

## Terms and Conditions on Cash Management System Hong Kong

In addition to the provisions of the COMSUITE Basic Agreement<sup>1</sup> (the “Basic Agreement”), the terms and conditions set forth in these Terms and Conditions on Cash Management System Hong Kong (“these Terms and Conditions”) and further terms and conditions written in any manuals, instructions, user guides and other materials and information relating to the Services and all amendments, variations, and additions thereto, as made by the Bank from time to time shall be applied to the service(s) that are provided to the Customer by the Bank in accordance with these Terms and Conditions. If there is any conflict between the Basic Agreement and these Terms and Conditions, the provisions in these Terms and Conditions shall prevail, provided that, the provisions in these Terms and Conditions shall in no manner whatsoever restrict or invalidate any provisions in the Basic Agreement which restrict or limit the liability of the Bank or any indemnification provided to it.

### 1. Interpretation

All terms defined in the Basic Agreement shall, unless otherwise defined or redefined herein, have the same meaning in these Terms and Conditions. In these Terms and Conditions, the following terms shall have the following meanings:

“AutoCheque Instruction or Request”	an instruction or request received by the Bank through the Service to process cheques, made in accordance with the User Manual and indicated as given by the Customer;
“Autopay transfer”	a service for local low value fund transfer service for bulk payment or collection, includes “Auto Debit” and “Auto Credit”
“Bank Group”	Mitsubishi UFJ Financial Group, Inc., its affiliates, subsidiaries, associated entities and any of their branches and offices (together or individually)
“Bank Group Member”	any one of the corporations or entities that comprises the Bank Group;
“Business Day”	a day (other than Saturdays, Sundays, public holidays, or a day declared closed for business by the Bank or by Hong Kong Association of Banks) on which the Bank is generally open for business in Hong Kong;
“Content”	the information, text, images, links, sounds, graphics, video and other materials displayed at or made available through the Website and the Services;
“Designated Account”	a bank account with the Bank designated by the Customer and acceptable to the Bank;
“Electronic Instructions”	any communication, instruction, order, message, data, information or other materials received by the Bank via the Services and referable to the Customer’s Access Code and indicated as coming from the Customer or purporting to come from the Customer, including any AutoCheque Instruction/Request;
“Equipment”	all and any personal computers, modems, printers, peripheral devices, telephones, telephone lines, communication devices and other equipment with which the Customer accesses to and communicates through the Service;

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<sup>1</sup> For customer migrated from Regional Treasury Management System, COMSUITE Basic Agreement refers to COMSUITE Basic Agreement (For Migration).

“Faster Payment transfer”	a service for local low value fund transfer service for bulk payment or collection, includes “Faster Payment” and “Faster Payment (Collection)” transacted via Faster Payment System operated by Hong Kong Interbank Clearing Limited
“Materials”	all materials, instructions, User Manual, codes and other information used to gain access to the Service, records, files, documents and similar information and data relating to the Service;
“Delivery Day”	the day designated by the Customer to the Bank to execute an AutoCheque Instruction;
“Online Help”	guidelines and instructions on the use of the Services as may be provided by the Bank from time to time through the Website or the Services;
“Security Devices”	any OTP Tokens, electronic devices, hardware or any other equipment given by the Bank to the Customer from time to time in order to enable the Customer to access and/or use the Services;
“Service”	Cash Management System Hong Kong Services as described in the Materials, including Information Reporting Services, Funds Transfer Service, AutoCheque Service, Payment Notification Service and Electronic Notification Service;
“Service Agreement”	includes the Basic Agreement, these Terms and Conditions and, as the context may require, any further terms and conditions which shall apply to the Service (in each case, as amended and supplemented from time to time);
“Service Equipment”	the hardware, equipment, systems, cabling, and other materials which may be provided by the Bank and/or its affiliates from time to time for the Customer to access and/or use the Services.
“Website”	the Internet website at <a href="https://ebusiness.bk.mufg.jp/">https://ebusiness.bk.mufg.jp/</a> , or such other address or location as may be prescribed by the Bank from time to time, including the Content.
“User Manual”	the user’s guide and system administration guide and other manuals and guidance notes (all as amended or updated by the Bank from time to time) provided by the Bank for the Service.

## 1. Conditions of use of the Services

1.1. The Customer agrees to use the Services solely for its internal use and only in conformity with the terms and conditions of the Service Agreement. In particular, the Customer agrees to comply with all the notices, guidelines, rules and instructions pertaining to the use of the Services, Website, Access Codes, System and the Service Equipment, as well as any amendments to the Service Agreement, as may be issued by the Bank, including all operating rules or policies that the Bank may publish or make available at the Website or through the Services from time to time.

1.2. The Customer agrees and undertakes not to:

1.2.1. Access or use any software or material that contains a virus or damaging component which may corrupt the System or data on or provided through the Services, Website or the Service Equipment or interfere with the operation of the Services, Website and/or the Service Equipment;

- 1.2.2. Transmit any information through the Services, Website and/or the Service Equipment which the Customer knows or has reason to suspect contains any viruses or damaging components which may detrimentally interfere with the Services, Website and/or the Service Equipment; or
- 1.2.3. Use the Services, Website and/or the Service Equipment other than in conformance with the acceptable use policies of any connected computer networks and any applicable Internet standards.
- 1.3. The Bank shall, in its sole discretion, determine the daily hours during which the Service will be made available to the Customer and such hours may be changed by the Bank without prior notice to the Customer. The Service shall not be available on any bank holiday.
- 1.4. The Customer shall bear any risk of misunderstanding, error or loss resulting from the use of the Services and the Bank shall not be liable therefor.
- 1.5. The Customer agrees to provide the Bank with any information or documentation that the Bank may reasonably request relating to the Customer's use of the Services and shall cooperate with the Bank in any related investigation or litigation.
- 1.6. If the Customer intends to use the Service at any time to obtain access to and/or to effect transactions in the accounts of an Affiliated Company that are currently maintained or that may be established in the future with any member of the Bank Group (collectively the "Related Accounts") then the Customer shall deliver to the Bank from such Affiliated Company a letter authorizing and consenting to such activities substantially in the form prescribed by the Bank. The Bank shall have no obligation to provide the Service to the Customer with respect to any of the Related Accounts until the Bank has received such a letter in form satisfactory to the Bank from such Affiliated Company.

## **2. Prohibition**

- 2.1. Customer shall not under any circumstances:
  - 2.1.1. Grant the right to use, assign, sell, buy or lease the System (or any part thereof) to any third party, or create any security interest over the System (or any part thereof) for the benefit of any third party;
  - 2.1.2. Copy, sell, distribute, transmit, publicly display, rent, lease, export, publish or otherwise reproduce the System (or any part thereof) or any part thereof in any form by any means or allow any third party to do so;
  - 2.1.3. Adapt, modify, copy, change, translate, analyze, reverse-engineer, disassemble, de-compile or develop the System (or any part thereof) or do any similar acts with respect to the System (or any part thereof);
  - 2.1.4. Use the System (or any part thereof) other than in the manner and for the purposes

provided herein or designated by the Bank; or

2.1.5. Use the Software other than for the purposes of the Service Agreement.

- 2.2. The Customer shall not use the System (or any part thereof) other than in the manner provided herein, in the Manual and/or Online Help, or as may be designated by the Bank from time to time; or use the System other than for the purpose allowed under the Service Agreement.
- 2.3. No part or parts of the Website or any Content or Materials may be reproduced, distributed, republished, displayed, broadcast, hyperlinked, transmitted, adapted, modified to create derivative works or otherwise commercially exploited in any manner or by any means or stored in an information retrieval system without the Bank's prior written permission or other applicable copyright owner provided that permission is granted to download, print or use the Content for personal, non-commercial use only, provided further that the Customer does not modify the Content and that the Bank will retain all copyright and other proprietary notices contained in the Content.
- 2.4. The Customer also may not, without the Bank's permission, insert a hyperlink to the Website on any other website or webpage or "mirror" the Content on any other server.
- 2.5. The trademarks, service marks, and logo (the "Trade Marks") used and displayed on or through the Services are registered and unregistered Trade Marks of the Bank Group and others.
- 2.6. Nothing on the Services should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trade Marks displayed on or through the Services, without the written permission of the Bank or other applicable trade mark owner.
- 2.7. The Bank Group prohibits the use of the Trade Marks, the name of any member of the Bank Group, or any other trade mark owned by the Bank Group as a metatag or as a "hot" link to the Website or any other site unless establishment of such a link is approved in advance by the Bank in writing.

