

## Terms and Conditions for Fubon Bank Electronic Fund Trading Service

These Terms and Conditions shall apply whenever Fubon agrees to provide Electronic Fund Trading Service to the Applicant.

### 1. Application

1.1 These terms shall be read together with the Bank's Global Terms and Conditions for Accounts and Services. The Applicant understands and agrees that the Applicant's request for and the provisions of the Electronic Fund Trading Service may also be subject to, affected or limited by restrictions, terms and conditions imposed by third party product providers, regulators and authorities.

### 2. Definitions

2.1 Unless otherwise defined in these terms, defined terms used herein shall have the same meanings provided to them in the Global Terms and Conditions for Accounts and Services.

2.2 The following words and expressions shall have the following meanings:

- "Account" means the Applicant's Securities Account maintained with the Bank;
- "Applicant" means an applicant for the Service and a Customer under the Global Terms and Conditions for Accounts and Services;
- "Authentication Factor" means a method to confirm a customer's identity using Login Password, SMS-based One Time Password, Biometrics, Mobile Security Key, Security Device, etc.
- "Bank" means Fubon Bank (Hong Kong) Limited;
- "*Electronic Trading Service*" means any facility provided by the Bank which enables the Applicant to give instruction relating to any Transaction via electronic or tele-communication media and including but not limited to Internet
- "*eTrading Service*" Trading Service and Mobile Trading Service or such other means as designated by the Bank from time to time;
- "Electronic Fund Trading Service" means a service for transacting in Investment Funds under Electronic Trading Service/ eTrading Service.

“Electronic Fund Trading Platform”

means **execution only platform** for transacting but not limited to subscription, switching and redemption of Investment Fund via electronic or tele- or communication media and including but not limited to Internet Trading Service and Mobile Trading Service or such other means as designated by the Bank from time to time.

“Facilities”

means the Electronic Trading Service or any other means or facilities as may be designated or provided by the Bank from time to time which enables the Applicant to give instructions relating to Transactions to the Bank;

“Global Terms and Conditions”

means Global Terms and Conditions for Accounts and Services

“Instruction”

means any instruction, direction, notice or other communication for (collectively, “Instructions”) or related to the subscription, switching and redemption or otherwise dealing in Investment Funds;

“Investment Funds” means unit trust or mutual fund that are authorized by the SFC;

“Service”

means Electronic Fund Trading Service

“SFC”

means Securities and Futures Commission of Hong Kong;

“Login Password”

means the Applicant’s personal password to gain access to the Service;

“Securities”

means the same as the term “securities” defined in the Securities and Futures Ordinance (Cap.571 of the laws of Hong Kong) and any subsidiary legislation made thereunder as the same may be amended or re-enacted from time to time;

“Terms”

means these terms and conditions;

“Transactions”

means all Transactions in Investment Funds executed under (singly a “Transaction”) Instructions pursuant to the Service

“Website”

means the e-banking Service website provided by the Bank.

### **3. The Account**

3.1 The Applicant acknowledges that the Applicant may only access the Account through use of the Service. Should the Applicant experience any problems or difficulties in reaching the Bank through the Service, the Applicant may attempt to communicate with the Bank by telephone and inform the Bank of the problem or difficulty.

3.2. The Applicant warrants that the information set out in the Application Form is complete, true and correct, and the Applicant undertakes to inform the Bank in

writing of any changes thereto immediately after the relevant change(s) has/ have occurred.

#### **4. Applicable Rules and Regulations**

The Transactions made as a result of any Instructions shall be subject to the relevant provisions of the constitution, rules, regulations, by-laws, customs and usages of the relevant Fund House as amended from time to time. All actions taken by the Bank in accordance with such laws, rules and directions in relation to the Service and the Transactions shall be binding on the Applicant.

