方的任何其它協議項下的違約事件的任何事件；
  - (l) 借款人或有關方的資產的任何現時或未來抵押變為可強制執行；
  - (m) 任何義務人行使其在本條款、申請表、貸款通知書、任何抵押文件或任何其他附帶文件項下的任何義務成為不合法；及
  - (n) 發生根據任何相關司法管轄區的法律具有與第 13.1 條所述任何事件類似或相當效用的任何事件。

#### 14. 本行的責任

14.1 本行對於借款人或任何其他人士因以下原因而蒙受的任何損失或損害概不負責：

- (a) 借款人的任何交易撤銷或暫停，或借款人的任何命令或指示未能施行或執行，不論其是否可直接或間接歸咎於本行控制範圍以外的任何情況或事件；及／或
- (b) 本行的電訊及電腦系統或其它設備或其安裝或操作上的任何機械、電子或其它故障、失常、中斷、不準確或不足；借款人的任何指示或命令的傳送有任何不完整或錯誤，或任何該等指示或命令的執行有任何錯誤（但因本行的獲授權人員嚴重疏忽或故意失責除外）；或借款人因上述原因而招致或蒙受的任何延誤、損失（包括利潤損失或任何經濟損失）、開支或損害賠償；及／或
- (c) 由任何第三方（包括但不限於服務供應商或設備供應商）以任何形式引致會干擾、影響或擾亂本行根據本文履行責任的任何延誤、中斷或暫停事件；及／或
- (d) 由借款人通過電話、傳真或電子郵件的形式針對本行發出的指示/通知。

### 第III部分：存款及證券的押記

#### 重要通知：

本押記將為借款人創設法律義務及責任。強烈建議借款人在同意本押記條款及簽署「財富組合融資」透支授信申請表（“申請表”）前尋求獨立法律意見。

在無損本押記任何規定的前提下，請注意以下事項：

1. 即使當時或於任何時間並無存款及／或證券押記予本行，或當時或於任何時間並無未償還負債（定義見本押記），本押記應持續具有十足效力及效用。然而，如（i）根據本押記第 16 條，借款人向本行發出 3 個曆月的事先通知以決定本押記的持續性；及（ii）在本押記終止生效日前產生的負債已獲全額償付，則借款人可消滅其本押記項下的負債。
2. 本行有權於任何時間及不時以本押記所押記的任何存款抵銷（i）到期但未支付的負債；或（ii）本押記第 3(b)條所載任何一項事件發生之時或之後的負債（不論實際或或然、已累計或尚未累計、到期或未到期），而無須事先通知或徵詢借款人。
3. 本行有權根據本押記第 16 條，在本押記終止後保留本押記 25 個月。

鑒於（i）本行同意應借款人請求，不時按本行獨有絕對酌情決定的條款、金額及形式和方式及時期，向借款人提供及／或持續提供授信；或（ii）本行按其獨有絕對酌情認為適合的時期及條款，不會就負債（定義見本押記）對借款人提起法律程式或作出即時付款要求；或（iii）本行及借款人約定的其它事項，借款人向本行契諾、承諾及同意以下事項：

#### 1. 押記

- (a) 借款人（作為實益擁有人）以第一固定押記的方式把借款人於存款及證券的所有業權、權利、所有權、申索、利益及權益押記予本行，作為妥善及全額支付和解除債項的持續擔保，就證券而言，抵押應包括借款人就證券所產生或相關的借款人針對本行、其代名人、代理、代表、聯絡人、託管人或任何託管或結算系統或任何其它方的所有權利和申索作出的押記及轉讓。免生疑問，如本行並無向借款人批出授信，則不會創設抵押。
- (b) 為免生疑問，根據上述第1(a)條押記的存款及證券不包括本行根據本押記第17條及第18條不時解除的存款及證券。

#### 2. 存款的保留

完全獨立、分開及外加於上述第1條，儘管存款的條款有任何規定（及在本條規定的範圍內，存款的條款無論何時放入，應絕對視為被更改及修訂）：

- (a) 不得向借款人償還所有存款（不論是否已到期），本押記規定者除外；及
- (b) 借款人無權撤回該等存款或其任何一筆存款，不論是否已到期；及
- (c) 所有該等存款及記為貸項的款項（包括本金和利息）應視為由借款人絕對放入本行，供本行持有並保留以滿足及／或解除債務，猶如該等存款為為此目的支付予本行的保證金，除非及直至本行已按照本押記第17條以絕對酌情權自本押記中解除相關存款，或本行應借款人請求根據本押記第18條解除相關存款，費用由借款人承擔。

### 3. 存款的抵銷

- (a) 完全獨立、分開及外加於上述規定及任何一般銀行的留置權及本行根據法律或慣例抵銷或合併帳戶的其它權利，在發生以下第3(b)條所載任何一項事件之時或之後，本行有權（但無任何義務）於任何時間以任何貨幣計價的任何或所有存款（不論是否已到期）的貸項結餘抵銷（i）任何到期但未支付的債項；或（ii）任何或所有債項（不論實際或或然、已累計或尚未累計、到期或未到期），而無須向借款人發出通知或要求。
- (b) 第3(a)(ii)條所指的事件為：
- (i) 本行收到任何第三方就、針對及／或有關存款或其任何一筆存款或其任何貸項結餘的任何申索、要求或法律程序的通知；或
  - (ii) 借款人或任一借款人開展清盤、破產或清算的任何法律程序（及／或任何其它類似性質或效力的法律程序）；或
  - (iii) 任何借款人未能向任何人支付其到期債務，或任何借款人變得資不抵債。

### 4. 存款的劃撥

完全獨立、分開及外加於上述規定，本行有權於任何時間使用或劃撥以任何貨幣計價的任何存款（不論是否已到期）的任何貸項結餘支付及／或償付任何到期但未支付負債，而無須向借款人發出通知或要求。

### 5. 本行就有關存款的其它權利

為及／或有關行使本行上述任何權利，本行有權（但無任何義務）：

- (a) 視尚未到期的任何存款為即時到期及可供劃撥及／或抵銷；及
- (b) 於抵銷或者劃撥時按本行絕對決定的即期匯率或者適用匯率，把任何存款或其任何貸項結餘轉換為待抵銷或支付的債項之貨幣；及
- (c) 把任何貸款的任何貸項結餘轉至以本行認為適合的名義開立的無息帳戶，並為抵銷或有負債、待進行的實際結算之目的而持有；及
- (d) 不時按本行絕對決定的條款、期間或時期及利率續期、延期及／或重新存入任何存款，而無須向借款人發出通知，即使本行已收到及／或接受借款人就此作出的任何相反指示；及
- (e) 保留所有存款通知及／或證書或有關存款的其它所有權文據或證據；及
- (f) 行使及／或執行所賦予的任何權利及／或所創設的抵押，而無須事先：
  - (i) 借助本行可用的任何其它方式或資源及／或
  - (ii) 為收回債項或其任何部分而作出針對借款人及／或任何第三方的任何起訴或法律程序及／或申索。

### 6. 交付與股票相關的文件

- (a) 除透過中央結算系統轉讓股份予本行或本行指定代名人於香港中央結算賬戶或或擬轉讓股票已由中央結算系統證券存管處代本行持有外，當股票根據本押記合同而押記予本行，借款人須以本行或本行指定的任何一名或以上代名人為受益人，向本行交付該等股票轉讓的合約、記錄及文據，所有該等文件均應已妥為簽署，或按本行可能完成妥善簽署的形式（如本行代表借款人完成，則借款人需明確授權並批准），及根據《印花稅條例》（香港法例第117章）第19(8)條或其任何修訂案或與此相關及于關鍵時間或現時生效的任何立法、法律或法規的規定妥為加蓋印花，或以本行可以獲取上述文件妥為加蓋印花的形式，並且在任何情況下，一切均須在形式及內容上令本行及其法律顧問在各方面滿意，並連同與股票相關的所有證書亦需一併轉讓。
- (b) 為確定借款人的權利及／或為履行本行就該等股票所擁有權利之目的，本行可絕對酌情決定所必需的，

與擬轉讓股票相關的所有或任何文件及/或文據。在透過中央結算系統轉讓股票予本行或其代名人帳戶時，， 借款人須應本行要求立即向本行交付上述任何文件及/或文據。

## 7. 借款人關於證券的契諾

借款人契諾於本押記持續期間， 借款人須一直：

- (a) 交存本行不時要求的其它文件， 以完善本行於證券上所擁有的權利， 或歸屬該等證券權益及使本行得以歸屬該等證券權益予本行或本行之代名人， 以使本行無需通知即可於任何時間呈遞該等文件作登記；及
- (b) 同意本行向本行選定的代名人、代理或任何其他人士或實體（不論位於何處）轉讓所有或任何證券， 如證券屬證書形式， 則本行可於本行任何一間或多間分行透過任何聯絡人或其它代理（不論是在香港或海外）持有所有或任何該等證券， 而因持有所有該等證券的產生的風險、費用及責任由借款人單獨承擔；及
- (c) 同意本行不時按其絕對及不受約束的酌情權認為適當而向存管處或保管人（包括但不限於中央結算系統證券存管處）交存所有或任何證券， 及自該等存管處或保管人提取所有或任何證券；及
- (d) 應要求向本行支付本行或其代名人就有關轉讓、登記、保管及/或提取證券所產生或可收取的所有征費、債務、成本、費用、開支；及
- (e) 同意本行無須因作為有關所有或任何證券的管有承按人而承擔責任， 即使該等證券以本行的名義登記或以本行代名人的名義登記， 或由本行指令持有或受本行控制， 及無須為變現後的任何損失或任何遺漏， 或未能呈上為還款而出具的任何利息票據或任何債券或證券， 或未能支付任何催繳或分期付款， 或接受任何要約， 或通知借款人任何該等事項， 或與證券相關的任何性質的任何其它損失而承擔責任；
- (f) 同意本行無須以任何方式為由於證券（不論證券是由本行或本行為此目的委任的存管處或保管人保管）的任何損失所引致借款人的任何損失或損害或對證券或證券所造成的損毀承擔責任， 但由於本行故意失責所引致者除外；及
- (g) 不得且無權提取、出售、轉讓或處置所有或任何證券， 除非獲得本行事先書面同意。 ，

## 8. 催繳證券

- (a) 借款人須妥為並及時支付不時就有關任何證券項下任何未付款項作出的所有催繳， 及妥為並及時支付借款人可能合法被要求就有關任何證券支付的任何其它款項。
- (b) 如違反上述第8(a)條， 本行可在其認為適當的情況下（但並無義務）代表借款人作出付款， 而任何由本行如此支付的款項須應本行要求時由借款人償還， 連同其利息及本行由於此付款所產生的任何費用或開支， 並且亦須於證券上記上該等付款的押記。

## 9. 股票供股

- (a) 如以本行或其代名人義登記或交存於本行或按本行指令持有的任何股票有任何供股， 本行或其代名人將于收到相關供股文件後的合理時間內告知借款人。
- (b) 如借款人未能於本行或其代名人規定的供借人就有關供股回復的時間內作出指示， 則：
  - (i) 如供股並非強制性， 則確定無疑地被視為借人已不可撤銷地放棄所有與該供股有關的借款人權利及權益， 並以本行為受益人絕對地供本行自身使用及為其利益， 而本行亦有權以其自身權利及為其自身利益按其認為適當的任何方式處理該供股， 而無須向借款人支付因供股所得利潤（如有）；
  - (ii) 如供股屬強制性， 則本行有權絕對酌情或將部分股票變現以籌集足夠資金用以支付該強制性供股的認購， 或代借款人支付該認購， 而該付款應構成借人對本行的債務， 借人應按本行要求即

時清償任何由本行如此支付的款項，連同其利息及本行由於此付款所產生的任何費用或開支，並且亦須於股份上記上該等債務及其利息的押記。

- (c) 如借款人指示本行或其代名人接受供股并認購所需股票，本行或其代名人並無義務接受認購供股，除非及直至本行已於第9(b)條所載時間內收到足夠和即時可用的資金。否則，借款人的上述行為將被視為借款人未能及時按照上述第9(b)條的規定對本行作出指示而適用。
- (d) 由或代表借款人接受的根據供股配發的所有股票（但不包括借款人已以本行為受益人放棄的股票）應構成本合同所稱股票的一部分。

## 10. 證券的違約事件

如有以下情況，則發生違約事件：

- (a) 多名或一名借款人未能履行本押記項下的任何義務，或違反本押記施加的義務；或
- (b) 於任何時間，本押記項下向本行作出的任何陳述或保證在任何重大方面為不正確；或
- (c) 償還負債中有違約；或
- (d) 借款人作出破產行為；或
- (e) 借款人創設的任何按揭或押記所設立的任何擔保變為可執行，並且其承接人或承押記人採取措施以執行該擔保；或
- (f) 產權負擔人取得借款人任何動產或財產的所有權，或針對借款人任何動產或財產施加扣押或實行或執行或提起訴訟，並且上述事項發生后七日內尚未解除；或
- (g) 借款人為償還已借取款項的任何其他負債或義務，由於違約而於其列明到期日之前變為到期或可被宣佈為到期，或于到期時未能償還（除非借款人令本行信納該不付款的原因是存在某項反申索或抵銷權，並且如本行要求，為該付款提供本行合理要求的擔保）；或
- (h) 借款人全面停止付款予債權人，或未能支付其債務，或處置或威脅處置其全部或大部分業務或資產。

## 11. 借款人於違約事件前的權利

- (a) 除非已發生違約事件並持續存在，借款人有權就有關任何及所有證券投票，並就此作出同意、放棄及批准，就此而言，本行或（視所屬情況而定）本行的代名人應（如必要）向借款人或借款人不時以書面指定的其他一名或以上人士授予一份或以上委託書，但條件是，不得作出與本押記任何條款或規定不一致的投票或同意、放棄或批准，或採取行動，並且借款人不得簽署及交付涉及違反任何該等條文或規定的任何證券、證券文件、帳戶、證書、報表、轉讓文據或其它文件（如有）。
- (b) 如發生及／或持續存在違約事件，借款人投票及作出同意、放棄及批准的所有權利應終止。

