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# Marigold International Securities Limited

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## Terms and Conditions for Trading Account

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## SECTION I – TERMS AND CONDITIONS FOR SECURITIES CASH TRADING

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All transactions, purchase, investment, sale, trading, exchange, acquisition, holding, deposit, transfer, disposal, clearing, settlement or dealing in, of and with all kinds of Securities effected, conducted, carried on and entered into by the Client with and through MISL, and the Securities Account opened and maintained by the Client with MISL shall be subject to and upon the Agreement.

### 1. **Definitions**

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

"**Account**" means any account of whatsoever nature now or in future opened and maintained in the name of the Client with any of the MG Group Companies in accordance with the Agreement or other agreement or document;

"**Account Opening Form**" means the Account Opening Form for the Securities Account including the declaration, information, notes and statements thereto to be completed and signed by the Client and, as the context requires, any amendments made thereto from time to time;

"**Acknowledgment by Client (Securities)**" means the Acknowledgment by Client for the Securities Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds from the Securities Account to the Futures Account and other information in respect of the Securities Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

"**Agreement**" means the agreement made between the Client and MISL and constituted by the Account Opening Form, these Terms, the Acknowledgement by Client (Securities) and such other documents referred to therein or added thereto (including any amendment or supplement made thereto from time to time);

"**Authorized Person**" means the persons or any of them appointed by the Client as agent of the Client to (including but not limited to) issue Instructions on behalf of the Client in relation to the Securities Account and/or Transactions, and initially the persons specified as such in the Account Opening Form and such other person as appointed by the Client in substitution therefor or in addition thereto from time to time (the Client shall in writing notify MISL of such appointment, which shall only be effective after the actual receipt of such notification and approved by MISL);

"**Bill Payment Number**" means the designated depositing money reference number issued by MISL and the Client may rely on such designated depositing money reference number to transfer moneys or funds from Bank of China (Hong Kong) Limited or such other bank as determined by MISL from time to time to MISL in accordance with these Terms;

"**MG Group Companies**" means MISL, MG Asset Management Limited, MG Immigration Consultant Limited and such other company as MISL may from time to time add and notify the Client;

"**MISL**" means Marigold International Securities Limited, a company incorporated under the laws of Hong Kong (SFC-CE Number: AUQ298) and its successors and assigns;

"**MISL Trading Agent**" means any agent appointed, engaged and instructed by MISL for executing, effecting, trading, implementing, clearing and settling the Instructions and Transactions in a Foreign Jurisdiction on behalf of the Client;

"**MISL Trading Agent Agreement**" means the agreements and the terms and conditions made between MISL and MISL Trading Agent for the purposes of these Terms and the Transactions (including any amendment or supplement made thereto from time to time);

"**MISL Website**" means any and all websites provided or operated by MG Group Companies;

"**Business Day**" means (a) a day (other than Saturday and Sunday and a day on which a black rainstorm warning or a number 8 or

higher typhoon signal is hoisted before 2:00 p.m. in Hong Kong) on which banks are open for business in Hong Kong in relation to Hong Kong; and (b) a day (other than Saturday and Sunday in the relevant Foreign Jurisdiction) on which banks are open for business in relation to such Foreign Jurisdiction;

"**CCASS**" means the Central Clearing and Settlement System operated by HKSCC;

"**Clearing House**" means, as the case may be, (a) HKSCC in relation to SEHK; and/or (b) the relevant Foreign Clearing House providing similar services of HKSCC to the relevant Foreign Stock Exchange in that Foreign Jurisdiction;

"**Clearing Rules**" means, as the case may be, (a) the general rules, operational procedures and other applicable rules, procedures and regulations of CCASS from time to time in force; and/or (b) the rules, procedures and regulations of the relevant Foreign Clearing System, from time to time in force;

"**Clearing System**" means, as the case may be, (a) CCASS and/or (b) the relevant Foreign Clearing System;

"**Client**" means the person or persons who has/have signed and/or specified as such in the Account Opening Form, and where the Securities Account is opened by more than one person means all of such persons collectively and any legal or personal representative, executor, successor in title or permitted assign thereof, and shall include the Authorized Person where the context permits;