#### **5. Electronic Fund Trading Service**

- 5.1 The Applicant may apply for the Electronic Fund Trading Service only after the Applicant has established an Account with the Bank and satisfied the relevant criteria as which includes but not limited to the following: (i) being a non-Vulnerable Customers; (ii) with knowledge of technology literacy (iii) holding a valid W8-Ben Form; (iv) completed a valid Customer Investment Risk Questionnaire (“CIRQ”); and (v) maintaining an active Account and settlement account with the Bank and/or such other requirements as imposed by the Bank from time to time. The Bank reserves the right to not accept any application for using the Service by the Applicant in its absolute discretion.
- 5.2 The Applicant agrees to abide by the provisions of the Global Terms and Conditions and these Terms whenever the Applicant uses the Service. Any additional services offered in the future through the Service will only be used by the Applicant in accordance with these Terms and any additional provisions applicable thereto.
- 5.3 These Terms contain important information regarding the terms and conditions which will apply to the Applicant’s dealings with the Bank in relation to that Service. The Applicant should read this document carefully and keep it for future reference. Certain risks relating to electronic trading are described in Clause 6.1 of these Terms.
- 5.4 The information contained in the Platform is for information and reference purposes only. It should not be considered as solicitation, offer or recommendation to subscribe, switch or redeem any Investment Funds. It does not and is not intended to constitute any legal, tax, financial or accounting service or advice regarding the suitability or profitability of any Investment Funds. Applicant should refer to the relevant offering documents of the Investment Funds for detailed information and risk disclosures prior to any subscription or switching and must rely on his or her or its own judgment, assessment and evaluation having regard to the Applicant’s financial situation, investment objectives and particular needs before giving any Instructions. Further, there may be taxes and/or charges payable to the relevant authorities in respect of any Instruction given, and the Applicant agrees to pay such taxes and/or

charges as applicable. It is the Applicant's responsibility to obtain his or her or its own independent legal, tax and investment advice before making any investment decisions relying on the information provided from the Service. To the extent permitted by law, the Bank will have no liability with respect to the Transaction (including any diminution in value) in or for the Applicant's Account.

- 5.5 Products and services are available only at the Bank's discretion subject to the individual terms and conditions in the Offering Documents and the full range of products or services may not be available in all locations. The Applicant acknowledges that use of the products or services on the Website or Platform may not be permitted in some countries or jurisdiction and the Bank will not offer or distribute any of its products or services in any jurisdiction other than Hong Kong. If in doubt, the Applicant should consult his or her legal or financial advisor before requesting information from the Bank.
- 5.6 The Applicant acknowledges and agree that the Service (including the Facilities and Website) and all associated software are proprietary to the Bank and/or third party provider(s). The Applicant warrants and undertakes that he or she shall not assist or permit any other person to tamper with, modify, decompile, reverse engineer or otherwise alter in any way, and shall not attempt to gain unauthorized access to any part of it. The Applicant undertakes to notify the Bank immediately upon becoming aware of any person doing any of the above. The Bank shall be entitled to suspend or terminate the Applicant's access and/or use of the Facilities and/or Platform immediately without notice in the event of the Applicant's breach of these terms and may take legal action for any breach of warranties and undertakings on the part of the Applicant if applicable.

## **6. Access and use the Service**

- 6.1 When the Applicant logons to the Platform via e-banking by using the Account, the Applicant is deemed to have read the important notes and agree to the terms and conditions governing the Fubon Bank Electronic Fund Trading Service and accept the Privacy Policy Statement, Security Tips, disclaimer and all the risks associated with conducting Transactions in Investment Funds via the Platform. The Applicant will be exposed to risks associated with system including failure on hardware and software. Internet is inherently unreliable media of communication; transactions and communications over Internet are subject to possible failure or delays in data transmission, interruption, distortion, omission, blackout or interference from unauthorized persons due to Internet traffic and other reasons. The Applicant acknowledges and agrees that the above factors may cause the following to happen: (a) failure or delay in the Service or in the Bank's receipt of Instructions; (b) failure or delay in the execution of the Instructions; (c) execution of Instructions at prices or rates different from those prevailing at the time the Instructions were given; or (d) inability to execute Instructions at particular quoted prices or rates. The Bank shall not be liable to the Applicant for any incompleteness, unavailability, failure,

interruption, suspension or delay in the Service (including the transmission of any alerts or notification or in receipt of execution of any Instructions) due to any factors not under the Bank's reasonable control.

6.2 When the Applicant first registers the Service, the Applicant will be asked to identify the Applicant's identity by the method and/or steps as prescribed or notified by the Bank to the Applicant from time to time.