## 12. 本行在發生違約事件時的權力

- (a) 如發生並持續存在違約事件，並且如借款人未能於收到本行要求付款的通知後即時支付當時結欠的一切款項，則本行或（視所屬情況而定）全部或任何證券當時登記於其各自名下的本行代名人有權不時：
  - (i) 就有關任何或所有證券投票，及就此作出所有同意、放棄及批准，或以其它方式就此作出行動，猶如其為該等證券的全權擁有人；
  - (ii) 取得有關證券的所有現金股息及其它分派，以作支付及清償當時根據本押記條款到期並應向本行支付的所有款項；及
  - (iii) 通過公開拍賣或私人合約出售、轉移、轉讓及交付所有或任何數量的所述證券或其任何權益（不論有否廣告或通知出售時間或地點或其任何延期），以換取現金、信用額或其它財產，供立即或未來交付，及以本行或其上述代名人可能按其專有及絕對酌情權決定的一個或以上價格，並且

根據及受限於本行或其上述代名人如此決定的條款、條件及規定。

- (b) 對於根據上述第(a)(iii)子條的規定作出的出售所引致的任何損失，借款人並無針對本行的任何權利或申索，不論該等損失如何產生。
- (c) 本行應該出售的所得款淨額連同當時本行或本押記項下本行任何代名人持有的所有其它款項（如有）支付並清償當時本押記項下到期及應向本行支付的所有款項。在支付並清償上述所有到期及應向本行支付的款項後，本行應把結餘（如有）支付予借款人或有權收取的其它方。

### 13. 借款人的擔保及承諾

借款人向本行陳述、擔保並承諾以下事項：

- (a) 證券屬正式授權、有效發行、繳足及不加繳證券；
- (b) 借款人為證券的實益擁有人，證券並不附帶任何債務、留置權、按揭、押記及產權負擔及影響其所有權的其它不良權益；
- (c) 借款人為存款的實益擁有人，及未曾轉讓、轉移、按揭、押記、抵押存款，或以任何它他方式就有關存款創設產權負擔或承受產生任何第三方權利或申索，並且借款人不會作出上述任何事項，直至相關存款獲本行根據本押記第18條按其絕對酌情權解除，或根據本押記第19條應借款人請求解除，費用由借款人承擔。
- (d) 借款人有完善權利及合法授權，按照並受限於本押記所載條款、條件及規定向本行押記證券，及轉讓或交付或促成轉讓或交付證券予本行或其代名人、代理、代表、聯絡人或存管處；
- (e) 只要證券仍根據本押記以本行為受益人而被押記，借款人將針對任何一切人士的任何及所有申索，保證並維護授予本行證券的所有權及抵押權益，並將以本行為受益人維持該等抵押權益，及不會創設或允許存在任何債務、留置權、按揭、押記、產權負擔或影響本行於證券或其任何部分中的抵押權益的其它不良權益。
- (f) 經本行一名職員就有關在任何時間到期或結欠或產生的任何債項之金額，及／或有關在任何時間根據本押記仍押記予本行的存款及／或證券發出的證明書，除非有明顯錯誤，否則在任何法院應為該等事項針對借款人的具約束力和不可推翻證據。
- (g) 如及當本行要求時，借款人應於任何時間自費作出及履行行動及事項及／或簽署及簽立契約及／或文件，以完善本押記創設及／或規定的本行之任何權利及／或擔保，及為便於本行行使及／或執行該等權利及／或擔保；
- (h) 任何債項僅以實際收取相關債項貨幣（“債務貨幣”）金額的程度被視為解除，並不附帶不論如何產生的任何扣除及／或扣繳（包括但不限於來自稅收、征費及／或開支），如收到任何其它一種或以上貨幣的金額，則相關債項僅以按本行於購買或兌換時絕對決定的當時即期匯率，用如此收取的該金額購買或兌換的債務貨幣金額的程度被視為解除；及
- (i) 本押記及所創設的權利和擔保應為持續擔保，並應涵蓋和擔保借款人于債項下不時對本行結欠或產生的最終結餘，即使借款人或任一借款人發生身故、破產、資不抵債、清算、清盤、無行為能力，或組成或合夥有任何變更，或進行帳戶結算或任何其它事情；
- (j) 本押記應外加於及不得影響或以其它方式解除、釋除或危害（i）本行與借款人之間及／或本行與任何一名或以上第三方之間的任何其它擔保、彌償及／或協議；及（ii）本行現時或此後任何時間就有關任何債項所持有的任何其它一項或以上擔保；及
- (k) 本押記第(a)至(j)段所載陳述和保證，須于所成立的擔保持續存在的每日，被視為借款人就有關存款及證券重複並作出。

#### 14. 授權

借款人以擔保的方式不可撤銷地委任本行及本行不時指定的職員為借款人的代理，並為及／或代表借款人：

- (i) 簽署、蓋印、交付或以其它方式簽立任何契約、文據或文件；及／或
- (ii) 採取行動及作出事項，

而簽立該等契約、文據或文件及／或作出該等行動或事項，乃為行使、執行及／或完善本行於本押記項下的權利及／或擔保而可能需要或視為適當或相宜（不論是以代理的名義或以借款人的名義）。

#### 15. 時間為要素

時間為本押記的要素，但本行沒有行使或執行及延遲行使或執行本押記項下的任何權利、救濟、權力或特權，並不構成對該等權利、救濟、權力或特權的放棄，並且任何單一或部分行使或執行任何權利、救濟、權力或特權，並不妨礙任何其它或進一步行使或執行該等權利、救濟、權力或特權，或行使或執行任何其它權利、救濟、權力或特權。本押記中規定的權利、救濟、權力或特權可以累積，且不排除法律賦予的任何權利或救濟。

#### 16. 本押記的持續性

即使當時或任何時間並無存款或證券押記予本行，或當時或任何時間並無未償還之債項，本押記應持續具有十足效力及效用，除非本行另行書面同意，本押記應一直具有持續性，直至本行實際收到以下人士發出的終止本押記持續性的書面通知之日起三個曆月屆滿：

- (i) 如借款人僅有一方，則為借款人或（在借款人身故或殘疾的情況下）借款人的個人或法定代表（視所屬情況而定）；或
- (ii) 如借款人有於一方，則所有借款人共同或（在一名或以上借款人身故或殘疾的情況下）各身故或殘疾（視所屬情況而定）借款人的個人或法定代表（視所屬情況而定）共同以及在世或並非殘疾的所有借款人（如有），

但如上所述本押記持續性的終止，並不會為借款人解除本押記或影響為終止前產生（包括於規定的三個月終止通知期間產生）的任何債項（不論實際或或然，及不論現時或未來）成立的存款及／或證券上的擔保，不論該債項是否僅於本押記持續性終止後才屆滿、到期、應付或實現。

#### 17. 本行解除存款及／或證券或其任何部分的酌情權

在不影響本押記持續性的前提下，本押記各方茲明確宣示並同意，本行有絕對酌情權解除或釋除於任何時間及不時根據本押記受押記的全部或部分存款及／或證券，而無須收取任何付款或支付少於所擔保總額或所解除或釋除擔保的價值的任何金額，在這種情況下，借款人須一直為所擔保款項或其結餘承擔十足責任，並且尚未釋除的部分存款及／或證券應一直以本押記項下第一固定押記的方式受押記，並受限於本押記的規定。

#### 18. 借款人解除存款及／或證券的權利

如於任何時間，當時借款人對本行產生及／或結欠的所有債項（不論實際或或然、已累計或尚未累計）已獲本行信納全額解除及清償（包括但不限於獲本行絕對酌情信納所收取的任何付款並無根據有關資不抵債、破產、清算、清盤的任何規定或法規或類似法律程式作出規避、撇開、退還或扣除的風險），則應借款人要求並由其負責相關費用，本行應自本押記中解除存款及／或證券，但條件是對存款及／或證

券的任何解除不得影響本押記的持續性（本押記一直適用於已產生的任何債項），以及將於所述解除後任何時間根據本押記予以押記的任何新存款及／或證券。

## 19. 本行的保障

- (a) 即使有任何帳戶結清或任何其它事項，所創設的押記屬持續擔保，並外加於及不得合併或損害或影響本行現時或此後持有或獲提供的任何合約或其它權利或補救或任何擔保、彌償、留置權、抵押、匯票、票據、按揭、押記或其它擔保（不論是否通過交存文件而創設），並不得以任何方式或由於其無效而受其損害或影響，或由於本行現時或此後通過完善或執行其任何一項或本行可能現時或此後具有的任何權利而買賣、交換、解除、更改或取得，或給予時間供付款或遷就任何其他有責任的人士或與之達成和解而受到損害或影響。
- (b) 如借款人破產，並不會避免任何保證或擔保或付款，基於信賴該等保證、擔保或付款而給予或作出的任何解除、清償或釋除，不得損害本行根據本押記充分向借款人收回的權利，猶如該等保證、擔保、付款、解除或釋除（視所屬情況而定）從未獲授予、給予或作出。
- (c) 本押記應外加於及不得影響、解除、釋除或損害 (i) 本行與借款人之間及／或本行與任何一名或以上第三方之間的任何其它擔保、彌償及／或協議；及 (ii) 本行現時或此後任何時間就有關任何債項而持有的任何其它一項或以上擔保。
- (d) 完全獨立、分開及外加於本押記所載任何其它規定及任何一般銀行的留置權及本行依法或按慣例抵銷或合併帳戶的其它權利，借款人茲同意，本行可於任何時間及不時合併或綜合所有或任何借款人當時存在的在本行開立的帳戶，並抵銷或轉撥任何一個或多個該等帳戶中記為貸項的任何款項（不論在何處），以清償債項或任何方面（不論該等負債是現時或未來、實際或或然、主要或從屬，以及個別或共同），而無須向借款人發出通知或要求。此外，本行對現時或此後由借款人為任何目的而交存本行的所有抵押有留置權。

## 20. 其它事項

- (a) 借款人明確同意並確認，現時或此後任何時間向借款人批出或提供的授信的終止、變更、減少、取消，或本行於任何時間拒絕延續授信或其任何部分，不得損害、影響及／或解除本押記及／或根據本押記向本行提供的任何權利及擔保。
- (b) 本押記應為各方、其各自的繼承人或受讓人的利益並約束該等人士，但借款人不得轉讓或轉移其於本押記項下的所有或部分權利或義務。
- (c) 如多於一名借款人或其代表轉讓或擬轉讓本押記，而一名或以上借款人不受本押記約束（不論是由於其缺乏能力或不當簽署本押記或未能簽署／簽立本押記或由於任何其它原因），則其餘借款人須繼續受本押記的規定約束，猶如該等其他借款人從來未曾或無意作為本押記的一方。

## 21. 有條件解除

- (a) 本行與借款人之間的任何解除、釋除或清償（包括存款及／或證券或其任何部分于任何時間或不時自本押記中解除）的前提條件是，借款人、任何其它方向本行作出的抵押、處置或付款並無根據有關資不抵債、破產、清算、清盤的任何規定或法規或類似法律程式作出規避或扣除，如未能滿足該條件，本行有權於隨後任何時間執行本押記，猶如該等解除、釋除或清償從未發生。
- (b) 就上述第21(a)條而言，本行有權根據上述第16條，自本押記終止後保留本押記二十五個月，如作出該等付款、解除或清償的任何一方開展破產或清盤程式，則進一步保留至本行決定並為隨後執行本押記的期間，猶如該等解除、釋除或清償從未發生。

## 22. 釋義

(a) 於本押記中，除非文意另有所指，否則：

- (i) “中央結算系統”是指香港中央結算建立及運營的中央結算及交收系統。
- (ii) “中央結算系統證券存管處”是指獲香港中央結算有限公司委任以在中央結算系統執行存管及託管服務的人士。
- (iii) “存款”是指申請表及／或貸款通知書所載不時以任何貨幣存入本行的首筆存款或任何性質的存款，不論是否以定期存款的形式，及不論是本金或利息，及不論是以貨幣互換或貨幣合約的形式（不論是即期或遠期），及其任何累計利息。在不損害上述一般性的前提下，存款應包括：

- (a) 首筆存款及其所有累計利息的所有隨後續期、延展及／或重新存入；及／或
- (b) 代表或可追溯至首筆存款所得款（本金及／或利息）及其續期、延展及／或重新存入的所有存款及其所有累計利息和資金，不論以何種貨幣及形式，如該等存款包括與其它來源的資金混合的資金，則為該等存款可歸屬於或代表如上所述可追溯的資金及款項的部分或比例。

為免生疑問，

- (aa) 如任何存款以貨幣互換存款的形式作出，則相關互換及／或貨幣兌換交易及合約應被視為有關存款的一部分，並且“存款”一詞應包括該等交易及合約；及
- (bb) 如在本行接受任何存款後，本行與借款人之間創設任何貨幣期權合約，則“存款”一詞應包括任何該等存款及其任何累計及／或應付利息，以及在行使或移除相關貨幣期權合約後應由本行向借款人支付的任何貨幣的任何款項，本押記所載規定不得以任何方式影響本行於或有關相關貨幣期權合約的權利，

但如貸款通知書提及存於本行往來或儲蓄帳戶或可不時存取資金的任何其它帳戶的存款結餘，則在本押記中使用的“存款”一詞應指現時或此後任何時間記為該等帳戶貸項的結餘，最多為貸款通知書所指定的金額（如有）。為免生疑問，如有指定該帳戶，則應根據本押記而押記在任何時間的全部未提取貸項結餘。

- (iv) “香港中央結算”是指香港中央結算有限公司。
- (v) “債項”是指及包括任何或所有款項、債務及負擔，不論是確定或或然、已累計或尚未累計，及不論是現時或此後任何時間根據或有關授信而自或由借款人（或任何一名或多名借款人）以任何方式對本行結欠或產生，不論是作為本金或擔保，及不論是單獨或連同任何其他人士、商號或企業，及以任何名義或方式，包括但不限於以下各項：
  - (a) 借款人（或任何一名或多名借款人）根據中銀理財向借款人批出的任何透支授信對本行的到期、結欠及／或應付的任何或所有款項；
  - (b) 已累計或將累計的利息；
  - (c) 應支付予本行的佣金、費用及其它收費；及／或
  - (d) 就有關中銀理財而須由借款人（或任何一名或多名借款人）向本行償還或支付的任何性質的其它成本、支出、支付及／或付款。
- (vi) 在本押記中使用的“證券”一詞，是指(i) 任何機構（包括本行）（不論屬法團或非屬法團）或任何政府或地方或市政府機構或其發行的各項股份、股票、借貸股票、債券、債權證、短期票據、收據、認股權證、存款證、商業票據、承兌票據、票據、債務票據、訂立或確認債務的票據、信託令狀、基金、單位信託基金的單位，集體投資計劃或其他投資基金的單位或其他權益或權利，