"**Client Group Company**" means any company which is controlled by the Client; a person is in "control" of a company if: (a) it is in accordance with such person's instructions the directors of the company or of another company of which it is a subsidiary are accustomed to act; or (b) such person, either alone or with any of its associate, is entitled to exercise or control the exercise of more than 30% of the voting power at general meeting of the company or of another company of which it is a subsidiary;

"**Credit Facilities**" means all or any of the loan or credit facilities made available or granted by or agreed to be made available or granted by MISL and/or MG Group Companies under and pursuant to the Loan Agreement from time to time;

"**Deficit**" means the negative balance in the Client's Account whatsoever and howsoever arising;

"**Device**" means any device (including but not limited to any digital or electronic certificate or encrypted software), equipment, phone, machine or computer provided, whether mobile, fixed, portable or otherwise (whether by MISL or not) to or otherwise employed by the Client for giving Instruction;

"**Dissolution**" of a person also includes the winding-up, liquidation or bankruptcy of that person, and any equivalent or analogous procedure under the law of any jurisdiction in which that person is incorporated, domiciled, resident, carries on business or has assets and "**dissolved**" shall be construed accordingly;

"**Encumbrance**" means any mortgage, charge, pledge, lien, assignment by way of security, financial lease, deferred purchase, sale-and-repurchase or sale-and-leaseback arrangement, hypothecation, retention of title by a vendor or other security interest given or arising in respect of any assets, and any arrangement the effect of which is to prefer any creditor or any agreement for any of the same;

"**BSS**" means "BSS" as defined in Section V;

"**Exchange**" means, as the case may be, (a) SEHK and/or (b) the relevant Foreign Stock Exchange;

"**Foreign Clearing House**" means the clearing or settlement house, corporation, organization or body (being appointed, authorized or engaged by or established and operated by a Foreign Stock Exchange to provide clearing and settlement services to that Foreign Stock Exchange in respect of the Securities) including, where the context so requires, its agents, nominees, representatives, officers and employees;

"**Foreign Clearing System**" means the clearing and settlement system operated by the relevant Foreign Clearing House from time to time;

"**Foreign Jurisdiction**" means a country, territory or jurisdiction outside Hong Kong;

"**Foreign Regulators**" means any regulatory or supervisory corporation, organisation or body in a Foreign Jurisdiction having jurisdiction or regulatory or supervisory power or authority over the Transactions;

"**Foreign Securities Laws**" means the relevant laws, legislations, rules and regulations of the relevant Foreign Jurisdiction relating to the Transactions;

**"Foreign SE Rules"** means the rules, regulations, bylaws and procedures of or made by the Foreign Stock Exchange, and any amendments, supplements, variations or modifications thereto from time to time in force;

**"Foreign Stock Exchange"** means a stock or securities exchange which is permitted to operate in a Foreign Jurisdiction by the law of that Foreign Jurisdiction including, where the context so requires, its agents, nominees, representatives, officers and employees;

**"HKSCC"** means the Hong Kong Securities Clearing Company Limited including, where the context so requires, its agents, nominees, representatives, officers and employees;

**"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;

**"Hong Kong Regulators"** means SEHK, SFC, the Hong Kong Monetary Authority and/or any other regulatory or supervisory corporation, organization or body in Hong Kong having jurisdiction or regulatory or supervisory power or authority over the Transactions;

**"Sub-account Number"** means the designated account number issued by designated banks as selected by MISL from time to time and the Client may rely on such designated bank account number to transfer moneys or funds to MISL in accordance with these Terms;

**"Instruction"** means any instruction or order communicated by the Client or its Authorized Person in whatever means (including but not limited to oral, phone, fax, email, internet or any electronic means or any written form) to MISL in accordance with these Terms;

**"Loan Agreement"** means (a) Section X headed "Terms and Conditions for Loan and Security" or (b) the General Loan and Security Agreement or (c) any other loan or credit facility agreement (as the case may be) made or to be made between any of the MG Group Companies and the Client, as amended or supplemented from time to time, whereby, subject to the terms and conditions thereof, MISL and/or MG Group Companies have agreed to provide or grant Credit Facilities to the Client for the purposes stated therein;

