



**申萬宏源香港**  
**SHENWAN HONGYUAN**

**SHENWAN HONGYUAN SECURITIES (H.K.) LIMITED**

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**TERMS AND CONDITIONS**  
**for Margin Account**

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**Shenwan Hongyuan Securities (H.K.) Limited**

Exchange Participant of The Stock Exchange of Hong Kong Limited and  
a licensed corporation to carry on Type 1 (dealing in securities)  
regulated activity by the Securities and Futures Commission  
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**PLEASE READ THIS DOCUMENT CAREFULLY,  
ITS TERMS ARE IMPORTANT!**

# Table of Contents

|  |    |
|--|----|
| 1. Interpretation .....  | 1  |
| 2. Facility .....  | 3  |
| 3. Payment and Interest .....  | 4  |
| 4. Securities in the Margin Account(s) .....                             | 4  |
| 5. Client Securities Standing Authority .....                            | 5  |
| 6. Securities' Value .....   | 6  |
| 7. Charge of Margin Account and Securities .....                         | 9  |
| 8. Enforcement of Charge .....   | 9  |
| 9. Title to Charged Securities .....                                     | 10 |
| 10. Proceeds of Sale of Securities .....                                 | 10 |
| 11. Exercise of Voting Right .....                                       | 11 |
| 12. Calls on Securities .....  | 11 |
| 13. Additional Security .....  | 11 |
| 14. Continuing Security .....  | 12 |
| 15. Continuing Validity .....  | 13 |
| 16. Addition to the Margin Account .....                                 | 13 |
| 17. Loss or Damage to Securities .....                                   | 13 |
| 18. Indemnity for claims, etc. ....                                      | 14 |
| 19. Statements of Margin Account .....                                   | 14 |
| 20. Liability and Indemnity .....  | 14 |
| 21. Mortgage Over Securities Comprised within the Charged Property ..... | 16 |
| 22. Discharge of the Charge .....  | 16 |
| 23. Error in Calculation .....   | 16 |
| 24. Related Margin Client .....  | 16 |
| 25. Withdrawals from the Margin Account .....                            | 17 |
| 26. General Lien .....   | 17 |
| 27. Negative Pledge .....  | 17 |
| 28. Suspension, Termination and Review .....                             | 17 |
| 29. Default .....  | 17 |
| 30. Representations and Warranties .....                                 | 19 |
| 31. Further Assurance .....  | 19 |
| 32. Currency of Facility .....   | 19 |
| 33. More than one client .....   | 19 |
| 34. Assignability .....  | 20 |
| 35. Severability .....   | 20 |
| 36. Translation .....  | 20 |
| 37. Compliance with Laws .....   | 21 |
| 38. Communications .....   | 21 |
| 39. Governing Law, Jurisdiction and Service of Legal Documents .....     | 21 |
| 40. Miscellaneous .....  | 22 |
| Schedule 1 Terms and Conditions for Cash Account .....                   | 24 |

## Terms and Conditions for Margin Account

These terms and conditions set out the rights and obligations of you as the Client and us as the Broker, in connection with the operation of your account(s) opened or to be opened with us for conducting transactions in Securities with the Facility (as defined below). All terms and conditions below are legally binding, please read them carefully before you agree to be bound by them.

The Terms and Conditions for Cash Account as set out in Schedule 1 hereto shall form part of these terms and conditions. These terms and conditions shall be treated as additional to the Terms and Conditions for Cash Account in order to form the integral Terms and Conditions for Margin Account. Where applicable (such applicability shall be determined by the Broker at its absolute discretion) and for the avoidance of doubt, save for the terms in relation to cash settlement of Cash Accounts, all other terms contained in the Terms and Conditions for Cash Account shall also apply to Clients of Margin Account as if the Clients of Margin Account were the Clients of Cash Account. Where any conflict arises between the Terms and Conditions for Cash Account and these terms and conditions, the provisions of the latter shall prevail.

### 1. Interpretation

1.1 In these terms and conditions, the following expressions shall have the following meanings unless the context requires otherwise:-

- “Account Opening Form”** means the account opening form entered into by the Client with the Broker for opening of one or more trading account(s) which include(s) a cash account, a margin account, a futures account and a stock options account, together with any declaration, information, notes and statements thereto (including risk disclosure statements) to be completed and signed by the Client and, as the context requires, any amendments made thereto from time to time;
- “Broker”** means Shenwan Hongyuan Securities (H.K.) Limited;
- “Broker’s Charge”** shall bear the meaning ascribed thereto in clause 7;
- “Broker’s Group Company”** means the holding companies of the Broker and each and every subsidiary of such holding companies;
- “Charged Property”** has the meaning defined in clause 7, including any part of the Charged Property;
- “Client”** means the person or persons who have signed an Account Opening Form to open a Margin Account with the Broker, and where the Margin Account is opened by more than one person, “Client” means all of such persons collectively and any personal representative or successor in title thereof and permitted assign thereof;
- “Client Agreement”** means these terms and conditions, the PDPO Circular and the Account Opening Form duly signed by the Client which shall be read together as one document;
- “Client Securities Rules”** means the Securities and Futures (Client Securities) Rules (Chapter 571H of the Laws of Hong Kong) made by the SFC under section 148 of the Securities and Futures Ordinance as amended from time to time;

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| <b>“Client Securities Standing Authority”</b> | means the standing authority granted by the Client to the Broker in the terms set out in clause 5 as amended from time to time;  |
| <b>“Event of Default”</b>                     | shall bear the meaning ascribed thereto in clause 29.1;  |
| <b>“Facility”</b>                             | means the financial accommodation provided or to be provided by the Broker to the Client pursuant to these Terms of Business and the Facility Letter for conducting transactions in Securities in the Margin Account, including the acquisitions and holdings of Securities and any other related purposes as may be approved by the Broker from time to time;   |
| <b>“Facility Letter”</b>                      | means the facility letter issued or to be issued by the Broker to the Client in connection with the granting of Facility in accordance with these Terms of Business;   |
| <b>“HKD”</b>                                  | means Hong Kong dollar, the lawful currency of Hong Kong;  |
| <b>“HKSCC”</b>                                | means the Hong Kong Securities Clearing Company Limited;   |
| <b>“Margin”</b>                               | means deposits, collateral and margin (including, but without limitation to, initial margin and additional margin) being an amount equal to the applicable percentage (as notified by the Broker to the Client from time to time) of the current market value of the Client’s Securities held or purchased by the Broker on the Client’s behalf, as determined by the Broker from time to time;  |
| <b>“Margin Account”</b>                       | means any trading account or sub-account opened or to be opened by the Client with the Broker for conducting transactions in Securities with the Facility;   |
| <b>“PDPO Circular”</b>                        | means the Circular to Client relating to the Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong) issued by the Broker, as amended and updated from time to time;  |
| <b>“Securities”</b>                           | includes the meaning in Schedule 1 of the Securities and Futures Ordinance, but for the avoidance of doubt, shall also include warrants, unlisted securities (including mutual funds), securities to be listed on the Stock Exchange and securities listed and/or traded on any Exchange or any OTC markets;   |
| <b>“Securities’ Value”</b>                    | means, from time to time, the aggregate discounted value of the Securities deposited by the Client with the Broker under the Margin Account valued and discounted from time to time at such rate determined by the Broker in its sole and absolute discretion with reference to the last closing price or such price determined appropriate by the Broker at its full discretion of such Securities on the Exchange or any OTC market (to avoid doubt, the Broker may value certain Securities to be zero or having no value); |
| <b>“SFC”</b>                                  | means the Securities and Futures Commission of Hong Kong;  |

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| <b>“Statement of Margin Account”</b>           | means any statement of the Margin Account provided to the Client by the Broker;  |
| <b>“Terms and Conditions for Cash Account”</b> | means the terms and conditions issued by the Broker in relation to Client’s opening of a cash account with the Broker, as amended and updated from time to time; and           |
| <b>“Terms of Business”</b>                     | means these terms and conditions and any other terms and conditions as contained in the Client Agreement and the Facility Letter which shall be read together as one document. |

1.2 All references to the term “Account” in the Client Agreement shall, where appropriate, upon the opening of the Margin Account, and for the purposes of these Terms of Business and of the Client Agreement mean “Margin Account”.

1.3 Where the context allows, references to terms defined in the Client Agreement shall have the same meaning when used in these Terms of Business but references to numbered clauses shall be to clauses of these Terms of Business.

1.4 The heading to the clauses are inserted for convenience only and do not affect their interpretation and construction.

**2. Facility**

2.1 Subject to these Terms of Business and the execution and delivery of any document in the form and substance satisfactory to the Broker, including without limitation the Client Securities Standing Authority, the Broker may make available to the Client the Facility in respect of the Margin Account for such period of time as considered appropriate by the Broker at its absolute discretion. The Facility shall continue to be in force unless and until terminated or suspended by the Broker without notice to the Client.

2.2 In consideration of the Facility being granted to the Client, the Broker and each Broker’s Group Company shall acquire rights against the Client under these Terms of Business. The maximum amount of the Facility, interest rate(s) and any other terms applicable to the Client shall be advised by the Broker to the Client as specified in the Facility Letter or any notification given to the Client from time to time, subject to any specific conditions contained therein. The terms and conditions contained in such Facility Letter or notification shall be subject to change from time to time at the Broker’s sole and absolute discretion.

2.3 The Broker and any Broker’s Group Company are authorised to draw on the Facility on behalf of the Client at any time without giving notice to the Client in order to pay any amounts due or falling due in respect of the purchase of any Securities, payment of any commission and/or other costs or expenses owing by the Client to the Broker or to any Broker’s Group Company.

2.4 Upon receipt of the Client’s request in writing for the use of the Facility for settlement of any outstanding payments, set-off or such other purposes related to transactions in Securities in the Margin Account and subject to acceptance by the Broker of such request in its absolute discretion without the need to give any reason therefor, the Broker shall draw on the Facility by debiting the Margin Account with the amount requested by the Client as aforesaid or such other amount as approved by the Broker and shall make payment by one of the following methods:

- (a) by sending a cheque made out to the Client for such amount approved by the Broker by mail at the risk of the Client to the Client's last known address;
- (b) by depositing a cheque into or transferring payment to a bank account of the Client and/or the payee specified in the Account Opening Form signed by the Client (subject to changes duly notified in writing to the Broker);
- (c) by crediting any financial institution for the account of the Client; and/or
- (d) by making payment to any third party named by the Client and approved by the Broker, subject to the completion of documentation requirements of the Broker.

### **3. Payment and Interest**

- 3.1 Notwithstanding any other term whatsoever the money advanced and/or owing to the Broker under the Facility is repayable with accrued interest on first demand.
- 3.2 The Client shall pay interest to the Broker in respect of any amount owing to the Broker in respect of the Facility at such a rate as may be stipulated from time to time by the Broker.
- 3.3 Any variation of any rate of interest shall be effected by way of notice sent or otherwise published by the Broker and such amended rate of interest shall be applicable as from the date specified in such notice, which notice may be retrospective in effect to the start of the month in which the said notice is sent or published but no further.
- 3.4 If the Client fails to pay the Broker any sum or sums of money when due then (without the need for demand) the Client shall (to the maximum extent permitted by law) be charged and pay interest to the Broker on such sum or sums from the due date to the date of actual payment at the interest rate applicable under clause 3.2 or such other default rate as may be specified by the Broker from time to time under clause 3.3.
- 3.5 All payments to the Broker of whatever nature are to be made free of all deductions, set-offs, claims and/or cross claims and if the Client is compelled by law to make any payment subject to any deduction, then the Client shall gross up the payment so that the Broker receives the full amount due net of any deduction.
- 3.6 In determining the amount of Facility available to the Client at any time, the Broker shall have the right from time to time to set-off and apply the sale proceeds of Securities and other receivables or moneys held in or for the Margin Account with the Broker against the outstanding balance of the Facility owed by the Client to the Broker from time to time.

### **4. Securities in the Margin Account(s)**

- 4.1 The Client specifically authorises the Broker, in respect of all securities deposited by the Client with the Broker or purchased or acquired by the Broker on behalf of the Client, and held by the Broker for safe keeping, to register the same in the name of an associated entity of the Broker or in the Client's name, or deposit in safe custody in a segregated account which is designated as a trust account or client account and established and maintained in Hong Kong by the Broker or an associated entity of the Broker with an authorised financial institution, an approved custodian or another intermediary licensed for dealing in securities pursuant to section 5 of the Client Securities Rules.

- 4.2 Pursuant to section 5 of the Client Securities Rules, the Client specifically authorises the Broker, in respect of all securities collateral deposited with, or otherwise provided by or on behalf of the Client to the Broker, to:
- (a) deposit in safe custody in a segregated account which is designated as a trust account or client account and established and maintained by the Broker or associated entities for the purpose of holding securities collateral of the Broker with an authorised financial institution, an approved custodian, or another intermediary licensed for dealing in securities;
  - (b) deposit in an account in the name of the Broker or associated entity (as the case may be) with an authorised financial institution, an approved custodian or another intermediary licensed for dealing in securities; or
  - (c) register the Client's Securities in the name of the Client or the Broker or an associated entity of the Broker.
- 4.3 Any securities and securities collateral held by the Broker, any associated entity of the Broker, banker, institution, custodian or intermediary pursuant to clauses 4.1 and 4.2 shall be at the sole risk of the Client. The Broker and the relevant associated entity, banker, institution, custodian and intermediary shall be under no obligation to insure the Client against any kind of risk, which obligation shall be the sole responsibility of the Client.
- 4.4 If in relation to any securities deposited with the Broker which are not registered in the Client's name, any dividends or other distributions or benefits accrued in respect of such securities, the Margin Account shall be credited (or payment made to the Client as may be agreed) with the proportion of such benefit equal to the proportion of the securities held on behalf of the Client out of the total number or amount of such securities.
- 4.5 If in relation to any securities deposited with the Broker but which are not registered in the name of the Client, and loss is suffered by the Broker, the Margin Account shall be debited (or payment made by the Client as may be agree) with the proportion of such loss equal to the proportion of the securities held on behalf of the Client out of the total number or amount of such securities.
- 4.6 Under the Client Securities Rules, provided the Client has given its oral or written direction or standing authority, for the purpose of settling any liability owed by or on behalf of the Client to the Broker, the associated entity or a third party, the Broker shall: i) have the right to deposit, transfer, dispose of, lend, pledge, re-pledge or otherwise deal with any of the Client securities or securities collateral; and ii) have absolute discretion to determine which of the Client's securities or securities collateral are to be disposed of.
- 4.7 The Broker's obligations to deliver, to hold in safe custody or otherwise or to register in Client's name, securities purchased or acquired by the Broker on the Client's behalf shall be satisfied by the delivery, the holding or registration in the Client's name or the Client's nominee of securities of the same class, denomination and nominal amount as, and rank *pari passu* with, those originally deposited with, transferred to or acquired by the Broker on the Client's behalf (subject always to any capital reorganization which may have occurred in the meantime) and the Broker shall not be bound to deliver or return securities which are identical with such securities in terms of number, class, denomination, nominal amount and rights attached hereto.