或任何類別或名稱的工具及其他證券或債務證券（不論是有價或無價和不論是以不記名、記名或全球形式），(ii) 上述證券的權利、期權或利益（不論是以單位或其他形式描述），(iii) 權益證明書或參與證書，認購或購買上述的證券的權證收據、臨時或中期證券 (iv) 無論是以投資工具或其他形式的利益、權利或財產（一般稱為證券），現在或此後任何時候借款人申請表和/或貸款通知書中列明的借款人證券帳戶中所持有的利益、權利或財產（一般稱為證券）、其證書或其他證明其所有權的文件，(v) 根據適用法律或規例以通知中所指明作為證券的條款的利益、權利或財產，或屬於一個利益、權利或財產的類別或種類的利益、權利或財產，及 (vi) 不符合本 22.6 條(i)至(v)條規定的結構性產品。為免生疑問，“證券”應包括所有借款人在所有證書或其他證明其所有權的文件中的權利、擁有權及利益，並應進一步包括所有利息（不論是以現金或其他方式），股息、分派及除現金形式以外的收入以及所有增益、配發、發售、特權、權利、紅利和現金累計或其引申方式以外的利益，及所有股份、股票、證券、集體投資計劃的利息、債權證或其他證券、分派、於任何時間累算或發售的權利或財產(以轉換、贖回、發行紅利、優先權、期權轉換、權利、註銷、重新分類、沒收、合併、細分、資本減少、清盤、安排方案或其他方式)，或就上述內容以取代、交換或以其他方式衍生，亦須包括借款人可能對買方或其發行人或本行，其代名人、代理人、代表、代理、保管人、或任何存管或結算系統或其他方持有或有權獲得上述任何一項或獲得上述任何一項的權利的所有出售款項、利益、權利和所有與之相關的申索。為免生疑問，“證券”應排除所有股息、分派及以現金累計形式或由本 22.6 條 (i) 至 (vi) 條引申而成的收入以及由本行不時發佈的證券，及包括不時存入或重新存入或轉入本行的證券或根據此押記由本行發出之指示。

凡於本押記使用“結構性產品”一詞時，應指 (a) 其部分或全部回報或須付款項（或回報及須付款項兩者）或結算方法均參照以下一項或多於一項釐定的投資工具或合約：(i) 任何類別或組合類別的證券、商品、指數、財產、利率、貨幣匯率或期貨合約的價格、價值或水平（或在價格、價值或水平的範圍內）的改變；(ii) 任何多於一類的籃子或組合類別的證券、商品、指數、財產、利率、貨幣匯率或期貨合約的價格、價值或水平（或在價格、價值或水平的範圍內）的改變；(iii) 任何指定事件或事件（不包括一事件或僅與有關投資工具的發行人或擔保人或與發行人及擔保人兩者有關的事件）的發生或不發生；(b) 受規管的投資協議；或 (c) 根據適用法例或規例發出通知，而根據該通知視為結構性產品的任何利益、權利或訂明財產或級別或訂明描述。為免生疑問，“結構性產品”應包括借款人不時與本行進行交易的結構性存款或其他結構性產品，其應受本條款第 1 條所建立的抵押約束，以及借款人不需採取進一步行動、交付或文件以證明此類結構性存款或其他結構性產品受到本押記所建立的抵押約束。

**Attachment to “Wealth Portfolio Financing” Overdraft Facility Application Form - Terms and Conditions for “Wealth Portfolio Financing” Overdraft Facility**

**(This Attachment shall form an integral part of the Application Form)**

**Important Notice:** These Terms and Conditions for “Wealth Portfolio Financing” Overdraft Facility set out the terms and conditions upon which the Bank would provide / continue / renew the “Wealth Portfolio Financing” Overdraft Facility to the Borrower(s). Borrower(s) is / are advised to read and understand these terms and conditions carefully before accepting the “Wealth Portfolio Financing” Overdraft Facility.

These Terms and Conditions for “Wealth Portfolio Financing” Overdraft Facility (as amended and in force from time to time) (the “Terms and Conditions”) shall apply to the “Wealth Portfolio Financing” Overdraft Facility (the “Facility”) which Bank of China (Hong Kong) Limited (including its successors and assigns, the “Bank”) may now or at any time hereafter grant to the Borrower(s).

**Part I :General Terms and Conditions**

**Part II :Facility Terms and Conditions**

**Part III :Charge On Deposits and Securities**

**Part I: General Terms and Conditions**

**1. Definitions**

In the Terms and Conditions, the Application Form and the Loan Advice, unless the context otherwise requires, the following expressions shall have the following meanings:-

<b>Application Form</b>	means the “Wealth Portfolio Financing” Overdraft Facility Application Form in respect of the Facility and its attachment(s);
<b>Business Day</b>	means a day on which commercial banks in Hong Kong are open for business but excluding Saturdays, Sundays and public holidays;
<b>Borrower</b>	means any party to whom the Facility is granted or made available by the Bank;
<b>Charge</b>	means the Charge on Deposits and Securities attached to the Application Form;
<b>Deposit(s)</b>	has the meaning given to it under the Charge;
<b>Hong Kong</b>	means the Hong Kong Special Administrative Region of the People's Republic of China;
<b>Loan Advice</b>	means the loan advice issued from time to time by the Bank to the Borrower (a) confirming the Bank’s acceptance of the Borrower’s application for the Facility and/or (b) containing the terms and conditions of the Facility and/or (c) confirming the Bank’s acceptance of the Borrower’s request to release any of the Deposit(s) and/or Securities(s), as may be amended, revised or supplemented from time to time; and
<b>Securities</b>	has the meaning given to it under the Charge.

The headings in the Terms and Conditions are inserted for convenience only and shall be ignored in construing the Terms and Conditions.

**2. Conclusive Statement**

- 2.1 Any statement of account (including, without limitation, the monthly statement) relating to the Facility and any certificate certifying the amounts due (in such currency or currencies as may be stated therein) by the Borrower at any time under the Facility and/or the Charge, and any interest thereon, and any other sum or sums of money due, owing or payable by the Borrower to the Bank signed as correct by any one of the Bank's officers shall be conclusive evidence of the indebtedness of the Borrower to the Bank and be binding on the Borrower, save for manifest error.

- 2.2 Any certificate relating to any Base Rate or substitute or replacement rate in respect of the Facility signed as correct by any one of the Bank's officers shall be conclusive and binding on the Borrower.
- 2.3 Any opinion, determination or decision by the Bank as to any materiality, effect or otherwise relating to anything herein mentioned or referred to shall be conclusive and binding on the Borrower.
- 2.4 Instruction given by the Borrower to the Bank through telephone, facsimile or electronic mail shall be binding against the Borrower and the Bank may (but shall not be obliged to) act upon such instructions subject to such conditions as the Bank may think fit. The Bank may at its absolute discretion take recording or keep record of such instructions. The Borrower consents to such recording and record keeping and agrees to the use of such records for any purpose that the Bank deems desirable including for use as evidence, in any proceedings, against the Borrower or any other person.

### 3. Indemnity

- 3.1 The Borrower shall indemnify the Bank on a fully indemnity basis from and against all action, suits, proceedings, claims, demands, losses, damages, costs, fees, expenses and/or liabilities of whatsoever nature which the Bank may suffer, incur or sustain, whether actual or contingent, by reason of or in maintaining or enforcing the Facility granted to the Borrower or by accepting any instruction/notice given by the Borrower through telephone, facsimile or electronic mail unless caused by the negligence or willful default of the Bank.
- 3.2 Without prejudice to Clause 4.1 of the Facility Terms and Conditions, if the Bank is required to make any payment for such withholding or the deduction referred to in Clause 4.1 of the Facility Terms and Conditions or incur any liability with respect to such withholding or deduction, the Borrower shall promptly indemnify the Bank against such payment or liability.

### 4. Expenses

Whether or not the Facility is drawn or utilized by the Borrower, all expenses including but not limited to legal fees, communications and other out-of-pocket expenses reasonably incurred by the Bank in connection with the Facility or any documents executed in respect of the Facility or any enforcement, or attempted enforcement, of the Bank's rights under the Application Form or the Loan Advice or the Terms and Conditions or other documents executed in respect of the Facility, are to be borne by the Borrower on a full indemnity basis.

### 5. Appropriation

The Borrower hereby irrevocably waives any right or power which it may by way have of appropriation and the Bank shall have the sole and absolute right to appropriate either at the time of payment or at any time thereafter any moneys paid to the Bank by or otherwise coming into the Bank's possession or control from the Borrower in or towards discharging whichever part or parts of liabilities of the Borrower to the Bank as the Bank shall think fit. Any such appropriation shall override any purported appropriation by the Borrower.

### 6. Information

- 6.1 The Borrower agrees that it is necessary to supply the Bank with data/information related to the Borrower or any information as required by the Bank for assessing the grant, revision and renewal of the Facility. The Borrower authorize the Bank to use any data, information and documents relating to the Borrower in accordance with the Bank's Conditions for Services (the "**Conditions**") (subject to the Data Policy Notice issued and/or revised by the Bank from time to time (the "**Notice**"), and the contents and the receipt of which are hereby acknowledged by the Borrower) and notes such data/information (including the Application Form, the Loan Advice or anything in respect of the Facility) held by the Bank will be kept confidential but permits the Bank to provide such data/information/documents to the parties referred to in the Conditions or listed in the Notice (as the case may be) or to any of its branches, subsidiaries and holding companies and the branches, subsidiaries and affiliates of any of its holding companies (together the "**Bank's Related Parties**") or other persons including but not limited to any person permitted by the Borrower, the professional advisers and any other persons providing services to the Bank or any of the Bank's Related Parties (including, without limitation, credit reference agencies, debt collection agencies, rating agencies, insurers or insurance brokers, credit protection providers), any actual or potential assignee, transferee, participant or sub-participant or any subsequent chargee, mortgagee or encumbrancer in respect of securities held by the Bank for the Facility or to any person to the extent required by or for compliance of any laws, regulations, guidelines or rules of stock exchange binding on or applicable to the Bank or any of the Bank's Related Parties or to any person to whom information is required or requested to be disclosed by any court or governmental or regulatory authority to

- which the Bank or any of the Bank's Related Parties are subject to or to any person to whom information is required to be disclosed in connection with, and for the purposes of any litigation, arbitration, administrative, mediation or other investigations, proceedings or disputes relating to the Bank or any of the Bank's Related Parties. The Borrower further authorizes the Bank to contact any of the employers of the Borrower (if applicable), bank, referee, credit reference agencies or any other source for the purpose of obtaining or exchanging any information and to compare the information provided by the Borrower with other information collected by the Bank for checking purposes. The Bank is entitled to use the result of such comparison to take any action which may be adverse to the interest of or against the Borrower. The Borrower consents to the relevant consumer credit data of the Borrower being shared by the Bank with all selected credit reference agencies under Multiple Credit Reference Agencies Model which may also be shared with a Type One Special Member (meaning an insurer or a subsidiary of an insurer authorized under Section 8(1)(a) or 8A(1)(a) of the Insurance Ordinance (Cap. 41 of the Laws of Hong Kong) to carry on insurance business with the need to use consumer credit data for purposes permitted under the Code of Practice on Consumer Credit Data issued by the Privacy Commissioner for Personal Data as updated or superseded from time to time) in relation to the provision of insurance coverage to the Bank by the Type One Special Member. The Borrower also consents to the data/information/documents being transferred to another jurisdiction outside Hong Kong.
- 6.2 The Borrower undertakes at all times to notify the Bank in writing of any change of the particulars of the Borrower including without limitation the Borrower's address, telephone number and facsimile number.
- 6.3 The Borrower acknowledges that the Bank has provided him with the following information:
- (a) the Borrower's data may be supplied to credit reference agencies and/or, in the Event of Default, to a debt collection agency;
  - (b) the Borrower's right to be informed, upon request, about what items of data are routinely disclosed to such credit reference agencies and/or debt collection agency, and the Borrower's right to be provided with further information to enable the making of a data access and correction request to the relevant credit reference agencies or debt collection agency, as the case may be;
  - (c) that, in the event of any default in payment, unless the amount in default is fully paid before the expiry of 60 days from the date such default occurred, the Borrower shall be liable to have his account data retained by the credit reference agencies until the expiry of five years from the date of final settlement of the amount in default; and
  - (d) that the Borrower, upon termination of the account by full payment and on condition that there has not been, within five years immediately before such account termination, any material default on the account, will have the right to instruct the Bank to make a request to the credit reference agencies to delete from its database any account data relating to the terminated account.
- 6.4 The Borrower shall promptly supply, or procure the supply of, such documentation and other evidence as reasonably requested by the Bank or pursuant to or in satisfaction of any law or regulation to which the Bank is subject.