### **3. Fee and Costs**

- 3.1. The Bank reserves the right to impose fees and charges for the Services and for the provision or replacement of Service Equipment and/or Security Devices from time to time and to vary such charges and fees at its sole discretion by giving no less than one (1) month's prior notice to the Customer in writing or via an online notice through the Services.

### **4. Termination**

- 4.1. In addition to the events set out in Clause 9.2<sup>2</sup> of the Basic Agreement, the Bank may terminate the Service without notice if any of the following events occurs:

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<sup>2</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 12.2.

4.1.1 The Customer ceases to carry on or threatens to cease to carry on any part of its business, or the Customer sells, transfers, leases or otherwise disposes of the whole or substantially the whole of its assets, rights and undertakings;

4.1.2 A petition is presented, a proceeding is commenced, an order is made or an effective resolution is passed or any other steps are taken by any person for the commencement of bankruptcy proceedings, civil rehabilitation proceedings, liquidation, winding up, insolvency, judicial management, administration, reorganization, reconstruction, dissolution of the Customer, otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction; and

4.1.3 If any party takes possession of all or any part of the business or assets of the Customer or distress, any execution or other legal process is enforced against the business or all or any part of the property of the Customer and such is not discharged within fourteen (14) days.

## **5. Electronic instructions**

5.1. The Customer agrees that the use of the Access Code issued to the Customer by the Bank (including OTP generated by the OTP Tokens) is adequate identification of the Customer. Further, the Customer authorizes the Bank to act on Electronic Instructions without obtaining any further written or other confirmation from the Customer, even if those instructions are not actually given or authorized by the Customer. Without prejudice to the generality of the preceding, where the Bank has confirmed the identity of the Access Code, the Bank shall be:

5.1.1. Entitled to treat any Electronic Instructions as the Customer's authentic and duly authorized Electronic Instructions and the Bank shall not be liable for any loss to the Customer by so doing; and

5.1.2. Under no obligation to investigate the authenticity or authority of persons effecting the Electronic Instructions or to verify the accuracy and completeness of the Electronic Instructions. Accordingly, the Bank may treat the Electronic Instructions as valid and binding on the Customer notwithstanding any error, fraud, forgery, lack of clarity or misunderstanding in the terms of the Electronic Instructions.

5.2. When the Bank receives an Electronic Instruction from the Customer through the Service, the Bank will be entitled to debit any payment as requested or instructed under such Electronic Instruction as well as any charges payable for the transaction (as may be stipulated by the Bank from time to time) from the account the Customer has specified. Once the Customer has given an Electronic Instruction through the Service, the Customer will not be able to reverse it. All Electronic Instructions will be deemed to be irrevocable and unconditional upon transmission through the Services and the Bank shall be entitled (but not obliged) to effect, perform or process such Electronic Instruction(s) without the Customer's further consent and without any further reference or notice to the Customer. The Bank will be under no obligation to reverse an Electronic Instruction the Customer has given; or to accept an Electronic Instruction that is

revocable, conditional or reversible or which requires the Bank to pay a third party or perform any other transactions sooner than the Bank would customarily carry out such transactions following the Bank's normal banking practices.

- 5.3. Without prejudice to Clause 5.2 above, if the Customer requests the Bank to reverse an Electronic Instruction after it has been given by the Customer via the Service, the Bank may at its sole discretion try to do so to the extent that this is possible under its internal rules and practices, subject to the Customer agreeing to pay any costs incurred by the Bank as a result of so doing.
- 5.4. Without prejudice to Clauses 2 and 3, the Bank may, at its sole discretion and without stating reasons, when the Bank believes it is justified in doing so:
- 5.4.1. Refuse to carry out an Electronic Instruction given via the Service;
  - 5.4.2. Require written, signed confirmation from the Customer of a particular Electronic Instruction before acting on such Electronic Instruction;
  - 5.4.3. Require that the Customer identifies itself by alternative means; or
  - 5.4.4. Refrain from acting promptly upon any Electronic Instructions in order to verify the authenticity thereof without incurring any responsibility for loss, liability or expense arising out of so refraining to act.
- 5.5. If the Bank comes to believe that the Customer may not have properly authorized an Electronic Instruction, the Bank will be entitled (but not obliged) to take steps to reverse any action taken on the basis of that Electronic Instruction. The Bank will not be responsible for any loss to the Customer that results from such a reversal.
- 5.6. The Customer agrees and acknowledges that its Electronic Instructions may not be processed immediately, around the clock or in a timely manner but the processing is dependent, among other things, on the time and day that such instructions are received by the Bank or the business hours of an exchange, fund manager or any other party processing the Electronic Instructions.
- 5.7. The Customer shall transmit Electronic Instructions to the Bank before the cut-off times specified by the Bank. The Customer acknowledges and agrees that the Bank may not receive and is not obliged to process Electronic Instructions that are sent after such cut-off times. Cut-off times specified by the Bank shall be determined in accordance with the Bank's internal or server clocks.
- 5.8. Account balance and transaction history
- 5.8.1. The data or information relating to the accounts provided by the Bank via the Services may not be conclusive as to the latest current balance as deposits, withdrawals or other applicable transactions may be made without the relevant entry being made in time when the data or information is provided. The data or information provided is therefore not binding unless it is explicitly declared as such.

5.8.2. In case of account closure, the data of information relating to the accounts will be stopped providing by the Bank via the Services within 1-2 working days of the account closure day, subject to corresponding digital records are removed from the core banking system.

## **6. Security measures**

- 6.1. The Customer shall adopt appropriate security measures to safeguard the System, Service Equipment and Access Codes from theft, access and/or use by any unauthorized person(s) and shall comply with the security provisions set out in the Manual and/or Online Help. The Customer's obligations in this respect shall include treating the Access Codes as highly confidential and using and guarding them with the utmost care. The Bank is entitled to assume that the access and use of the System, the Services and/or Service Equipment will be restricted to person(s) authorized by the Customer. The Customer shall immediately notify the Bank if it has knowledge that or has reason for suspecting that the confidentiality of the Access Code has been compromised or if there has been any damage to, loss, theft or unauthorized use of, the Access Code.
- 6.2. The Customer shall, subject to the terms and conditions of the Service Agreement, use the Access Code issued to it by the Bank to use and/or access the Services. All Security Devices provided to the Customer are and shall remain the exclusive property of the Bank. In the event of the termination or expiry of the Service or any other events designated by the Bank, or otherwise upon the Bank's request, the Customer shall forthwith return all Security Devices to the Bank and shall cease to use such Security Devices and shall take such further measures as the Bank may instruct.
- 6.3. The Customer must comply with any and all other requirements specified by the Bank to protect the security of the Customer's use of the Service, which are set out in the Manual and/or Online Help or notified by the Bank to the Customer in any other way.
- 6.4. The Bank reserves the right to change the type of Security Device used to access the Services without any consent from the Customer.
- 6.5. The Customer shall notify the Bank immediately if the Customer has any grounds to believe that the Services or Service Equipment has been or may be compromised, tampered with, stolen, misplaced, lost or misused or knowledge thereof has been or may be acquired by anyone other than the persons authorized by the Customer or if the Customer has any grounds to believe that there has been or may be any (other) breach of the security provisions set out in the Manual and/or Online Help. The Customer shall, upon the occurrence of such events, cooperate with the Bank and use its best endeavours to comply with the Bank's instructions in adopting remedial measures to contain, limit or prevent such event. Immediately upon becoming aware of a breach of security involving a Security Device, the Customer shall deactivate such Security Device and/or shall request the Bank to deactivate such Security Device, as the case may be. The Customer shall be liable for any losses or damages arising out of or in connection with any breach of security prior to the Customer's compliance with the Bank's instructions for the adoption of remedial measures in respect of such breach of security.
- 6.6. The Customer shall not disassemble or reverse engineer any Security Device or the System and



shall not cause any portion thereof to be copied, removed, adapted, modified or distributed in any form, in whole or in part.

- 6.7. The Customer's user name, password, Access Code and Security Devices may be dispatched by the Bank by registered mail to the Customer's last known address or in such manner as the Customer may advise, at the Customer's risk.