6.3 The Applicant shall take all reasonable steps to keep all User Name, Password, Identifier, Two-factor Authentication device and the Security Code (SMS-based One Time Password (OTP)) and any other device or authentication factors (if applicable) used for accessing the Platform via e-banking Service safe, secure safe and secret to prevent fraud. In particular, the Customer and, where applicable, the Authorized e-Banking User shall:

6.3.1 destroy any original printed copy of Password;

6.3.2 not allow any other person to use any User Name, Password, Identifier, Two-factor Authentication device, the Security Code and/or other authentication factors;

6.3.3 never write down any User Name and/or Password and/or Identifier on any device for accessing the e-banking Service or on anything usually kept with or near it;

6.3.4 not write down or record any User Name and/or Password and/or Identifier without disguising it; and

6.3.5 change the Password/PIN regularly.

6.4 The Applicant is responsible for the confidentiality and use of authentication factors and any other devices that are provided by the Bank or which the Applicant may set in relation to the Platform. The Applicant acknowledges and accepts that any person who gains access to or acquires knowledge of the Applicant's authentication factors or device will be able to access the Service and give Instruction to the Bank in respect of the Applicant's Account(s), including but not limited to placing orders, withdrawing or otherwise dealing with the Applicant's funds. The Applicant must take appropriate measures to safeguard the authentication factors or device as prescribed by the Bank from time to time. The Applicant agrees to hold the Bank fully indemnified against all losses, damages, costs and expenses (including professional and legal costs) if any person other than the Applicant gains access or acquires knowledge of the Applicant's authentication factors or device. The Bank will not be responsible for any losses arising out of any unauthorized Transaction due to such reason. Upon

becoming aware of a breach of security, the Applicant must immediately notify the Bank and suspend the use of the Service.

- 6.5 The Applicant will make available at the Applicant's own cost, a computer and other electronic devices and/or software with access to the internet capable of viewing the Website and supporting the Applicant's use of the e-banking Service at the Applicant's own risk.
- 6.6 The Applicant is liable for any telephone charges and/or any charges made by the Internet service provider as a result of connection and/or access to the Website in order to use or access the e-banking Service.
- 6.7 The Platform may not be available at certain times as advised by the Bank from time to time. The Bank may also periodically interrupt or shut down the Platform due to the following reasons: (i) system and software maintenance; (ii) non-business days or holidays; and (iii) any other event which may trigger the suspension of Service (such as typhoon signal no.8 or above, black rainstorm, etc).
- 6.8 The Applicant should only use the Service through the Facilities and/or Platform provided by the Bank for the Applicant's own personal needs. The Applicant may not allow or permit any other person to access or use any such information, services or materials or otherwise deal with them for the benefit of any other person or otherwise. The Applicant agrees to indemnify and hold the Bank harmless against any loss that may be suffered by the Bank or any claim that may be initiated by a third party which is in any way the result of improper use of Facilities and/or Platform by the Applicant.
- 6.9 The Bank may terminate the Applicant's access to the Website(s) and the use of Platform (a) for cause at any time with immediate effect upon serving a notice to you or as soon as practicable thereafter; or (b) by serving a notice of not less than thirty(30) days (or such shorter period as the Bank may in its reasonable discretion determine if such termination is due to circumstances beyond the Bank's reasonable control).

## **7. Instructions**

- 7.1 The Applicant consent to using the channel or Facilities as prescribed or provided by the Bank for communication or transmission of data or information. The Applicant hereby consent to the use of electronic means for the purposes of giving instructions to and other communications with the Bank (including giving instruction via the Service). The Bank shall be entitled to accept and rely on all Instructions, notices or other communications (including but not limited to phone, in person or such other means of acceptable channel of communications subject to completion of the verification and validation procedures as prescribed by the Bank from time to time), which are given in accordance with arrangements of the authentication factors for access and to use the Service or which the Bank reasonably believes to be genuine

and the Applicant shall be responsible for and be bound by all such Instructions or communications.