## 7. Miscellaneous

- 7.1 The Borrower shall furnish to the Bank at the request of the Bank certified copies of the Borrower updated income tax return, bank statements and such other information as the Bank shall from time to time require.
- 7.2 Subject to prior notice to the Borrower, the Bank reserves the absolute right to vary the terms of the Facility, to increase, reduce and/or cancel any Facility or any part thereof at any time and from time to time, including without limitation, the basis of calculation of any interest, charges, commissions, fees or default interest payable under the Application Form and/or the Loan Advice and/or the Terms and Conditions and to vary the Terms and Conditions (including without limitation the Default Margin or the Default Administrative Charges), to impose a commitment fee on the daily undrawn balance of the Facility granted, and/or to impose any additional handling charges at such rate as determined by the Bank at its sole discretion. Any variation, amendment or supplement shall be binding on the Borrower(s) if the Borrower(s) do(es) not terminate the Facility(ies) after receiving any notice of such variation, amendment or supplement.
- 7.3 No failure, delay or omission by the Bank in exercising any right, power, privilege or remedy shall impair such right, power, privilege or remedy or be construed as a waiver thereof, nor shall any single or partial exercise of any right, power, privilege or remedy preclude any further exercise of any other right power, privilege or remedy. Rights, powers, privileges and remedies herein provided are cumulative and do not exclude those provided by law.
- 7.4 Subject to Clause 7.5 of these General Terms and Conditions, any notice, demand or other communication to the Borrower shall be sent to the Borrower's last known address or such other address as may have been notified in writing by the Borrower to the Bank and, if (i) delivered personally, shall be deemed to have been given at the time of such delivery; (ii) dispatched by letter postage prepaid, shall be deemed to have been

- given twenty-four (24) hours after posting; and (iii) transmitted by facsimile or other electronic means, shall be deemed to have been given at the time of dispatch, provided that the Bank may give oral notice to the Borrower and if it consists of more than one person, any one of them, whether personally or through the telephone, and any oral notice so given shall be immediately effective and binding upon the Borrower. Subject to clause 2.4 of the General Terms and Conditions, any notice or communication to the Bank shall not be effective until actually received by the Bank. If the Borrower consists of more than one person, any notice, demand or other communication shall be effective on the Bank only if given by each of them and on all of them if given by the Bank to any of them.
- 7.5 The Bank reserves the right to notify the Borrower of any variation of the Terms and Conditions or any fees or changes in the standard charges for or relating to the Facility, the Default Margin, the default interest set out in Clause 6.2 of the Facility Terms and Conditions, the Default Administrative Charges or the basis of calculation of any of them by notice displayed or posted up in the Bank's banking halls.
- 7.6 The Terms and Conditions are in addition and without prejudice to the Bank's rights under all existing or future securities and/or legal documents (if any) held by the Bank.
- 7.7 If the Borrower shall consist of more than one person and the Facility is made available to such Borrowers jointly, the liabilities of the Borrowers to the Bank under the Facility shall be joint and several and each and every provision of the Application Form and the Loan Advice and the Terms and Conditions shall be construed accordingly.
- 7.8 Any provision in the Application Form, the Loan Advice and the Terms and Conditions which is or is declared by any court or tribunal of competent jurisdiction to be illegal, invalid or unenforceable in any respect under applicable law shall be severed from the Application Form and/or the Loan Advice and/or the Terms and Conditions (as the case may be) to the maximum extent permissible by such applicable law without in any manner affecting the legality, validity or enforceability of the remaining provisions of the Application Form and/or the Loan Advice and/or the Terms and Conditions (as the case may be), all of which shall continue in full force and effect.
- 7.9 Unless contrary intention appears, words importing the singular number shall include the plural number and vice versa and words importing the masculine gender shall include the feminine gender and the neuter gender.
- 7.10 References to any regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organization.

## 8. Third Party Rights

- 8.1 Subject to Clause 8.3 of these General Terms and Conditions, a person who is not a party to the Application Form, the Loan advice and the Terms and/or conditions has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) (the "**Third Parties Ordinance**") to enforce or to enjoy the benefit of any term of the Application Form, the Loan Advice and/or the Terms and Conditions.
- 8.2 Notwithstanding any term of the Application Form, the Loan Advice and/or the Terms and/or conditions, the consent of any person who is not a party to the Application Form, the Loan Advice and/or the Terms and/or conditions is not required to rescind or vary the Application Form, the Loan Advice and/or the Terms and Conditions at any time.
- 8.3 Any director, officer, employee, affiliate or agent of the Bank or any of the Bank's Related Parties may, by virtue of the Third Parties Ordinance, rely on any provision of the Application Form, the Loan Advice and/or the Terms and Conditions which expressly confers rights on that person.
- 8.4 This Clause 8 shall apply upon the commencement date of the Third Parties Ordinance (being 1 January 2016).

## 9. Language

The Chinese version of these General Terms and Conditions is for reference only and if there is any conflict between the English version and the Chinese version, the English version shall prevail.

## 10. Governing Law

The Application Form, the Loan Advice and the Terms and Conditions shall be governed by and construed in accordance with the laws of Hong Kong. The Borrower hereby irrevocably submits to the non-exclusive jurisdiction of the courts of Hong Kong.

## Part II: Facility Terms and Conditions

### 1. Definitions

In these Facility Terms and Conditions, the Application Form and the Loan Advice, unless the context otherwise requires, the following expressions shall have the following meanings:-

<b>Base Rate</b>	means the HKD Prime as may be determined by the Bank from time to time (as the case may be);
<b>Cost of Funds</b>	means the cost of its funding from whatever sources it may select as determined by the Bank from time to time at its absolute discretion (as the case may be);
<b>Default Administrative Charges</b>	means the amount of charges referred to in Clause 6.5;
<b>Default Margin</b>	<b>10% per annum</b> for HKD OD or the rate specified by the Bank from time to time and displayed or posted in the Bank's banking halls or such other rate as the Bank may designate and notify the Borrower;
<b>Event of Default</b>	means any one of the events mentioned in Clause 13 below and reference to "Events of Default" shall be construed accordingly;
<b>HIBOR</b>	means in respect of a particular interest period and in relation to any advance and/or drawing under the Facility in HKD, the rate per annum quoted by the Bank in the Hong Kong Interbank Hong Kong Dollar Market and known as "Hong Kong Interbank Offered Rate";
<b>HKD</b>	means Hong Kong dollars, the lawful currency of Hong Kong;
<b>HKD O/D</b>	means any Overdraft Facility made available to the Borrower under current account(s) denominated in HKD;
<b>HKD Prime</b>	means the prime rate for HKD as may be quoted by the Bank from time to time and subject to fluctuation;
<b>"Obligors"</b>	means the Borrower and any party to a Security Document
<b>Original Interest Rate</b>	means the applicable rate of interest as specified in the Loan Advice; and
<b>Security Documents</b>	means the Charge and such documents as may from time to time securing, guaranteeing or supporting the Facility(ies) for the benefit of the Bank;

### 2. Availability

- 2.1 Subject to the maximum HKD O/D limit set out in the Loan Advice, the Bank is prepared to make available to the Borrower HKD O/D facility of up to such aggregate amount granted in respect of all Deposits acceptable to the Bank at any relevant time, where the HKD O/D limit granted in respect of each Deposit shall be calculated in the manner as set out below:-
- $n = \text{valuation of the Deposit in HKD} * \text{the loan ratio applicable to such Deposit at any relevant time};$   
where "n" in the formula above is the HKD O/D limit granted in respect of such Deposit at any relevant time; and  
the HKD O/D limit granted in respect of all Deposits at any relevant time shall be the aggregate sum of the respective HKD O/D limits in respect of all Deposits.
- 2.2 Subject to the maximum HKD O/D limit set out in the Loan Advice, the Bank is prepared to make available to the Borrower HKD O/D facility of up to such aggregate amount granted in respect of all Securities acceptable to the Bank at any relevant time, where the HKD O/D limited granted in respect of the Securities of each issuer shall be calculated in the manner as set out below:-
- $n = \text{valuation of the Securities of the relevant issuer in HKD} * \text{the loan ratio applicable to the Securities of such issuer at any relevant time};$   
where "n" in the formula above is HKD O/D limit granted in respect of the Securities of such issuer at any relevant time; and  
the HKD O/D limit granted in respect of all Securities at any relevant time shall be the aggregate sum of the respective HKD O/D limits in respect of all Securities.
- 2.3 Subject to the Borrower's acceptance of and full compliance with the terms and conditions set out in the Application Form and the Loan Advice and production and where appropriate, execution of all appropriate documentation mentioned in these Terms and Conditions, the Application Form and the Loan Advice to the Bank's satisfaction and payment of all required fees and charges, the Facility set forth in the Application Form and the Loan Advice will be made available to the Borrower for use until such time as the Bank shall notify the Borrower in writing to the contrary.
- 2.4 As a condition precedent to the Bank agreeing to make the Facility available to the Borrower, the Borrower shall charge the assets set out in the Charge in favour of the Bank. In this respect the Borrower agrees and acknowledges that (i) all fixed deposits from time to time placed by the Borrower with the Bank under the

- Customer Number set out in the Loan Advice and (ii) all the Securities (except those shares of BOC Hong Kong (Holdings) Ltd and such other shares as may be designated by the Bank from time to time) under the Borrower's Securities Account Number set out in the Loan Advice shall form part of the Deposit(s) and/or Securities securing, in accordance with the terms of the Charge, all or any liabilities that the Borrower may at any time and from time to time incur to the Bank under or in respect of the "Wealth Portfolio Financing" Overdraft Facility.
- 2.5 The Facility shall be deemed automatically drawn down by the Borrower and/or advanced by the Bank when payment or liability is made or incurred by the Bank under the Facility. For the avoidance of doubt and subject to the Bank's overriding discretion, setting up of credit limits in respect of any overdraft facility would only be effected on Business Days.
- 2.6 The Bank reserves the absolute right to (i) reject any application from the Borrower to be provided with or utilize the Facility and (ii) review and make adjustment to the Facility at any time at its sole and absolute discretion.
- 2.7 The Bank reserves the overriding right to review the Facility on a regular basis and the Facility shall expire forthwith as and when the Bank has given to the Borrower notice of termination, and the Bank reserves the overriding right at its sole and absolute discretion to increase, reduce and/or cancel the Facility or any part or parts thereof at any time to be effective forthwith by notice to the Borrower. In addition, the Bank may decline to honour the Borrower's cheques or payment instructions at any time if payment would result in the total outstanding amount of the Facility (whether actual or contingent) exceeding the relevant HKD O/D limit calculated in the manner as set out in these Terms and Conditions. For the avoidance of doubt however, the Bank shall not be liable for any losses or other consequences arising as a result of or in connection with any increase, reduction and/or cancellation of the Facility or any part or parts thereof or any dishonouring of cheques or payment instructions as aforementioned.
- 2.8 In determining the HKD O/D limit at any relevant time subject to the maximum HKD O/D limit referred to in the Loan Advice, the Bank will assess the market value of the Securities and the various criteria in respect of the Deposits and Securities concerned for determining the applicable loan ratios at any time and from time to time. The loan ratios of the different types of Deposits and Securities and the criteria for determining such loan ratios shall be determined by the Bank at its discretion from time to time. Please refer to the Bank's website and the relevant materials issued by the Bank from time to time regarding the types of Deposits and Securities and the loan ratios or such other communication as the Bank may send to the Borrower from time to time for details. Besides, the determination of the loan ratio applicable to any Deposits or Securities based on such criteria and of the market value of the Securities shall be conclusive and binding upon the Borrower save for manifest error. Without prejudice to the generality of the foregoing, the Bank may from time to time determine that zero valuation will apply to Deposits in certain currencies (which for the time being are BCU, NOK and THB), odd lots of Securities and Securities of certain issuers. The rights and privileges provided to the Bank under the Terms and Conditions shall be in addition to, and shall not be in substitution of, any rights and privileges which the Bank may have under the Charge.
- 2.9 The Borrower warrants, represents and undertakes to the Bank, that no part of any Facility granted by the Bank is intended, or will be used, directly or indirectly, for financing the acquisition (whether already made or proposed) by the Borrower or any person whomsoever of any shares in BOC Hong Kong (Holdings) Limited, or for reducing or discharging a liability incurred by the Borrower or any person whomsoever in connection with any such acquisition. In granting the Facility, the Bank rely upon the Borrower's warranty, representation and undertaking herein contained.
- 2.10 The Borrower represents and confirms to the Bank that the Borrower is not (i) a director or manager of Bank of China Limited or its subsidiary or (ii) in any way related to the directors or employees of the Bank within the meaning of Section 83 of Banking Ordinance. The Borrower undertakes to advise the Bank promptly in writing if the foregoing becomes untrue or the Borrower becomes so related subsequent to the signing of the Application Form.

### 3. Interest

- 3.1 All amounts advanced/drawn under the Facility shall be charged with interest (before as well as after judgment and subject to fluctuation), commission and/or other charges at such rates as specified in the Application Form and the Loan Advice or at such standard rates specified in any schedule of charges published by the Bank from time to time, or such other Exceptional Rates on the reducing balance. The schedule of charges shall be made available to the Borrower at any time upon request. If any Base Rate is below zero, such Base Rate shall be deemed to be zero when calculating the applicable interest rate chargeable on the Facility. In addition, if the applicable interest rate chargeable on the Facility is below zero (after any negative Base Rate has been deemed to be zero), then such applicable interest rate shall be deemed to be zero.

- 3.2 Unless otherwise specified in these Terms and Conditions, the Application Form or the Loan Advice, interest on the Facility will accrue from day to day and be calculated on the basis of actual number of days elapsed and a 365-day year for HKD or according to the market practice as the Bank may from time to time adopt in its absolute discretion and any change to a prime rate shall immediately apply to any interest rate calculated by reference to such prime rate.
- 3.3 All accrued interest shall be payable on demand, and if no demand is made, shall be paid on the due date of each instalment payable in respect of a Facility or, in the case where the principal sum of the Facility is not payable by periodical instalments, at such interval as the Bank may designate in the Application Form and/or the Loan Advice or according to the Bank's customary practice as may be notified to the Borrower from time to time and if not so paid, the Bank shall have the right to capitalize such unpaid interest as principal advance so that it shall bear interest at the same rate.
- 3.4 The Bank shall be entitled to charge the highest of (i) the Original Interest Rate applicable to such Facility; or (ii) the overnight HIBOR.
- 3.5 The interest accrued thereon shall be payable on the last Calendar Day of each month.
- 3.6 In the case where the principal sum of the Facility are not payable by periodical instalments and the Bank designates in the Application Form and/or the Loan Advice that the interest accrued on the Facility is payable monthly in arrears, the first interest payment date shall be the date in the succeeding month corresponding to the date of the drawdown of the relevant Facility and thereafter subsequent interest payment dates shall be the corresponding dates in each and every succeeding months ("Interest Payment Date") provided that no Interest Payment Date shall extend beyond the final maturity date of the relevant Facility set out in the Application Form and/or the Loan Advice.
- 3.7 If for any reason whatsoever, interbank offered rates (IBORs) include HIBOR (1) is not available, temporarily or permanently, (2) in the opinion of the Bank ceases to be representative, or (3) in the opinion of the Bank is no longer appropriate for the purposes of calculating interest hereunder, the Bank reserves its absolute right to review and amend the interest rate for the facility(ies) without prior notice. The Lender shall notify the Borrower(s) as soon as the interest rate has been amended.
- 3.8 If for any reason whatsoever, interbank offered rates (IBORs) include HIBOR or the amended rate as decided by the Bank pursuant to Clause 3.7 (if applicable) does not reflect the cost of funds incurred, interest for the advance shall be charged at a rate substituted by any substitute or replacement rate reasonably determined by the Bank solely without prior notice. The Lender shall notify the Borrower such rates as soon as it has been fixed.