**"Liabilities"** means all monies, liabilities and obligations, whether actual or contingent, present or future, due, owing or incurred from or by the Client to MG Group Companies, their respective nominee, subsidiary or other associated company in connection with the Account and/or the Agreement or for which the Client may otherwise be or become liable to MG Group Companies on any account or in any manner or currency whatsoever (whether alone or jointly with any other person and in whatever name, style or firm), together with interest from the date of demand to the date of payment, legal costs and all other costs, charges and expenses incurred by MG Group Companies, their respective nominee, subsidiary or other associated company in connection with the recovery or attempted recovery of such monies, liabilities and obligations;

**"Market"** means any stock, securities or other exchange (including SEHK), responsible association of dealers or corporation, whether within or outside Hong Kong, so dealing in Securities as to provide a market for Securities;

**"Parties"** means MISL and the Client, and each of them is referred to as **"Party"**;

**"Securities"** means (a) securities as defined in SFO; and/or (b) any shares, stocks, debentures, loan stocks, money, bonds, notes, unit trusts, certificates of deposit or other commercial paper or securities or other similar instruments of any kind whatever or howsoever, of or issued by any body, whether incorporated or unincorporated, or any government authority for the time being traded in a Market and acceptable to MISL and may include, in the absolute discretion of MISL, (i) rights, options or interests (whether described as units or otherwise) in or in respect of any of the foregoing; (ii) certificates of interest or participation in, or temporary or interim certificates for, receipts for or warrants to subscribe to or purchase, any of the foregoing; or (iii) any instruments commonly known as securities;

**"Securities Account"** means any account now or in future opened and maintained in the name of the Client with MISL for conducting Transactions in accordance with the Agreement, and/or all other account(s) of whatsoever nature now or in future opened and maintained in the name of the Client with MISL in accordance with the Agreement or other agreement or document;

**"SEHK"** means The Stock Exchange of Hong Kong Limited including, where the context so requires, its agents, nominees, representatives, officers and employees;

**"SEHK Rules"** means the rules, regulations and procedures of or made by SEHK, and any amendments, supplements, variations or modifications thereto from time to time in force;

**"Settlement Account"** means the bank account of the Client for the purpose of Clause 9 of these Terms, the particulars of which are specified in the Account Opening Form;

**"SFC"** means the Securities and Futures Commission of Hong Kong;

**"SFO"** means the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) and any subsidiary legislation made

thereunder;

"**these Terms**" means all the terms and conditions in this Section I headed "Terms and Conditions for Securities Cash Trading" as from time to time amended and supplemented;

"**Transactions**" means any transaction, trading or agreement to purchase, invest in, subscribe for, sell, acquire, clear, settle, exchange or otherwise dispose of any Securities and generally dealing in any and all kinds of Securities including holding Securities; and

"**U.S. person**" includes any natural person who is a citizen of or resident in the United States; a corporation, partnership or other business organisation organised or incorporated under the laws of the United States or any political subdivision thereof, any estate or trust which is administered by an executor or trustee who is a U.S. person or the income of which is subject to U.S. federal income taxation regardless of its source; any account (other than any estate or trust) held by a dealer or fiduciary for the benefit of a U.S. person and any partnership or corporation organised and incorporated under the laws of any foreign jurisdiction which was formed by a U.S. person principally for the purpose of investing in Securities not registered under the United States Securities Act of 1933. "U.S. person" shall not include any branch or agency of a United States bank or insurance company that is operating outside the United States for valid business reasons as a locally regulated branch or agency engaged in the banking or insurance business and not formed primarily for the purpose of investing in Securities not registered under the United States Securities Act of 1933. For the purposes of this definition, the "**United States**" includes the United States of America, its states, territories and possessions and the District of Columbia.

## 1.2 In these Terms: -

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) "subsidiary" shall bear the meaning given by the Companies Ordinance (Cap. 32 of the Laws of Hong Kong) and "associated company" means, in respect of any person, any company (not being a subsidiary of that person) of which that person shall beneficially own twenty per cent (20%) or more of the issued share capital or in respect of which that person is entitled to appoint one or more directors or, in relation to any company, any company which is a subsidiary of a holding company of that first mentioned company;
- (c) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to MISL means the Account Opening Form as amended by such notice;
- (d) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (e) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (f) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (g) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of the Agreement, such provision shall survive the termination of the Agreement.