## **7. Information available through the services**

- 7.1. The Bank, its agents, its affiliates, third party service providers or licensors (including contributors of articles, reports, surveys and news) shall not be liable to the Customer or anyone else for any decision made or action taken by the Customer in reliance on any quotes, news and research data (collectively, the "market data") made available through the Services or for direct, indirect, incidental, special, consequential, punitive or any other damages whatsoever even if the Bank have been advised of the possibility of such damages.

- 7.2. All market data made available through the Services is for information purposes only. Specifically, such market data is not intended nor shall they be constructed as financial, tax or other advice or as an offer, solicitation or recommendation of securities or other financial products. The Customer acknowledges and agrees that the market data is provided by the Bank for the Customer's personal use and the Customer undertakes not to redistribute or transmit all or any of the market data to any third party (whether free of charge or for consideration, in any manner or form whatsoever), without the Bank's prior written consent.

## **8. Communication Networks**

- 8.1. In addition to the risks described in Clause 11.1<sup>3</sup> of the Basic Agreement, the Customer acknowledges that the risks include:

8.1.1. Risk of third parties gaining unnoticed access to the Customer's computer system during an Internet session;

8.1.2. Risk of third parties detecting the Customer's access to the Services and the Customer's communication with the Bank; and

8.1.3. Risk of intrusion or attack by any person, hardware, system, virus, Trojan horse, worm, bot and/or macro or other harmful components that may interfere with the Services, the web browser or the computer system of the Bank, the Customer or the network provider. The Customer shall not at any time challenge or dispute the adequacy, sufficiency or efficacy of any such security measures taken by the Bank.

## **9. Maintenance**

- 9.1. The Bank shall provide such maintenance services as the Bank may deem necessary for the System and the Bank reserves the right to appoint a third party to carry out such maintenance

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<sup>3</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 14.1.



services without the prior consent of the Customer.

- 9.2. The Bank may suspend the System temporarily, if required for the maintenance services for the System, in the event of unlawful interference by a third party with the System or the Services, or for such other justifiable reason as the Bank may consider appropriate.

## **10. Exclusion of Liabilities**

- 10.1. In addition to and without prejudice to Clause 15.1<sup>4</sup> of the Basic Agreement, The Bank shall also not be liable to the Customer for the damages caused by any of the following:

- 10.1.1. Denial of service attacks, spoofing, sniffing, hacking, mutating virus, worms and/or other forms of malicious or fraudulent acts;
- 10.1.2. failure to provide the Services where such failure results from any cause beyond the reasonable control of the Bank including, but not limited to, any failure or malfunction of the Customer's hardware and/or System or the Materials;
- 10.1.3. Customer's use of or reliance on any market data provided as part, or by means, of the Services;
- 10.1.4. activities performed under Clauses 12.1<sup>5</sup> and 12.2<sup>6</sup> of the Basic Agreement or Clause 9 hereof;
- 10.1.5. damages caused by any third party gaining access to information about the Customer's accounts as a result of the Customer using the Services;
- 10.1.6. unauthorized use of the Services under the Customer's Access Code; and
- 10.1.7. any access, use or the inability to access or use the Services, System, Website, Service Equipment or the Materials, or reliance on the Materials or Content, howsoever caused and regardless of the form of action (including tort or strict liability) even if any Bank Group Member or its agents or employees are advised of, or otherwise might have anticipated, the possibility of such loss, damages or expenses.

- 10.2. In addition to and without prejudice to Clause 15<sup>7</sup> of the Basic Agreement, the Customer further agrees that:

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<sup>4</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 18.1.

<sup>5</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 15.1.

<sup>6</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 15.2.

<sup>7</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 18.

10.2.1. Provided that the Customer has notified the Bank in reasonable detail and in a timely manner of any problems experienced in the use of the Services, System, Service Equipment, Materials, Website and/or the Content the Bank will use commercially reasonable efforts to correct such problems within a reasonable period of time (but without further liability if the Bank is unable to do so). Notwithstanding the aforesaid provision or any other provision of the Service Agreement, Services, System, Service Equipment, Materials, Website and the Content are provided on an “as is” and “as available” basis. Neither the Bank nor its licensors (including contributors of articles, reports, surveys and news) warrant the accuracy, adequacy, completeness, timeliness, quality, currency, reliability, performance, or continued availability of the Services, System, Service Equipment, Materials, Website and/or the Content and each of the Bank and its licensors (including contributors of articles, reports, surveys and news) expressly disclaims liability for errors or omissions or any delays in the delivery of the Materials and Content, or for any actions taken in reliance on the Materials and Content. No warranty of any kind, implied, express or statutory, including but not limited to the warranties of non-infringement of third party rights, title, merchantability, satisfactory quality or fitness for a particular purpose, is given in conjunction with the Services, System, Service Equipment, Materials, Website and/or the Content.

10.2.2. The Bank does not warrant that the Services, System, Service Equipment, Materials, Website and/or the Content will be provided uninterrupted or free from errors or that any identified defect will be corrected; further, no such warranty is given that the Services, System, Service Equipment, Materials, Website and/or the Content are free from any computer virus or other malicious, destructive or corrupting code, agent, program or macros.

10.2.3. The Bank does not warrant the security of any information transmitted by the Customer or to the Customer through the Services, System, Website or Service Equipment and the Customer acknowledges and accepts the risk that any information transmitted or received through the Services, System, Website or Service Equipment may be accessed by unauthorized third parties.

10.2.4. The Bank does not guarantee that any instructions given through the Services will definitely be communicated or carried out or that any transactions effected through the Services will definitely be performed and the Bank shall not be responsible for any delay in communicating, carrying out or performance of any instructions or transactions due to any reason whatsoever, including by reason of failure of operational systems for reasons including but not limited to virus attacks, natural calamities, floods, fire or other natural disasters, acts of God, legal restraints, faults in the telecommunication network or network failure, System or hardware error, labour problem, strike or any other reason beyond the reasonable control of the Bank.

10.2.5. Neither the Bank nor any Bank Group Member shall in any event be liable to the Customer or any other person for:

(i) Any indirect, incidental, special, consequential, punitive or economic loss, expense

or damage arising from or in connection with any access, use or the inability to access or use the Website, the Services, the Content, or reliance on the Content, howsoever caused and regardless of the form of action (including tort or strict liability); and

- (ii) Any downtime costs, loss of revenue or business opportunities, lost profit, loss of anticipated savings or business, loss of data, loss of goodwill or loss of value of any equipment including System,

Even if the Bank or any Bank Group Member has been advised of, or otherwise might have anticipated, the possibility of such loss, damage or expense.

## **11. Indemnity**

11.1. In addition to and without prejudice to Clause 16<sup>8</sup> of the Basic Agreement, the Customer shall fully indemnify the Bank, its nominees and agents and all Bank Group Members readily against any and all damages, losses (including indirect, direct or consequential losses), claims, demands, costs and expenses (including all economic loss, loss of or damage to any property or death of any person, taxes, duties, or other levies and legal costs between solicitor and client), suffered and incurred by the Bank its employees or agents, arising whether directly or indirectly from:

- 11.1.1. any act or omission, negligence, wilful default, misconduct or fraud of the Customer, its employees, agents, servants or independent contractors;
- 11.1.2. any breach of the Service Agreement by the Customer;
- 11.1.3. the Customer's use of and/or access to the Services or the Customer's disclosure of the Materials or confidential information to a third party;
- 11.1.4. costs and expenses incurred in relation to the execution of the Service Agreement (including stamp duties);
- 11.1.5. costs and expenses incurred in relation to the exercise and enforcement of the rights under the Service Agreement (including legal fees);
- 11.1.6. any infringement of any third party's intellectual property rights arising out of any changes made by the Customer to the System, Services and/or Service Equipment; and
- 11.1.7. any claim by a third party against the Bank or any Bank Group Member in respect of the above.

11.2. Without prejudice to Clause 18.1<sup>9</sup> of the Basic Agreement, the Bank may disclose the Service

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<sup>8</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 19.

<sup>9</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUITE Basic Agreement (For Migration) Clause 21.1.

Agreement and other related documents to (i) its employees, directors, professional (including financial and legal) advisors and their employees; (ii) the relevant competent authorities, courts or other governmental or regulatory bodies, any Bank Group Member, the head office or branches of the Bank holding the Accounts, any Financial Institution Concerned, any third party providing services to the Bank, including outsourcing services, data centre services, facilities management services, application service provider services and disaster recovery services; and (iii) where required to do so under any applicable laws and regulations.