- 7.2 The Applicant is obliged to check that such order has been correctly acknowledged by the Bank after placing any order via the Platform. Once given, any Instruction may not be amended, cancelled or withdrawn. The Applicant irrevocably authorizes the Bank to accept such electronic instructions and other communication from the Applicant. All Instructions shall be irrevocable and binding on the Applicant whether given by the Applicant or by any other person purporting to be acting on behalf of the Applicant. The Bank shall have no obligation or duty to verify the authenticity of any Instruction or the identity or authority of any person giving any Instruction, other than to verify any one of the authentication factors.
- 7.3 The Bank is entitled to not execute any Instruction for purchase, application or subscription unless the Applicant has made available to the Bank cleared funds in the Account, which is, in the opinion of the Bank, sufficient to cover the relevant purchase, application or subscription amount together with the relevant charges and expenses liable to be incurred in connection with such purchase, application or subscription. The Applicant shall fully indemnify the Bank on demand against all losses, damages, demands, claims whatsoever which the Bank may incur, suffer or sustain and all costs and expenses reasonably incurred by the Bank as result of the Bank's acceptance, reliance on or acting upon those instructions or communications unless due to the gross negligence or willful default of the Bank or the Bank's officer or agents.
- 7.4 An email notification for the subscription, redemption and switching order of Investment Product placed by the Applicant via the Platform will be issued by the Bank and displayed on the "Result Page" on the Platform. There is no assurance that any Instruction will be carried out at any particular price or time, or that it will be carried out at all. It is the Applicant's responsibility to check with the Bank as to whether any of the Applicant's Instruction has been executed. Where the Applicant is using the Service, the Applicant accepts that the Bank may (but shall not be obliged to) send you trade confirmation of Transactions through electronic posting of the Applicant's Account and the Applicant consents to receiving such confirmations in electronic form. The Applicant must review, upon receipt, all confirmations of Transactions and all statements in relation to the Applicant's Account and/or other related trading account, which shall be binding on the Applicant unless, within two (2) business days upon receipt, the Applicant reports to the Bank in writing of the fact that there is a discrepancy in the information that has been provided by the Bank. The trade date, settlement date and Net Asset Value of the fund relating to the Applicant's order for subscription, switching or redemption of Investment Funds are subject to the confirmation by the relevant Fund House.
- 7.5 Any subscription or switching of Investment Funds will be subject to the Offering Document of the relevant Investment Funds. The Applicant can access to and obtain

the information of available investment funds and the related offering documents (collectively, the “Offering Document”) by clicking the designated key under the relevant column on the Platform. The Applicant will then be re-directed to a third party website hosted by ET Wealth Limited (“Third Party Website”) which is engaged by the Bank as service provider for provision of investment funds related information (including but not limited to offering documents and other related information). The Applicant is required to confirm and accept the disclaimer before being re-directed to the Third Party Website. Applicant shall read and understand such Offering Document before giving any instruction to the Bank in relation thereto.

- 7.6 Acting reasonably and in good faith, the Bank may in relation to its ongoing compliance with a regulatory requirement or in relation to the management of its financial or reputational risk at any time refuse the Instruction or cancel an order to subscribe, redeem or switch, amend or cancel any order for Investment Funds on behalf of the Applicant. The Bank accept no liability for any losses incurred by the Applicant arising directly or indirectly as a result of declining the Instructions or restricting the Applicant’s access to the Service.
- 7.7 The Applicant agrees that the Bank may (but shall not be obliged to) monitor electronically or record all or any Instructions. Any relevant electronic record or recording (or a transcript thereof) shall be conclusive evidence as between the Bank and the Applicant of the contents and nature of such Instructions.
- 7.8 The Bank shall not be responsible for delays in the transmission, receipt or execution of Instructions due to either a breakdown or failure of transmission of communication facilities or unreliable medium of communication or due to any other cause or causes beyond the Bank’s control.

## **8. Representations and warranties**

- 8.1 By accessing and/or using the Website and/or the Service, the Applicant represents and warrant that:
- (a) any information provided by or deemed to have been provided by the Applicant is true, complete, correct and agree that the Bank may rely on that information unless and until the Bank receives written notice of any change signed by the Applicant;
  - (b) the Applicant will rely on his or her or its own skill and judgement when placing any order with the Bank to subscribe, switch or redeem Investment Funds on the Applicant’s behalf and assume full responsibility for those decisions;
  - (c) the Applicant has read and understood all the applicable terms and conditions and documentation provided by the Bank and acknowledged that other terms and conditions that are provided by the Bank will also apply to the Applicant;



- (d) at all times during the Applicant's dealings with the Bank, the Applicant will be in a position to meet all commitments and obligations arising from Transactions under these Terms;
- (e) the Applicant is acting as principal in relation to each Instruction and Transaction;
- (f) the Applicant will comply with any policies and procedures (as amended from time to time) that may be available on or via the Platform in respect of the Applicant's access and/or use of the Platform;
- (g) the Applicant will provide and maintain, at the Applicant's own risks and cost, all equipment necessary for accessing and using the Platform.