## 2. Applicable Rules and Regulations

### 2.1 All the Instructions and Transactions made or entered into by MISL and/or MISL Trading Agent on behalf of the Client shall be subject to, and in respect of the above, both MISL and the Client shall be bound by: -

- (a) the Agreement;
- (b) MISL's rules, regulations, procedures and policies from time to time in force;
- (c) the memorandum and articles of association of SEHK, SEHK Rules, Clearing Rules in Hong Kong and the customs, usages, rulings and procedures of SEHK;
- (d) the SFO and all applicable laws, rules and regulations of Hong Kong;
- (e) the MISL Trading Agent Agreement, and the rules, regulations, procedures and policies of MISL Trading Agent relating and applicable to the Transactions from time to time in force;
- (f) the constitution of the relevant Foreign Stock Exchange, the relevant Foreign SE Rules, the Clearing Rules in the relevant Foreign Jurisdiction and the Market (and their respective Clearing House, if any) and Foreign SE Rules and the customs, usages, rulings and procedures of the relevant Foreign Stock Exchange, where the Instructions and Transactions are executed, performed, cleared or settled; and
- (g) the relevant Foreign Securities Law in which Foreign Jurisdiction the Instructions and Transactions are executed, performed, cleared or settled.

In the event of any conflict or discrepancy, the above applicable terms, laws, rules, regulations, procedures shall be governed in the order of prevalence of (a), (b), (c), (d), (e), (f) and (g).

### 2.2 Notwithstanding the foregoing, if there shall be any conflict or inconsistency between any of the provisions of the Agreement and anything contained in paragraphs (b), (c), (d), (e), (f) and (g) of Clause 2.1, MISL may, in its absolute discretion, take or refuse to take any action, or demand the Client to take or refrain from taking any action to ensure compliance with the same.

### 3. **Appointment and Scope of Agency**

- 3.1 The Client appoints MISL and MISL agrees to act as the Client's agent to effect Transactions on the Client's behalf unless MISL indicates (in the contract note for the relevant Transaction or otherwise) that MISL is acting as principal. Nothing herein contained shall constitute MISL as trustee for the Client or a partnership between MISL and the Client.
- 3.2 Notwithstanding that MISL is acting as the Client's agent in carrying out, executing or effecting any Transaction, MISL may, in its absolute discretion, (a) decline to accept, carry out, execute or effect any Instructions and/or any Transaction; or (b) decline to act on or stop carrying out, executing or effecting any accepted Instructions and/or any Transaction without giving any reason therefor. MISL shall not, in any circumstances, be liable (including liability for negligence) in any way to the Client for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with its not accepting, carrying out, executing, effecting or acting on such Instructions and/or Transactions or omitting to give notice therefor.
- 3.3 The Client acknowledges and accepts that it may not be possible to cancel, vary or amend an Instruction. Any attempt to cancel, vary or amend an Instruction is simply a request to cancel or modify. MISL shall not be obliged to act on any Instruction for cancellation, variation or amendment of any Instruction already given to MISL. MISL is not responsible for or liable to the Client for any loss or expense suffered or incurred by the Client if the original Instruction has already been completed, or in the opinion of MISL, MISL has insufficient time or is unable to act on such Instructions to cancel, vary or amend the original Instruction. The Client further acknowledges and accepts that attempts to cancel, vary or amend an Instruction can result in an over-execution of the Instruction, or the execution of duplicate or repeated Instructions, and the Client shall be responsible for all such executions. The Client further acknowledges and accepts that in respect of the Instruction involving MISL Trading Agent, attempts to cancel, vary or amend an Instruction is subject to the consent or agreement of the MISL Trading Agent, and the Client shall be responsible for all such executions.
- 3.4 The Client is an independent third party not connected with or acting in concert with any directors, chief executive, substantial shareholders of MISL and/or any of their respective subsidiaries or an associate of any of them. The Client does not hold any interest in MISL.
- 3.5 Without prejudice to other provisions in these Terms, the Client agrees and authorizes MISL to appoint, engage and instruct MISL Trading Agents as MISL may in its absolute discretion deem fit to execute, effect, trade, implement, clear and settle any Instructions and Transactions in a Foreign Jurisdiction.
- 3.6 Notwithstanding that MISL has accepted or agreed to carry out, execute or effect any Instructions and/or any Transaction, if the MISL Trading Agent, in its absolute discretion, (a) decline to accept, carry out, execute or effect any Instructions and/or any Transaction; or (b) decline to act on or stop carrying out, execute or effect any accepted Instructions and/or any Transaction, MISL may, in its absolute discretion, (a) stop or discontinue to accept, carry out, execute or effect any such accepted or agreed Instructions and/or any Transaction; or (b) decline to act on or stop carrying out, execute or effect any such accepted Instructions and/or any Transaction without giving any reason therefor. MISL shall not, in any circumstances, be liable (including liability for negligence) in any way to the Client for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with its not accepting, carrying out, executing, effecting or acting on such Instructions and/or Transactions or omitting to give notice therefor.