## **5. Client Securities Standing Authority**

- 5.1 The Client Securities Standing Authority in respect of the treatment of the Client's securities or securities collateral is set out in this clause 5.

- 5.2 The Client authorises the Broker to:
- (a) apply any of the Client's securities or securities collateral pursuant to a securities borrowing and lending agreement;
  - (b) deposit any of the Client's securities collateral with an authorised financial institution as collateral for financial accommodation provided to the Broker;
  - (c) dispose of any securities collateral in settlement of (i) the Client's obligation to maintain the agreed level of margin; and (ii) any other liability due, owing or incurred by the Client to the Broker;
  - (d) deposit any of the Client's securities collateral with any other recognized clearing house, or another intermediary licensed or registered for dealing in securities, as collateral for the discharge and satisfaction of the Broker's settlement obligations and liabilities; and
  - (e) apply or deposit any of the Client's securities collateral in accordance with clauses 5.2(a), 5.2(b), 5.2(c) and/or 5.2(d) above if the Broker provides financial accommodation to the Client in the course of dealing in securities and also provides financial accommodation to the Client in the course of any other regulated activity for which the Broker is licensed or registered.
- 5.3 The Client acknowledges and agrees that the Broker may do any of the things set out in clause 5.2 without giving the Client any notice.
- 5.4 The Client also acknowledges that the Client Securities Standing Authority shall not affect the Broker's right to dispose of or initiate a disposal by the Broker's associated entity of the Client's securities or securities collateral in settlement of any liability owed by or on behalf of the Client to the Broker, the associated entity or a third party.
- 5.5 The Client understands that a third party may have rights to the Client's securities, which the Broker must satisfy before the Client's securities can be returned to the Client.
- 5.6 The Client Securities Standing Authority is valid for a period of 12 months from the date of the Client Agreement subject to renewal by the Client or deemed renewal under the Client Securities Rules referred to in clause 5.8.
- 5.7 The Client Securities Standing Authority may be revoked by giving the Broker written notice addressed to the Documentation Control Department at the Broker's address specified in the Account Opening Form or such other address which the Broker may notify the Client in writing for this purpose. Such notice shall take effect upon the expiry of seven (7) Business Days from the date of the Broker's actual receipt of such notice, provided that the Client has no outstanding debts owed to the Broker or any of its associated entities at that time.
- 5.8 The Client understands that the Client Securities Standing Authority shall be deemed to be renewed on a continuing basis without the Client's written consent if the Broker issues the Client a written reminder at least 14 days prior to the expiry date of the relevant authority, and the Client does not send a written objection addressed to the Broker's registered office in relation to such deemed renewal before such expiry date.

## **6. Securities' Value**

- 6.1 The maximum amount of the Facility available to the Client shall from time to time either be the maximum amount stated in the Facility Letter or the Securities' Value whichever is lower and in the event that the Securities'



Value is less than the outstanding balance of the Facility owed by the Client to the Broker, the Client undertakes to pay on first demand from the Broker immediately by cash deposit or providing such further security in form acceptable to the Broker in such amount so as to ensure that the Securities' Value is equal to or greater than the outstanding balance of the Facility owed by the Client to the Broker at all times.

6.2 The Client:

- (a) shall maintain and from time to time upon demand by the Broker forthwith deposit (or ensure that there is deposited) Securities or money with the Broker or to the Broker's order or credit, which shall be charged by the Client to the Broker pursuant to the terms of clause 7;
- (b) irrevocably authorises and instructs the Broker from time to time to transfer or to arrange for the transfer of any Securities which are held on the Margin Account to the Broker, or to the Broker's order, which Securities will be charged by the Client to the Broker pursuant to clause 7; and
- (c) shall ensure that all initial and subsequent deposits and payments for Margin are made in cleared funds and in such currency as the Broker may in its sole discretion require.

6.3 For the avoidance of any doubt and notwithstanding any other term or indication to the contrary (whether in these Terms of Business, or in the Facility Letter or otherwise howsoever):

- (a) the Broker shall have the right to review and vary from time to time the requirements as to the Securities' Value (including but not limited to amount and value of the Securities' Value required), such variations to be determined by the Broker in its sole discretion and made without the need to give any reason therefor. Any variation in the requirement for the Securities' Value (whether increase or decrease) will apply to existing positions of the Client as well as positions taken after the time of such variation;
- (b) for the avoidance of doubt, failure by the Client to meet Margin calls made by the Broker by the time prescribed by the Broker shall give the Broker the right (without prejudice to other rights) to close the Margin Account without notice to the Client and to dispose of any or all Securities held for or on behalf of the Client and to apply the proceeds and any cash deposit(s) to pay all outstanding balances owing to the Broker. Any monies remaining after that application shall be refunded to the Client; and
- (c) any failure at any time by the Client to meet any Securities' Value requirement shall be an Event of Default and the Broker may liquidate the Client's position if the Broker in its sole discretion so decides.

6.4 If a Margin call occurs, the Broker will take reasonable steps to notify the Client or any representative appointed by the Client and notified to the Broker in writing to receive notification of Margin calls on the Client's behalf. A Margin call may be notified orally, in writing (whether by email, SMS or another medium) or any other manner the Broker considers appropriate. The Client acknowledges that:

- (a) if the Client nominates any representative on the Client's behalf to receive a notice, the Client may not personally receive notice from the Broker; and
- (b) any failure to notify the Client of a Margin call, or non-receipt of a Margin call, does not prejudice any of the Broker's rights under these Terms of Business

6.5 Without prejudice to the generality of clause 6.4, the Client acknowledges and agrees that the Broker is under no obligation to contact the Client via telephone at any of the telephone numbers stated in these Terms of Business (or any other telephone numbers the Client may notify the Broker in writing from time to time) for the purpose of any Margin call.

6.6 Notwithstanding clause 6.4, in the event that it is, in the sole opinion of the Broker, impracticable for the Broker to notify the Client of the Margin call including, but without limitation, if the impracticability is due to a change or development involving a prospective change:

- (a) in the local, national or international monetary, financial, economic or political conditions or foreign exchange controls which has resulted or is in the opinion of the Broker likely to result in a material or adverse fluctuation in the stock market, currency market, commodities or futures market in Hong Kong and/or overseas; or
- (b) which is or may be of a material adverse nature affecting the condition or operations of the Client,

the Broker may, in its sole and absolute discretion, take any action under clause 29.2 at any time after occurrence of such change or development without providing notice to the Client or any representative appointed by the Client and notified to the Broker in writing to receive notification of Margin calls on the Client's behalf.

6.7 A Margin call must be satisfied by the Client by taking one or more of the following actions as soon as practicable following the time at which the Broker notifies the Client of the Margin call, or within such other time frame the Broker specifies in the Margin call by:

- (a) repaying some or all of the amount owing;
- (b) providing the Broker with additional security in a form and currency acceptable to the Broker;
- (c) subject to the Broker's consent, arranging to sell, dispose of or redeem in any manner and method some or all of the assets forming part of the security (with the proceeds being used to reduce the amount owing);
- (d) subject to the Broker's consent, applying any cash balances in the Account or other account(s) maintained with the Broker or the Broker's Group Company to discharge the amount owing;
- (e) reducing and/or closing-out some or all of the Client's open orders and/or positions; and
- (f) taking any other steps the Broker considers necessary,

so that the collateral requirement will be fulfilled and the utilized amount under the Facility does not exceed the Securities' Value.

6.8 The Client should ensure that the Client is, or any representative appointed by the Client and notified to the Broker in writing to receive notification of Margin calls on the Client's behalf is, in a position to receive any communications from the Broker in relation to Margin calls and to act promptly and within the time limits the Broker specifies.

6.9 The Client agrees:

- (a) to use best endeavors to manage the Facility to avoid a Margin call; and

- (b) if at any time a Margin call does occur and either the Broker does not provide notice under clause 6.4 or does not require action to be taken under clause 6.6:
  - (i) it is not a waiver of the Broker's rights, nor is it a waiver of the Broker's right to exercise these rights at any time in the future; and
  - (ii) the Broker is not obliged to take any action to stop or limit the Client's loss by exercising the Broker's rights under these Terms of Business (for example, the Broker may refuse to approve any of the actions described in clause 29.2).

6.10 The time for satisfying a Margin call is of the essence.

6.11 Without affecting the Broker's rights and interests under these Terms of Business, the economic or financial effect of the collateral or the security interest provided shall not be affected by any subdivision, consolidation or change of the classification in the collateral, or any of them or by any company or entity whose shares form all or part of the collateral reorganizing or amalgamating with any company or entity or by further issue of equity or equity derivatives or grant of options by the Client or the company or entity issuing any charged securities or by raising of further debts by the Client or the company or entity issuing any charged securities. If the economic or financial effect of the collateral or the security interest is so affected by any incident described above without the Client having prior written consent of the Broker, the Broker may at its discretion demand for immediate repayment of the Facility.

## **7. Charge of Margin Account and Securities**

All sums standing to the credit of the Margin Account and all Securities and all the rights of the Client in respect of all Securities which are now (which for the avoidance of doubt, shall include sums standing to the credit of and all Securities and all the rights of the Client in respect of all Securities in the Margin Account before the date of these Terms of Business) or shall come into the possession, custody or control of the Broker or the Broker's agents or nominees from time to time for any purpose whatsoever (including any additional or substituted Securities and all dividends or interests paid or payable, rights, interest, monies or property accruing at any time by way of redemption, bonus, preference, options or otherwise on or in respect of any such Securities or additional or substituted Securities) ("Charged Property") shall be charged to and in favour of the Broker by the Client as beneficial owner as continuing security (the "Broker's Charge") for the payment of all monies and liabilities whether actual or contingent which are now or at any time hereafter may be due, owing or incurred from or by the Client or any Client's Group Company to the Broker or any Broker's Group Company pursuant to the Facility or otherwise.

## **8. Enforcement of Charge**

8.1 Upon occurrence of any Event of Default (as defined in clause 29.1), the Broker's Charge shall be immediately enforceable and the Broker may without notice to the Client appropriate, transfer or set-off the whole or any part of any monies comprised in the Charged Property either by dealings through any broker (including the Broker) or by public or private sale or in such other manner and for such consideration (whether payable or deliverable immediately or by instalments) as the Broker may think fit without being in any way responsible for any loss occasioned thereby howsoever arising.

- 8.2 Without prejudice to the generality of clause 8.1 above, the Broker shall be entitled to appropriate or to sell or dispose of any of the Securities constituted within the Charged Property at the current market price thereof to any Broker's Group Company without being in any way responsible for any loss occasioned thereby howsoever arising and without being accountable for any profit made by the Broker and/or any other Broker's Group Company.
- 8.3 If in any sale pursuant to this clause 8, less than all of the Securities constituted within the Charged Property are to be sold or disposed of, the Broker may in its absolute discretion select which of the Securities are to be sold or disposed of.
- 8.4 If there is any deficiency after the sale of Securities under this clause 8, the Client shall make good and pay on demand such deficiency to the Broker immediately.
- 8.5 Upon any sale of Securities by the Broker, a declaration made by an officer of the Broker that the power of sale has become exercisable shall be conclusive evidence of that fact in favour of any purchaser or other person deriving title to any Securities under the sale.

## **9. Title to Charged Securities**

Unless otherwise specifically disclosed in writing to the Broker, the Client represents and warrants that the Client has and shall have full rights to deposit the Charged Property with the Broker, that the same is and will remain free from any lien, charge or encumbrance of any kind (save any security interest of the Broker) and are not nor shall they be, subject to any option and that any Securities comprised in the Charged Property are and will be fully paid up. These representations and warranties shall be deemed repeated by the Client on each occasion that the Broker receives any Securities from the Client and/or for the account of the Client.

## **10. Proceeds of Sale of Securities**

- 10.1 The proceeds of sale of Securities made under clause 8 or on any sale of Securities as instructed by the Client from time to time shall be applied in the following order of priority and any residue shall be paid to the Client or to its order or otherwise credited to the Margin Account:-
- (a) payment of all costs, charges, legal fees and expenses including stamp duty, commission and brokerage properly incurred by the Broker in transferring and selling all or any of the Charged Property or Securities, as the case may be, or in perfecting title thereto;
  - (b) payment of interest for the time being due to the Broker under the Facility;
  - (c) payment of all other monies and liabilities due, owing or incurred by the Client to the Broker under the Facility or to any Broker's Group Company; and
  - (d) payment of the residue of the proceeds to the Client in accordance with the payment methods as set out in clause 2.4.
- 10.2 Any dividends, interest or other payments which may be received or receivable by the Broker in respect of any of the Charged Property may be applied by the Broker as if they were proceeds of sale under these Terms of Business notwithstanding that the power of sale may not have arisen and notwithstanding that the Broker may have paid any of the said dividends, interest or other payments to the Client.

## **11. Exercise of Voting Right**

Until and unless there shall occur an Event of Default, the Broker has full discretion (but without any obligation) to instruct any nominee holding the Charged Property (or any part thereof) to attend meetings and/or exercise the voting rights attaching to the Securities comprised within the Charged Property in accordance with the Client's Instructions (if any) but the Broker shall not be responsible nor in any way liable, for any default by the nominee(s) concerned, whether arising from failure to attend and/or vote and/or from failure to give notice of any meeting and/or otherwise howsoever. Further, the Broker shall not be under any duty to investigate, vote or participate in such meetings (or take any action in connection therewith except upon receipt of the Client's written instructions 3 Business Days prior to the deadline imposed by the company or companies issuing the Charged Property and upon such conditions including the giving of any indemnity to the Broker as the Broker may require). At any time after an Event of Default, the Broker may instruct any nominee to attend meetings and/or exercise voting rights in such manner as the Broker shall in its absolute discretion determine.

## **12. Calls on Securities**

The Client during the continuance of the Broker's Charge shall pay all calls or other payments due in respect of any of the Charged Property but the Broker may if it thinks fit make such payments on the Client's behalf. Any sums so paid by the Broker shall be repayable forthwith by the Client and pending such repayment, shall carry interest at the applicable rate and be a charge on the Charged Property.