11.3. Notwithstanding the provisions in Clause 18.1<sup>10</sup> of the Basic Agreement, the Customer consents to and authorizes the Bank, its officers or its agents to disclose to:

11.3.1. its representative offices, branches, a Bank Group Member, officers, agents, auditors or professional advisers, wherever situated, as the Bank shall consider appropriate for any such commercial, banking, administrative, funding or business purposes as the Bank deems fit;

11.3.2. any service provider (in Singapore, Hong Kong, Japan or elsewhere) where required for outsourcing operational, storage, maintenance, administrative and/or other functions of the Bank or any Bank Group Member; and

11.3.3. any person using (whether or not actually authorized) the Services through the Customer's Access Code,

all or any information of the Customer, Affiliated Company, its accounts or any financial products/services or proposed financial products/services, whether or not pursuant to any court order or as allowed by any regulation or law, as the Bank may consider necessary or appropriate in order to give effect to any Electronic Instructions or for any reasonable business purpose. Additionally, the Customer agrees that the Bank shall not be responsible or liable for or in respect of the disclosure of any information with respect to the Customer's accounts or transactions which occur as a result of any unauthorized access to the System, Access Codes, Service Equipment, Website or Services or in circumstances beyond the Bank's reasonable control.

11.4 The Customer will keep in secrecy all Materials and other information relating to the Services provided by the Bank. The Customer acknowledges the Bank's proprietary interest in the Materials and shall not disclose or release the Materials or any part thereof to any person(s) not authorized or approved by the Bank in whatever manner at all times and shall not copy the same or allow any person(s) to copy or have access to the same unless prior written approval has been obtained from the Bank who shall be entitled at its sole discretion to grant or refuse such approval. Upon termination of the Service for any reason, the Customer shall immediately cease use of, and promptly return to the Bank the Materials. The Materials shall at all times remain the property of the Bank and the Customer shall not alter, modify, enhance, remove, or reproduce part or whole of the Materials in any manner whatsoever except with the Bank's prior written approval.

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<sup>10</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUIE Basic Agreement (For Migration) Clause 21.1.

## **12. Administrators and Users**

12.1. In addition to and without prejudice to Clause 25.6<sup>11</sup> of the Basic Agreement, the Customer acknowledges and confirms that its Administrators and Users are severally empowered and authorized to give orders or instructions electronically through the Services and the Website on the Customer's behalf and shall act as the Customer's agent when accessing and/or using the Services and/or the Website. All use and/or access of the Services and/or the Website by the Administrators and Users shall be deemed the Customer's use. All references to the Customer's use of the Services and/or access to the Website in the Service Agreement shall be deemed to include the User's and/or Administrator's use and/or access where applicable. The Customer shall ensure that each of its Administrator and User is aware of, subject to and complies with the Service Agreement.

12.2 The Bank may direct notices relating to the Services to such address, telephone number or e-mail address as the Customer may have submitted in its registration(s) for Administrators and Users, in which case such notices shall be deemed to have been made to all Administrators and Users.

## **13. Notices**

13.1. Any notice (other than Electronic Instructions) to be given pursuant to the Service Agreement shall be given in writing and personally delivered or electronically mailed to or transmitted by fax or mailed by pre-paid mail to, (i) in respect of notices to the Customer, the last known business address, fax number and/or email address of the Customer registered with the Bank, or immediately upon the Customer getting access to the Service made available through the Bank's Website or by other electronic platforms for delivery of the Service, and (ii) in respect of notices to the Bank, its business address at 8/F., AIA Central, 1 Connaught Road Central, Hong Kong or such other address as notified by the Bank from time to time. The Customer shall be responsible to notify the Bank in the event of a change of the Customer's business address, fax number or email address, otherwise the Bank shall have the right to rely on the Customer's last known business address, fax number or email address.

13.2. Notice will be deemed given:

13.2.1. In the case of hand delivery upon personal delivery or registered mail upon written acknowledgement of receipt by an officer or other duly authorized employee agent or representative of the receiving party;

13.2.2. In the case of facsimile upon completion of transmission as long as the sender's facsimile machine creates and the sender retains a transmission report showing successful transmission; or

13.2.3. In the case of email on the date and time of transmission by the mail server operated by the sender and/or its service provider directed to the email address notified by

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<sup>11</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUIE Basic Agreement (For Migration) Clause 28.6.

the recipient, unless the sender receives a non-delivery or “returned mail” reply message or any error message indicating that the email was not successfully sent to the recipient’s mailbox or the mail server operated by the recipient or the recipient’s service provider; or

13.2.4. In case of the Service having been made available to the Customer, immediately upon the Customer getting access to the Service through the Bank’s Website or other electronic platforms for delivery of the Service.

#### **14. Force majeure**

14.1. If the Bank is prevented or delayed in the performance of any of its obligations under the Service Agreement by force majeure, and if such party gives written notice thereof to the other party specifying the matters constituting force majeure, together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue then the party in question shall be excused the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue.

14.2. For the purpose of the Service Agreement “force majeure” shall be deemed to be any cause affecting the performance of the Service arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of the Bank to perform and without limiting the generality thereof shall include the following:

14.2.1. strikes, lock-outs or other industrial action;

14.2.2. civil commotion, riot, invasion, war threat or preparation for war;

14.2.3. outbreak of war, rebellion, revolution, hostilities, riot, civil disturbance, acts of terrorism;

14.2.4. epidemic, quarantine restrictions, outbreak of debilitating disease and any travel restrictions or bans (including bans on non-essential travel) issued by the World Health Organisation or any governmental authority;

14.2.5. fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural physical disaster;

14.2.6. impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;

14.2.7. any governmental acts or regulations, including export or import bans;

14.2.8. any acts of God, government, court or nature; and

14.2.9. political interference with the normal operations of any party.

#### **15. Regular review of transactions, personal data management**

15.1. Without prejudice to Clauses 5.2 above, the Customer shall from time to time check and review the transactions performed or processed through the Services and shall immediately notify the Bank of any irregularities.

15.2. In respect of:

- (i) any personal data provided to the Bank by or on behalf of the Customer; and
- (ii) any personal data regarding the Customer or any Relevant Individual of the Customer, whether collected directly or indirectly from the Customer or from publicly available or third party sources,

where personal data may include personal data about the Customer, each Administrator and User and, as may be relevant, their family members, beneficiaries, shareholders, beneficial owners, trustees, partners, committee members, directors, officers, guarantors, authorised signatories, security providers or other individuals (collectively all of the foregoing who are natural persons, including any natural persons notified by the Bank to the Customer as falling within the foregoing group, the "Relevant Individuals"), the Customer acknowledges and consents on the Customer's own behalf and on behalf of each Relevant Individual, to all such personal data being collected, used, disclosed and processed by the Bank for any of the following purposes:

15.2.1. providing the Service;

15.2.2. verifying the identity of any Administrator or User;

15.2.3. providing client-related services, including providing customer support, responding to queries or feedback, and generating, communicating with and disseminating to Customer or Relevant Individuals notices, reports, correspondence, statements, invoices and confirmations in connection with the Service;

15.2.4. preventing, detecting and investigating crime, offences or unlawful activity including but not limited to fraud, money-laundering, terrorist financing and bribery, and analysing and managing commercial risks;

15.2.5. complying with any applicable rules, laws or regulations, regulatory policies, guidelines or industry codes, orders, directions or requests issued by any court, legal or regulatory bodies (whether in Singapore, Japan, Hong Kong or otherwise) including rules and regulations relating to anti-money laundering and countering the financing of terrorism and the carrying out of audit checks, surveillance and investigation;

15.2.6. complying with any applicable treaty or agreement with or between Singapore, Japan, Hong Kong and/or a foreign jurisdiction;

15.2.7. fulfilling a judgment or order of court or of any other tribunal within Singapore, Japan, Hong Kong and in an applicable foreign jurisdiction;



- 15.2.8. enforcing rights or fulfilling obligations under the Service Agreement or in providing the Services;
  - 15.2.9. administering, operating, processing or managing the Services;
  - 15.2.10. conducting research, analysis and development activities (including but not limited to data analytics, surveys and/or profiling) to improve our products, services and facilities for the Customer's benefit and/or to enhance the Customer's experience with the Bank; and
  - 15.2.11. storing, hosting, backing up (whether for disaster recovery or otherwise) of the Customer's personal data, whether within or outside Hong Kong.
- 15.3. Where appropriate in connection with one or more of the purposes described above, the Bank may disclose or transfer personal data to the following:
- 15.3.1. the Bank Group and the Bank Group Member; and
  - 15.3.2. any service provider (in Hong Kong, Japan, Singapore or elsewhere) where required for outsourcing operational, storage, maintenance, administrative and/or other functions of the Bank Group,
- each of which may collect, use and disclose such personal data for such purposes, and the Customer consents to all such collection, use and disclosure on the Customer's own behalf and on behalf of each Relevant Individual.
- 15.4. Where the Customer provides personal data relating to any Relevant Individual or other third party individual to the Bank, the Customer warrants that:
- 15.4.1. such personal data and other personal data of that individual as described in Clause 15.2 may be collected, used, disclosed and processed by the Bank in the manner and for the purposes described in the Service Agreement, including as described in Clause 15.3;
  - 15.4.2. the Customer has obtained consent from each such individual to all such collection, use and disclosure of their personal data by the Bank and other relevant third parties as described in the Service Agreement; and
  - 15.4.3. the Customer, is entitled to grant Bank such consents on behalf of each such individual.