### 4. **Authorized Person**

- 4.1 The Client authorizes the Authorized Person to represent the Client in all matters in relation to all Instructions and Transactions, in particular, to give Instructions and execute all agreements and documents in relation to the Agreement and the Securities Account and its operation. All such Instructions, Transactions, agreements and documents shall be absolutely and conclusively binding on the Client. The Client agrees that MISL is entitled to act on the Instructions of the Authorized Person until the Client notifies MISL in writing that the authority of the Authorized Person has been revoked or varied.
- 4.2 The Client undertakes with MISL from time to time and at all times to ratify and confirm any Instructions whatsoever given or purported to be given by the Authorized Person including but not limited to any Instructions which may be given or purported to be given between the revocation of the authority of the Authorized Person and the actual receipt of notice of such revocation by MISL. The Client agrees that any Instructions given or purported to be given by the Authorized Person after revocation of the Authorized Person's authority (but before the actual receipt of notice of such revocation by MISL) shall be absolutely and conclusively binding on the Client, and shall be valid and effectual in favour of MISL.
- 4.3 Notwithstanding anything herein contained, the Client acknowledges and confirms that the Authorized Person is neither an employee nor agent of MISL and there is no partnership or employment relationship between the Authorized Person and MISL. The Authorized Person is appointed by the Client as agent and shall have full authority to act on behalf of the Client under the Agreement as if he were the Client himself, and shall have the authority to give good and valid receipt to any payment, monies, funds, Securities, properties or assets comprised in the Securities Account made or given to the Authorized Person. All Instructions given by the Authorized Person shall be and be deemed to be the Instructions of the Client and all acts, omissions, default or breach by the Authorized Person (whether with or without the instructions or consent of the Client) shall be and be deemed to be the acts, omissions, default or breach by the



Client. MISL shall not be in any way liable to the Client or any other parties for the acts, omissions, default or breach by the Authorized Person (whether with or without the instructions or consent of the Client). In the Agreement, the expression "Client" shall, where the context permits, include the Authorized Person.