#### 4. Payment

- 4.1 All payments or repayments made by the Borrower to the Bank are to be made in the currency of the payment or liabilities made or incurred by the Bank under the Application Form and Loan Advice or otherwise in the converted currency if the Bank exercises its rights under Clause 4.3 (the "**Applicable Currency**"), in immediately available funds without set-off or counter-claim and free and clear of and without withholding or deduction of any or all present or future taxes, duties, payments or other charges. In case any payment under the Application Form and/or Loan Advice and/or Security Documents is/are required for such withholding or deduction, it shall be increased to the extent necessary equal to the sum of payment as if no such withholding or deduction has been made. The Borrower shall immediately inform the Bank or pay such sum within the time prescribed. The Borrower shall also within 30 days of making such payment provide documentary evidence to the Bank showing the payment has been made.
- 4.2 If any change in, or in the interpretation of, any law or regulation or directive or compliance with any law or regulation or directive made after the respective original dates of the Application Form and the Loan Advice:
  - (a) increases the Bank's cost of making available or maintaining the relevant Facility; or
  - (b) reduces the amount of any payment receivable by the Bank under the the Application Form, the Loan Advice and/or Security Documents,then the Borrower will pay to the Bank on demand all amounts needed to compensate the Bank therefor.
- 4.3 No payment to the Bank (whether under any judgment, court order or otherwise) shall discharge the obligation or liability of the Borrower in respect of which it was made unless and until the Bank shall have received payment in full in the Applicable Currency, and to the extent the amount of any such payment shall on actual conversion into the Applicable Currency fall short of such obligation or liability expressed in the Applicable Currency, the Bank shall have a further separate cause of action against the Borrower.
- 4.4 The Bank hereby expressly reserves the right, at any time at its absolute discretion without giving any reason therefor to the Borrower to: -
  - (a) convert all or any outstanding indebtedness, liabilities and/or obligations due, owing or incurred by the Borrower under the Facility denominated in the currency specified in the Application Form and the

Loan Advice for the Facility into HKD; or

- (b) convert all or any outstanding indebtedness, liabilities and/or obligations due, owing or incurred by the Borrower under the Facility denominated in a currency other than that specified in the Application Form and the Loan Advice for the Facility into the currency so specified for the Facility or into HKD, as the Bank may deem fit in its absolute discretion.

The aforesaid conversion shall be at the then prevailing rate of exchange as the Bank may determine conclusively. For the avoidance of doubt, after such conversion, the Bank shall be entitled to re-determine the applicable interest rate for the converted indebtedness, liabilities and/or obligations on the basis that the same are denominated in HKD or (as the case may be) in the currency specified in the Application Form or the Loan Advice for the Facility.

The Bank may also from time to time, without actual conversion, determine the outstanding amount of any Facility by reference to the base currency to which such Facility was originally denominated at the then prevailing rate of exchange as the Bank may determine conclusively. If such outstanding amount under the base currency exceeds the original base currency amount of such Facility, the Bank shall be entitled to request the Borrower to repay such excess amount upon demand in the currency as specified by the Bank.

- 4.5 Any payment made to the Bank in a currency (the “existing currency”) other than the Applicable Currency may at the Bank's absolute discretion be converted into the Applicable Currency to cover the obligations and liabilities of the Borrower in the existing currency at the then prevailing spot rate of exchange as conclusively determined by the Bank for purchasing the Applicable Currency with the existing currency.
- 4.6 All payments made by the Borrower to the Bank shall be accepted upon and subject to the Bank's practice and terms and conditions and where applicable to the rules of any relevant clearing system for the time being and from time to time in force, and shall be deemed not to have been made until such time as the relevant funds have been cleared and received for value by the Bank.
- 4.7 If a change in any currency of a country occurs and such change relates to the currency or currencies in which the Facility or the transactions contemplated under the Application Form, the Loan Advice are denominated, these Terms and Conditions and the Application Form, the Loan Advice will, to the extent the Bank (acting reasonably) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the relevant interbank market and otherwise to reflect the change in currency.

## 5. Repayment

- 5.1 Notwithstanding anything to the contrary contained in the Application Form, the Loan Advice and in the Terms and Conditions, the Bank reserves the **overriding right to demand** immediate repayment of all the outstanding indebtedness, liabilities and/or obligations (including interest and default interest thereon) due, owing or incurred by the Borrower (actual or contingent) to the Bank under or in respect of the Facility.
- 5.2 The principal of the Facility shall be repaid in full on the final maturity date set out in the Application Form and/or the Loan Advice.
- 5.3 If the Borrower shall anticipate or experience any difficulty in repaying or servicing the Facility, the Borrower shall inform the Bank as soon as possible.

## 6. Default interest/charges

- 6.1 Time shall be of the essence of any payment or repayment to be made by the Borrower.
- 6.2 The Bank reserves the right to charge default interest (before as well as after judgment) on a day to day basis on any sum which is not paid when due at (i) the HKD Prime plus the applicable Default Margin, or (ii) the overnight HIBOR, whichever is the highest. The foregoing default rate and method of calculation shall apply irrespective of whether the due but unpaid overdrafts fall within the overdraft limit previously allowed by the Bank or otherwise.
- 6.3 The Bank shall have the right to charge default interest at the higher of (i) such default rate and in such method of calculation as set out in Clause 6.2 on any sum which is overdrawn in excess of the applicable pre-agreed overdraft limit, whether such excess is allowed by the Bank in the exercise of its discretion or upon the request of the Borrower or otherwise, or (ii) the Original Interest Rate.
- 6.4 If any instalment or interest payment is overdue, default interest shall be calculated from the due date of the relevant instalment or interest payment on a daily basis up to the day on which actual payment in full has been made. The provisions in this Clause 6.4 shall not prejudice or affect the Bank's rights to charge default interest under Clause 6.2 above.
- 6.5 Apart from default interest, the Bank reserves the right to charge the Borrower Default Administrative Charges of **HKD500.00** or such other amount as determined by the Bank from time to time, on each time when the Borrower fails to make a payment on its due date. In addition, if the Bank shall determine in its

absolute discretion that it is necessary to instruct lawyers to issue letter of demand to the Borrower or to take any other recovery action against the Borrower after the Borrower has failed to make any payment on its due date, the Bank shall have the right to recover all the legal costs of reasonable amount and reasonably incurred by the Bank and the Borrower shall be obliged to pay such costs to the Bank upon demand.

- 6.6 For the avoidance of doubt, in case the Original Interest Rate chargeable on the overdue sum shall exceed the default rate specified in Clause 6.2, the Bank shall have the right to continue to apply such Original Interest Rate notwithstanding the sum is overdue.
- 6.7 The Bank reserves the right to compound default interest at such intervals as it deems fit.

## 7. Termination of the Facility

- 7.1 Notwithstanding anything contained in the Application Form or the Loan Advice (including any review date stated therein), the Bank reserves the overriding right to :-
- (a) review the Facility at any time (if applicable, prior to the review date stated in the Application Form or the Loan Advice) and the Facility shall terminate forthwith (if applicable, even if prior to the said review date) as and when the Bank has given to the Borrower notice of termination; and
  - (b) increase, reduce and/or cancel the Facility or any part or parts thereof or to vary or amend the terms and conditions thereof at any time at its sole and absolute discretion to be effective forthwith (if applicable, even if prior to the said review date) by notice in writing to the Borrower.
- 7.2 A renewal fee shall be payable by the Borrower when the Facility or any part or parts thereof are renewed, extended or otherwise revised by the Bank.

## 8. Set-off and Lien

- 8.1 In addition and without prejudice to any general banker's lien, right of set-off or similar right to which the Bank may be entitled, the Bank shall have the right and is hereby irrevocably and unconditionally authorized, to the fullest extent permitted by law, from time to time and at any time without notice to the Borrower (any such notice being expressly waived):-
- (a) to set off and appropriate and apply any credit balance in any of the account(s) and/or deposit(s) of the Borrower (whether in its sole name or jointly with others) in whatever currency maintained with any of the Bank's branches or sub-branches (whether subject to notice or not and whether matured or not) against or on account of the obligations and liabilities whatsoever of the Borrower (whether actual or contingent, future or existing) due, owing or incurred to the Bank; and
  - (b) to apply any credit balance in any of the account(s) and/or deposit(s) of the Borrower (whether in its sole name or jointly with others) in whatever currency maintained at any of the Bank's offices or branches or sub-branches (whether the credit balance was originally available in any account maintained with the Bank (formerly known as Po Sang Bank Limited) or any one or more of Bank of China (Hong Kong Branch), The Kwangtung Provincial Bank (Hong Kong Branch), Sin Hua Bank Limited (Hong Kong Branch), The China & South Sea Bank Limited (Hong Kong Branch), Kincheng Banking Corporation (Hong Kong Branch), The China State Bank Limited (Hong Kong Branch), The National Commercial Bank Limited (Hong Kong Branch), The Yien Yieh Commercial Bank Limited (Hong Kong Branch) and Hua Chiao Commercial Bank Limited (collectively the "Merging Banks") prior to the merger of the said Merging Banks on 1<sup>st</sup> day of October 2001 (the "Date of Merger")) (whether subject to notice or not and whether matured or not) and/or to set off any of the liability of the Bank (whether actual or contingent) due or owing to the Borrower (whether alone or jointly with others) including but not limited to any liability of any one or more of the Merging Banks (whether actual or contingent) which was originally due or owing to the Borrower (whether alone or jointly with others) prior to the Date of Merger, towards satisfaction of or against the Borrower's obligations and liabilities, whether actual or contingent, future or existing, due, or owing or incurred to the Bank, including but not limited to any such obligations and liabilities of the Borrower originally due, owing or incurred to the Bank or any one or more of the Merging Banks prior to the Date of Merger.
- The Bank shall notify the Borrower promptly after exercising its rights under this Clause 8.1.
- 8.2 For the purposes aforesaid, the Bank may convert all or any part of the said credit balance or deposit of the Borrower to such other currencies at the applicable rate of exchange quoted and determined by the Bank as may be necessary.
- 8.3 If any sum is due but unpaid under the Facility and/or the Terms and Conditions, the Bank may at any time without further reference to the Borrower, retain all or any securities, valuables or any other property whatever and wherever situate which may be deposited with or otherwise held by the Bank for or in the name of the Borrower whether for safe custody or otherwise and sell the same or any part thereof at such price as the Bank shall determine whether by public auction, private treaty or tender and the Bank may

engage such agent or broker therefor and apply the proceeds thereof in satisfaction of any or all sums owing under the Facility and/or the Terms and Conditions after first deducting all costs and expenses of reasonable amount and reasonably incurred by the Bank and the Bank shall not be liable for any loss arising from the sale or other disposition of any such securities, valuables or other property unless caused by the negligence or wilful misconduct of the Bank.

- 8.4 The rights herein conferred on the Bank are in addition and without prejudice to any rights conferred on the Bank under any Security Documents at any time and from time to time held by the Bank.

## 9. Authorization to debit account(s)

The Bank shall be entitled to debit at any time and from time to time all or any of the interests, fees, charges, commissions, costs, expenses and other sums due and payable by the Borrower in respect of the Facility to any of the account(s) of the Borrower without prior notice to the Borrower. Such sums shall be deemed duly drawn or overdrawn from the account(s) by the Borrower.

## 10. Debt Collection

The Bank shall be entitled to employ debt collecting agent(s) to collect any sum due but unpaid by the Borrower under the Facility. The Borrower agrees, and acknowledges that the Borrower has been warned, that the Borrower shall indemnify and keep the Bank indemnified on a full indemnity basis against all costs and expenses of reasonable amount which the Bank may reasonably incur in the employment of debt collecting agent(s). The Bank shall be entitled to disclose to such debt collecting agent(s) any or all information relating to the Borrower, the Facility, the Application Form or the Loan Advice.

## 11. Assignment

The Bank may at any time, without consent of or notice to the Borrower, assign or transfer to any party all or any of its rights, benefits, obligations and liabilities under the Facility and these Terms and Conditions and the related collateral securities and support documents provided that the Borrower, at any time of such assignment or transfer, will not be liable to pay any greater amount than the Borrower would have been liable to pay had no assignment or transfer been made. The Borrower may not assign or transfer any of its rights, benefits, obligations and/or liabilities under the Facility and/or these Terms and Conditions to any party except with the prior written consent of the Bank.