Upon reasonable request from the Bank, the Customer agrees to provide a copy of document(s) containing or evidencing that one or more of such third party individuals have given such consent. In the event an individual is a Relevant Individual solely because the Bank has notified the Customer that the Bank regards the individual to be a "Relevant Individual", the Customer shall obtain such consents as required to make the warranties above within [2 weeks] of such notification. The Customer acknowledges that if any such

consents are withdrawn by the Customer or a third party individual, in certain circumstances this may result in the Customer ceasing to be eligible to receive the Services.

15.5. The Customer undertakes to ensure that all personal data provided by or on behalf of the Customer to the Bank is true, accurate and complete, and that changes to any such personal data shall be notified to that Bank in a timely manner.

15.6. Individuals have certain rights to withdraw consents given or warranted to have been obtained in this Clause 15. In this regard, depending on the extent of any withdrawals of consent, it may mean that the Bank would not be able to provide the Services or other of the Bank's product or services to the Customer.

## **16. Bank records**

16.1. The Customer acknowledges and agrees that the Bank's records and any records of the Electronic Instructions or the operations or transactions made or performed, processed or effected through the Services by the Customer or any person purporting to be the Customer, acting on the Customer's behalf or purportedly acting on the Customer's behalf, with or without the Customer's consent, or any record of transactions relating to the operation of the Services and any record of any transactions maintained by the Bank or by any relevant person authorized by the Bank relating to or connected with the Services shall be binding and conclusive on the Customer for all purposes whatsoever and shall be conclusive evidence of any Electronic Instructions, instructions, information and/or data transmitted using the Services. The Customer hereby agrees that all such records are admissible in evidence and that the Customer shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records merely on the basis that such records were incorporated and/or set out in electronic form or are produced by or were the output of a computer system, and the Customer hereby waives any of its rights (if any) to such object.

## **17. Outsourcing**

17.1. Without prejudice to Clause 28<sup>12</sup> of the Basic Agreement, the Bank: (i) may delegate the performance of any function in connection with the Services; and (ii) reserves the right to use any agents or service providers on such terms as it thinks appropriate.

## **18. Foreign legal restrictions**

18.1. The Customer acknowledges and accepts that due to restrictions under the laws of some countries, the Customer:

18.1.1. may not be able to access or use the Services from these countries;

18.1.2. may be infringing the laws of these countries (including any import or export restrictions governing encryption algorithms) when accessing the Services from these countries; or

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<sup>12</sup> For customer migrated from Regional Treasury Management System, it refers to COMSUIE Basic Agreement (For Migration) Clause 30.

18.1.3. may be prevented by the Bank from accessing or using some or all of the Services in such countries as the Bank may determine from time to time.

18.2. The Customer acknowledges that it is its duty to ascertain whether any laws will be infringed and will not hold the Bank liable for any infringement or inability to access or use some or all of the Services.

## **19. Information Reporting Services**

The Customer hereby agrees that all generation of reports under the Service and requests given through the Service in respect thereof shall be subject to these Terms and Conditions.

### **19.1. Information accuracy**

The Customer acknowledges that the accuracy of information provided by the Bank in the Information Reporting Services may be affected or restricted by the process in the computer system or otherwise and that the account information may not be provided on a real time basis. The Customer shall make queries directly with the Bank (and, if the information relates to the accounts and transactions of an Affiliated Company, through such Affiliated Company) with respect to any irregularities in the information provided in the Information Reporting Services.

## **20. Funds Transfer Services**

The Customer hereby agrees that any and all transfers of funds under the Service including all individual or Autopay transfers or Faster Payment transfers (collectively the “Transfer Service”) and requests given through the Service in respect thereof shall be subject to these Terms and Conditions.

### **20.1. Effectiveness of Transfer Request**

Any request by the Customer for the Transfer Service shall only be effective if such request is part of the daily batch of requests given by the Customer to the Bank for the Transfer Service on that particular day and if such request or requests are acknowledged by the Bank in accordance with the procedures set forth in the Materials.

### **20.2. Rejection of Transfer Request**

The Bank may, in its sole discretion, reject any request for the Transfer Service which (a) exceeds the collected and available funds on deposit in the Customer’s Designated Account(s); (b) is not authenticated to the Bank’s satisfaction or which the Bank believes may not be authorized by the Customer; (c) contains incorrect, inconsistent, ambiguous, or missing information; (d) involves funds which are subject to a lien, security interest, claim, hold, dispute or legal process prohibiting withdrawal; or (e) is believed by the Bank to possibly be of an illegal nature. The Bank shall incur no liability whatsoever for any loss occasioned by the Customer as a result of the Bank’s refusal, with or without notice to the Customer, to honor any such request for the Transfer Service.

### **20.3. Cut Off Time**

The Bank will use its best efforts to execute all requests for the Transfer Service which are received by the Bank prior to a daily cut off time, which shall be established by the Bank at its sole discretion and may be changed from time to time by the Bank giving notice to the Customer. Any requests for the Transfer Service for value on any particular day which are received by the Bank after such cut off

time of such value day will be deemed to be requests for funds transfer for value on the next Business Day following such value day and the Bank shall not be responsible for the execution of such requests on the requested value day.

#### 20.4. Authority to Debit Account

Notwithstanding the current account mandate or any other similar account regulations, as may be applicable from time to time to the Designated Account(s), upon receipt of the Customer's request for the Transfer Service, the Bank is irrevocably authorized, without the presentation of the Customer's cheque or withdrawal application, to debit the Designated Account(s) for the amount stipulated in the request plus any applicable expenses, fees and/or charges.

#### 20.5. Routing of Transfer

The transfer of funds shall be routed through and handled by offices of the Bank and/or such other banks as may be designated by the Bank (the "Designated Banks").

#### 20.6. Cancellation or Amendment of a Transfer

Once a request for the Transfer Service is received by the Bank, the Customer shall have no right to cancel or amend such request. However, the Bank may, in its sole discretion, make reasonable efforts to act on a Customer's request to cancel or amend such request prior to its execution. In cases where a request has been executed, the Bank may, upon receipt of the Customer's request, take reasonable steps in order to cancel, suspend or reverse payments to be made or made pursuant to such request, provided that such requests are made in writing using forms prescribed by the Bank or evidenced otherwise to the Bank's satisfaction. The Bank shall have no liability in any respect if such cancellation, suspension, amendment or reversal is not effected. The Customer agrees to indemnify and save the Bank harmless from and against any and all losses or claims experienced by the Bank as a result of acting upon the Customer's request to cancel, amend, suspend or reverse any request for the Transfer Service.

#### 20.7. Foreign Currency for Cancelled Remittance

In the event that any remittance request is cancelled or reversed, as stipulated in Clause 20.6 above, if the remittance was made in a foreign currency, it shall be refunded in Hong Kong dollars at the Bank's buying rate on the date of refund (or with the Bank's consent, in the same currency as the remittance), less fees and expenses due to the Bank and/or the Designated Banks, after the Bank has duly received both the cancellation advice and the funds, and provided that such refund is permissible under the laws and regulations of Hong Kong and the country to which the funds were remitted.