## 5. **Form of Instructions**

- 5.1 Subject as provided herein, all Instructions in relation to Transactions shall be given by the Client or its Authorized Person direct to MISL (whether oral (in person or by telephone), via internet or any electronic means, by BSS or other means of communication accepted by MISL from time to time) in such manner as may be prescribed by MISL from time to time. If Instructions are given by telephone, internet, electronic means or by BSS, MISL is entitled to rely upon and act in accordance with such Instructions without inquiry or verification by MISL of the authority or identity of the person making or giving or purporting to make or give such Instructions and regardless of the circumstances prevailing at the time of the giving of such Instructions or amount of money involved in the Instructions, and notwithstanding any error, misunderstanding, lack of clarity, fraud, forgery or lack of authority in relation thereto.
- 5.2 MISL shall be entitled to treat an Instruction given as provided in Clause 5.1 as fully authorized by and binding upon the Client, whether such instructions given by the Client or its Authorized Person or any other person, it shall be obtained from sources believed by MISL to be reliable, MISL shall be entitled (but not bound) to act on or take such steps in connection with or in reliance upon such Instruction as MISL may in good faith consider appropriate, whether it be an Instruction to acquire, purchase, sell, dispose of or otherwise deal with Securities or transfer Securities from the Securities Account or purport to bind the Client to any agreement or other arrangement with MISL or with any other person or to commit the Client to any other type of Transaction or arrangement whatsoever or the amount of moneys or funds involved, regardless of the nature of the Transaction or arrangement or the value, type and quantity of the Securities involved and notwithstanding any error or misunderstanding or lack of clarity in the terms of such Instruction.
- 5.3 If Instructions are given by the Client or its Authorized Person by telephone: -
- (a) the Client or its Authorized Person must use the designated telephone number provided by MISL from time to time (the "**Designated Telephone**"). For the avoidance of doubt, any Instructions given by telephone without using the Designated Telephone, and any Instructions given by messages left at the voicemails of any telephone numbers of MISL or any personal mobile phone numbers of the employees or agents of MISL shall not be regarded as valid or effective Instructions to MISL. MISL shall not be liable to the Client for any loss whatsoever arising out of or in connection with the Client's or its Authorized Person's failure to comply with the terms of this Clause;
  - (b) Notwithstanding the designation of the Designated Telephone and the provisions in Clause 5.3(a) above, MISL (but not the Client) has the absolute discretion to accept, act on, carry out or effect any Instructions given by telephone other than the Designated Telephone (the "**Non-Designated Telephone Instruction**"). If MISL accepts, acts on, carries out or effects any Non-Designated Telephone Instruction, such Non-Designated Telephone Instruction shall be treated and deemed as an Instruction within the meaning of these Terms in all respects and all MISL's rights, protections, powers and remedies shall be applicable to such Non-Designated Telephone Instruction; and
  - (c) MISL has no responsibility for any delay, failure, error, interruption or suspension in the transmission or communication of Instructions or information on prices or the mistaken receipt of any Instructions by any other party. MISL is authorized to act upon any Instructions received by it (regardless of delay, failure, error, interruption or suspension as aforesaid) and MISL shall not be required to check the accuracy or authenticity of such Instructions with the Client, nor shall MISL be liable for any losses or costs suffered or incurred by the Client as a result of MISL acting upon the same. MISL shall be entitled to require the Client to enter into a further agreement if the Client wishes it to act on telephonic Instruction.
- 5.4 In the case of Instruction by BSS, the Client or its Authorized Person must give such Instruction: -
- (a) only by such means and in such manner as MISL may from time to time designate for the relevant type of Transaction;
  - (b) by use of the suitable Device (if applicable) to obtain access to the designated computer or other systems of MISL for the relevant type of Transaction; and
  - (c) at the request of MISL (such request may be represented by electronic image or digitized voice or other electronic form, as the case may be), by inputting the designated number and/or the relevant password and any other information relating to the identity of the Client as may be required by MISL, as well as the information and details with respect to the Transaction.
- 5.5 The Client recognizes the risks in giving Instructions by telephone or BSS including, without limitation, the risk of any Instruction being unauthorized or given by an unauthorized person. The Client accepts the risks in full if the Client chooses to give Instructions by such means.
- 5.6 Once the Client has given an Instruction, it may not be amended, rescinded or withdrawn without MISL's written consent.
- 5.7 MISL shall have no responsibility to procure compliance by the Client with any law or regulation governing the Client's conduct as a fiduciary (if applicable).
- 5.8 MISL and/or MISL Trading Agent may aggregate the Client's order with its own orders or with those of persons connected with MISL or with those of other clients. Such aggregation may on some occasions operate to the Client's disadvantage and on other occasions to the Client's advantage. The Client agrees that in the event of there being insufficient Securities available to satisfy the purchase/sell orders so aggregated, the number of Securities actually purchased/sold shall be attributed to the relevant clients in the order in which those purchase/sale orders were received by MISL.