8.2 Notwithstanding any tools or electronic means or Facilities prescribed or provided by the Bank, the Applicant hereby assume all responsibility for, and shall ensure compliance with any and all applicable laws, rules and regulations. The Applicant is acting on his or her own account and has made his or her own independent decision to enter into the Transaction(s) and as to the legality, suitability and appropriateness of the Transaction. Further, the Applicant has evaluated and/or relied on the advice of his or her advisor as the Applicant has deemed necessary regarding any legal, regulatory, tax, accounting and credit issues in connection with the Transaction and any relevant legal, tax and exchange control regulations in force in the countries of the Applicant's residence and/or domicile.

## **9. Right of Disposal Upon Default**

9.1 The Bank may without notice to the Applicant, in such manner as the Bank deems fit, redeem or realise any or all Investment Funds or other property held in the Account, cancel any open orders for the purchase or sale of Investment Funds or other property or realise any collateral deposited with the Bank at any time upon the occurrence of any of the following:

- 9.1.1 failure by the Applicant, as soon as possible after giving the Instructions to the Bank, to (i) deposit or transfer or arrange for the Investment Funds to be deposited with or transferred to the Bank for the purpose of settlement of any redemption or (ii) pay for or accept delivery of Investment Funds purchased;
- 9.1.2 failure by the Applicant to pay the Bank any amounts due or owing, on demand or to comply with any other of the Applicant's obligations under these Terms;
- 9.1.3 breach by the Applicant of any by-law, rule or regulation as applicable on which the Bank conduct dealings on the Applicant's behalf at that time;
- 9.1.4 bankruptcy or winding-up petition is presented against the Applicant or a receiver appointed of the Applicant's property or business or the Applicant makes any arrangement or composition with the Applicant's creditors generally;

9.1.5 any consent, authorization or board resolution required of the Applicant to accept these Terms being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect; or

9.1.6 in the case of individuals, on the Applicant's death.

9.2 Unless otherwise agreed, when the Bank has executed a subscribe, switch, or redeem Transaction on the Applicant's behalf, the Applicant agrees that the Applicant will by the order date pay the Bank against delivery of or credit to the Account for purchased Investment Funds, or make good delivery of sold Investment Funds to the Bank against payment, as the case may be. Unless otherwise agreed, should the Applicant fail to make such payment or delivery of Investment Funds by the order date as mentioned above, the Bank may at its absolute discretion, to satisfy the Applicant's obligations to the Bank:-

9.2.1 in the case of a subscription, transfer or redeem such purchased Investment Funds; and

9.2.2 in the case of a redemption, borrow and/or purchase Investment Funds in order to settle the Transaction.

9.3 The Applicant acknowledges and agrees that the Applicant will be responsible to the Bank for any losses, costs, fees and expenses resulting from the Applicant's settlement failure in respect of a Transaction.

9.4 If the Bank exercises the above rights in this Clause 9, any sales proceeds may be applied in the following sequence:

9.4.1 in payment of all the Bank's costs and expenses incurred in connection therewith;

9.4.2 in settlement of any liabilities the Applicant may have to the Bank; and

9.4.3 the balance (if any) shall be returned to the Applicant.

If such proceeds are insufficient to meet such liabilities, the Applicant shall on demand and (notwithstanding that the payment date or other date originally stipulated for settlement may not then have arrived) pay the Bank and indemnify and hold the Bank harmless against any shortfall arising therefrom or in the Account together with interest thereon and all professional costs and expenses on a full indemnity basis (including legal and other professional advisers fees) incurred by the Bank in connection therewith.