## **13. Additional Security**

- 13.1 The Broker's Charge is in addition to and without prejudice to any collateral or other securities which the Broker may now or hereafter hold from or on account of the Client nor shall such collateral or other security or any lien to which the Broker may be otherwise entitled (including any security, charge or lien prior to these Terms of Business) or the liability of any person or persons not being the parties to these Terms of Business for all or any part of the monies and liabilities secured by these Terms of Business be in any way prejudiced or affected by the Broker's Charge. The Broker shall have full power in its discretion to deal with, exchange, release, modify or abstain from perfecting or enforcing any such securities or other guarantees or rights which the Broker may now or hereafter have from or against such person or persons or to give time for payment or any indulgence to any such other person or persons without discharging or in any way affecting the Client's liabilities or the security created under these Terms of Business. All moneys received by the Broker from the Client or any person or persons liable to pay the same may be applied by the Broker to any account or any transactions to which the same may be applicable.
- 13.2 At the request of the Broker, the Client shall itself, or procure any such persons as are acceptable to the Broker to, deposit and grant further security (including, without limitation, cash or Securities) in terms satisfactory to the Broker in respect of any of the obligations of the Client owed to the Broker howsoever arising.
- 13.3 Without prejudice to the generality of the foregoing, neither the Broker's Charge nor the amounts thereby secured will be released or affected adversely to the Broker's interest by:-
- (a) any other security guarantee or indemnity now or hereafter held by the Broker or any other Broker's Group Company under or in respect of these Terms of Business or any other liabilities;

- (b) any other variation or amendment to or waiver or release of any security, guarantee or indemnity or other document (including, except to the extent of the relevant variation, amendment, waiver or release, the Broker's Charge);
- (c) the enforcement or absence of enforcement or release by the Broker or any other Broker's Group Company of any security, guarantee or indemnity or other document (including the Broker's Charge);
- (d) any time, indulgence, waiver or consent given to the Client or any other person whether by the Broker or any other Broker's Group Company;
- (e) the making or absence of any demand for payment of any sum payable under these Terms of Business made on the Client whether by the Broker or any other person;
- (f) the insolvency, bankruptcy, death or insanity of the Client;
- (g) any amalgamation, merger or reconstruction that may be effected by the Broker with any other person or any sale or transfer of the whole or any part of the undertaking, property or assets of the Broker to any other person;
- (h) the existence of any claim, set-off or other right which the Client may have at any time against the Broker or any other person;
- (i) any arrangement or compromise entered into by the Broker with the Client or any other person;
- (j) the illegality, invalidity or unenforceability of, or any defect in, any provision of any document relating to the Facility or any security, guarantee or indemnity (including the Broker's Charge) or any of the rights or obligations of any of the parties under or in connection with any such document or any security, guarantee or indemnity (including the Broker's Charge), whether on the ground of ultra vires, not being in the interests of the relevant person or not having been duly authorised, executed or delivered by any person or for any other reason whatsoever; or
- (k) any agreement, security, guarantee, indemnity, payment or other transaction which is capable of being avoided under or affected by any law relating to bankruptcy, insolvency or winding-up or any release, settlement or discharge given or made by the Broker on the faith of any such agreement, security, guarantee, indemnity, payment or other transaction, and any such release, settlement or discharge shall be deemed to be limited accordingly; or any other thing done or omitted or neglected to be done by the Broker or any other person or any other dealing, fact, matter or thing which, but for this provision, might operate to prejudice or affect the Client's liabilities under these Terms of Business.

#### **14. Continuing Security**

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

## **15. Continuing Validity**

- 15.1 The Broker's Charge shall not be affected by any failure by the Broker to take any security or by any invalidity of any security taken or by any existing or future agreement by the Broker as to the application of any advances made or to be made to the Client.
- 15.2 No change in the constitution of the Client nor of the persons, firms or companies or other entity for whose liabilities the Broker's Charge may at any time stand as security, shall affect the validity of or discharge the Broker's Charge. If the Client is a firm, in the event of the dissolution of the firm the Broker's Charge shall apply to all the indebtedness and liabilities incurred by the firm or in the firm name until receipt by the Broker of actual notice of dissolution. If, however, the dissolution is by reason only of the introduction of a partner or a further partner or partners into the firm the Broker's Charge shall continue and in addition to the debts and liabilities of the old firm shall apply to all monies and liabilities due or incurred from or by the new firm or firms thereby constituted as if there had been no change in the firm as previously constituted to the intent that the new partners of the firm will be liable for the debts and liabilities of the old firm.
- 15.3 The provisions of these Terms of Business shall remain binding notwithstanding any amalgamation that may be effected by the Broker with any other company or companies and notwithstanding any reconstructions by the Broker involving the formation of and transfer of all or any of the Broker's assets to a new company and notwithstanding the sale of all or any part of the Broker's undertaking and assets to another company to the intent that the undertakings and agreements contained in these Terms of Business and/or under any Facility Letter shall remain valid and effectual in all respects and the benefit and all rights conferred upon the Broker may be assigned to and enforced by any such company or companies as if such company or companies had been named instead of the Broker and this security shall extend to all the Broker facility and other accommodation by any amalgamated company as aforesaid or the Broker as reconstructed or any company to which the Broker shall have sold all of the Broker's undertaking and assets in like manner as if the Broker as reconstructed or such company were named instead of the Broker.
- 15.4 All rights and powers of the Broker under these Terms of Business shall remain in full force and effect notwithstanding any neglect or delay in the enforcement thereof or of any indulgence or forbearance given or continued to be given to the Client.

## **16. Addition to the Margin Account**

Any monies received under these Terms of Business shall be placed and kept to the credit of a segregated account pursuant to clause 7 of the Terms and Conditions for Cash Account without any obligation on the part of the Broker in the meantime to apply the same or any part thereof or towards discharge of any money or liabilities due or incurred by the Client to the Broker. Notwithstanding any such payment, in the event of any proceedings in or analogous to bankruptcy, winding-up, liquidation, any composition or arrangement the Broker may prove for and agree to accept any dividend or composition in respect of the whole or any part of such money and liabilities in the same manner as if the Broker's Charge had not been created.

## **17. Loss or Damage to Securities**

The Broker shall not be answerable or responsible for the loss of and/or damage to and/or diminution in value of any of the Charged Property howsoever arising, unless that loss, damage and/or diminution is proved beyond all reasonable doubt to have been caused by the gross negligence, wilful default or misconduct of the Broker done with intent to cause the loss, damage or diminution concerned.

## **18. Indemnity for claims, etc.**

- 18.1 If any action or proceeding is commenced or claim or demand made by any person against the Client and/or the Broker in connection with the Facility or the Charged Property, the Client will indemnify the Broker on a full indemnity basis, against any loss, costs or expenses including all legal or other professional fees which may be incurred by the Broker in connection therewith.
- 18.2 In the circumstances of clause 18.1, the Broker shall be entitled to take such steps as it may deem necessary including the withholding of payment or delivery to the Client of the Charged Property or any part thereof.
- 18.3 Nothing in this clause shall be construed as an obligation on the part of the Broker to take any steps in connection with any action, proceeding, claim or demand.

## **19. Statements of Margin Account**

The Client will check all statements of Margin Account thoroughly and if the Client does not notify the Broker of any discrepancy in writing within 14 days from the date of the statement, in the absence of manifest error, the Client accepts that such statements are to be conclusive as to the correctness of the matters stated therein. The Client will also promptly notify Compliance Department of the Broker in writing if the Client does not receive a Statement of Margin Account each month.

## **20. Liability and Indemnity**

- 20.1 In the absence of bad faith or wilful default of or by the Broker, the Broker shall not under any circumstances whatsoever be liable to the Client in respect of any loss, damage, injury sustained or liability incurred by the Client by reason of any act, advice, statement (express or implied), default or omission of the Broker or its directors, employees, agents or representatives, whether such loss, damage, injury or liability is caused by breach or otherwise by the Broker or its directors, employees, agents or representatives or howsoever caused.
- 20.2 The Broker and its directors, employees or agents shall not under any circumstances whatsoever be liable (whether in contracts, negligence or otherwise) for any loss, expense or damage suffered by the Client as a result of the Broker acting or relying on any Instruction given by the Client whether or not such Instruction was given following any recommendation, advice or opinion whether expressed or implied given by the Broker or its directors, employees or agents. In addition, the Broker and any of Broker's Group Companies shall not be responsible for any consequences whether resulting directly or indirectly from any uncontrollable events including without limitation to government restrictions, imposition of emergency procedures, Exchange rulings, third party conducts, suspension of trading, breakdown or collapse of communication facilities, war, strike, market conditions, civil disorder, act or threatened acts of terrorism, natural disasters, or any other circumstance beyond Broker's control whatsoever, including any error, deficiencies associated with data, computations, output, operations and other functions of equipment and related software of the Broker and/or its agents, suppliers, vendors or counterparts.
- 20.3 Without limiting the generality of clauses 20.1 and 20.2, neither the Broker nor any of its directors, employees agents or representatives shall have any liability whatsoever (whether in contract negligence or otherwise) for any loss, expense or damage suffered by the Client arising out of or alleged to be arisen out of or in connection with any inconvenience, delay, malfunction or loss of use of the Online Services or any delay or alleged delay in acting or any failure to execute any Instruction.



- 20.4 The Client undertakes to indemnify and keep the Broker indemnified in respect of any damage, costs, expenses, liabilities, claims and demands whatsoever which may be reasonably suffered or incurred by the Broker directly or indirectly arising out of or in connection with any transaction entered into by the Broker as agent on behalf of the Client or otherwise arising out of anything done or omitted to be done by the Broker in accordance with the Terms of Business or pursuant to any Client's Instruction or communication.
- 20.5 The Client agrees to indemnify the Broker and the Broker's directors, employees, agents and representatives against and hold them harmless from all damage, costs, expenses, liabilities, claims and demands arising out of or in connection with any breach or default by the Client of its obligations under these Terms of Business, including any legal costs and collection agency fees on a full indemnity basis and any other costs incurred by the Broker in enforcing its rights and recovering any debts due to the Broker in connection with the Margin Account.
- 20.6 The Client will be charged and will indemnify the Broker (without the need for demand) for all broker's commission, payments for rights and benefits, calls, fees, commissions, stamp duty, share splitting expenses and any other reasonable costs and expenses incurred in connection with any default of the Client including but not limited to any failure by the Client to provide money, Securities and/or other assets to maintain Securities' Value requirements from time to time applicable.
- 20.7 The Client unconditionally and irrevocably waives any right to obstruct the Broker in enforcing the Broker's rights over the Charged Property and agrees to indemnify the Broker, its officers, employees, agents or assignees against all expenses, costs, liabilities, claims and demands arising out of the holding of the Charged Property including crediting the Charged Property to any account maintained by it with HKSCC and other similar clearing system or anything lawfully done by the Broker, its officers, employees, agents or assignees in relation to or in connection with the Facility.
- 20.8 If for any reason the Broker's costs of funds is increased and/or net return on the Facility is reduced subsequent to the date of the Facility Letter, the Client will on demand either indemnify the Broker for the additional cost or reduction in return as certified to be correct by the Broker or repay all money due from the Client to the Broker within 24 hours of the said demand.
- 20.9 In relation to the purchase and /or sale of any product, the Broker may solicit the sale of or recommend a product or provide advisory services to the Client in accordance with clause 20.10(a); and/or the Client may enter into the transaction without or inconsistent with any solicitation or recommendation from the Broker in accordance with clause 20.10(b). Making available to the Client any advertisements, market or promotional materials, market information or other information shall not, by itself, constitute solicitation of the sale or recommendation of any product or service.
- 20.10 Transaction entered into with the Broker to buy or sell products:
- (a) If the Broker solicits the sale of or recommends any financial product to the Client, the financial product must be reasonably suitable for the Client having regard to the Client's financial situation, investment experience and investment objectives. No other provision of these Terms and Conditions or any other document the Broker may ask the Client to sign and no statement the Broker may ask the Client to make derogates this clause.

- (b) If the Client enters into a transaction with the Broker to buy and/or sell a product without or inconsistent with any solicitation or recommendation from the Broker, the Broker will not have any obligation or duty to assess whether or ensure that the product is suitable for the Client. The Client acknowledges and agrees that it is the Client's sole responsibility to assess and to satisfy that the transition is appropriate for the Client.
- (c) By entering into a transaction with the Broker to buy or sell a product, the Client confirms that any information the Client provides to the Broker is complete, accurate and up-to-date. When the Broker assesses suitability, the Broker will rely on the Client's confirmation.

## **21. Mortgage Over Securities Comprised within the Charged Property**

The Client acknowledges that it is a condition of the continued availability of the Facility that the Client shall authorise (and continue to authorise) the Broker to mortgage, charge, pledge or create any security interest in or over the Charged Property in favour of any third party in accordance with all applicable laws, rules and regulations, as security for the Broker's obligations to the third party.

## **22. Discharge of the Charge**

Subject to the payment and discharge of all amounts secured by the Broker's Charge, the Broker shall upon request of the Client and at the cost of the Client, discharge the Broker's Charge PROVIDED ALWAYS that upon such discharge the Broker shall not be bound to return to the Client Securities identical with those deposited or transferred to the Broker so long as the Securities returned to the Client are of the same class, denomination and nominal amount and rank *pari passu* with those originally deposited with or transferred to the Broker (subject always to any capital re-organisation which may have occurred in the meantime).

## **23. Error in Calculation**

If a mistake or an error is made in the Client's favour (howsoever such mistake or error arises) in calculating the amount due to the Broker or in respect of Securities returned then any discharge of the Broker's Charge and return of Securities shall have no effect and the Broker's Charge shall remain in full force and effect to the extent that such mistake or error shall not affect the Client's continuing obligations under the Facility or otherwise. Any money and/or Securities released by mistake or error shall be held by the Client as trustee for the Broker pending the return of the said money, Securities and/or their value.

## **24. Related Margin Client**

The Client represents to the Broker that, unless otherwise disclosed to the Broker in writing:-

- (a) where the Client is a non-corporate entity: no account holder of the Margin Account (i) has a spouse who is a margin client of the Broker; or (ii) controls (either alone or with his/her spouse) 35% or more of the voting rights of any margin client of the Broker; or
- (b) where the Client is a corporate entity: the Client does not belong to any group of companies having one or more member(s) which is/are margin client(s) of the Broker.

## **25. Withdrawals from the Margin Account**

The Client shall give not less than 2 Business Days' prior written notice to the Broker if the Client wishes to make a withdrawal of Securities and/or cash from the Margin Account but such withdrawal will only be allowed with the consent of the Broker, which consent may be given subject to terms as the Broker may decide and unless all amounts and obligations owed by the Client to the Broker and/or to any Broker's Group Company have been fully and finally discharged.

## **26. General Lien**

Without prejudice and in addition to any general lien, rights to set-off or other similar rights which the Broker may be entitled to exercise over the Securities, receivables or monies held in the Margin Account, all Securities, receivables or monies shall be subject to a general lien for the discharge of all obligations due by the Client to the Broker and/or any Broker's Group Company.