- 5.9 Where the Client is acting as agent for and on behalf of any other person when giving Instructions to MISL pursuant to the Agreement, MISL shall be entitled to treat the Client (rather than any such other person) as its client for all purposes and in relation to all obligations, and the Client will be liable as such. This applies even if the Client is acting on behalf of a person whom the Client has notified MISL and no such person will be an "indirect client".
- 5.10 The Client understands that MISL is unable to know whether someone other than the Client has given or entered, or is giving or entering, instructions using the Client's name or the Client's user name or password. The Client shall not permit or allow any other person to have access to the Securities Account for any purpose. The Client shall be responsible for the confidentiality and use of, and any order given or entered with, the Client's name or the Client's user name and password. The Client shall remain responsible for all instructions using the Client's name or the Client's user name and password.
- 5.11 The Client acknowledges that it will be responsible to and will indemnify and keep indemnified MISL for any loss, costs, fees and expenses arising directly or indirectly out of or in connection with the Client's Instructions and MISL acting thereon hereunder.
- 5.12 The MISL may, if it sees fit, also act on any instructions and/or requests given by the Client in use of facsimile machine ("fax") which are expressed to come from the Client and which are honestly believed by the MISL to do so. However, any fax communication must bear a signature or signatures which, in the reasonable opinion of the MISL, correspond to those of the Client or of its Authorized Representative. The MISL shall be entitled at any time, at its absolute discretion, to refuse to carry out any instruction given or offer made by fax communication, even if the employee who received such communication on behalf of the MISL may have stated its acceptance thereof.
- 5.13 The risks for which the MISL shall not be responsible shall include those resulting from errors in transmission and misunderstandings or reasonable errors by the MISL regarding the identity of the Client or its Authorized Representative.
- 5.14 The Client agrees to hold the MISL harmless and to keep the MISL indemnified against any reasonable loss which it may suffer as a result of acting on fax communications which the MISL reasonably believes in good faith to have been given on behalf of the Client and agrees to perform and ratify any contract entered into or action taken by the MISL as a result of such communications.
- 5.15 The Client shall bear all risks arising from any fax communication with the MISL, which is discharged from any responsibility in respect thereof apart from risks arising from its own willful default or negligence. No claim to the contrary by the Client shall be admissible against the MISL unless (i) the unauthorized transaction was by any third party and the MISL failed to exercise reasonable skill and care in respect of it or (ii) any unauthorized transaction arose from the willful default or negligence of the MISL or any of its employees, agents or servants.

## 6. **Transactions**

- 6.1 MISL has the absolute discretion to select MISL Trading Agent, the Market and Foreign Jurisdiction to which to route, execute, perform or fulfill the Client's Instructions.
- 6.2 The Client authorizes MISL to instruct such MISL Trading Agent, executing brokers, agents, custodians, nominees, overseas brokers and dealers (including branches or associates of MISL) as MISL may in its absolute discretion deem fit to execute any Instructions and Transactions, such persons shall have the benefit of all of MISL's rights, powers and remedies hereunder. The Client acknowledges that the terms of business of such persons and the applicable rules of any relevant Exchange and/or Clearing System on and through which such Instructions and Transactions are executed and settled shall apply to such Instructions and Transactions.
- 6.3 All Transactions which MISL effects on the Client's Instructions shall be effected in accordance with all laws, rules and regulatory directions of government agencies and statutory bodies of competent jurisdiction applying to MISL. All actions taken by MISL in accordance with such laws, rules and directions shall be binding on the Client. In the absence of wilful misconduct or fraud of MISL, MISL shall not be liable to the Client as a result of any action or omission taken by MISL or any of the persons specified in Clause 6.2 to comply with such laws, rules and directions.
- 6.4 MISL may post the specification of or information relating to Securities on MISL Website from time to time. The Client acknowledges that it will be responsible to read and fully understand such specification or information before giving Instructions and shall review such specification or information regularly to obtain timely notice of any amendment. The Client further acknowledges that such specification or information and their amendment shall be binding on it.
- 6.5 By reason of the environment of or physical restraints on any Exchange, Clearing House or Market and the volatility of prices of Securities, there may, on occasions and despite MISL's, MISL Trading Agent, executing brokers', overseas brokers' or dealers' reasonable endeavours', be a delay in executing Instruction or dealing at any specific time. The Client accepts that MISL may not be able to execute the Client's order at the price specified by the Client, and that MISL may not be able to execute the Client's order at the price quoted at any specific time or "at best", "at the best quoted or posted" or "at market". The Client agrees in any event to accept and be bound by Transactions executed by MISL following Instructions, and agrees that MISL shall not be liable for any loss arising by reason of its failing, or being unable, to comply with any terms of an order of the Client.