## 12. Representations, warranties and undertakings

12.1 The Borrower makes the following representations and warranties to the Bank on the respective dates of its execution of the relevant Application Form and the Loan Advice :-

- (a) it has the power and authority and the legal capacity to perform and observe its obligations under the Application Form, the Loan Advice, these Terms and Conditions, the Security Documents and any other ancillary documents executed in the Bank's favour;
- (b) the Terms and Conditions, the Application Form, the Loan Advice, the Security Documents (if applicable) and any other ancillary documents constitute valid and legally binding obligations of the Borrower in accordance with their terms;
- (c) it is not in default of any payment of any principal of or interest on any indebtedness for borrowed money and is not in breach of or in default under any other provision of any indenture, deed of trusts, agreement or other instrument to which it is a party and under or subject to which any such indebtedness for borrowed money has been issued and is outstanding and no event, condition or act which with the giving of notice or lapse of time, or both, would constitute an event of default under any such indenture, deed of trust, agreement or other instrument has occurred or is continuing which has not been properly waived or remedied thereunder;
- (d) the entry into and performance by it of, and the transactions contemplated by, these General Terms and Conditions, the relevant Application Form, the Loan Advice, the Security Documents (if applicable) and any other ancillary documents, do not and will not conflict with any law or regulation applicable to the Borrower, or any agreement, or instrument binding on the Borrower or any of the Borrower's assets;
- (e) all information provided by the Borrower was true, complete and accurate in all material respects as at the date it was given or as at the date (if any) at which it is stated and was not misleading in any respect;
- (f) it is not subject to any existing litigation or arbitration or administrative proceeding or petition for bankruptcy before any court, tribunal, arbitrator or governmental authority and is not pending any litigation or arbitration or administrative proceeding or petition for bankruptcy and it has no knowledge

of (having made all reasonable enquiries) any litigation, arbitration or administrative proceeding or petition for bankruptcy threatened against the Borrower, or any of its properties or assets, which might, in each case, which could result in a material adverse change or effect on the business, assets or condition (financial or otherwise) or prospects of the Borrower;

- (g) no Event of Default has occurred, or will occur as a result of execution of the Application Form, the Loan Advice, the Security Documents and other ancillary documents and/or utilizing any of the Facility, which has not been duly remedied or waived under the Application Form, the Loan Advice and/or the Term and Conditions;
- (h) the above representations and warranties shall continue in full force and effect by reference to the facts and circumstances then existing whilst any part of the advances under the Facility(ies) remain outstanding; and
- (i) the above representations and warranties shall be repeated and deemed to be made by the Borrower, where applicable, on each advance or drawing of the Facility(ies) and on each interest payment date, in each case by reference to the facts and circumstances then existing.

12.2 The Borrower undertakes with the Bank that it will, if applicable :-

- (a) promptly notify the Bank in writing on becoming aware of the occurrence of any Event of Default or prospective Event of Default or any other events or circumstances which might materially and/or adversely affect the Borrower's operations, prospects, business or condition (financial or otherwise) or the Borrower's ability to perform its obligations hereunder and under the Application Form, the Loan Advice, other Security Document(s) or any other ancillary documents;
- (b) promptly and duly pay or cause to be paid all taxes, duties and other governmental charges imposed upon the Borrower;
- (c) from time to time (including in respect to the net exposure of one or more transactions under the Facility) upon the demand of the Bank provide or procure to be provided to the Bank further cash or security acceptable to the Bank having current market value of not less than the then outstanding Facility and/or the net exposure thereunder;
- (d) ensure that the Borrower's obligations hereunder and under the Application Form and the Loan Advice, whether actual or contingent, are not subordinated to, and that they will at all times rank at least pari passu in priority of payment and in all other respects with any other of the Borrower's unsecured obligations, except to the extent that such obligations are preferred solely by operation of law;
- (e) comply in all respects with all laws and regulations to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Facility and Security Documents to which the Borrower is a party;
- (f) promptly notify the Bank in writing of any change of the Borrower's particulars or the particulars of any third party security provider(s) in respect of the Borrower's liabilities including without limitation its/their address(es) and/or telephone number(s) and/or facsimile number(s); and
- (g) promptly supply or procure to be supplied to the Bank such other documents or information required by the Bank from time to time.

### 13. Events of Default

**13.1 Without prejudice to the other provisions herein, all amounts (including principal and interest) due or owing by the Borrower to the Bank shall, without any demand, become immediately due and payable by the Borrower and the Bank shall not be required to make any further advances under the Facility upon the occurrence of any of the following events of default :-**

- (a) the Borrower's failure to pay any principal, interest, charges or other costs and expenses payable to the Bank in connection with the Facility on the due date;
- (b) the Borrower's failure for any reason whatsoever to discharge promptly any obligations in respect of the Facility or to comply with any undertakings (affirmative or negative) or covenants to the Bank howsoever and whenever arising;
- (c) the Borrower's failure to pay any money, debts and liabilities owing or incurred, due but unpaid to the Bank in any manner howsoever or on any account whether as principal or surety and whether alone or jointly with any other person, firm or corporation;
- (d) any of the representations, warranties, undertakings or statements of any Obligors under the Application Form and/or the Loan Advice and/or the Terms and Conditions and/or the Security Documents and any other ancillary documents or any information or document delivered by any Obligors to the Bank is incorrect or misleading in any material respect;
- (e) any distress, attachment, sequestration, execution or other legal process is levied, enforced or sued out on or against the assets of any Obligors ;
- (f) an event occurs which, in the opinion of the Bank, will have a material adverse change in or effect on

- the business, assets condition (financial or otherwise) or prospects of any Obligors or affect or prevent the ability of any Obligors to perform its/their obligations under the Application Form and/or the Loan Advice and/or the Security Documents;
- (g) a payment default occurs under the provisions of any agreement or instrument evidencing or securing any financial indebtedness of any Obligors or any such financial indebtedness becomes payable or capable of being declared payable before its stated maturity and is not paid when due;
  - (h) a petition is presented or proceedings are commenced or an order is made or an effective resolution is passed for the Borrower's or relevant party(ies)' bankruptcy or winding up of any Obligors or for the appointment of a liquidator, receiver, official administrator or similar officer in respect of the any Obligors or all or any part of its/their business or assets or if any Obligors otherwise becomes insolvent or bankrupt under any court of law;
  - (i) without prejudice to paragraph (a) above, failure of any Obligors to comply with any provision contained in the Terms and Conditions, the Facility Letter and/or the Security Documents and any other ancillary documents which is not capable of remedy or, if can be remedied, has not been remedied within seven days of the earlier of notice from the Bank requiring its remedy or any Obligors becoming aware of the failure to comply;
  - (j) any governmental, tax, monetary or other approval required by any Obligors in connection with the Facility is withdrawn or revised in a way prejudicial to the interest of the Bank under the Facility, the Terms and Conditions, the Application Form, the Loan Advice or any Security Documents or any ancillary documents;
  - (k) any event occurs which constitutes or, with the passing of time or the giving of notice or both, would constitute an event of default under any other agreement to which the Borrower or the relevant party(ies) is a party;
  - (l) any present or future security on or over the assets of any Obligors becomes enforceable;
  - (m) it becomes unlawful for any Obligors to perform any of its obligations these Terms and Conditions, the Application Form, the Loan Advice, any Security Document or any other ancillary documents is/are not or ceases to be in full force and effect; and
  - (n) the occurrence of any event which under the law of any relevant jurisdiction, has an analogous or equivalent effect to any event mentioned in this Clause 13.1.

#### **14. Liability of the Bank**

##### **14.1 The Bank shall not be liable for any loss or damage suffered by the Borrower or any other person as a result of :-**

- (a) the withdrawal or suspension of any transaction of the Borrower or for any failure to effect or execute any of the order or instruction from the Borrower whether it is attributable, either directly or indirectly, to any circumstances or events outside the control of the Bank; and/or
- (b) any mechanical, electronic or other failure, malfunction, interruption, inaccuracy or inadequacy of the Bank's telecommunication and computer system or other equipment or its installation or operation; any incomplete or erroneous transmission of any instruction or order of the Borrower or any error in the execution of any such instruction or order (except gross negligence or wilful misconduct of the Bank's authorized officers) nor for any delay, loss (including loss of profit or any economic loss), expenses or damages whatsoever incurred or suffered by the Borrower as a result thereof; and/or
- (c) any delay, interruption or suspension howsoever caused by any third party, including but not limited to service providers or equipment suppliers, which interferes with, affects or disrupts the performance of the Bank hereunder.
- (d) any instruction / notice given by the Borrower through telephone, facsimile or electronic mail having been acted upon by the Bank.

### **Part III: Charge On Deposits and Securities**

#### **Important Notice:**

This Charge will create legal obligations and liabilities on the Borrower(s). The Borrower(s) is(are) strongly advised to seek independent legal advice before agreeing to the terms and conditions of this Charge and signing the “Wealth Portfolio Financing” Overdraft Facility Application Form (the “Application Form”).

Without prejudice to any provisions to this Charge, please take note of the following: -

4. This Charge shall continue in full force and effect notwithstanding that no Deposit(s) and/or Securities is/are for the time being or at any time charged to the Bank or no Indebtedness (as defined in this Charge) is for the time being or at any time outstanding. Nevertheless, the Borrower(s) may extinguish his(their) liability under this Charge if (i) pursuant to Clause 16 of this Charge, the Borrower(s) give(s) the Bank 3 calendar months' prior notice to determine the continuity of this Charge; and (ii) the Indebtedness incurred prior to the effective date of determination of this Charge have been satisfied in full.
5. The Bank shall have the right, without prior notice or reference to the Borrower(s), to set-off and apply at any time and from time to time any of the Deposit(s) charged hereunder against (i) the Indebtedness due but unpaid; or (ii) the Indebtedness (whether actual or contingent, accrued or not yet accrued, due or not yet due) upon or after the occurrence of any one of the events set out in Clause 3(b) of this Charge.
6. The Bank shall be entitled to retain this Charge for a period of 25 months after determination of this Charge pursuant to Clause 16 of the Charge.

In consideration of (i) the Bank's agreeing at the request of the Borrower(s) to provide and/or continue to provide the Facility from time to time on such terms for such amount and in such form and manner and for so long as the Bank may in its sole and absolute discretion think fit to the Borrower(s); OR (ii) the Bank's withholding of proceedings against or not making immediate demand for payment from the Borrower(s) for the Indebtedness (as hereinafter defined) for so long and on such terms as the Bank may at its sole and absolute discretion think fit; OR (iii) such other matter(s) as the Bank and the Borrower(s) have agreed, the Borrower(s) covenant(s) undertake(s) and agree(s) with the Bank as follows:-

#### **1. Charge**

- (a) The Borrower(s), as beneficial owner(s), charge(s) by way of first fixed charge to the Bank all the estate, right, title, claim, benefit and interest of the Borrower(s) of and in the Deposit(s) and Securities as continuing security for the due and full payment and discharge of the Indebtedness and in the case of Securities, the security shall include a charge and an assignment by the Borrower(s) of all rights and claims arising from or in relation to the Securities which the Borrower(s) may have against the Bank, its nominees, agents, representatives, correspondents, custodians or any depository or clearing system or any other party. For the avoidance of doubt, no security will be created if no Facility is granted by the Bank to the Borrower(s).
- (b) For the avoidance of doubt, the Deposit(s) and Securities charged under Clause 1(a) above shall exclude those from time to time released by the Bank under Clauses 17 and 18 hereof.

#### **2. Retention of the Deposit(s)**

Entirely independent of, separate from and in addition to Clause 1 above, notwithstanding the terms and conditions of the Deposit(s) (and to the extent as provided in this clause, the terms and conditions of the Deposit(s) whenever placed shall be absolutely deemed varied and amended):-

- (a) all of the Deposit(s), whether or not matured, shall not be repayable to the Borrower(s) save as provided in this Charge; and
- (b) the Borrower(s) shall not be entitled to withdraw such Deposit(s) or any of them, whether or not matured; and
- (c) all such Deposit(s) and money (including both principal and interest) standing to the credit thereof shall be deemed absolutely placed by the Borrower(s) with the Bank for the Bank to hold and retain the same for the meeting and/or discharge of the Indebtedness as if the Deposit(s) were cash margin paid to the Bank therefore unless and until the Deposit(s) concerned shall have been released by the Bank in its absolute discretion from this Charge as provided in Clause 17 hereof or otherwise released at the Borrower(s)' request and costs pursuant to Clause 18 hereof.

#### **3. Set-off of the Deposit(s)**

- (a) Entirely independent of, separate from and in addition to the above provisions and any general bankers' lien

and other rights of the Bank to set-off or combine accounts in law or by custom, the Bank shall be entitled (but not under any duty) at any time, without notice to or demand on the Borrower(s) to set-off the credit balance on any or all of the Deposit(s) in any currency (whether matured or not yet matured) : (i) against any of the Indebtedness due but unpaid; or (ii) against any or all the Indebtedness (whether actual or contingent, accrued or not yet accrued, due or not yet due) upon or after the occurrence of any one of the events set out in Clause 3(b) below.

- (b) Events referred to in Clause 3(a)(ii) are :-
- (i) the receipt by the Bank of notice of any claim, demand or proceedings of any third party or parties on, against and/or in respect of the Deposit(s) or any of them or any credit balance thereon; or
  - (ii) the commencement of any proceedings for the winding up, bankruptcy or liquidation (and/or any other proceedings of similar nature or effect) of the Borrower(s) or any of them; or
  - (iii) any of the Borrower(s) default(s) in payment of any of its/his/her debts to whomsoever when due or any of the Borrower(s) becomes insolvent.

#### **4. Appropriation of the Deposit(s)**

Entirely independent of, separate from and in addition to the above provisions, the Bank shall be entitled at any time, without notice to or demand on the Borrower(s), to apply or appropriate any credit balance(s) of any Deposit(s) in any currency (whether matured or not yet matured) in or towards the payment and/or satisfaction of any Indebtedness due but unpaid.

#### **5. Other rights of the Bank in respect of the Deposit(s)**

For and/or in connection with the exercise of any of the rights of the Bank as provided above, the Bank shall be entitled (but not under any duty) to:-

- (a) deem any Deposit(s) not yet matured as immediately due and available for purposes of appropriation and/or set-off; and
- (b) convert any Deposit(s) or any credit balance(s) thereon into the currency of the Indebtedness to be set-off or paid at the prevailing spot rate or rates of exchange as the Bank may determine absolutely at the time of set-off or appropriation; and
- (c) transfer any credit balance(s) of any Deposit(s) into a non-interest bearing suspense account in such name as the Bank deems fit and hold the same therein for purposes of set-off against contingent liabilities, pending actual settlement; and
- (d) renew, extend and/or re-deposit from time to time any of the Deposit(s) on such terms, for such period or periods and at such rate or rates of interest as the Bank shall determine absolutely and without notice to the Borrower(s), notwithstanding any instruction therefor to the contrary by the Borrower(s) has been received and/or accepted by the Bank; and
- (e) retain all advices and/or certificates of deposit or other instruments or evidence of title relating to the Deposit(s); and
- (f) exercise and/or enforce any of the rights conferred and/or security created without first :-
  - (i) resorting to any other means or resources available to the Bank and/or
  - (ii) taking any action or proceedings and/or claiming against the Borrower(s) and/or any third party or parties for the recovery of the Indebtedness or any part thereof.