## **10. Third Party Internet User Services for Applicant**

- 10.1 The Bank does not in any way warrant that (i) any services provided in connection with, or any of the Applicant's use of, the e-banking Service and/or the Website will be free of errors, interception or interruption; or (ii) the Information, Content, or other materials provided, used or accessible in connection with the e-banking Service and/or the Website will be free of viruses, disabling devices or other contaminants.
- 10.2 The Applicant acknowledges that all information in the e-banking Service (including information relating to any account or transaction) made available herein is for reference only and shall not in any circumstances be binding or used or intended for trading or any other purposes. The Applicant also agrees that none of the services available on the Platform or Website shall amount to investment advice on the part of the Bank.
- 10.3 In order to provide more comprehensive customer services, the Bank may from time to time make available to the Applicant optional internet-based services which may be provided by third party service providers or provide hyperlinks from the Website to other sites and in all such cases, the Applicant agrees and accepts that:-
- (a) such services and their contents are provided by third party service provider under a separate arrangement not involving the Bank, and the Applicant will be subject to the service provider's terms and conditions when using such services;
  - (b) while the Bank will take reasonable steps when selecting such service providers, no assurance or guarantee can be given and no warranty or representation is made as to the service, or its suitability, content, performance, accuracy, reliability or completeness or otherwise;
  - (c) under no circumstances will the Bank be liable for any damage, whether direct or indirect, incidental or subsequent arising out of use and/or from suspension, disruption or other non-availability of such services, or for any errors or omissions or other problems relating thereto;
  - (d) the market data and/or information available through the Service is provided to the Bank by the relevant service provider or agent which disseminates such data and information with assertion of a proprietary interest in such data and information. All Content and Information will be made on an "as is" basis and for information or reference purpose only. The Bank does not endorse or express any comment on any Content or Information supplied by third party service providers nor does it assume any duty to check or verify such Content or Information. Without prejudice to the foregoing, neither the Bank nor any

information or service provider warrants, represents or guarantees the accuracy, reliability, adequacy, timeliness and completeness of any Content or whether any Content is fit for any purpose. The Bank and all such information or service providers expressly disclaim all liabilities whatsoever arising from or in connection with any reliance on any content or information.

## **11. Commissions and Charges**

On all Transactions, the Applicant agrees to pay the Bank commissions at such rate or rates as the Bank may from time to time have notified the Applicant, orally or in writing, as being the rate or rates applicable to the Account, as well as applicable levies, stamp duties, charges, transfer fees, interest and other expenses in respect of the Account or any Transaction. The Bank is authorised by the Applicant to deduct such commissions, charges, levies and duties from the Account. The applicant should refer to the Bank's "List of Service Charges for Retail Banking Services" (as updated or amended from time to time) for details.

## **12. Payments**

12.1 All payments by the Applicant for settlement of Transactions or otherwise in connection with these Terms shall be made in cleared funds in the currency and at the place specified by the Bank:

12.1.1 free of any restrictions, conditions or equities;

12.1.2 free and clear and without any deduction or withholding on account of any taxes; and

12.1.3 without deduction or withholding on account of any other amount, whether by way of set-off, counterclaim or otherwise.

12.2 The Applicant acknowledges that the Bank may at any time require the Applicant to deposit sufficient cleared funds in the Account before carrying out any Transactions in respect of any Investment Funds on the Applicant's behalf.

12.3 The Applicant acknowledges and understands it is the Applicant's primary responsibility to ensure that the Bank has been notified of the payment made and that payment must be received (for value) by the Bank by such date as the Bank is notified of the payment through either the receipt of a deposit slip, a fund transfer remittance receipt or some other similar documentary evidence.

## **13. Dealings by The Bank**

13.1 Nothing herein contained shall restrict and prevent the Bank from acting in any capacity for itself or on behalf of any other person:

13.1.1 from subscribe, holding or dealing in any Investment Funds for the Bank's own or for the account of the Bank's other clients notwithstanding that similar Investment Funds may be comprised in the Account;

13.1.2 from purchasing for the Account Investment Funds held by the Bank for the Bank's own or for the account of the Bank's other clients; or

13.1.3 from purchasing for the Bank's own or for the account of the Bank's other clients Investment Funds forming part of the Account

(provided that in any such case the terms of purchase are not less favorable to the Applicant than they would have been had the Transactions been entered into an arm's length on the day in question). The Bank shall not be liable to account to the Applicant for any dividends, emoluments, commission, profits or any other benefits whatsoever resulting from the Bank doing any of the aforementioned things.

#### **14. Dealing with the Account**

14.1 The Applicant agrees not to charge, pledge, allow to subsist any charge, lien or pledge over, redeem, grant an option over, or otherwise deal in any way with, or purport to redeem, grant an option over to deal with, any Investment Funds or cash forming part of the Account.

14.2 The Applicant hereby represents and warrants to the Bank that the Applicant has good and unencumbered title to all Investment Funds which the Applicant instructs the Bank to redeem for the Account and undertakes to deliver scrip for such Investment Funds (if applicable) in time for the Bank to comply with the relevant rules of the relevant exchange applicable thereto.