## **27. Negative Pledge**

Without the Broker's prior written consent, the Client will not, and will not purport to, sell, grant an option over or otherwise deal in any way with or create or allow to subsist a charge, pledge or other encumbrance over the Margin Account or anything in it other than pursuant to the terms of the Facility Letter.

## **28. Suspension, Termination and Review**

28.1 The Broker may, without compensation, suspend operation of the Facility and all the Client's rights and powers in connection therewith as a result of force majeure (being anything beyond the actual and reasonable control of the Broker), or adverse weather conditions, hostilities, industrial actions, computer breakdown, sabotage or if any trading or account records are not available or access to such records or accounts is hindered.

28.2 The Broker may suspend and/or terminate the Facility by notice, including for this purpose oral notice, to the Client and shall not be bound to give any reason therefor.

28.3 The Broker may review the Facility granted to the Client at any time in its sole discretion and the Client will whenever the Broker so demands, make payment of all sums owing from the Client to the Broker and/or comply with any revised terms as to Facility requirements as the case may be.

28.4 The Broker may vary, suspend and/or terminate the Facility in its sole discretion upon the occurrence of the withdrawal or non-renewal of the Client Securities Standing Authority to the Broker.

## **29. Default**

29.1 "Event of Default" shall have the meaning in the Client Agreement but shall also include any of the following:

- (a) the Client's failure to pay and/or provide when due any payment, security or value whatsoever to the Broker;
- (b) the death or insanity (in the case of an individual) and/or the filing of a petition in bankruptcy, winding up or the commencement of other analogous proceedings against the Client and/or any person who is a guarantor of the Client's obligations to the Broker or a Broker's Group Company;

- (c) the levying of any attachment or execution against any of the Charged Property;
- (d) default by the Client in the due performance or observance of any terms of the Facility Letter, the Client Agreement or these Terms of Business;
- (e) any consent, authorisation, approval, licence or board resolution required for or in connection with the Facility or these Terms of Business being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;
- (f) the Client owes more than the amount allowed under the Facility or in relation to the applicable Securities' Value, whether in terms of HKD or such other currencies as the Broker may agree from time to time with the Client;
- (g) any representation or warranty made in these Terms of Business or in any document delivered to the Broker pursuant to these Terms of Business being or becoming untrue or inaccurate; and/or
- (h) the occurrence of any event which, in the sole opinion of the Broker might adversely affect any of its rights under the Facility and/or otherwise.

29.2 If an Event of Default occurs:

- (a) the Broker may in its sole discretion (but without obligation so to do):-
  - (i) immediately close the Margin Account(s);
  - (ii) cancel any or all outstanding orders or any other commitments made on behalf of the Client;
  - (iii) close and/or cancel any or all contracts between the Broker and the Client, cover any short position through the purchase of Securities on any Exchange and/or liquidate any long position through the sale of Securities on any Exchange; and/ or
  - (iv) close out without recourse any or all open positions of the Account and/or take any action that the Broker considers necessary (including any remedial action) to the effect that such open positions are closed.
- (b) without prejudice to other rights which the Broker may have by law or otherwise, the Broker shall without notice to the Client also be entitled to:-
  - (i) receive (without the need for a demand) immediate payment from the Client of all sums outstanding to it pursuant to the terms of these Terms of Business;
  - (ii) enforce (by sale or otherwise) any of the security charged to it or otherwise conferred on it pursuant to the terms of these Terms of Business;
  - (iii) exercise its rights including lien, set-off, consolidation of accounts and any other rights conferred by these Terms of Business; and/or
  - (iv) immediately terminate the Facility and all or any part of these Terms and Conditions.

### **30. Representations and Warranties**

30.1 The Client represents, warrants and undertakes that:

- (a) all information given by or on behalf of the Client to the Broker and/or to any Broker's Group Company is true, accurate and complete and the Broker is entitled to rely on such information until the Broker has received written notice from the Client of any changes in the information or answer supplied. The Client undertakes to notify the Broker and/or any Broker's Group Company concerned immediately of any changes in such information and/or of the occurrence of an Event of Default;
- (b) unless disclosed in writing by the Client to the Broker, the Client is trading on its own account and that no one other than the Client has any interest in Securities in the Margin Account and/or in accounts held in the Client's name with any Broker's Group Company;
- (c) all necessary consents and authorisation which may be required for the execution of the Account Opening Form, Facility Letter and ancillary documents have been obtained and are in full force and effect;
- (d) the Client has the authority, power and legal capacity to enter into and perform the obligations under these Terms of Business; and
- (e) where the Client or any one of them is an individual, that the Client is legally capable of validly entering into and performing these Terms of Business and that he or she has attained the age of 18 years and is of sound mind and legal competence and is not a bankrupt.

30.2 The Broker and the Client undertake to inform each other of any material change to the information provided in these Terms of Business.

### **31. Further Assurance**

The Client undertakes with the Broker to do and execute any act, deed, document or thing which the Broker may require the Client to do in connection with the implementation, execution and enforcement of any of the terms and any rights conferred by these Terms of Business and/or the Facility Letter and/or to secure the Broker further. The Client irrevocably authorises the Broker to do and execute all such acts, deeds, documents or things on behalf of the Client as the Broker considers necessary or desirable in connection with such implementation, execution and enforcement and agrees to ratify or confirm all such acts, deeds, documents or things so done by the Broker acting lawfully and in good faith.

### **32. Currency of Facility**

The Facility is to be maintained in HKD and/or such other currencies as the Broker may agree from time to time with the Client. If any transaction or payment results in a payment or settlement in a currency other than in HKD then the Broker may convert such fund into HKD at such rate of exchange as the Broker shall in its sole discretion determine (in the absence of manifest error) as being a fair rate applicable on the conversion date. Any profits or loss arising as a result of a fluctuation in the exchange rate between such currency and HKD will be entirely for the account of the Client. The Broker shall be entitled in addition to charge the Client a conversion charge of up to 1% of the amount converted.

### **33. More than one client**

Irrespective of which individual Client gives instructions, where the Client consists of more than one person:

- (a) the liabilities and obligations of each of them shall be joint and several and references to the Client shall be construed, as the context requires, to any or each of them;
- (b) each of them shall be bound even though any other such person is not for whatever reason, so bound;
- (c) the Broker shall be entitled to deal separately with each such person on any matter including the discharge of any liability to any extent without affecting the liability of any other such person;
- (d) any delivery of assets, payments or Securities to any one of such persons shall be a valid and complete discharge of the Broker's obligations to each person regardless of whether such delivery is made before or after the death of any one or more of such persons;
- (e) any notices and communications sent to one such person will be deemed notice to all persons holding the Margin Account; and
- (f) upon the death of any of such person:-
  - (i) these Terms of Business shall not be terminated;
  - (ii) the Broker shall hold the Client's assets, monies or Securities in the Margin Account to the order of the survivor(s) notwithstanding the claim of any legal representatives without prejudice to any of the Broker's rights arising out of any lien, charge, set-off, counterclaim or otherwise howsoever. Payments, delivery of assets or Securities to the survivor(s) shall be a complete discharge of the Broker's obligations; and
  - (iii) the surviving client(s) shall give the Broker written notice immediately upon any of them becoming aware of any such death.

**34. Assignability**

The provisions of these Terms of Business and of the Facility Letter shall be binding on and inure to the benefit of the successors, assigns and personal representatives (where applicable) of each party to these Terms of Business provided that the Client may not assign, transfer, charge or otherwise dispose of its rights or obligations under these Terms of Business and/or the Facility Letter without the prior written consent of the Broker. The Broker however may assign or transfer all or part of its rights and obligations under these Terms of Business and/or the Facility Letter to any person without the prior consent or approval of the Client.

**35. Severability**

Each of the provisions of these Terms of Business and the Facility Letter is severable and distinct from the others and, if one or more of such provisions is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions shall not be affected in any manner.

**36. Translation**

These Terms of Business and the Facility Letter may be translated into any other languages but, in the event of any conflict, the English version shall apply and prevail.

### **37. Compliance with Laws**

- 37.1 The Client shall not instruct the Broker to do anything which is a breach of, or would or is likely to involve a breach of, the Securities and Futures Ordinance, the Rules of the Stock Exchange, the Hong Kong Codes on Takeovers and Mergers and Share Buy-backs, the Rules of HKSCC or any law, rule or regulation in force and/or applicable to the Broker or to do any act which, in the sole opinion of the Broker, might prejudice the Broker's position.
- 37.2 The Client shall at all times ensure that all transactions, dealings and/or actions in connection with the Account are compliant with the applicable laws, rules or regulations in force. Should the Client at any time become aware of any non-compliance, breach or contravention of any such laws, rules or regulations on the part of the Client, the Client shall forthwith notify the Broker in writing particulars of such non-compliance, breach or contravention.

### **38. Communications**

- 38.1 All notices, demands, Statements of Margin Account and any other communications and documents (collectively "Communication") required or permitted to be given to the Client may be sent by hand, post, facsimile, telephone or electronic mail to the address, facsimile or telephone numbers or electronic mail address for communications specified in the Account Opening Form or as notified to the Broker from time to time. All Communication shall be deemed to have been received by the Client (i) 48 hours after posting if sent by post (save that any Statement of Margin Account provided by the Broker shall be deemed to have been provided to the Client at the time of posting); and (ii) at the time of transmission from the Broker if delivered by facsimile, telephone or electronic mail and no such Communication needs to be signed on behalf of the Broker; (iii) a Communication posted on the Online Services shall be deemed to have been received by the Client no later than the end of the Business Day following the date of which the Communication becomes accessible by the Client through the Online Services.
- 38.2 All notices or other communications required to be given to the Broker shall be in writing and be delivered by hand or sent by post at the Broker's registered office. Any such notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt, or on 48 hours after posting if sent by post.
- 38.3 The Broker shall be entitled to assume, without further investigation or enquiry, that any Communication which on the face of it appears to have been forwarded by either the Client or its agent, has in fact been sent by either the Client or its agent, as the case may be. The facsimile copy of any Communication shall have the same force as the original.

### **39. Governing Law, Jurisdiction and Service of Legal Documents**

- 39.1 These Terms of Business and the Facility Letter and all rights, obligations and liabilities arising therefrom shall be governed by and construed in accordance with the laws of Hong Kong.
- 39.2 The parties hereby submit to the non-exclusive jurisdiction of the courts of Hong Kong in relation to all matters arising out of or in connection with these Terms of Business and/or the Facility Letter. Such submission shall not prejudice the Broker's right to commence action against the Client in any other court of competent jurisdiction.

- 39.3 Without prejudice to clause 39.2, if any dispute of any kind whatsoever shall arise between the Client and the Broker, the Broker may in its absolute discretion, instead of court proceedings, require such dispute to be referred to arbitration in Hong Kong in accordance with the provisions of the Arbitration Ordinance (Chapter 609 of the Laws of Hong Kong) or any statutory modifications thereof then in force. The appointing authority shall be Hong Kong International Arbitration Centre (“HKIAC”). The place of arbitration shall be in Hong Kong at HKIAC. There shall be only one arbitrator. Any such arbitration shall be administered by HKIAC in accordance with the provisions of the Arbitration Ordinance (Chapter 609 of the Laws of Hong Kong) in force.
- 39.4 Without prejudice to clauses 39.2 and 39.3, any dispute between the Broker and the Client may be resolved by way of Financial Dispute Resolution Scheme (“FDRS”) administered by the Financial Dispute Resolution Centre (“FDRC”) in accordance with the provisions of the Terms of Reference for FDRC in relation to the FDRS in force.
- 39.5 Without prejudice to clause 38, any documents (including but not limited to writs, summonses, orders, pleadings, petitions and demands) may be served on the Client by leaving at or posting such documents to, the last known address of the Client - such service is agreed to be valid service on the Client, whether or not the document(s) concerned is (are) actually received by the Client or comes to the Client’s notice, and the time of service will be the time at which the document(s) is (are) left at the said address or in the case of service by post, 48 hours after posting to that address irrespective of whether the Client’s address is in Hong Kong or not.
- 39.6 Save as otherwise agreed by the Broker, if the Client is an individual resident or a company incorporated outside Hong Kong, the Client hereby appoints the process agent as set out in the form designated by the Broker or such other process agent appointed thereafter by the Client to be the Client’s process agent to receive all notices and communications relating to any legal proceedings involving the Client and the Client agrees that any service of the legal process on such process agent shall constitute sufficient service on the Client for the purpose of legal proceedings in the Hong Kong courts. Without prejudice to the validity of the appointment of the process agent pursuant to the foregoing sentence or the validity of the service of legal process on such process agent, to the extent that the Client has provided to the Broker an address in Hong Kong in the form designated by the Broker or pursuant to the Client Agreement (the “Hong Kong Address”), the Client agrees that service by way of post or deliver to such Hong Kong Address shall constitute sufficient service on the Client for the purpose of legal proceedings in the Hong Kong courts.

#### **40. Miscellaneous**

- 40.1 The Client authorises the Broker to contact the bankers of the Client from time to time and authorises such bankers to release information to the Broker as requested by the Broker. The Client waives all rights as to confidentiality between itself and the bankers concerned PROVIDED that the Broker undertakes not to knowingly and wilfully divulge any confidential information received by the Broker solely under this authority, except as may be required by law or any regulatory body or as may be necessary or desirable to protect and enforce the rights of any Broker’s Group Company, including the Broker, against the Client.
- 40.2 These terms and conditions may be amended supplemented or revised by the service of a notice in writing on the Client by the Broker and such amendment supplement or revision shall be applicable as from the date specified in such notice.



- 40.3 The Broker shall not be liable in any way for any loss whatsoever incurred by the Client as a result of any act or omission of it or any Broker's Group Company arising out of or in connection with the operation of the Facility except where such loss is proved beyond all reasonable doubt to have been caused by the gross negligence, wilful default or misconduct of the Broker done with intent to cause the loss concerned.
- 40.4 In addition to any other of its rights, the Broker may combine or consolidate all other accounts and liabilities whether actual or contingent, primary or collateral, several or joint that the Client has, now or in future, with the Broker and use whatever sums of money there may be in such accounts to offset the money that is owed by the Client to the Broker.
- 40.5 Time is of the essence as regards every obligation of the Client but no delay or omission by the Broker to exercise any right, power or remedy shall impair such right, power or remedy, or be construed as a waiver of, or as an acquiescence in, any default. If the Broker on any occasion agrees to waive any such right, power or remedy, such waiver shall not in any way preclude any further exercise thereof or the exercise of any other right, power or remedy. Any waiver by the Broker of any provision of these Terms of Business and the Facility Letter and any consent or approval given by the Broker, shall only be effective if given in writing, specifically refers to this clause and even then only for the purpose and upon the terms for which expressly specified.

## **Schedule 1**

### Terms and Conditions for Cash Account

Please refer to the website of the Broker for the current Terms and Conditions for Cash Account.