#### 20.8. Confirmation of Receipt

All requests by the Customer to the Bank for confirmation that the beneficiary of any transfer has duly received payment thereof shall be made in writing using the forms prescribed by the Bank and shall be handled in accordance with the customary procedures of the Bank. The Customer shall be responsible for all expenses incurred in connection with such confirmation request, in addition to all other fees and expenses for which it is responsible under the Service Agreement and these Terms and Conditions.

#### 20.9. Insufficient Funds for Auto Debit

In the event that the Customer has established with the Bank an Auto Debit transfer of funds and the available balance in the Designated Account at 9:00 a.m. (Hong Kong time) on the payment date

is insufficient to cover the entire Auto Debit, the Bank may refuse to carry out the Transfer Service for such payment. The Bank shall not be obligated to carry out such transfer after the payment date even if adequate funds have been received in the Designated Account. The Customer shall be responsible for any overdraft arising as a result of the implementation of any auto debit transaction.

#### 20.10. Auto Credit

If there has been established with the Bank an Auto Credit transfer of funds into the Customer's Designated Account and in the event that the Designated Account has been credited with an amount which is to be transferred by Auto Credit but such funds are not actually received, the Bank shall have the right to then debit such Designated Account [or reverse the previous credit entry]. Funds transferred by Auto Credit will not be available and cannot be withdrawn from the Designated Account until such transactions have been cleared.

#### 20.11. Compliance with Foreign Exchange and Other Laws

The Customer shall be solely responsible for complying with the foreign exchange laws and regulations of any jurisdiction which are applicable to any Transfer Service requested by the Customer. The Customer indemnifies and saves the Bank harmless from any costs, expenses, losses and damages that the Bank may incur as a result of the Customer's failure to comply with such laws or regulations. Notwithstanding anything to the contrary contained in the Service Agreement or these Terms and Conditions, the Bank shall not be obligated to carry out any transfer until the Bank has confirmed to its satisfaction that such transfer complies with all applicable laws, orders, rules, regulations and other requirements, provided that, the Bank shall be under no obligation whatsoever to ensure compliance with such laws, orders, rules, regulations and other requirements. The Bank's confirmation of such compliance shall in no way relieve the Customer or any third party of its obligation to comply with all laws, orders, rules, regulations and other requirements applicable to any transfer the Customer requests the Bank to make under these Terms and Conditions.

#### 20.12. Method of Transfer at Bank's Discretion

The Customer agrees to allow the Bank and/or the Designated Banks to handle the following matters at its/their sole discretion:

- (a) designation and use of authentication codes and ciphers; and
- (b) selection of the instruments of transfer and the means of transmission.

The Customer agrees that the Bank may provide, for the purpose of Transfer Service, the information necessary to identify the applicant of Transfer Service, including their names and addresses and the account number of their accounts and undertakes to provide the information necessary to identify the recipient, including the name, address and account number of the recipient, if required by the competent authorities or other public bodies or pursuant to the treaties, laws, regulations, customs, practices or international regulations and agreements.

#### 20.13. Transfer service during adverse weather

If the Black Rainstorm Warning Signal or Typhoon #8 or above Signal is hoisted on a Business Day and such adverse weather affects the normal banking operation, the Bank may not execute any request for the Transfer Service on such Business Day and instead may execute any such request on the next Business Day without any further instruction from the Customer. The Bank will not be liable for any loss or damage to the Customer as a result of execution of such request of Transfer Service on the next Business Day. The Customer should always check its transaction status through CMS Hong Kong.

## **21. AutoCheque Service**

(a) The Customer hereby agrees that all AutoCheque Instructions under the Service and requests in respect thereof shall be subject to these Terms and Conditions.

(b) The Customer hereby authorises the Bank to issue on behalf of the Customer all cheques under the AutoCheque Requests made by the Customer through the Service. The Customer also hereby indemnifies the Bank against any liability, loss or damage which might arise from the cheques issued by the Bank on behalf of the Customer.

### **21.1. Execution of AutoCheque Request**

Any request by the Customer for the AutoCheque Service shall only be executed if such request can successfully be executed by the Bank on the Delivery Day, but if not, the request can be executed on the next Business Day immediately following the Delivery Day in accordance with the procedures set forth in the Materials.

### **21.2. Rejection of AutoCheque Request**

The Bank may, at its sole discretion, reject any request for the AutoCheque Service which (a) exceeds the collected and available funds on deposit in the Customer's Designated Account(s); (b) is not authenticated to the Bank's satisfaction or which the Bank believes may not be authorized by the Customer; (c) contains incorrect, inconsistent, ambiguous, or missing information; (d) involves funds which are subject to a lien, security interest, claim, hold, dispute or legal process prohibiting withdrawal; or (e) is believed by the Bank to possibly be of an illegal nature. The Bank shall incur no liability whatsoever for any loss occasioned by the Customer as a result of the Bank's refusal, with or without notice to the Customer, to honor any such request for the AutoCheque Service.

### **21.3. Cut-Off Time**

(a) Cut-off time of AutoCheque Service is the latest submission time of the request of AutoCheque Service to be processed on a particular Delivery Day. After such cut off time, Customer will not be able to submit any requests of the AutoCheque Service for execution on that particular Delivery Day, and the Bank shall not be responsible to handle any requests which are not able to arrive in time. The Bank will use its best efforts to execute all requests for the AutoCheque Service which are successfully received by the Bank before the cut-off time. If any AutoCheque Request is received by the Bank after the cut-off time on a particular Delivery Day, the Bank is authorized to execute such AutoCheque Request on the next Business Day following such Delivery Day.

(b) The cut-off time is established by the Bank at its sole discretion and may be changed from time to time by the Bank giving notice to the Customer.

### **21.4. Authority to Debit Account**

Notwithstanding the current account mandate or any other similar account regulations, as may be applicable from time to time to the Designated Account(s), upon receipt of the Customer's request for the AutoCheque Service, the Bank is irrevocably authorized, without the presentation of the Customer's cheque or withdrawal application, to debit the Designated Account(s) for the amount stipulated in the request plus any applicable expenses, fees and/or charges.

### **21.5. Cancellation of an AutoCheque Request**

Once an AutoCheque Instruction is received by the Bank, the Customer shall have no right to cancel or amend such Instruction. However, the Bank may, at its sole discretion, make reasonable efforts to act on a Customer's request to cancel such request prior to its execution. In cases where a request

has been executed, the Bank may, upon receipt of the Customer's request, take reasonable steps in order to cancel, suspend or reverse payments to be made or made pursuant to such request, provided that, such requests are made in writing using forms prescribed by the Bank or evidenced otherwise to the Bank's satisfaction. Nevertheless, in any event, the Bank shall have no liability in any respect if such cancellation, suspension, amendment or reversal is not effected. The Customer agrees to indemnify and hold the Bank harmless from and against any and all losses or claims suffered by the Bank as a result of acting upon the Customer's request to cancel, amend, suspend or reverse any request under AutoCheque Service. In cases where such a request is made by the Customer as mentioned in the preceding article, the Customer shall pay to the Bank on demand all expenses incurred in connection with such request.

#### 21.6. Insufficient Funds for AutoCheque Debit

In the event that the Customer has sent the AutoCheque request to the Bank and the available balance in the Designated Account at the time of issuing the cheques is insufficient to cover the entire AutoCheque Request, the Bank may try again to make debit to the Designated Account on the Business Day immediately following the Delivery Day. If the available balance in the Designated Account is still insufficient to cover the entire request on the next Business Day after the Delivery Day, the Bank may refuse to carry out the AutoCheque Service for such payment. Nevertheless, the Bank shall not be obligated to carry out such request after the next Business Day following the Delivery Day even if adequate funds have been received in the Designated Account. The Customer shall be responsible for any overdraft arising as a result of executing the AutoCheque transactions.

#### 21.7. Delivery of the Issued Cheques

(a) If the Customer so requests, the Bank shall deliver by mail or by other means of transmission (including but not limited to courier service) the cheque issued by it on behalf of the Customer to the person or company at the address as stipulated by the Customer but in no event shall the Bank be liable for the loss, theft, destruction happened on the part of any postal authority or courier company, or any employee of such authority or company or through other causes or howsoever arising.

(b) If the cheque issued by the Bank on behalf of the Customer bears no address, then the Customer must come to collect the cheque within a reasonable period of time and the Bank has no responsibility to inform the Customer by phone, by mail or any other means of communication that the cheque has been issued. When collecting the cheque the Customer must send an authorized person to the Bank and that the authorization must be evidenced by producing an authorization letter to the Bank stating the name and Hong Kong Identity Card number of the authorized person and be signed by an authorized signatory whose signature specimen is kept by the Bank.