#### **6. Delivery of relevant documents relating to the shares**

- (a) Except for shares transferred to the Bank's or its nominee(s)' account with HKSCC through CCASS or held by the CCASS Depository for account of the Bank, when the shares are charged to the Bank under this Charge, the Borrower(s) shall deliver to the Bank contract notes and instruments of transfer of such shares in favour of the Bank or any one or more of its nominee(s) as the Bank shall stipulate, all duly executed or in such form that the Bank may complete the due execution thereof (which completion on behalf of the Borrower(s), the Borrower(s) expressly authorise(s) and ratify(ies)) and also duly stamped, or in such form that the Bank may procure the same to be duly stamped, in accordance with the provisions of Section 19(8) of the Stamp Duty Ordinance (Cap.117, LHK) or of any amendment thereof or of any statute, law or regulation relating thereto and at the material time or for the time being in force, and all in any event in form and substance satisfactory in all respects to the Bank and its legal adviser, together with all the certificates relating to the shares.
- (b) In respect of the shares transferred to the Bank or its nominee(s)' account through CCASS, the Borrower(s) shall forthwith, upon request of the Bank, deliver to the Bank all or any such documents and/or instrument(s) relating to the shares as the Bank may in its absolute discretion deem necessary for establishing the Borrower(s)' title and/or perfecting the Bank's title to such shares.

#### **7. Covenants of the Borrower(s) relating to the Securities**

The Borrower(s) covenant(s) that during the continuance of this Charge, the Borrower(s) shall at all times:-

- (a) deposit such other documents as the Bank may from time to time require for perfecting the Bank's title to the Securities or for vesting and enabling the Bank to vest the same in the Bank or the Bank's nominee(s) or in any purchaser to the intent that the Bank may at any time without notice present them for registration; and
- (b) consent to the Bank's transfer of all or any of the Securities to such nominee(s), agent(s) or any other person(s) or entity(ies) wheresoever situate as the Bank may select and that in case of the Securities being in script form, the Bank may hold all or any such Securities in any branch or branches of the Bank with any correspondent or other agent whether in Hong Kong or overseas and all such Securities shall be held at the Borrower(s)'s sole risk, expenses and responsibility ; and
- (c) consent to the deposit by the Bank of all or any of the Securities with such depository or custodian (including but not limited to the CCASS Depository) and the withdrawal of all or any of the Securities from such depository or custodian as the Bank may from time to time in its absolute and unfettered discretion deem fit; and
- (d) pay to the Bank upon demand all levies, debts, costs, fees, expenses incurred or chargeable by the Bank or its nominee(s) in connection with the transfer, registration, safe custody and/or withdrawal of the Securities; and
- (e) agree that the Bank shall not be liable to account as mortgagee in possession in respect of all or any of the Securities even if the same shall be registered in the Bank's name or in the name of the Bank's nominee(s) or held to the order or under the control of the Bank and shall not be liable for any loss upon realisation or for any neglect or default to present any interest coupon or any bond or stock drawn for repayment or for any failure to pay any call or instalment or to accept any offer or to notify the Borrower(s) of any such matter or for any other loss of any nature whatsoever in connection with the Securities;
- (f) agree that the Bank shall not in any way whatsoever be liable for any loss or damage caused to the Borrower(s) as a result of any loss of the Securities (whether the same be kept by the Bank or the depository or custodian appointed by it for such purpose) or damage done to the share or stock certificates except caused by the Bank's wilful default; and
- (g) unless with the Bank's prior written consent, not to and shall have no right to withdraw, sell, transfer, or dispose of all or any of the Securities.

#### **8. Calls on the Securities**

- (a) The Borrower(s) shall duly and promptly pay all calls which may from time to time be made in respect of any unpaid money under any of the Securities and duly and promptly pay any other money which the Borrower(s) may lawfully be required to pay in respect of any of the Securities.
- (b) In default of Clause 8(a) above, the Bank may, if it thinks fit but not obliged to make such payments on the Borrower(s)' behalf and any sums so paid by the Bank shall be repayable by the Borrower(s) on demand, together with interest thereon and any costs or expenses incurred by the Bank as a result of such payment and the Securities shall stand charged to such payments as well.

#### **9. Rights issues of the shares**

- (a) If there is any rights issue arising from any of the shares registered in the name of the Bank or its nominee(s) or deposited with the Bank or are being held to the Bank's order, the Bank or its nominee(s) will within a reasonable time after receipt of the relevant rights issue documents inform the Borrower(s) of the same.
- (b) If the Borrower(s) fail(s) to instruct the Bank or its nominee(s) within the time prescribed by the Bank or its nominee(s) for the Borrower(s) to reply regarding the rights issue:-
  - (i) where the rights issue is not obligatory, it shall be conclusively deemed that the Borrower(s) has (have) irrevocably renounced all the Borrower(s)' rights and entitlements regarding such rights issue in favour of the Bank for the Bank's own use and benefit absolutely and the Bank is entitled to deal with such rights issue in its own rights and for its own benefit in whatever manner it deems fit without having to account to the Borrower(s) for the profits (if any) out of the rights issue;
  - (ii) where the rights issue is obligatory, the Bank is entitled at its absolute discretion either to realise part of the shares to raise sufficient monies to pay the subscription of such obligatory rights issue or to pay on the Borrower(s)' behalf of such subscription, the payment of which shall constitute a debt owed by the Borrower(s) to the Bank and shall be repayable by the Borrower(s) on demand, together with interest thereon at the rate customarily charged by the Bank to its customers for unauthorized overdraft and the shares shall stand charged to such debt and interest thereon as well.
- (c) If the Borrower(s) shall instruct the Bank or its nominee(s) to take up the rights issue by subscribing the requisite shares, the Bank or its nominee(s) is not obligated to do so unless and until sufficient immediate available funds have been received by the Bank within the time limit as set out in Clause 9(b) above and in default thereof, the provisions of Clause 9(b) above shall apply as if the Borrower(s) had failed to instruct the

Bank in time.

- (d) All shares allotted pursuant to the rights issue taken up by or on behalf of the Borrower(s) (but excluding those the Borrower(s) has (have) renounced in favour of the Bank) shall form part of the shares.

#### **10. Events of Default for the Securities**

An Event of Default shall occur if:

- (a) the Borrower(s) or the Borrower shall fail to meet any obligation under this Charge or shall commit any breach of the obligations imposed by this Charge; or
- (b) any representations or warranties made to the Bank under this Charge shall at any time be incorrect in any material respect; or
- (c) default shall have been made in repayment of the Indebtedness; or
- (d) the Borrower(s) shall commit an act of bankruptcy; or
- (e) any security constituted by any mortgage or charge created by the Borrower(s) becomes enforceable and the mortgagee or chargee thereof takes steps to enforce the same; or
- (f) an encumbrancer takes possession or a distress or execution is levied or enforced upon or sued out against any of the chattels or property of the Borrower(s) and is not discharged within seven days of being levied; or
- (g) any other indebtedness or obligation of the Borrower(s) for the repayment of borrowed moneys shall by reason of default become due or capable of being declared due prior to its stated maturity or shall not be paid when due (unless the Borrower(s) shall satisfy the Bank that the reason for such non payment is the existence of some counter-claim or right of set-off and shall, if so required by the Bank, give such security for such payment as shall be reasonably required by the Bank); or
- (h) the Borrower(s) shall stop payment to creditors generally or be unable to pay its debts or disposes or threatens to dispose of the whole or a substantial part of his (their) undertaking or assets.

#### **11. Rights of the Borrower(s) before an Event of Default**

- (a) Unless an Event of Default shall have occurred and be continuing, the Borrower(s) shall be entitled to vote in respect of any and all of the Securities, and to give consents, waivers and ratifications in respect thereof, for which purpose, the Bank, or as the case may be, the Bank's nominee(s), shall, if necessary, at the expense of the Borrower(s), grant to the Borrower(s) or to such other person or persons as the Borrower(s) may from time to time in writing designate, one or more proxies PROVIDED ALWAYS, however, that no vote shall be cast or consent, waiver or ratification given or action taken which would be inconsistent with any of the terms or provisions in this Charge nor will any securities, security documents, accounts, certificates, statements, instruments of transfers or other documents (if any) be executed and delivered by the Borrower(s) which would involve any violation of any such items or provisions.
- (b) All rights of the Borrower(s) to vote and to give consents, waivers and ratifications shall cease in case an Event of Default shall occur and/or be continuing.

#### **12. Powers of the Bank on Event of Default**

- (a) In case an Event of Default shall have occurred and be continuing and if the Borrower(s) shall fail to pay off all moneys for the time being owing immediately on notice given by the Bank demanding such payment, the Bank, or, as the case may be, the nominee(s) of the Bank in whose respective names all or any of the Securities may for the time being be registered shall be entitled from time to time:-
  - (i) to vote in respect of any or all of the Securities, and to give all consents, waivers and ratifications in respect thereof, and otherwise act with respect thereto as though it were the outright owner hereof;
  - (ii) to appropriate all cash dividends and other distributions in respect of the Securities in or towards the payment and satisfaction of all sums for the time being due and payable to the Bank under the terms and provisions of this Charge; and
  - (iii) to sell, transfer, assign and deliver all or any number of the said Securities, or any interest therein by public auction or by private contract, with or without advertisement or notice of the time or place of sale, or any adjournment thereof, for cash, on credit or for other property, for immediate or future delivery, and for such price or prices, and otherwise upon and subject to such terms, conditions and stipulations as the Bank, or its nominee(s) as aforesaid, may in (its) their sole and absolute discretion determine.
- (b) The Borrower(s) shall not have any right or claim against the Bank in respect of any loss arising out of such sale made pursuant to the provisions of sub-clause (a)(iii) above, howsoever such loss may have been caused.
- (c) The Bank shall apply the net proceeds of such sale together with all other moneys (if any) at the time held by the Bank, or by any of the Bank's nominee(s) hereunder, in or towards the payment and satisfaction of all sums then due and payable to the Bank under this Charge. After payment and satisfaction of all sums due and payable to the Bank as aforesaid, the surplus (if any) shall be paid over by the Bank to the Borrower(s) or to other parties entitled thereto.

### 13. Warranties and undertakings of the Borrower(s)

The Borrower(s) represent(s) and warrant(s) to and undertake(s) with the Bank as follows:-

- (a) that the Shares are duly authorised, validly issued, fully paid and non-assessable;
- (b) that the Borrower(s) is/are the beneficial owner(s) of the Securities free and clear of all debts, liens, mortgages, charges and encumbrances thereon and other adverse interests therein affecting the title thereto;
- (c) that the Borrower(s) is/are the beneficial owner(s) of the Deposit(s) and has/have not assigned, transferred, mortgaged, charged, pledged or otherwise howsoever encumbered or suffered to have arisen any third party rights or claims over or in respect of the Deposit(s) and the Borrower(s) will not do any of the foregoing until the release of the Deposit(s) concerned by the Bank in its absolute discretion as provided in Clause 18 hereinafter or otherwise released at the Borrower(s)' request and costs pursuant to Clause 19 hereinafter.
- (d) that the Borrower(s) has(have) good right and lawful authority to charge the Securities to the Bank, upon and subject to the terms, conditions and stipulations set forth in this Charge, and to transfer or deliver or cause to be transferred or delivered the Securities to the Bank or its nominees, agents, representatives, correspondents or depository;
- (e) that the Borrower(s) will warrant and defend the title and the security interest in the Securities granted to the Bank against any and all claims of all persons whomsoever and will maintain such security interest in favour of the Bank so long as the Securities shall remain charged in favour of the Bank under this Charge and will not create or permit the subsistence of any debt, lien, mortgage, charge, encumbrances or other adverse interest affecting the Bank's security interest in the Securities or any part thereof;
- (f) that a certificate issued by an officer of the Bank as to the amount of any of the Indebtedness due or owing or incurred at any time and/or as to the Deposit(s) and/or Securities remaining charged to the Bank hereunder at any time shall, save for manifest error, be binding and conclusive evidence therefor against the Borrower(s) in any court of law;
- (g) that the Borrower(s) shall at all times if and when requested by the Bank, at the own costs and expenses of the Borrower(s), do and perform such acts and things and/or sign and execute such deeds and/or documents for perfecting any of the Bank's rights and/or security created and/or provided under this Charge and/or for facilitating the Bank's exercise and/or enforcement of such rights and/or security;
- (h) that any of the Indebtedness shall be deemed to be discharged only to the extent of the amount actually received in the currency of that of the Indebtedness concerned ("Debt Currency") free and clear of all deductions and/or withholdings howsoever arising (including but not limited to those from tax, levy and/or expenses) and if amount in any other currency or currencies is received, the Indebtedness concerned shall be deemed discharged only to the extent of the amount in the Debt Currency purchased by or converted from such amount so received at the prevailing spot exchange rates as the Bank may determine absolutely at the time of such purchase or conversion; and
- (i) that this Charge and the rights and security created shall be a continuing security and shall cover and secure the ultimate balance from time to time owing or incurred to the Bank by the Borrower(s) under the Indebtedness notwithstanding the death, bankruptcy, insolvency, liquidation, winding up, incapacity or any change in constitution or partners of the Borrower(s) or any of them or any settlement of account or other matter whatsoever;
- (j) that this Charge shall be in addition to and shall not affect or otherwise release, discharge or jeopardize (i) any other guarantee, indemnity and/or agreement between the Bank and the Borrower(s) and/or between the Bank and any third party or parties; and (ii) any other security or securities now or at any time hereafter held by the Bank in respect of any of the Indebtedness; and
- (k) the representation and warranty as set out under paragraphs (a) to (j) of this Clause shall be deemed to have been repeated and given by the Borrower(s) in respect of the Deposit(s) and the Securities on each and every day on which the security constituted shall continue.

### 14. Power of Attorney

The Borrower(s) irrevocably appoint(s) by way of security the Bank and such officer(s) designated from time to time by the Bank as the attorney(s) of the Borrower(s) and for and/or on behalf of the Borrower(s):-

- (i) to sign, seal, deliver or otherwise execute any deed, instrument or document; and/or
- (ii) to take such actions and to do such things

As may be required or deemed proper or expedient for the purpose of exercising enforcing and/or perfecting the rights and/or security of the Bank hereunder whether in the name(s) of the attorney(s) or in the name(s) of the Borrower(s).