[End of the Terms and Conditions]

## 附件一

現金帳戶條款及細則

請前往經紀人網站瀏覽現行之現金帳戶條款及細則

**[本條款及細則全文結束]**

39.6 除非經經紀人同意，若客戶為在香港以外地方居住或註冊的人士或公司，客戶茲委任經紀人指定表格中所列的人士或之後委派的其他人士作為法律文件接收人，以收取任何涉及客戶的法律訴訟的所有通知及通訊，而客戶亦同意就在香港法院進行的法律訴訟而言，任何送達法律文件至該法律文件接收人，即構成為對客戶的法律文件的妥善送達。在不影響根據前述句子委任的法律文件接收人的有效性，或送達法律文件至該法律文件接收人的有效性，而客戶亦已於經紀人指定表格或按照客戶協議向經紀人提供香港的地址（「香港地址」）的前提下，同意就在香港法院進行的法律訴訟而言以郵遞或送交方式將法律文件送達該香港地址，即構成對客戶妥為送達法律文件。

## 40. 雜項

40.1 客戶授權經紀人不時聯繫客戶的往來銀行，並授權有關銀行向經紀人披露其要求的資料。客戶願意放棄自己和有關銀行之間享有的保密權利，但是經紀人承諾不會明知且故意將因此授權獲得的任何保密資訊披露給他人，除非是根據法律或任何監管機構要求或為保護和執行任何經紀人的集團公司，包括經紀人對客戶享有權利而進行的必要或適當的披露外。

40.2 本條款及細則可經由經紀人向客戶發送書面通知後加以修改、增補或修訂，而該等修改、增補或修訂之生效日期為該通知所載的日期。

40.3 經紀人在任何情況下均不承擔任何因信貸安排操作所產生的或與此相關的經紀人或任何經紀人的集團公司的任何作為或不作為而導致客戶承擔的任何虧損和責任，除非在無合理疑點下證明該損失是由經紀人的重大過錯、故意違約或不當行為所導致的，且經紀人故意造成該等損失。

40.4 除經紀人享有的其他權利之外，經紀人可合併或整合客戶現在或將來在經紀人處的所有其他帳戶和責任（無論其屬於實際或或有、主要或從屬、單獨或連帶的），並使用此類帳戶中的任何款項抵銷客戶欠付經紀人的欠款。

40.5 對於客戶的每項責任而言，時間應為重要因素，但經紀人延遲或疏於行使任何權利、權力或救濟並不會對該等權利、權力和救濟構成影響，也不應解釋為寬免或默許任何違約的行為。如果經紀人於任何情況下同意放棄上述任何權利、權力或救濟，該等棄權在任何方面並不妨礙進一步行使所放棄的權利、權力或救濟，亦不妨礙行使任何其他的權利、權力或救濟。經紀人對本業務條款的任何條文的豁免或經紀人所作的任何同意或批准必須以書面形式表明且於其中明確提述本條款方為有效；儘管如此，其用途也僅限於明確規定的條款。

## 38. 通訊

- 38.1 需要或准許向客戶發送的所有通知、要求、結單與其他通訊方式及文件（統稱為「通訊」），均可通過專人遞送、郵遞、傳真、電話或電子郵件方式，送交至客戶在開戶申請表指定的或不時通知經紀人的地址、傳真或電話號碼或電子郵寄地址。所有通訊(1)若以郵遞方式送交，當於投寄後48小時後經客戶收訖（但經紀人提供予客戶的任何保證金帳戶結單於投寄時已視為成功送達客戶）；(2)若以傳真、電話或電子郵件方式發出，則應視為於經紀人傳輸之時經客戶收訖；而通訊並不需要經紀人的簽署；(3)於網上服務公佈的通訊，最遲於客戶可通過網上服務取得通訊當日之下一個營業日結束時被視為經客戶收訖。
- 38.2 需向經紀人發送的所有通知或其他通訊均應採用書面形式，並通過親自送遞或郵遞方式送達至經紀人的註冊營業地址。任何此類通知或通訊若通過專人遞送發送，則在簽收送達回執之時即應視為送達；或若通過郵遞發送，則於發送後48小時後視為送達。
- 38.3 無需作出進一步的調查或詢問，經紀人即應有權假設客戶或其代理人所傳送的任何通訊表面上看來是由客戶或其代理人發出的該等通訊確實由客戶或其代理人（視情況而定）所傳送。任何通訊的傳真副本與其正本具有同等效力。

## 39. 適用法律、司法管轄權和法律文件的送達

- 39.1 本業務條款和信貸安排函件及其中的一切權利、義務及責任均受香港法律管轄並據其解釋。
- 39.2 就本業務條款及/或信貸安排函件產生或與之有關的所有事務，雙方同意接受香港法院的非專屬司法管轄權管轄，但接受該管轄並不影響經紀人於任何其他具有司法管轄權的法院向客戶提出起訴之權利。
- 39.3 在不影響第39.2條規定的前提下，如果客戶和經紀人之間出現任何爭議，經紀人可按其絕對酌情權決定放棄透過法院程序處理該等爭議，並按照《仲裁條例》（香港法例第609章）或其當時有效之任何法定修改條例將有關爭議提交予香港國際仲裁中心在香港進行仲裁。指定仲裁員的機構為香港國際仲裁中心。仲裁須於香港國際仲裁中心進行，並須由一名仲裁員仲裁。任何有關仲裁須由香港國際仲裁中心根據當時有效之《仲裁條例》（香港法例第609章）進行。
- 39.4 在不影響第39.2條和第39.3條規定的前提下，經紀人和客戶之間的任何爭議可交由金融糾紛調解中心按照中心《職權範圍》內與金融糾紛調解計劃相關的條文，透過當時有效的金融糾紛調解計劃解決。
- 39.5 在不影響上述第38條規定的前提下，任何文件（包括但不限於令狀、傳票、命令、狀書、呈請書及要求）可留置或郵遞至客戶最後為經紀人所知的地址；經上述方式送達資料即視為向客戶作出有效送達（不論客戶實際有否收訖或是否知悉有關文件），而送達時間將為文件留置於上述地址的時間或（如屬郵遞送達）於郵遞至該位於香港境內或境外的地址後48小時後。

- (d) 向其中任何一人交付任何資產、付款或證券，即證明經紀人已向全體客戶有效和全面地履行其責任，無論是在其中任何一名或數名人士身故之前或之後作出此類交付；
- (e) 向其中任何一人送達的任何通知和通訊均應視為向持有保證金帳戶的全體人士送達；及
- (f) 在任何此類人士身故時：
  - (i) 本業務條款不得終止；
  - (ii) 經紀人應為健在人士持有保證金帳戶中的客戶資產、款項或證券，即使任何法定代表人提出要求，也不影響經紀人因任何留置權、質押、抵銷、反訴或其他原因享有的任何權利，並向健在人士付款、交付資產或證券，即證明經紀人已有效和全面履行其責任；及
  - (iii) 當知悉任何此類人士身故時，健在客戶應將此資訊立即以書面通知經紀人。

## 34. 轉讓

本業務條款和信貸安排函件中規定，對本業務條款各方的繼承人、受讓人及個人代表（若適用）均具約束力，並為上述繼承人、受讓人及個人代表的利益而生效；未獲經紀人事先書面同意，客戶不得轉讓、轉移、抵押或以其他方式處置本業務條款及/或信貸安排函件中的權利或義務。然而，經紀人可在無須取得客戶事先同意或批准的情況下將本業務條款及/或信貸安排函件中的全部或部分權利及義務轉讓或轉移予任何人士。

## 35. 可分割性

本業務條款及信貸安排函件下的各條款均具可分割性，並互相獨立於其他條文。若上述任何一條或多條條款屬於或變成違法、失效或無法強制執行，其餘條款的合法性、有效性或可強制執行性均不因任何方式而受到影響。

## 36. 翻譯

本業務條款及信貸安排函件可被翻譯為任何其他語言的版本；若因翻譯而出現任何爭議或抵觸，概以英文版為準。

## 37. 遵守法律

- 37.1 客戶不得指示經紀人作出任何屬於、將會或可能涉及違反《證券及期貨條例》、《聯交所規則》、香港《公司收購、合併及股份購回守則》、《香港結算規則》或任何法律、規則或法規及/或適用於經紀人的任何條款或作出經紀人認為會對經紀人的地位構成損害的任何行動。
- 37.2 客戶必須確保於任何時間有關帳戶之所有交易、往來及/或行為均屬符合所有現行之法律、規則或法規。如客戶於任何時間知悉其本身有任何不遵守、違反或觸犯該等法律、規則或法規，客戶必須即時以書面通知經紀人相關之違法詳情。

- (b) 除客戶向經紀人作出的書面披露之外，客戶均據其本人利益進行交易，因此除客戶之外並無任何其他人士對保證金帳戶及/或客戶在任何經紀人的集團公司以客戶名義持有的帳戶內的證券享有任何權益；
- (c) 已取得簽署之開戶申請表、信貸安排函件及附帶文件所需的一切必要同意及授權，有關同意及授權全面有效；
- (d) 客戶擁有授權、權力及法律資格以訂立及履行本業務條款下規定的責任；及
- (e) 若客戶或其中任何一名成員為個人，則該客戶具有有效簽署和履行本業務條款的行為能力，並且其年齡已達到或超過18歲，且心智健全和具有法律權利能力，並且並非破產人士。

30.2 客戶和經紀人承諾會相互告知根據本業務條款提供的任何資料的重大改變。

### 31. 進一步保證

客戶向經紀人承諾，其將按經紀人要求對有關實施、執行及強制執行本業務條款及/或信貸安排函件任何規定及本業務條款及/或信貸安排函件賦予的任何權利採取任何行動並簽署契約及文件，及/或向經紀人提供進一步保障。客戶不可撤銷地授權經紀人代表客戶就上述有關實施、執行及強制執行，作出及/或簽訂經紀人認為所需或酌情決定下的一切行動、契約、文件或事項，並同意追認或確認經紀人善意合法作出的該等一切行動、契約、文件或事項。

### 32. 信貸安排的貨幣

信貸安排應以港元及/或經紀人不時與客戶約定的其他貨幣作為安排貨幣。若以港元之外的其他貨幣結算任何交易或支付款項，則經紀人按其酌情權決定（但是如有明顯錯誤的除外）的匯率轉換此類資金的幣值，只要該匯率為兌換當日適用的合理匯率。由於該外幣和港元之間匯率波動產生的任何利潤或損失均應全部由客戶承擔。經紀人可按不超過 1% 的息率針對兌換金額向客戶另行收取兌換費。

### 33. 多於一名人士構成的客戶

無論哪一個別客戶作出任何指示，若客戶由多於一名人士組成：

- (a) 每名人士承擔的責任和義務應為共同及各別的法律責任和義務，並且凡提及客戶時，應按文意規定解釋為其中任何一人或各人；
- (b) 各人均應受約束，即使當中有任何其他人士因任何理由而不受約束；
- (c) 經紀人有權與上述每名人士就任何事務單獨進行任何交易，包括免除任何責任，但不影響上述任何其他人士本身的責任和義務；

- (f) 客戶欠付款項超出信貸安排或適用的證券價值允許的額度，無論是以港元或以經紀人與客戶之間不時約定的其他貨幣計算；
- (g) 在本業務條款或在客戶根據本業務條款送交經紀人的任何文件中作出的任何聲明或保證，屬於或成為不實或不準確聲明或保證；及/或
- (h) 按經紀人個人意見認為，發生的任何事件將會或可能危及其根據信貸安排及/或其他文件所賦予的權利或救濟。

## 29.2 若出現違約事件：

- (a) 經紀人可完全酌情決定（但並無義務必須作出以下行動）：
  - (i) 立即結束保證金帳戶；
  - (ii) 取消任何或所有代表客戶所作出但尚未執行的指示或任何其他承諾；
  - (iii) 結束及/或取消經紀人與客戶所訂立的任何或一切合約，通過任何交易所買入證券而填補任何空倉及/或通過任何交易所賣出證券平倉任何長倉；及/或
  - (iv) 結清任何未平倉之交易及/或採取任何經紀人認為需要而具有同樣結清該等交易之效用之行動（包括任何補救行動），而不須承受追索權。
- (b) 在不影響法律或其他規定授予經紀人的權力前提下且無須通知客戶的情況下，經紀人亦有權：
  - (i) 向客戶即時收取（無需提出要求）根據本業務條款尚未償還給經紀人的全部款項；
  - (ii) 強制執行（通過出售或其他方式）根據本業務條款授予經紀人的抵押證券或其他抵押品；
  - (iii) 行使本業務條款授予經紀人的權利，包括留置權、抵銷、合併帳戶和其他權利；及/或
  - (iv) 立刻終止信貸安排或本條款及細則或其任何部分。

## 30. 聲明和保證

### 30.1 客戶聲明、保證和承諾：

- (a) 由客戶或代表客戶向經紀人及/或任何經紀人的集團公司提供的一切資料均屬真實、準確及完整，而經紀人有權在現時或將來信賴上述資料，直至經紀人收到客戶書面通知更改所提供的任何資料或答覆為止。客戶承諾，若上述任何資料有所修訂及/或出現違約事件時，將立即通知經紀人及/或任何經紀人的集團公司；



## 26. 一般留置權

在不影響經紀人對保證金帳戶中所持的證券、應收款項或金錢可能享有的任何一般留置權、抵銷權或其他類近權利的情況下且作為此等權利的補充，所有此類證券、應收款項及金錢均應遵守客戶對經紀人及/或任何經紀人的集團公司所負到期全部責任所產生的一般留置權的限制。

## 27. 消極保證

在取得經紀人的事先書面同意前，除根據信貸安排函件的條款規定實施之外，客戶不會或無意將保證金帳戶或當中持有的任何物品賣出、授予認購權或以其他方式處理或訂立、容許存在抵押、質押或其他產權負擔。

## 28. 暫停、終止和審查

- 28.1 若由於不可抗力事件（即經紀人實際不能合理控制的事件），或任何惡劣天氣、敵對狀態、勞資行動、電腦故障、人為破壞，或任何交易或帳戶記錄不可使用或獲取受限，則經紀人可暫停信貸安排的操作以及客戶與此有關的所有權利和權力，且無須承擔任何賠償。
- 28.2 經紀人可通知（包括口頭通知）客戶暫停及/或終止信貸安排，並且無須就此說明任何理由。
- 28.3 經紀人可隨時自行按其酌情權決定審查授予客戶的信貸安排。在經紀人要求時，客戶應償還其欠付經紀人的所有款項及/或客戶應遵守不時修訂的信貸安排的規定條款（視情形而定）。
- 28.4 在客戶向經紀人撤銷或不續期客戶證券常設授權的情況下，經紀人可自行按其酌情權決定變更，暫停和/或終止信貸安排。