#### 21.8. Lost, Stolen or Mutilated Cheque

If any cheque issued by the Bank on behalf of the Customer is lost, stolen or destroyed, the Customer shall indemnify the Bank with an acceptable letter of indemnity protecting the Bank against any liability or damages with respect to the lost, stolen or destroyed cheque, in connection with any request that the Customer may make a refund of the amount of the cheque which is lost, stolen or destroyed.

#### 21.9. Liability

(a) The Customer acknowledges and understands that the Bank's AutoCheque Service is a numerically based system and agrees that the Bank shall be under no obligation to ensure that the data submitted by the Customer is authentic and correct. The Customer also agrees that the Bank



will not be responsible for any item rejected by the Bank's system due to any error or omission by the Bank and the Bank is not liable to reprocess data that has been returned and/or rejected.

(b) In addition to any limitations or restrictions on the Bank's liability under the Service Agreement, under no circumstances shall the Bank be liable or be held responsible for any loss or damage arising from:

- (i) delayed delivery or non-delivery of cheques or advice, or errors attributable to faulty, incomplete or disrupted transmissions or mailing;
- (ii) the observance by offices of the Bank and/or the Designated Banks of local customs, practices, laws or regulations;
- (iii) the contents of the message to the beneficiary;
- (iv) any event of force majeure.
- (v) the Bank's failure in performing any obligation under these Terms and Conditions in relation to Autocheque service unless such failure is wilful.

#### 21.10. Autocheque service during adverse weather

If the Black Rainstorm Warning Signal or Typhoon #8 or above Signal is hoisted on a Business Day and such adverse weather affects the normal banking operation, the Bank may not execute any request for the Autocheque Service on such Business Day and instead may execute any such request on the next Business Day without any further instruction from the Customer. The Bank will not be liable for any loss or damage to the Customer as a result of execution of such request of Autocheque Service on the next Business Day. The Customer should always check its transaction status through CMS Hong Kong.

### 22. Payment Notification Service

The Bank will from time to time determine or specify the scope and features of the Payment Notification Service and is entitled to modify, expand or reduce the same at any time with or without notice.

#### 22.1. Use of Payment Notification Service

In case where the recipient (the "E-mail Recipient") of payment advice sent by e-mail ("Payment Advice E-mail") under the Payment Notification Service is an individual (such as an employee of the Customer), the Customer agrees:

- (a) directly or through the Affiliated Company, to give a prior notice to the E-mail Recipient that his/her e-mail address (the "Recipient E-mail Address") is provided to the Bank for the purpose of sending the Payment Advice E-mail and to obtain his/her consent in writing or otherwise (it being understood that the Payment Notification Service is provided subject to such consent);
- (b) immediately, to inform the Bank to suspend the use of the Recipient E-mail Address, if so requested by the E-mail Recipient. Then the Bank shall not use the Recipient E-mail Address for the purpose of sending the Payment Advice E-mail.

#### 22.2. Suspension of Payment Notification Service

If the Bank is requested by the E-mail Recipient to suspend the use of his/her Recipient E-mail Address, the Bank shall, without delay, notify the Customer thereof in writing and may request the Customer to suspend the use of the Recipient E-mail Address. If requested to do so, the Customer shall immediately suspend the use of the Recipient E-mail Address. The Bank may, at its discretion, suspend the Payment Notification Service as a whole, if the request to such effect is repeated by the E-mail Recipient.

### 22.3. Liability

Without prejudice to and in addition to the relevant terms and conditions in respect of limitation of the Bank's liability as provided in the Service Agreement and the Materials, the Bank shall not be liable or held responsible for any loss or damage to the Customer or any person arising from or in connection with the provision of the Payment Notification Service or any failure or delays in the transmission of the payment notification messages and/or the transmission of incomplete messages caused by a breakdown or failure of transmission or communication facilities, inherent technological deficiencies, network traffic congestion, interference by a third party of any computer, equipment or software or of any telephone network or other communication system, divulgence of information, force majeure or any extraneous factors or causes beyond the Bank's reasonable control.

The Bank will not be responsible for any loss or damage caused to the Customer's data, software, mobile telephones, or other equipment caused by the Customer's use of the Payment Notification Service.

The Customer hereby acknowledges and agrees in relation to the Payment Notification Services as follows:

- (1) The Bank shall send the e-mail to the Recipient E-mail Address designated by the Customer and is under no obligation to verify the identity of the recipients.
- (2) The Bank is under no obligation to confirm receipt of the Payment Advice E-mail.
- (3) The Customer acknowledges that no security measures are taken with respect to the Payment Advice E-mail (including password protection and cryptography), for which the Bank shall not be responsible.
- (4) The Bank shall not be responsible for any accident (including leakage of information) which may be caused by inaccuracy of the Recipient E-mail Address provided by the Customer.
- (5) The Bank is under no obligation to deal with queries of the recipient of the Payment Advice E-mail, of which the Customer shall take care on its responsibility.
- (6) If the Payment Advice E-mail is not received, the Bank is under no obligation to re-send the same.
- (7) The Customer acknowledges that the Bank may not send the Payment Advice E-mail at any particular time due to the process of the Bank's system.

### 23. Electronic Notification Service

The Bank will from time to time determine or specify the scope and features of the Electronic Notification Service and is entitled to modify, expand or reduce the same at any time with or without notice.

#### 23.1. Use of Electronic Notification Service

- (a) The Electronic Notification Service is available to the Customer who has appropriate telecommunication device and telecommunication service providers as determined by the Bank from time to time and has registered via CMS Hong Kong (or by such other means of communications as agreed by the Bank) telecommunication device for receiving the electronic notification messages. The Customer is responsible for ensuring that its registered telecommunication information is correct and its registered telecommunication devices are capable of receiving the electronic notification messages.
- (b) The Bank reserves the right to restrict the number or type of pieces of telecommunication devices which may be registered by the Customer for receiving the electronic notification messages from time to time.
- (c) The Electronic Notification Service may without notice to the Customer be suspended or terminated for any reason including without limitation invalid data; account closure; insufficient funds within any accounts for charges; breakdown, maintenance; modification; expansion and/or

enhancement work caused or initiated by the service providers concerned in relation to their network or by any service provider in respect of the Electronic Notification Service. The Bank will not assume any liabilities or responsibilities for any such suspension or termination.

(d) The Customer shall promptly notify the Bank of any changes to or in any registered information in connection with the Electronic Notification Service including, where appropriate, the mobile phone number, e-mail address and other contact details of the Customer's telecommunication devices and the service providers providing or serving them and update any changes to or in any template registered for fund transfer and other transactions eligible for the Electronic Notification Service.

(e) The Customer must notify the Bank immediately upon any malfunction, disconnection or suspension of the Customer's telecommunication device or service.

(f) The Customer shall notify the Bank immediately if the Customer finds any errors or unauthorized transactions as disclosed in the electronic notification messages.

The Customer hereby irrevocably authorizes the Bank to disclose information relating to the Customer and the transactions conducted through CMS Hong Kong system to any agent, contractor or third party service provider designated by the Bank who are engaged in communicating through and maintaining the Service, and any person to whom the Bank is under an obligation to make disclosure under the requirements of any law binding on the Bank or any of its branches.

The Customer acknowledges that the Electronic Notification Service is provided through telecommunication system which may be an open network over which the Bank has no control and the Customer understands and accepts the risks inherent in using the Electronic Notification Service.

### 23.2. Nature of information provided

(a) The Customer acknowledges that unless otherwise provided in the electronic notification message, any information sent under the Electronic Notification Service is for the Customer's information only, and shall not be taken as conclusive evidence of the transaction to which it relates. Evidence of transaction will be provided by the Bank in accordance with and subject to the terms and conditions governing the relevant transaction from time to time.

(b) The materials in the electronic notification messages are not intended for use by persons in jurisdictions which restrict the distribution of such materials by the Bank. Persons accessing the electronic notification messages should inform themselves about any relevant prohibitions or restrictions. The electronic notification messages should not be regarded as an invitation, an offer or a solicitation to subscribe to any products or services (including, without limitation, investments, deposits, insurance and loans) in any jurisdiction to any person to whom it is unlawful to make such an invitation, offer or solicitation in such jurisdictions.