#### **15. Confirmation**

The Applicant agrees at the Bank's request to take such actions as are necessary or in the Bank's opinion desirable to ratify or confirm anything done by the Bank (or on the Bank's behalf) as the Applicant's agent or on the Applicant's behalf in the proper exercise of the Bank's rights and powers in relation to the Account.

#### **16. Interest**

The Applicant agrees to pay interest on all overdue amounts owing by the Applicant to the Bank, after as well as before any judgment, at such prevailing rate from time to time as set and demanded by the Bank. Such interest shall accrue on a daily basis and be payable on the last day of each calendar month or upon demand by the Bank. Overdue interest shall be compounded monthly.

## **17. Set-Off**

Notwithstanding anything else in these Terms, the Bank shall be entitled to set off against any amount payable to the Applicant by the Bank pursuant to these Terms or on any other account whatsoever, any amounts owing by the Applicant to the Bank ("Debts") whether pursuant to these Terms or on any other account whatsoever (whether or not such amounts are due and payable and irrespective of the currency in which such amounts are denominated) and shall also be entitled to use any monies held in the Account in the discharge of such Debts. If the Applicant fails to pay any Debts within two (2) Business Days of demand, the Bank may redeem any Investment Funds held in the Account and deduct from the sale proceeds such amount as is necessary to discharge such Debt and all costs and expenses incurred on the sale.

## **18. Lien**

- 18.1 Any and all Investment Funds, the dividends and other rights attached thereto and/or all other properties belonging to the Applicant or in which the Applicant may have an interest, held or carried in the Account shall be subject to a general lien in the Bank's favour, for the performance of the Applicant's obligations to the Bank arising in respect of the Bank's dealing in Investment Funds for the Applicant.
- 18.2 The Bank may redeem such Investment Funds or other properties, take all necessary actions in connection with such sale and utilize the proceeds to set-off and discharge all the Applicant's obligations to the Bank regardless of whether any other person is interested therein or the Bank has made advances in connection with such property.

## **19. Disclosure**

- 19.1 The Bank will keep information relating to the Applicant's Account confidential, but may disclose any of such information to the extent required by any applicable legal or regulatory requirement or; other regulatory or governmental authority (whether in Hong Kong or elsewhere), and may provide to such persons as are entitled, details of the Account and dealings in relation to the Account and the identity of any other person(s) beneficially interested therein including the

name of the ultimate beneficiary/ beneficiaries of the Account. The Applicant confirms that the Bank will not be liable in any way to the Applicant (whether or not the Bank is legally obliged to respond to such a request) for providing such information.

19.2 Nothing herein shall require the Bank to disclose to the Applicant any fact or matter which comes to the Bank's notice in the course of acting in any capacity for any other person.

19.3 The Applicant understands that the Bank is subject to the Hong Kong Personal Data (Privacy) Ordinance, which regulates the use of personal data concerning individuals.

## **20. Liability and Indemnity**

20.1 Neither the Bank nor any of the Bank's officers, employees or agents shall be liable to the Applicant for any loss or damage suffered by the Applicant arising out of or in connection with any act or omission in relation to the Account unless such loss results from the fraud, negligence or willful default of the Bank or any of the Bank's officers, employees or agents. The Applicant agrees to indemnify on demand the Bank and the Bank's officers, employees and agents against all costs, claims, liabilities and expenses arising out of or in connection with the lawful performance of the Bank's duties or discretion in relation to the Account or arising out of or in connection with any such act or omission.

20.2 If in relation to any Investment Funds deposited with the Bank which is not registered in the Applicant's name and any loss is suffered by the Bank therefrom, the Account may be debited (or payment made by the Applicant as may be agreed) with the amount of such loss.

20.3 The Applicant agrees that the Applicant, independently and without reliance on the Bank or any statements made by the Bank or the Bank's behalf, makes the Applicant's judgments and decisions with respect to each Transaction. The Bank shall be under no liability whatsoever in respect of any views, opinions, information or suggestions given by any of the Bank's directors, officers, employees or agents irrespective of whether or not such views, opinions, information or suggestions were given at the Applicant's request.