## 29. 違約

- 29.1 「違約事件」應與客戶協議中規定的含義相同，並且包括以下任何事件：
- (a) 客戶未能在任何款額、證券或有價值物品到期時向經紀人支付及/或提供該等款額、證券或有價值物品；
  - (b) 客戶身故或精神錯亂（如為個人客戶），及/或任何人士對客戶或因客戶對經紀人或任何經紀人的集團公司的任何責任作出擔保的擔保人向法院申請其破產、清盤或進行其他相類似的法律程序；
  - (c) 對抵押財產採取扣押行動或執行措施；
  - (d) 客戶不履行或未遵守信貸安排函件、客戶協議或本業務條款中的任何規定；
  - (e) 訂立信貸安排或本業務條款所須或與之相關的任何許可、授權、同意書、牌照或董事會決議全部或部分被撤銷、暫停、終止或不再具備全部效力或作用；

- (b) 如客戶在沒有經紀人的任何招攬或建議或與之不一致的情況下與經紀人進行購買及/或出售產品的交易，經紀人將沒有任何義務或責任評估該產品是否適合客戶或確保其適合客戶。客戶知悉及同意，客戶應自行負責評估及自行信納交易為適合客戶。
- (c) 透過與經紀人進行購買或出售產品的交易，客戶確認客戶向經紀人提供的任何資料為完整、準確及最新。當經紀人評估合適性時，將依賴客戶的確認。

## 21. 抵押財產內的證券抵押

客戶確認持續獲得信貸安排的條件之一是客戶應授權（並且持續授權）經紀人按適用法律、規則和法規的規定，將抵押財產抵押、押記、質押給第三方或以其他方式為第三方設立擔保權益，作為經紀人對該第三方責任的擔保。

## 22. 解除抵押

在經紀人抵押所擔保的全部款項已獲支付和清償的前提下，經紀人應按客戶要求並由客戶承擔相關費用，解除經紀人抵押。但是在解除經紀人抵押時，經紀人歸還客戶的證券無須與最初存放或轉讓給經紀人的證券完全相同，而只是要向客戶歸還與最初存放或轉讓給經紀人的證券為同類型、面額和面值、享有同等權益的證券即可（必須取決於當時可能出現的任何資本重組）。

## 23. 計算錯誤

若在計算客戶欠付經紀人的到期款項或計算退還證券的數量時出現有利於客戶的任何錯誤或誤差（無論是由於任何原因導致此類錯誤或誤差），對經紀人抵押的任何解除和退還的證券均不產生任何效力，並且經紀人抵押依然全面有效，此類錯誤或誤差不影響客戶根據信貸安排或其他規定承擔的持續責任。在歸還此類款項、證券及/或其他價款時，因錯誤或誤差發出的任何款項及/或證券均應由客戶作為經紀人的信託人代為持有。

## 24. 相關保證金客戶

除客戶向經紀人另行書面披露之外，客戶向經紀人聲明：-

- (a) 若客戶並非法人團體：保證金帳戶的持有人：(1) 並無配偶是經紀人的保證金客戶；或(2)並無（單獨或與其配偶共同）控制經紀人的保證金客戶的35%或以上的表決權；或
- (b) 若客戶為法人團體：客戶並非任何集團公司的成員，而該集團公司的一名或數名成員為在經紀人處持有保證金帳戶的客戶。

## 25. 保證金帳戶的提取

若客戶計劃從保證金帳戶中提取證券及/或現金，則客戶應至少提前2個營業日以書面通知經紀人，但是此類取款必須按經紀人決定的條件獲得經紀人的同意，除非客戶已全面清償其欠付經紀人及/或任何經紀人的集團公司的全部款項和責任。

- 20.3 在不影響上述第20.1條和第20.2條的一般性規定的前提下，對於客戶因使用網上服務或因使用網上服務而引致的任何延誤，或耽誤指示的執行，或未能執行指示，結果導致的任何不便、延誤、故障或虧損，並由此引起或與此有關的任何直接或間接虧損、費用或損失，經紀人或其任何董事、僱員、代理人或代表對此均不承擔任何責任（無論是合同、疏忽或其他責任）。
- 20.4 客戶承諾，經紀人以客戶代理人身份進行的任何交易，或經紀人依照本業務條款或客戶的任何指示或傳達之意願而採取的任何作為或不作為，而因此可能直接或間接地遭受或承擔任何賠償、費用、開支、債務、索償及索求，客戶將充分向經紀人作出彌償。
- 20.5 客戶同意，就經紀人及其董事、僱員、代理人或代表因客戶觸犯或違反或不履行本業務條款的責任而所產生或與之有關的所有賠償、費用、開支、債務、索償及索求，包括經紀人追討保證金帳戶有關的或欠付經紀人的債務而引致的法律費用及催收代表費用（按全額彌償基準計算），客戶會向經紀人及其董事、僱員、代理人或代表作出全面彌償。
- 20.6 客戶需要支付和彌償經紀人（無須提出要求）所有經紀人佣金、有關權益的付款、催繳、費用、佣金、印花稅、分股費用和由於客戶違約導致經紀人產生的任何其他合理費用和支出，包括但不限於客戶未能提供款項、證券及/或其他資產以維持不時適用的證券價值要求。
- 20.7 客戶無條件且不可撤銷地放棄阻止經紀人強制執行對抵押財產的經紀人權利；並且客戶同意彌償經紀人及其高級職員、僱員、代理人或受讓人由於持有抵押財產而產生的所有支出、費用、債務、索償和索求，包括將抵押財產記入經紀人在香港結算和其他類似結算系統持有的任何帳戶，或經紀人及其高級職員、僱員、代理人或受讓人就信貸安排實施的任何合法行為。
- 20.8 在信貸安排函件之日期後，若由於任何原因出現信貸安排成本增加及/或貸款淨收益降低，則客戶應按要求，向經紀人彌償經紀人確認無誤的增加成本或減少的收益，或在經紀人的上述要求之後24小時內向經紀人償還所有款項。
- 20.9 就購買及/或出售任何產品而言，經紀人可根據第20.10(a)條向客戶招攬銷售或建議產品或提供投資諮詢服務；及/或客戶可根據第20.10(b)條在沒有經紀人的任何招攬或建議或與之不一致的情況下進行交易。經紀人向客戶提供有關產品或服務的任何廣告、市場推廣或宣傳材料、市場資料或其他任何資料，其本身不會構成招攬銷售或建議任何產品或服務。
- 20.10 就與經紀人進行購買或出售產品交易：
- (a) 如經紀人向客戶招攬銷售或建議任何金融產品，該金融產品必須是經紀人考慮客戶的財務狀況、投資經驗及投資目標後而認為合理地適合客戶的。本條款及細則的其他條文或任何其他經紀人可能要求客戶簽署的文件及經紀人可能要求客戶作出的聲明概不會減損本條文的效力。

## 17. 證券的虧損或損害

對無論由於任何原因而引起的任何抵押財產的虧損及/或損害及/或價值減損，經紀人並不承擔任何責任，除非該虧損及/或損害及/或減損為無合理疑點證明下是由於經紀人故意造成該虧損或損害的重大過錯、故意違約或不當行為所導致。

## 18. 對索償的彌償等

18.1 若任何人士就信貸安排或抵押財產對客戶及/或經紀人提出任何訴訟或司法程序、索賠或索求，則客戶應全額彌償經紀人的任何虧損、費用或支出，包括在上述訴訟或司法程序中可能產生的所有法律費用或其他專業人員費用。

18.2 在出現第18.1條規定的情形時，經紀人有權採取其認為必要的措施，包括暫停向客戶支付或交付抵押財產或其任何部分。

18.3 本條款的任何規定均不得解釋為經紀人有責任及義務就任何訴訟或司法程序、索償或索求採取任何措施。

## 19. 保證金帳戶結單

客戶要詳細核對與保證金帳戶有關的所有結單，若自結單發出之日起計14日內，客戶未以書面形式就任何差異通知經紀人，則除非有明顯錯誤之外，客戶同意其認可該結單中所列項目均為正確，並且對客戶具有決定性作用。若客戶未收到保證金帳戶的每月結單，則客戶將立即書面通知經紀人的合規部門。

## 20. 責任與彌償

20.1 在經紀人無不誠實或故意違約的情況下，對於客戶因經紀人或其董事、僱員、代理人或代表的任何行為、意見、陳述（明示或默示的）、違約或不作為所引致的任何虧損、損害、傷害或法律責任，不論該等虧損、損害、傷害或法律責任是由於經紀人或其董事、僱員、代理人或代表違約或任何其他任何原因所導致，經紀人概不負責。

20.2 在任何情況下，對於客戶由於經紀人根據客戶作出的指示執行交易，不論該指示是否按照經紀人或其董事、僱員或代理人提出或暗示之建議、意見或觀點而作出，而所引致的任何直接或間接的虧損、開支或損害（無論是基於疏忽或其他原因所致），經紀人及其董事、僱員或代理人均不承擔任何責任。此外，經紀人或任何經紀人的集團公司無需為任何無法控制事件直接或間接導致的後果負責，包括但不限於政府限制、實施緊急狀態、交易所裁決、第三方行為、停牌或停市、通訊設備的故障或停頓、戰爭、罷工、市場情況、騷動、恐怖主義行為或威脅、自然災害或經紀人無法控制的任何其他情形，包括經紀人及/或其代理人、供應商、賣方或交易對手的任何器材或相關軟件的資料、運算、輸出、運作以及其他功能所引起的錯誤和虧絀不足。

人士所作出或遺漏作出或忽略作出的任何其他事宜，或任何其他交易、事實、事項或事物，若在沒有本條規定的情況下，可能在運作上損害或影響客戶在本業務條款項下的法律責任。

## 14. 持續擔保

經紀人抵押應為持續擔保，不受任何中期支付、帳戶結算或全部或部分清償客戶欠付經紀人的任何款項的影響，也不受客戶終止其在經紀人處開立的客戶帳戶，或此後客戶單獨或與他人共同開立帳戶或重新開立帳戶的影響，並且擔保應適用於當時客戶於任何帳戶或以上所述的其他原因欠付經紀人的全部或任何到期款項餘額。

## 15. 持續有效

- 15.1 經紀人未能接受任何擔保或接受任何無效之擔保或經紀人目前或將來就墊付或將要墊付給客戶的款項之應用所達成的任何協議，均不影響經紀人抵押的效力。
- 15.2 客戶組織形式的任何變化或在任何時候對經紀人抵押承擔擔保責任的人士、商號或公司、或其他實體的組織變化，均不影響或解除經紀人抵押的效力。若客戶為一家商號，則在該商號解散時經紀人實際收到該商號解散通知之前，經紀人抵押應用以支付該商號或以該商號名義承擔的全部負債和責任。但是若僅僅由於一個或多個合夥人加入而導致該商號解散，則經紀人抵押應繼續有效，並且除適用於舊商號欠付的債務和責任之外，同時適用於新商號所欠或承擔的所有款項和責任，如同該商號組織並無任何變化，商號有意使該新合夥人承擔商號此前的負債和責任。
- 15.3 本業務條款中的規定具有約束力，即使經紀人與任何其他公司合併、經紀人實施重組而將所涉的全部或部分資產轉移至新設立公司或經紀人將其全部或部分事業和資產出售給其他公司亦然，以使本業務條款及/或任何信貸安排函件中所載的承諾和協議全面持續有效和生效，以及經紀人可轉讓獲授的利益和權利給任何此類公司執行，如同該公司已取代經紀人的位置一樣。該擔保亦適用於所有經紀人信貸安排和上述合併公司或重組後的經紀人或買入經紀人全部事業和資產的公司以類似方式提供的其他貸款融資。
- 15.4 即使經紀人在執行相關條款時出現任何疏忽或延遲，或已經或將繼續給予客戶任何容忍或寬限期，而根據本業務條款規定，經紀人的所有權利和權力均應持續全面有效。

## 16. 保證金帳戶的入帳

根據本業務條款收到的任何款項均應存放和記入按現金帳戶條款及細則第7條規定的獨立帳戶內，但經紀人無責任和義務運用該款項或其任何部分以清償客戶欠付經紀人的任何到期款項或債務。儘管有任何此類付款，若出現破產、清盤、清算、任何和解或安排等司法程序或類似情形，則經紀人可提出債權證明，並同意接受以任何股息或和解方式償還全部或任何部分款項和負債如同經紀人抵押未被設立。

保證、其他擔保、權利，或授予任何此等其他人士付款的寬限期或容忍，且不因此解除或以任何方式影響客戶根據本業務條款承擔的責任或擔保。經紀人可將從客戶或任何負有償還上述款項責任的人士處收取款項並用於任何可適用的帳戶或交易。

- 13.2 根據經紀人的要求，客戶應自行或通過經紀人認可的任何人士，就無論由於任何原因客戶對經紀人欠付的任何責任存入款項和提供經紀人滿意的進一步擔保（包括但不限於現金或證券）。
- 13.3 在不影響上述各項概括性的原則下，經紀人抵押及其保證的數額在任何方面將不因下列事項解除或對經紀人在其之權益不利地受到影響：
- (a) 經紀人或任何經紀人集團公司現時或此後根據或基於本業務條款或任何其他法律責任而持有的任何其他抵押、擔保或彌償保證；
  - (b) 對任何抵押、擔保或彌償保證或其他文件進行任何其他更改、修改、豁免或解除（包括經紀人抵押，但有關更改、修改、豁免或解除的範圍除外）；
  - (c) 經紀人或任何經紀人集團公司強制執行或沒有強制執行或解除任何抵押、擔保或彌償保證或其他文件（包括經紀人抵押）；
  - (d) 不論是經紀人或任何經紀人集團公司對客戶或任何其他人士給予任何時間寬限、寬免、放棄權利或同意；
  - (e) 不論是經紀人或任何其他人士對客戶所作出或沒有作出的根據本業務條款須支付的任何款項的任何付款要求；
  - (f) 客戶無力償債、破產、死亡或精神失常；
  - (g) 經紀人與任何其他人士可能進行的任何合併、兼併或重組或向任何其他人士出售或轉讓經紀人全部或任何部份業務、財產或資產；
  - (h) 存在客戶可於任何時候對經紀人或任何其他人士提出的任何申索，抵銷或其他權利；
  - (i) 經紀人與客戶或任何其他人士訂立的任何安排和妥協；
  - (j) 有關信貸安排的任何文件的條文或任何抵押、擔保或彌償保證（包括經紀人抵押）或在任何該等文件或任何抵押、擔保或彌償保證（包括經紀人抵押）之下及有關人士的權利或義務的不合法性、無效或不可強制執行或存在任何缺陷，不論原因是基於越權、不符合有關人士的利益或未經任何人士妥為授權、簽立或交付或因為任何其他原因；或
  - (k) 任何根據有關破產、無力償債或清盤的任何法例可以避免或受其影響的協議、抵押、擔保、彌償保證、付款或其他交易，或經紀人根據任何此等協議、抵押、擔保、彌償保證、付款或其他交易給予或作出的任何免除、和解或解除，而任何該等免除、和解或解除據此須被視作受到限制；或經紀人或任何其他