(c) Due to the nature of the Electronic Notification Service and circumstances beyond the Bank's control, the Bank does not warrant that the information provided through the Electronic Notification Service is accurate or error free. It is the Customer's sole responsibility to verify any information received under the Electronic Notification Service before relying or acting on it. The Bank does not assume any liability (whether in tort or contract or otherwise) for any reliance on any commentaries, confirmations, information or data by the Customer or any other person.

### 23.3. Sending / Receiving Electronic Notification Messages and Security

(a) The Customer should never respond to a request purportedly from the Bank via the Electronic Notification Service to provide its account or security details such as passwords. Any such purported request from the Bank or other irregularity in the Electronic Notification Service must be reported to the Bank immediately.

(b) Any electronic notification message will be sent only once. If the Customer deletes an electronic notification message, it will not be sent again.

(c) Any electronic notification messages sent by the Bank under the Electronic Notification Service are one-way communications and the Customer should not reply to such electronic notification messages.

(d) The Customer is responsible for the security of its telecommunication devices and must take all reasonable precautions to prevent any unauthorized use or access.

(e) If the Customer should travel outside of the telecommunication service area and prior to its departure from the telecommunication service area it has not suspended the Electronic Notification Service for the period of travel, the Customer shall be deemed to consent to and authorize the Bank, any network operators and any third party service providers engaged by the Bank for the purpose of providing the Electronic Notification Service to transfer such information and store the same in such countries or territories as may be necessary for the purpose of the continued provision of the Electronic Notification Service to the Customer.

#### 23.4. Fees

The Customer shall pay the Bank all charges, fees and expenses in relation to the Electronic Notification Service in such amounts and at such times as may be notified to the Customer from time to time by the Bank. The Customer hereby irrevocably authorizes the Bank from time to time to debit any Customer's account with such charges, fees and expenses. The Customer shall bear any fees, charges or expenses charged by its own service provider or telecommunications companies providing or servicing its telecommunication device.

#### 23.5. Liability

(a) Without prejudice to and in addition to the relevant terms and conditions in respect of limitation of the Bank's liability as provided in the Service Agreement and the Materials, the Bank shall not be liable or held responsible for any loss or damage to the Customer or any person arising from or in connection with the provision of the Electronic Notification Service or any failure or delays in the transmission of the electronic notification messages and/or the transmission of incomplete messages caused by a breakdown or failure of transmission or communication facilities, inherent technological deficiencies, network traffic congestion, interference by a third party of any computer, equipment or software or of any telephone network or other communication system, divulgence of information, force majeure or any extraneous factors or causes beyond the Bank's reasonable control.

(b) The Bank will not be responsible for any loss or damage caused to the Customer's data, software, mobile telephones, or other equipment caused by the Customer's use of the Electronic Notification Service.

(c) The third parties supporting the Electronic Notification Service are neither agencies of the Bank nor representing the Bank. There is no cooperation, partnership, joint venture or other relationship with the Bank. The Bank is not liable or held responsible for any loss or damage caused by any action or omission of third parties. Neither the Bank nor any of the telecommunications companies which may be designated by the Bank for the purposes of providing the Electronic Notification Service will assume any liability or responsibility for any failure or delay in transmitting information to the Customer or any error, inaccuracy or incompleteness in or of such information.

#### 24. Use of Personal Information

The Bank may use the personal information (such as the name, section/department, title, telephone number, facsimile number and e-mail address, which identifies any particular individual) provided by

the Customer and Affiliated Companies in relation to the Service for the following purposes:

- (a) to administer the application for, and implementation of, the Service;
- (b) to verify the identity of any person under all valid treaties, laws, cabinet orders, ministerial ordinances, regulations, notices, guidelines and any other laws, rules or regulations that are applicable now or hereafter and the qualification for the Service;
- (c) to make research and development for financial instruments and services, including the market research and data analysis and the questionnaire to be conducted internally by the Bank;
- (d) to propose any financial instruments and services of the Bank Group and the Bank Group Member by direct mailing or otherwise;
- (e) to exercise the rights and to perform the obligations in accordance with applicable laws and contracts with the Customer; and
- (f) other than the foregoing, to facilitate the transactions with the Customer.

#### 24.1. Consent of Personal Information

- (a) If and when the Customer or its Affiliated Companies provides personal information of a person to the Bank, each of the Customer and the Affiliated Companies shall procure the prior written consent of such person.
- (b) The Bank may regard personal information of a person provided to the Bank as having been consented to by such person.

#### 24.2. Liability

- (a) The Customer acknowledges and understands that the Bank's Transfer Service and AutoCheque Service are a numerically based system and agrees that the Bank shall be under no obligation to ensure that the data submitted by the Customer is authentic and correct. The Customer also agrees that the Bank will not be responsible for any item rejected by the Bank's system due to any error or omission by the Bank and the Bank is not liable to reprocess data that has been returned and/or rejected.
- (b) Without prejudice to any limitations or restrictions on the Bank's liability under the Service Agreement, under no circumstances shall the Bank be liable or be held responsible for any loss or damage arising from:
  - (i) any acts or omissions of the Designated Banks which are not under the direct control of the Bank;
  - (ii) delayed delivery or non-delivery of letters, telegrams dispatched, or errors attributable to faulty, incomplete or disrupted telecommunications or transmissions;
  - (iii) the observance by offices of the Bank and/or the Designated Banks of local customs, practices, laws or regulations;
  - (iv) any exchange rate fluctuations or related costs incurred when the remittance has been issued in a currency other than the currency of the beneficiary's country;
  - (v) the contents of the message to the beneficiary;
  - (vi) any payment made to party, when such party's identity has been verified by reasonable means by offices of the Bank or the Designated Banks; or
  - (vii) any event of force majeure.

#### 25. Authorised Representatives

The Customer shall from time to time advise the Bank as to the Customer's authorised representatives for use of the Service on behalf of the Customer, and the Customer shall provide such information on the authorised representatives as may be required by the Bank.

**26. Access and Security**

The Customer's authorized representatives shall have access to the Bank's terminal-initiated Information Reporting Service, Transfer Service, AutoCheque Service, Payment Notification Service, Electronic Notification Service and CMS Hong Kong by following the procedures set forth in the applicable Materials. The Bank shall assign to the Customer and the Customer's authorized representatives one or more codes, ID numbers, passwords and/or test keys as are required to utilize the specific verification and/or error detection options selected by the Customer. The Customer and the Bank agree to preserve the confidentiality of the security procedures, and the Customer shall promptly notify the Bank of any irregularity in such procedures. Except as otherwise required by applicable law, if a request for the Service is received by the Bank and appears, on the face of it, to have been correctly transmitted by authorized representatives of the Customer, such request will be deemed to be given by the Customer, provided that the Bank has followed its normal security identification procedures to ensure the sender's identity.

**27. Supplemental Tools**

The Bank may from time to time make available to the Customer tools and software ("Supplemental Tools" which shall form a part of the Service) to support the Customer to operate or use the Service. All copyright and other rights in the Supplemental Tools shall at all times remain vested in the Bank or in such licensor or owner as otherwise specified by the Bank. The Customer will be granted a non-exclusive, non-sublicensable and non-transferable right to use the Supplemental Tools. The Bank shall make commercially reasonable efforts to rectify any malfunction of the Supplemental Tools ("Malfunction" means hereinafter any discrepancy between the functions actually realized and those specified in the Manual), provided that the Bank shall in no case be liable for any damages caused or suffered by the Customer due to any Malfunction of the Supplemental Tools.

**28. Fees**

The Customer shall pay the Bank and/or the Designated Bank the charges, fees and expenses due in connection with the Transfer Service and AutoCheque Service and all transactions in respect thereof in such amounts and at such times as may be notified to the Customer from time to time by the Bank. The Customer hereby irrevocably authorizes the Bank and/or the Designated Banks from time to time to debit any Designated Account with such charges, fees and expenses or otherwise deduct such charges, fees and expenses.

**29. Terms and Conditions**

These Terms and Conditions constitute part of the Service Agreement, and if there is any conflict between the Service Agreement and these Terms and Conditions, the provisions in these Terms and Conditions shall prevail, provided that, the provisions in these Terms and Conditions shall in no manner whatsoever restrict or invalidate any provisions in the Service Agreement which restrict or limit the liability of the Bank or any indemnity provided to it.

For the latest Terms and Conditions, please always refer to the Bank's COMSUITE Home Page:  
<https://ebusiness.bk.mufg.jp/>