20.4 The Bank does not guarantee the timeliness, sequence, accuracy, adequacy, consistency or completeness of any information provided on or via the Platform and any such information is provided on as "as is", "as available" basis. In particular, the Bank does not give:

- (a) any express or implied warranties (including merchantability or fitness for a particular use) with respect to such information; or
- (b) any express or implied warranties, representations or undertakings with respect to the prices available from the Platform (including without limitation,

any warranty, representation or undertaking that such prices are real-time market quotes or best available market prices).

## **21. Survivorship**

These Terms herein shall survive any changes or succession in the Bank's business, including the Applicant's bankruptcy or death and shall be binding on the Applicant's successor(s)/personal representative(s).

## **22. No Waiver**

22.1 No provision of these Terms shall be waived, altered, modified or amended in any respect unless it is in writing and signed by any one of the Bank's authorised officers.

22.2 The Bank's failure to insist at any time upon strict compliance with any provision in these Terms or any continued course of conduct on the Applicant's part shall not constitute or be considered a waiver generally or specifically of any of the Bank's rights or privileges, unless such waiver is granted by the Bank in writing.

## **23. Termination**

These Terms may be terminated by the Bank or by the Applicant at any time and without giving any reason by notice in writing to the other, which shall take effect once the recipient has had reasonable opportunity to act on and implement such notice. Upon termination, all amount due or owing by the Applicant to the Bank will become immediately due and payable and the Bank is authorised to deliver as soon as reasonably practicable Investment Funds held in the name of the Bank or the Bank's agent or nominee to the Applicant after repayment of any debit balance and other Debts in accordance with Clause 16 and after deduction of the Bank's outstanding fees and expenses.

## **24. Individual Account**

If the Account is opened by an individual, the Applicant represents and warrants that the Applicant is legally capable of validly entering into and performing these Terms and that the Applicant has attained the age of 18 years and is of sound mind and legal competence and is not bankrupt.

## **25. Amendment**

To the extent permitted by the law, the Bank may from time to time amend any of these Terms by notifying the Applicant in accordance with Clause 26. The Applicant



acknowledges and agrees that if the Applicant does not accept any amendments as notified by the Bank from time to time, the Applicant shall have the right to terminate the Service in accordance with Clause 23 by notifying the Bank in writing within four (4) Business Days from the date of the Applicant's deemed receipt of the notice in accordance with Clause 26.

## **26. Notices and Communications**

The Applicant agrees that all notices and other communications and documents required or permitted to be given in relation to the Account may be sent by personal delivery, by post, facsimile, e-mail or other electronic communications, or by prepaid post to the address, and marked for the attention of the person and otherwise in accordance with the details indicated in the Application Form. All communications and documents so sent shall be deemed to have been received by the Applicant within one (1) Business Day in the case of posting, upon delivery if personally delivered and upon a successful transmission message being obtained, if sent by facsimile, e-mail or other electronic transmission.

## **27. Governing Law**

These Terms and all Instructions given shall be deemed to have been made in Hong Kong and shall be governed by and shall be enforced in accordance with the laws of the Hong Kong Special Administrative Region and the Applicant submits to the non-exclusive jurisdiction of the Hong Kong courts in respect of any dispute arising from or related to the Terms, provided that the Bank shall have the right to proceed against the Applicant in any other court which has jurisdiction over the Applicant or any of the Applicant's assets.

## **28. Assignment**

These Terms shall not be assigned by the Applicant. The Bank may, without the Applicant's consent, assign or transfer any or all of its rights, title or interest under these Terms and in the Account to any person, firm or corporation which may carry on business in succession to the Bank.

## **29. Force Majeure**

The Applicant agrees that the Bank and its directors, officers, employees and agents shall not be liable for any delay or failure to perform any of the Applicant's obligations

hereunder or for any losses caused directly or indirectly by any condition or circumstances over which the Bank, its directors, officers, employees or agents do not have control, including but not limited to, government restriction, exchange or market rulings, suspension of trading, failure of electronic or mechanical equipment or communication lines, telephone or other interconnect problems, unauthorised access, theft, war (whether declared or not), severe weather, earthquakes and strikes.

### **30. Conflict**

In the event of conflict between the Global Terms and Conditions and these Terms, the Global Terms and Conditions shall prevail unless Fubon at its sole discretion determines otherwise.

### **31. Language**

These Terms contains English and Chinese versions. The English version shall prevail if there is any conflict between the English and the Chinese versions.