## 10. 出售證券所得收益

10.1 根據第8條規定，出售證券所得收益或根據客戶不時之指示出售任何證券所得的收益，均應按以下先後順序予以運用，但是任何餘額均應支付給客戶或按客戶指示支付或以其他方式記入保證金帳戶：

- (a) 支付所有費用、收費、法律費用和支出，包括經紀人在轉讓和出售全部或任何抵押財產或證券（視情形而定）或完善相關所有權時正當產生的印花稅、佣金和手續費；
- (b) 根據信貸安排的規定向經紀人支付當時到期之利息；
- (c) 客戶根據信貸安排欠付經紀人或任何經紀人的集團公司的所有其他到期款項和負債；及
- (d) 根據以上第2.4條規定的支付方式將剩餘收益支付給客戶。

10.2 經紀人可將可能收到的或應收的有關抵押財產的任何股息、利息或其他款項予以運用如同根據本業務條款規定的出售收益運用，儘管該出售權可能尚未出現，以及經紀人可能已向客戶支付上述任何股息、利息或其他款項。

## 11. 行使表決權

除非發生違約事件，否則經紀人享有絕對酌情決定權（而非任何義務）指示持有抵押財產（或其任何相關部分）的任何人士出席會議及/或根據客戶的指示（若有）行使構成抵押財產的證券中所附有的表決權，但是對有關指定人士的任何過錯，無論是否由於未出席會議及/或未行使表決權及/或未發出會議通知及/或任何其他原因，經紀人不承擔任何責任。此外，經紀人也無責任進行調查、在會議上行使表決權或出席該會議（或採取與此有關的任何行動，除非在發行抵押財產的公司規定的到期日之前3個營業日，收到客戶書面指示並且達成附帶條件包括按經紀人要求向經紀人提供彌償）。在發生違約事件之後的任何時間內，經紀人可指示任何指定人士出席會議及/或按經紀人以絕對酌情決定的方式行使表決權。

## 12. 證券催繳

在經紀人抵押持續期間內，客戶應支付與抵押財產有關的所有催繳或其他到期款項，但是若經紀人認為適當，則經紀人亦可代表客戶支付此類款項。客戶應立即償還經紀人按上述規定支付的任何款項，並且在償還此類款項之前，該款項應按現行利率計算利息和抵押給抵押財產。

## 13. 附加擔保

13.1 經紀人抵押不排除也不影響經紀人現時或此後對客戶持有的任何抵押品或擔保或其他證券。經紀人由於任何其他原因享有此類抵押品或其他擔保或任何留置權（包括在本業務條款之前已享有的任何擔保、抵押或留置），或並非本業務條款當事人的人士就本業務條款所擔保的全部或部分款項和承擔的責任，均不得以任何方式受經紀人抵押的損害或影響。經紀人享有全面的自行決定之酌情權力處理、交換、解除、修改或放棄完成或執行經紀人現時或此後持有的

## 7. 抵押保證金帳戶和證券

保證金帳戶中的所有貸方款項和所有證券及客戶對所有證券享有的所有權利（為免生疑問，應包括本業務條款日期之前保證金帳戶中的所有貸方款項和所有證券及客戶對所有證券享有的所有權利）已經或將會由經紀人或經紀人的代理人或指定人士因任何目的不時管有、保管或控制（包括任何額外或替代證券及上述證券、額外或替代證券的所有已付或應付的股息或利息，及在任何時間因贖回、紅利、優先購股權或其他原因而產生或提供之權利、權益、金錢或財產）（簡稱為「抵押財產」），均由客戶以實益擁有人身份以連續保證方式抵押給經紀人（簡稱為「經紀人抵押」），用以擔保支付根據信貸安排或其他安排的規定客戶或客戶集團的任何公司於現時或以後任何時間可能應付或欠付經紀人或經紀人集團的任何其他公司的所有款項和債務（不論是實際或或有）。

## 8. 執行抵押

- 8.1 若出現任何違約事件（定義見第29.1條），經紀人則可立即執行經紀人抵押。經紀人可在不通知客戶的情況下調撥、轉讓或抵銷構成抵押財產的全部或其任何部分款項，並通過任何經紀（包括本條款及細則中的經紀人）交易、通過公開或私人出售或以經紀人認為合適的其他方式及代價（不論是否為立即付款或交付或分期付款），並且對因此產生的任何損失不承擔任何形式的責任。
- 8.2 在不影響上述第8.1條的一般性規定的前提下，經紀人有權按相關證券的現行市場價格將構成抵押財產的任何證券賣出或處置給任何經紀人的集團公司，並且對因此產生的任何損失不承擔任何形式的責任，亦無須就經紀人及/或任何經紀人的集團公司所取得的任何利潤作出交代。
- 8.3 若根據第8條規定出售任何證券時無須出售或處置構成抵押財產的全部證券，則經紀人有絕對酌情權自行決定選擇出售或處置哪種證券。
- 8.4 若根據第8條規定出售證券後仍有不足之數，客戶承諾應按要求立即向經紀人補足及支付該不足之數。
- 8.5 在經紀人出售任何證券時經紀人的高級職員就可以行使出售權所出具的聲明書，對根據出售而獲得任何證券所有權的任何買方或其他人士而言是對相關事實的最終確證。

## 9. 抵押證券的所有權

除客戶向經紀人另有特別書面披露之外，客戶向經紀人聲明並擔保，客戶已擁有並且擁有將抵押財產存放於經紀人處的全面權利，同時該抵押財產上不存在任何留置權、抵押或任何類型的產權負擔（經紀人的任何擔保權益除外），也不受任何認購權的限制。構成抵押財產的任何證券均是，且將是全額繳清股款的證券。在經紀人收到客戶的任何證券及/或為客戶收到任何證券時，均視為客戶重複以上聲明和保證。



6.7 客戶必須在經紀人向客戶發出追收保證金通知後在切實可行時間內，或經紀人在追收保證金通知內訂明的該其他時段內採取以下一項或多項行動：

- (a) 償還部分或全部結欠金額；
- (b) 按經紀人接納的形式和貨幣，向經紀人提供額外擔保；
- (c) 在經紀人同意的前提下，安排以任何形式和方法出售、處置或贖回構成擔保一部分的部分或全部資產（所得款項將用作扣減結欠金額）；
- (d) 在經紀人同意的前提下，將帳戶內或客戶於經紀人或經紀人的集團公司存置的其他帳戶內的任何現金餘額用作償還結欠金額；
- (e) 減少及/或結清客戶的部分或全部未完成指示及/或未平倉交易；及
- (f) 採取經紀人認為必需的任何其他步驟，

以符合抵押品要求，並確保在信貸安排下動用的金額不超過證券價值。

6.8 客戶應確保其本身或客戶委派的、並已書面通知經紀人的負責代表客戶收取追收保證金通知的獲授權代表可從經紀人接獲任何有關追收保證金的訊息，並可在經紀人指定的時限內從速採取行動。

6.9 客戶同意：

- (a) 盡其最大的努力管理信貸安排，以免被追收保證金；及
- (b) 在任何時候如被追收保證金而經紀人沒有按照第6.4條發出通知，或根據第6.6條無須採取行動：
  - (i) 不代表經紀人放棄有關權利，亦不代表經紀人放棄在日後任何時間行使的權利；及
  - (ii) 經紀人並無責任採取任何行動，透過行使經紀人在本業務條款下的權利而停止或限制客戶的損失（例如經紀人可拒絕採取第29.2條所述的任何行動）。

6.10 對因應保證金通知採取行動而言，時間為關鍵要素。

6.11 在不影響經紀人在本業務條款項下權利及權益的前提下，抵押品或所提供的抵押權益之經濟或財務效力不得因以下各項而受到影響，即任何抵押品分拆、合併或分類的更改，或者當中任何一項，或者其股份構成抵押品全部或部份的任何公司或實體改組或與任何公司或實體合併，或者客戶或發行任何抵押證券的公司或實體進一步發行股本或股本衍生工具或授予期權，或者客戶或發行任何抵押證券的公司或實體籌集進一步債務。如果在客戶沒有經經紀人事先書面同意下，抵押品或抵押權益的經濟或財務效力因任何上述事件受到影響，經紀人可酌情決定要求客戶立即償還貸款。

- (c) 應確保所有首筆和後續保證金存款和付款以已結清資金付清及以經紀人行使酌情權決定的貨幣支付。

6.3 為免生疑問和儘管存在其他相反的條款或表述（無論是在本業務條款、信貸安排函件還是其他文件）：

- (a) 經紀人有權不時審核和變更有關證券價值的要求（包括但不限於規定證券價值的金額和價值）。經紀人可全權自行決定此類變更且無須就此作出任何說明。有關證券價值要求的任何變更（無論價值增減），均將適用於客戶的現有證券和該變更之後客戶的證券；
- (b) 為免生疑問，若客戶未按經紀人規定時間並根據經紀人的催繳支付保證金，則在無須通知客戶的情況下，經紀人有權（不影響經紀人的其他權利）終止保證金帳戶，並且有權處置為客戶或代表客戶持有的任何或全部證券以及有權運用所得收益和任何現金存款，以支付客戶欠付經紀人的所有未清償餘額。若有任何餘款應歸還客戶；及
- (c) 客戶在任何時候未能履行證券價值要求均應被視為違約事件，而經紀人可全權自行決定清算客戶的帳戶。

6.4 如須追收保證金，經紀人將採取合理步驟通知客戶或客戶委派的、並已書面通知本公司的一名負責代表客戶收取追收保證金通知的獲授權代表。經紀人可以口頭、書面（包括電郵、短訊或其他媒介）或經紀人認為適當的任何其他方式追收保證金。客戶確認：

- (a) 如客戶指定由某位代表代其收取通知，客戶可能未能親身接獲經紀人的通知；及
- (b) 如未能通知客戶追收保證金一事，或客戶未能接獲追收保證金通知，均不會影響經紀人在業務條款下的任何權利。

6.5 在不影響第6.4條的一般性的原則下，客戶確認及同意經紀人並無責任為追收保證金而按照業務條款所載的任何電話號碼（或客戶可能不時以書面通知經紀人的任何其他電話號碼）透過電話聯絡客戶。

6.6 縱然第6.4條已有規定，當經紀人單方面認為經紀人通知客戶追收保證金一事並不可行，當中包括（但不限於）因涉及以下各方面的轉變或發展以致不可行的情況：

- (a) 本地、國際、國際金融體系、財經、經濟或政治環境或外匯管制的狀況，而此等已經或可能出現的轉變或發展已構成或經紀人認為可能構成對香港及/或海外證券、外匯、商品期貨市場的重大或不良波動；或
- (b) 此等轉變或發展已經或可能在性質上嚴重影響客戶的狀況或運作，

則經紀人可在出現上述轉變或發展後，全權酌情隨時根據第29.2條採取任何行動，而無須通知客戶或客戶委派的、並已書面通知經紀人的負責代表客戶收取追收保證金通知的獲授權代表。

- (d) 將任何客戶證券抵押品存放於任何其他認可結算所或其他獲發牌進行證券交易的中介人，作為解除和清償經紀人之結算義務和責任的抵押品；及
  - (e) 如經紀人在進行證券交易及經紀人持牌或登記進行的任何其他受規管活動過程中向客戶提供財務融通，即可按上述 5.2 (a)、5.2 (b)、5.2 (c) 及/或 5.2 (d) 條之規定，運用或存放任何客戶證券抵押品。
- 5.3 客戶確認和同意經紀人可實施第5.2條規定的任何行為，無須向客戶發送任何通知。
- 5.4 客戶亦確認客戶證券常設授權不影響經紀人為清償由客戶或代表客戶對經紀人、經紀人的關聯實體或第三方所欠之債務，而處置或促使經紀人的關聯實體處置客戶證券或證券抵押品的權利。
- 5.5 客戶理解客戶證券上可能存在第三方權益，經紀人必須在清償該權益之後才能將客戶證券交還客戶。
- 5.6 客戶證券常設授權自客戶協議之日起有效 12 個月，並可由客戶續期或視為按第 5.8 條所述根據《客戶證券規則》之規定續期。
- 5.7 客戶在向開戶申請表中指定的經紀人所屬地址之文件控制部門或經紀人書面通知客戶與此目的有關的任何其他地址發送書面通知，即可撤銷客戶證券常設授權。此類通知應自經紀人實際收到該通知之後七（7）個營業日生效，前提是客戶當時沒有欠經紀人或其任何關聯實體的未償債務。
- 5.8 客戶理解經紀人在客戶證券常設授權有效期屆滿前至少 14 日之前，向客戶發出書面通知，提醒客戶相關授權的有效期即將屆滿，而在該期限屆滿之前如客戶並未向經紀人註冊營業地發送書面異議，則應視為該授權在無須客戶書面同意的情況下即可持續續期。

## 6. 證券價值

- 6.1 可供客戶使用的信貸安排最高金額為信貸安排函件中列明的最高金額或證券價值，以兩者中較低者為準。若證券價值低於客戶欠付經紀人的信貸安排的未償還餘額，則客戶承諾按經紀人首次要求，立即存入現金或提供經紀人認可的金額的附加擔保，以確保證券價值始終等於或超過客戶欠付經紀人的信貸安排的未償還餘額。
- 6.2 客戶：
- (a) 應維持和不時根據經紀人要求，立即向經紀人存入（或確保存入）、記入或按經紀人指示存入根據第7條規定向經紀人抵押的此類證券或款項；
  - (b) 不可撤銷地授權和指示經紀人不時將保證金帳戶中持有的任何證券轉讓或安排轉讓給經紀人，或根據經紀人的指示轉讓或安排轉讓，而該等證券是客戶將根據第7條規定向經紀人抵押的證券；及

- (b) 將其存入以經紀人或其關聯實體（視情形而定）的名義在認可財務機構、核准保管人或獲發牌進行證券交易的其他中介人處開立的帳戶；或
- (c) 以客戶、經紀人或經紀人相關實體的名義登記客戶證券。

4.3 客戶應自行承擔根據以上第4.1條和第4.2條由經紀人、經紀人的任何關聯實體、銀行、金融機構、保管人或中介人保管的任何證券及證券抵押品產生的風險。經紀人、經紀人的任何關聯實體、銀行、金融機構、保管人或中介人均無責任就任何類型的風險為客戶購買保險，客戶應自行承擔購買保險的責任。

4.4 若存放於經紀人處但未以客戶名義登記的證券產生任何股息或其他分配或利益，則經紀人應按其代表客戶所持證券佔該等證券總數或總額的比例，將相同比例的利益記入保證金帳戶（或按約定向客戶付款）。