### 15. Time is of the essence

Time shall be of the essence of this Charge but no failure to exercise or enforce and no delay in exercising or

enforcing, on the part of the Bank, any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise or enforcement of any right, remedy, power or privilege preclude any other or further exercise or enforcement thereof, or the exercise or enforcement of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights or remedies provided by law.

**16. Continuity of this Charge**

This Charge shall continue in full force and effect notwithstanding that no Deposit(s) or Securities is/are for the time being or at any time charged to the Bank or no Indebtedness is for time being or at any time outstanding, and unless the Bank agrees otherwise in writing, the continuity of this Charge shall remain until the expiration of three calendar months from the date of the Bank's actual receipt of a notice in writing to determine the continuity of this Charge given by:

- (i) If the Borrower(s) consists of only one party, the Borrower(s) or in the event of the death or disability the Borrower(s), the personal or legal representative(s) of the Borrower(s) (as the case may be); or
- (ii) If the Borrower(s) consist of more than one party, all of the Borrower(s) jointly together or in the event of the death or disability of one or more of the Borrower(s), the personal or legal representative(s) of each and every one of the Borrower(s) so died or under disability (as the case may be) jointly together with all of the Borrower(s) who survive(s) or is/are not under disability, if any,

Provided that determination of the continuity of this Charge as provided above shall not release the Borrower(s) from this Charge nor affect the security over the Deposit(s) and/or Securities constituted for any Indebtedness (whether actual or contingent, and whether present or future) incurred prior to such determination (including those incurred during the period of the required three-month's notice of determination) irrespective of whether or not such Indebtedness matures due, becomes payable or actualizes only after the determination of the continuity of this Charge.

**17. Bank's discretion to release the Deposit(s) and/or Securities or any part thereof**

Without affecting the continuity of this Charge, it is expressly declared and agreed by and between the parties hereto that the Bank shall have absolute discretion in releasing or discharging the whole or any part of the Deposit(s) and/or the Securities at any time and from time to time charged under this Charge without receiving any payment or on payment of any amount less than the total amount secured or the value of the security released or discharged and in such event the Borrower(s) shall remain fully liable for the monies secured or the balance hereof and the part of Deposit(s) and/or Securities that has not been discharged or released shall remain charged by way of a First Fixed Charge hereunder and subject to the provisions of this Charge.

**18. Borrower(s)' right to have Deposit(s) and/or Securities released**

If at any time all Indebtedness (whether actual or contingent, accrued or not yet accrued) incurred and/or owing for the time being by the Borrower(s) to the Bank shall have been fully discharged and settled to the satisfaction of the Bank (including but not limited to the Bank's satisfaction at its absolute discretion that there is no risk of avoidance, setting aside, refunding or reduction of any payment received pursuant to any provisions or enactment's relating to insolvency, bankruptcy, liquidation, winding-up or such similar proceedings), the Bank shall, at the request and costs of the Borrower(s), release the Deposit(s) and/or Securities from this Charge, Provided Always that any such release of the Deposit(s) and/or Securities shall not affect the continuity of this Charge, which remains applicable to any Indebtedness incurred, and any fresh Deposit(s) and/or Securities to be charged under this Charge, at any time after the said release.

**19. Protection to the Bank**

- (a) The charge created shall be a continuing security notwithstanding any settlement of account or other matter whatsoever and is in addition to and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy or any guarantee indemnity lien pledge bill note mortgage charge or other security (whether created by the deposit of documents or otherwise) now or hereafter held by or available to the Bank which shall not be in any way prejudiced or affected thereby or by the invalidity thereof or by the Bank now or hereafter dealing with exchanging releasing varying or obtaining from perfecting or enforcing any of the same or any rights which it may now or hereafter have or giving time for payment or indulgence or compounding with any other person liable.
- (b) No assurance or security or payment which may be avoided on the bankruptcy of the Borrower(s) and no release, settlement or discharge which may have been given or made on the faith of such assurance, security or payment shall prejudice the right of the Bank to recover from the Borrower(s) to the full extent hereof as if such assurance, security, payment, release or discharge (as the case may be) had never been granted, given or made.

- (c) This Charge shall be in addition to and shall not affect or otherwise release, discharge or jeopardize (i) any other guarantee, indemnity, and/or agreement between the Bank and the Borrower(s) and/or between the Bank and any third party or parties, and (ii) any other security or securities now or at any time hereafter held by the Bank in respect of any of the Indebtedness.
- (d) Entirely independent of, separate from and in addition to any other provisions herein contain and any general banker's lien and other rights of the Bank to set-off or combine accounts in law or by custom, the Borrower(s) hereby agree(s) that the Bank may at any time and from time to time without notice or demand on the Borrower(s), combine or consolidate all or any of the Borrower(s)' then existing account(s) with the Bank and set off or transfer any sum standing to the credit of any one or more of such accounts, wheresoever situate, in or towards satisfaction of the Indebtedness or in any respect whatsoever, whether such liabilities be present or future, actual or contingent, primary or collateral, and several or joint. Further, the Bank shall have a lien on all securities now or hereafter deposited by the Borrower(s) with the Bank for any purpose whatsoever.

## 20. Miscellaneous

- (a) The Borrower(s) expressly agree(s) and acknowledge(s) that the determination, variation, reduction, cancellation of the Facility now or at any time hereafter granted or provided to the Borrower(s) and/or the refusal to continue the Facility or any part thereof by the Bank at any time shall not prejudice, affect and/or discharge this Charge and/or any rights and security provided to the Bank hereunder.
- (b) This Charge shall benefit and be binding on the parties, their respective successors or assigns Provided That the Borrower(s) may not assign or transfer all or part of his rights or obligations hereunder.
- (c) If this Charge is signed or intended to be signed by or on behalf of more than one Borrower and any one or more of the Borrower(s) is not bound by the provisions of this Charge (whether by reason of his lack of capacity or improper execution of this Charge or failing to sign/execute this Charge or for any other reasons whatsoever), the remaining Borrower(s) shall continue to be bound by the provisions of this Charge as if such other Borrower(s) had never been or never intended to be party thereto.

## 21. Conditional release

- (a) Any release, discharge or settlement between the Bank and the Borrower(s) (including the release of the Deposit(s) and/or Securities or any part thereof from the charge hereunder at any time or from time to time) shall be conditional upon no security, disposition or payment to the Bank by the Borrower(s), any other party being avoided or reduced pursuant to any provisions or enactment's relating to insolvency, bankruptcy, liquidation, winding-up or such similar proceedings, and if such condition shall not be fulfilled, the Bank shall be entitled at any time to enforce this Charge subsequently as if such release, discharge or settlement had not occurred.
- (b) For the purposes of Clause 21(a) above, the Bank shall be entitled to retain this Charge for a period of twenty-five months after the determination of this Charge pursuant to Clause 16 above and in the event of the commencement of bankruptcy or winding-up of any party making such payment, discharge or satisfaction, for such further period as the Bank may determine and to enforce this Charge subsequently as if such release, discharge or settlement had not occurred.

## 22. Interpretation

- (a) In this Charge, except to the extent that the context requires otherwise:-
- (i) "CCASS" means the Central Clearing and Settlement System established and operated by the HKSCC.
- (ii) "CCASS Depository" means such person appointed by the Hong Kong Securities Clearing Co. Ltd. to perform the depository and custodian services in the CCASS.
- (iii) "Deposit(s)" means the initial deposit or deposits of whatever nature from time to time placed with the Bank in whatever currency, whether by way of time or fixed deposit(s) or otherwise and whether of principal or interest and whether in the form of currency swap or currency contracts (whether spot or forward) as set out in the Application Form and/or the Loan Advice and all interest accrued thereon. Without prejudice to the generality of the foregoing, the Deposit(s) shall include:-
- (a) all subsequent renewals, extensions and/or re-deposits of the initial deposit(s) and all interest accrued thereon; and/or
- (b) all deposit(s) and all interest accrued thereon and funds representing or traceable to the proceeds (principal and/or interest) of the initial deposit(s) and its/their renewal, extension or re-deposit in whatever currency and form, and where such deposit(s) consist(s) of funds mixed with funds from other sources, such part(s) or portion(s) of such deposit(s) attributable to or representing the funds and money so traceable as above mentioned.

For the avoidance of doubt,

- (aa) where any of the deposit(s) is/are in the form of a currency swap deposit, the relating swap

- and/or currency exchange transactions and contracts shall be deemed part of the deposit(s) concerned and the term "Deposit(s)" shall include such transactions and contracts; and
- (bb) where any currency option contract is created between the Bank and the Borrower(s) upon the Bank's acceptance of any deposit(s), the term "Deposit(s)" shall include any such deposit(s) and any interest accruing and/or payable thereon and any money in whatever currency payable by the Bank to the Borrower(s) upon the exercise or squaring of the relevant currency option contract, and nothing herein contained shall in any way affect the Bank's rights under or with respect to the relevant currency option contract,

**provided that** where the Loan Advice makes reference to a deposit balance placed with the Bank under a current or savings account or any other account into or from which funds may be withdrawn or deposited from time to time, the term "Deposit(s)" whenever used in this Charge shall mean the balance now or at any time hereafter standing to the credit of such account up to the amount specified in the Loan Advice (if any). For the avoidance of doubt, if no such amount is specified, the entire credit balance outstanding at any time shall be charged hereunder.

- (iv) **"HKSCC"** means the Hong Kong Securities Clearing Company Limited.
- (v) **"Indebtedness"** means and includes any or all sums of money debts and liabilities whether certain or contingent, accrued or not yet accrued and whether now or at any time hereafter owing or incurred to the Bank from or by the Borrower(s) (or any one or more of them) under or in respect of the Facility in any manner, whether as principal or surety and whether alone or jointly with any other person firm or corporation, and in whatever name or style, including but not limited to the following: -
- (a) any or all sum or sums due owing and/or payable to the Bank by the Borrower(s) (or any one or more of them) under any overdraft facilities granted to the Borrower(s) under the Wealth Management / Enrich Banking;
- (b) interest accrued or to be accrued;
- (c) commissions, fees and other charges payable to the Bank; and/or
- (d) any other costs expenses disbursements and/or payment of whatever nature liable to be reimbursed or otherwise payable by the Borrower(s) (or any one or more of them) to the Bank in relation to the Wealth Management / Enrich Banking.
- (vi) **"Securities"** whenever used in this Charge shall mean (i) all shares, stocks, loan stocks, bonds, debentures, bills, receipts, warrants, certificates of deposit, commercial papers, promissory notes, notes, debt instruments, instruments creating or acknowledging indebtedness, trust writs, funds, units in any unit trust, units or other interests or rights in any collective investment scheme or other investment funds, or instruments and other securities or debt securities of any kind or description whatsoever (whether marketable or otherwise and whether in bearer, registered or global form) of or issued by any body (including the Bank) (whether incorporated or unincorporated) or any government or local or municipal government authority, (ii) rights, options or interests (whether described as units or otherwise) in, or in respect of the foregoing, (iii) certificates of interest or participation in, temporary or interim certificates for, receipts for, or warrants to subscribe for or purchase the foregoing, (iv) interests, rights or property, whether in the form of an instrument or otherwise, commonly known as securities which, or the certificates or other documents of or evidencing title to which are now or may at any time hereafter held in the Borrower(s)' securities account(s) set out in the Application Form and/ or Loan Advice. (v) interests, rights or property which is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under the applicable laws or regulations as being regarded as securities in accordance with the terms of such notice, and (vi) a structured product that does not come within any of (i) to (v) of this Clause 22.6 For the avoidance of doubt, "Securities" shall include all Borrower(s)' right, title and interest in all certificates or other documents of or evidencing title relating thereto and shall further include all interest (whether in the form of cash or otherwise), dividends and distributions and income other than in the form of cash, and all accretions, allotments, offers, privileges, rights, bonuses and benefits other than in the form of cash accruing or arising in respect of, and all shares, stocks, securities, interests in a collective investment scheme, debentures or other securities, distributions, rights or property accruing or offered at any time (by way of conversion, redemption, bonus issues, preference, option conversions, rights, cancellation, reclassification, forfeiture, consolidation, subdivision, reduction of capital, liquidation, scheme of arrangement or otherwise) to or in respect of, in substitution or exchange for or otherwise derived from, the foregoing and shall also include all sales proceeds, benefits, rights and claims arising from or in relation to the foregoing which Borrower(s) may have against the purchaser or the issuer thereof or the Bank, its nominees, agents, representatives, correspondents, custodians or any depository or clearing system or any other party holding or otherwise entitled to any of the foregoing or to any rights in relation to any of the foregoing. For the avoidance of doubt, "Securities" shall exclude all dividends, distributions and income which are in the form

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of cash accruing or arising from (i) to (vi) of this Clause 22.6 and those from time to time released by the Bank and include those from time to time deposited or re-deposited with or transferred to the Bank or to the Bank's order pursuant to this Charge.

The term "structured product" whenever used in this Charge shall mean (a) an instrument or a contract under which some or all of the return or amount due (or both the return and the amount due) or the method of settlement is determined by reference to one or more of: (i) changes in the price, value or level (or a range within the price, value or level) of any type or combination of types of securities, commodity, index, property, interest rate, currency exchange rate or futures contract; (ii) changes in the price, value or level (or a range within the price, value or level) of any basket of more than one type, or any combination of types, of securities, commodity, index, property, interest rate, currency exchange rate or futures contract; or (iii) the occurrence or non-occurrence of any specified event or events (excluding an event or events relating only to the issuer or guarantor of the instrument or to both the issuer and the guarantor); (b) a regulated investment agreement; or (c) any interests, rights or property prescribed, or of a class or description prescribed, by notice under the applicable laws or regulations as being regarded as structured products in accordance with such notice. For the avoidance of doubt, "structured product" shall include structured deposits or other structured products from time to time transacted by Borrower(s) with the Bank, which shall be subject to the security created under Clause 1 hereof, and no further action, delivery or document is required from Borrower(s) to confirm that such structured deposits or other structured products are subject to the security created under this Charge.