4.5 若存放於經紀人處但未以客戶名義登記的證券產生任何虧損，則經紀人應按其代表客戶所持證券佔該等證券總數或總額的比例，將相同比例的虧損從保證金帳戶中扣除（或按約定由客戶付款）。

4.6 根據《客戶證券規則》的規定，在獲得客戶就結清客戶或代表客戶欠付經紀人、其關聯實體或第三方的任何債務而作出的口頭或書面指示或常設授權後，經紀人應：(i) 有權將客戶的任何證券或證券抵押品存放、轉讓、處置、借出、抵押、轉押或以其他方式進行相關處理；及 (ii) 有絕對酌情決定權確定處置哪種客戶證券或證券抵押品。

4.7 經紀人有交付、妥為保管或以其他方式持有或以客戶名義登記代表客戶買入或取得的證券之責任，任何交付、持有或以客戶或客戶的指定人員的名義登記證券，而且該等證券的類別、面額、面值及所附權利與經紀人代表客戶最初存放、轉讓或取得的證券相同（但是受該期間內可能產生的任何資本重組的限制），則應屬於經紀人已全面履行其責任及義務。經紀人無須交付或歸還與此類證券的數量、類別、面額、面值及所附相關權利完全相同的證券。

## 5. 客戶證券常設授權

5.1 有關處理客戶證券或證券抵押品的客戶證券常設授權列於本第5條。

5.2 客戶授權經紀人：

- (a) 根據證券借貸協議規定運用任何客戶證券或證券抵押品；
- (b) 將任何客戶證券抵押品存放於認可財務機構，作為該認可財務機構向經紀人提供財務融通的抵押品；
- (c) 處置任何證券抵押品，以清償 (i) 客戶承擔的維持約定保證金水平的責任；及 (ii) 客戶對經紀人欠付或產生的任何其他到期債項；

- (c) 存入客戶在任何財務機構的帳戶；及/或
- (d) 在客戶已按經紀人之要求填妥文件時，支付給客戶指定的且經紀人批准的任何第三方。

### 3. 付款和利息

- 3.1 儘管有任何其他條款規定，根據信貸安排而墊付的款項及/或欠付經紀人的款項均須在首次要求還款之日連同利息一併償還。
- 3.2 就客戶根據信貸安排欠付經紀人的任何款項，客戶應按經紀人不時訂明的利率向經紀人支付利息。
- 3.3 利率的任何變更均應由經紀人通過發送通知或以其他方式公佈來執行，並且修改之利率應自相關通知中所指定之日期起開始生效。有關通知具有追溯效力，生效日期最早可追溯至發送或公佈上述通知的當月之首日。
- 3.4 若在款項到期時（在無須要求的情況下）客戶未能向經紀人支付任何到期款項，則經紀人有權（在法律允許的最大範圍內）根據第3.2條規定所適用的利率或第3.3條中經紀人不時規定的其他此類違約利率向客戶收取該款項的利息，計息期由有關款項到期日起至實際支付之日止。
- 3.5 向經紀人支付的全部款項（不論款項性質如何）均不含任何扣款、抵銷、索賠及/或交叉索賠。若客戶受制於法律須在支付任何款項時作出任何扣款，則客戶應提高支付額度，以確保經紀人於扣除相關扣款後，仍能獲得全額款項。
- 3.6 為釐定在任何時候有可供使用的信貸安排金額，經紀人有權不時運用抵銷權利用證券的銷售收益和保證金帳戶中或為保證金帳戶持有的其他應收款或款項，以抵銷客戶不時欠付經紀人的信貸安排中的未清償之餘額。

### 4. 保證金帳戶中的證券

- 4.1 客戶特別授權經紀人對於客戶存放在經紀人處或經紀人代表客戶買入或取得並由經紀人保管的所有證券，以經紀人關聯實體的名義或以客戶的名義登記該證券，或存入被指定為信託帳戶或客戶帳戶的獨立帳戶，該帳戶由經紀人或其關聯實體在香港境內與認可財務機構、核准保管人或根據《客戶證券規則》第5條規定獲發牌進行證券交易的其他中介人開立和維持。
- 4.2 根據《客戶證券規則》第5條規定，客戶特別授權經紀人就存放在經紀人處的所有證券抵押品，或由客戶或其代表以其他方式向經紀人提供的證券抵押品：
  - (a) 將其存入獲指定為信託帳戶或客戶帳戶的在經紀人或其關聯實體與認可財務機構、核准保管人或獲發牌進行證券交易的其他中介人開立及維持以持有經紀人的證券抵押品的獨立帳戶作妥善保管；

**「現金帳戶條款及細則」** 是指由經紀人發予客戶，有關在經紀人處開立現金帳戶的相關條款及細則，及不時就此作出的修改和更新；及

**「業務條款」** 是指本條款及細則、客戶協議及信貸安排函件中載有的任何其他條款及細則；以上三份文件應被視為同一份文件閱讀。

- 1.2 在客戶開立保證金帳戶後，並且就本業務條款及客戶協議而言，客戶協議中所使用的「帳戶」一詞應是指「保證金帳戶」（若適用）。
- 1.3 在文意允許時，客戶協議中所指的詞彙應具有與本業務條款中使用的詞彙相同的含義，但客戶協議中所指的已具編號的條款則是指本業務條款的相應條款。
- 1.4 附加的條款標題僅為方便閱讀，並不影響各條款及細則的釋義及解釋。

## **2. 信貸安排**

- 2.1 根據本業務條款及以簽署及交付且形式內容均符合經紀人要求的任何文件所規定，包括但不限於客戶證券常設授權，經紀人可按其絕對酌情權決定認為適當的期間內，向客戶就保證金帳戶提供信貸安排。信貸安排應持續有效，直至經紀人終止或暫停該信貸安排（無須通知客戶）。
- 2.2 作為授予客戶信貸安排的代價，經紀人和經紀人集團的各公司可根據本業務條款之規定，獲得對客戶保證金帳戶之權利。信貸安排的最高金額、利率和適用於客戶的任何其他條款均由經紀人不時向客戶發送的信貸安排函件或任何通知中告知客戶，但同時亦應受該等函件及通知中的任何特定條件的規定約束。經紀人可以絕對酌情權決定變更此類信貸安排函件或通知中所載的條款及細則。
- 2.3 客戶授權經紀人和任何經紀人的集團公司可於任何時候且在無須通知客戶的情況下，代表客戶從信貸安排中提款，以支付客戶因購買證券而欠付經紀人或任何經紀人的集團公司的到期或不足之款項、佣金及/或其他支出。
- 2.4 在收到客戶書面要求使用信貸安排以結清任何未清償付款、抵銷或與保證金帳戶中證券交易有關的其他相關用途，並且在經紀人行使絕對酌情權決定接受該要求而無須就當中原因作出任何說明時，經紀人應按上述規定從信貸安排中提取客戶要求的金額或經紀人批准的其他相關金額記入保證金帳戶，並應透過以下任何一種方式付款：
  - (a) 按經紀人批准的金額開出以客戶為收款人的支票，郵寄至經紀人所知的客戶最新地址，但是郵寄過程中的風險由客戶自行承擔；
  - (b) 將支票存入或將款項轉入客戶的銀行帳戶及/或客戶簽訂之開戶申請表中指定的收款人銀行帳戶（以正式書面通知經紀人的變更為準）；

|                  |  |
|------------------|--|
| 「客戶證券常設授權」       | 是指由客戶按第5條及不時就此作出修改之規定向經紀人授予的常設授權；  |
| 「違約事件」           | 與本條款及細則第29.1條所規定含義相同；  |
| 「信貸安排」           | 是指根據本業務條款和證券交易所需有關保證金帳戶中的信貸安排函件之規定，以及經紀人不時批准的任何其他相關目的，由經紀人向或即將向客戶提供的財務通融，包括購買和持有證券；                                    |
| 「信貸安排函件」         | 是指根據本業務條款由經紀人簽發或即將簽發予客戶的有關授予信貸安排的信貸安排函件；   |
| 「港元」             | 是指香港的法定貨幣港元；   |
| 「香港結算」           | 是指香港中央結算有限公司；  |
| 「保證金」            | 是指存款、抵押品和保證金（包括但不限於首筆保證金及追加保證金），其金額相當於經紀人代表客戶持有或買入的客戶證券當時市值的適用比例（由經紀人不時通知客戶），具體由經紀人不時決定；                               |
| 「保證金帳戶」          | 是指客戶在經紀人處開立或即將開立的任何交易帳戶或子帳戶，用於通過信貸安排執行證券交易；  |
| 「個人資料（私隱）條例客戶通知」 | 是指經紀人向客戶簽發的有關《個人資料（私隱）條例》（香港法例第486章）的通知，以及不時對此作出之修訂和更新；  |
| 「證券」             | 包括《證券及期貨條例》附表一中所規定的涵義，但為免生疑問，也包括認股權證、未上市證券（包括互惠基金）、準備在聯交所上市的證券及/或在任何交易所或任何場外市場交易的任何證券；                                 |
| 「證券價值」           | 是指客戶不時存放於經紀人處的保證金帳戶內證券的總折現值，以經紀人參考相關證券在交易所或任何場外交易市場的最後收市價或由經紀人全權決定的合適價格，按其絕對酌情權不時決定的折現率來估計（為免生疑問，經紀人可以衡量某些證券價值為零或無價值）； |
| 「證監會」            | 是指香港證券及期貨事務監察委員會；  |
| 「保證金帳戶結單」        | 是指經紀人向客戶提供的任何保證金帳戶結單；  |

# 保證金帳戶條款及細則

本條款及細則中規定了操作閣下在本公司開立或即將開立的以信貸安排（定義見下文）交易及處理證券所用帳戶時，閣下作為客戶及我們作為經紀人享有的權利及承擔的責任。以下所有條款及細則均具有法律約束力，因此請閣下在同意接受本條款及細則約束之前仔細閱讀。

附件一中列明的現金帳戶條款及細則應構成本條款及細則的組成部分。本條款及細則應視為是現金帳戶條款及細則的補充，是構成保證金帳戶條款及細則的重要組成部分。在適用情況下（應由經紀人以絕對酌情權決定此類適用性）和為免生疑問，除有關現金帳戶中現金結算的條款外，現金帳戶條款及細則中所載的所有其他條款均應適用於保證金帳戶客戶，如同保證金帳戶客戶即是現金帳戶客戶。若現金帳戶條款及細則與本條款及細則之間出現任何衝突，則以本條款及細則之規定為準。

## 1. 釋義

1.1 在本條款及細則中，以下詞彙及術語均具有右列所列的相應含義：

|            |   |
|------------|---|
| 「開戶申請表」    | 是指為開立一個或數個交易帳戶（其中包括現金帳戶、保證金帳戶、期貨帳戶及股票期權帳戶）而由客戶填寫並遞交予經紀人的開戶申請表，以及將由客戶填寫及簽署的與此有關的任何聲明、資訊、備註及陳述書（包括風險披露聲明），連同適用的任何不時修訂的最新版本； |
| 「經紀人」      | 是指申萬宏源證券（香港）有限公司；   |
| 「經紀人抵押」    | 與本條款及細則第7條中所規定的含義相同；  |
| 「經紀人的集團公司」 | 是指經紀人的控權公司及此類控權公司的各家附屬公司；   |
| 「抵押財產」     | 與本條款及細則第7條中所規定的含義相同，並且包括抵押財產中的任何部分；   |
| 「客戶」       | 是指已簽署開戶申請表並向經紀人申請開立保證金帳戶的一名或多名人士；但若是由數人開立一個帳戶，則「客戶」是指全體開戶人士的統稱及各方的任何個人代表或相關權益繼承人以及相關許可受讓人；                                |
| 「客戶協議」     | 是指客戶正式簽署的本條款及細則、《個人資料（私隱）條例》客戶通知及開戶申請表；以上三份文件應被視為同一份文件閱讀；   |
| 「《客戶證券規則》」 | 是指證監會根據《證券及期貨條例》第148條的規定制定的《證券及期貨（客戶證券）規則》（香港法例第571H章）以及經不時修訂的新版本；  |



# 目錄

|                              |    |
|------------------------------|----|
| 1. 釋義 .....                  | 1  |
| 2. 信貸安排 .....                | 3  |
| 3. 付款和利息 .....               | 4  |
| 4. 保證金帳戶中的證券 .....           | 4  |
| 5. 客戶證券常設授權 .....            | 5  |
| 6. 證券價值 .....                | 6  |
| 7. 抵押保證金帳戶和證券 .....          | 9  |
| 8. 執行抵押 .....                | 9  |
| 9. 抵押證券的所有權 .....            | 9  |
| 10. 出售證券所得收益 .....           | 10 |
| 11. 行使表決權 .....              | 10 |
| 12. 證券催繳 .....               | 10 |
| 13. 附加擔保 .....               | 10 |
| 14. 持續擔保 .....               | 12 |
| 15. 持續有效 .....               | 12 |
| 16. 保證金帳戶的入帳 .....           | 12 |
| 17. 證券的虧損或損害 .....           | 13 |
| 18. 對索償的彌償等 .....            | 13 |
| 19. 保證金帳戶結單 .....            | 13 |
| 20. 責任與彌償 .....              | 13 |
| 21. 抵押財產內的證券抵押 .....         | 15 |
| 22. 解除抵押 .....               | 15 |
| 23. 計算錯誤 .....               | 15 |
| 24. 相關保證金客戶 .....            | 15 |
| 25. 保證金帳戶的提取 .....           | 15 |
| 26. 一般留置權 .....              | 16 |
| 27. 消極保證 .....               | 16 |
| 28. 暫停、終止和審查 .....           | 16 |
| 29. 違約 .....                 | 16 |
| 30. 聲明和保證 .....              | 17 |
| 31. 進一步保證 .....              | 18 |
| 32. 信貸安排的貨幣 .....            | 18 |
| 33. 多於一名人士構成的客戶 .....        | 18 |
| 34. 轉讓 .....                 | 19 |
| 35. 可分割性 .....               | 19 |
| 36. 翻譯 .....                 | 19 |
| 37. 遵守法律 .....               | 19 |
| 38. 通訊 .....                 | 20 |
| 39. 適用法律、司法管轄權和法律文件的送達 ..... | 20 |
| 40. 雜項 .....                 | 21 |
| 附件一 現金帳戶條款及細則 .....          | 22 |



**申萬宏源香港**  
**SHENWAN HONGYUAN**

申萬宏源證券(香港)有限公司

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**保證金帳戶條款及細則**

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申萬宏源證券(香港)有限公司  
香港聯合交易所有限公司交易所參與者及從事受證券  
及期貨事務監察委員會監管的  
第1類受規管活動(證券交易)的持牌法團  
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**請仔細閱讀本文件，  
文件內含重要條款！**