- 6.6 Where MISL or the persons specified in Clause 6.2 are unable to perform any of the Client's orders in full, MISL or such persons are entitled to effect partial performance only without prior reference to or confirmation from the Client. The Client shall be bound by such part of the Client's orders so performed by MISL. MISL shall not have any obligation or liability whatsoever in respect of such part of the Client's orders which has not been performed.
- 6.7 Unless the Client gives specific Instructions to MISL to the contrary, the Client acknowledges that all orders or requests are good for the day only and that, to the extent unfulfilled, they will lapse at the end of the official trading day of the Exchange or Market in respect of which they are given, but MISL can cancel specific Instructions and close out the position from time to time according to the changes of market risk without prior notice to the Client.
- 6.8 In the event that MISL shall have effected a purchase of any Securities on behalf of the Client which transaction is recorded in accordance with the SEHK Rules and accordingly recognized by SEHK, and the selling broker (other than MISL) fails to deliver such Securities on the due date in accordance with the SEHK Rules, the Client shall be responsible for any difference in price and all incidental expenses incurred by MISL in obtaining such Securities in the open market.
- 6.9 In the event that MISL and/or MISL Trading Agent shall have effected a purchase of any Securities on behalf of the Client which transaction is recorded in accordance with the Foreign SE Rules and accordingly recognized by Foreign Stock Exchange, and the selling broker or MISL Trading Agent (other than MISL) fails to deliver such Securities on the due date in accordance with the Foreign SE Rules, the Client shall be responsible for any difference in price and all incidental expenses incurred by MISL in obtaining such Securities in the open market.
- 6.10 Subject to applicable laws and regulations and Market requirements, MISL may in its absolute discretion determine the priority in the execution of its clients' orders, having due regard to the sequence in which such orders were received, and the Client shall not have any claim of priority to another client in relation to the execution of any order received by MISL.
- 6.11 The Client acknowledges that MISL and/or MISL Trading Agent will not accept an Instruction to sell for short account on behalf of the Client. MISL shall not be responsible to the Client for identifying whether or not an Instruction is to sell for short account. The Client undertakes that it will not give any Instruction to sell for short account and will notify MISL whenever any sale order relates to a short sale of Securities and such notification shall be given at the same time as notification of the sale order. In case of a "covered" short selling order, the Client must inform MISL where the Client places a "covered" short selling order and it is the absolute discretion of MISL whether or not to accept Instruction to effect such order.
- 6.12 The Client acknowledges that it will be responsible to and will indemnify and keep indemnified MISL for any loss, costs, fees and expenses in connection with the Client's failure to meet its obligations by the settlement dates or to pay any other sum due to MISL hereunder.
- 6.13 The Client shall pay interest on all overdue balances on the Securities Account or any amount otherwise owing to MISL at any time (including interest arising after a judgment debt is obtained against the Client) at such rates and on such other terms as MISL notifies the Client from time to time or failing such notification at a rate equivalent to five per cent (5%) above the prevailing prime or best lending rate for Hong Kong dollars of The Bank of China (Hong Kong) Limited or such other bank as determined by MISL from time to time. Interest shall be payable on the last day of each calendar month or forthwith upon demand by MISL.
- 6.14 The Client acknowledges that all telephone conversations between the Client and MISL may be taped without an automatic tone-warning device in order to enable MISL to verify the Instructions of the Client. The Client agrees to accept the recordings on relevant tapes as final and conclusive evidence of the contents of the Instructions in case of dispute. Such tapes will always remain the property of MISL.
- 6.15 The Client acknowledges that the books and records of MISL in respect of any Instruction or Transaction shall be conclusive evidence (except for manifest error) against the Client in all courts of law and for all purposes. In this connection, a certificate signed by an authorized officer of MISL as to any matter in respect of any Instruction or Transaction, save for manifest error, shall be conclusive and binding against the Client.
- 6.16 Where MISL knows of or suspects a breach of security or other suspicious circumstances in respect of or in connection with the operation of one or more of the Client's Accounts or any service to the Client generally, MISL may, in its absolute discretion and without any liability, refuse to act on or delay acting on the Instruction and in that event, MISL will, to the extent possible, inform the Client as soon as practicable.
- 6.17 In the event of death or liquidation of the Client or in the event of the Client being rendered incapable or disabled from managing and administering the Client's property or affairs, then prior to the actual receipt by all the MG Group Companies of written notice of death, liquidation or incapacity or disability of the Client, all the MG Group Companies may, but not obliged to, continue to act upon the Instructions of the Client or the Authorized Person as if the Client were still alive, existing or capable of managing and administering the Client's property or affairs.
- 6.18 MISL and/or MISL Trading Agent may not have access to every Market at which a particular Security may trade. Exchanges or Market makers may fail or refuse to honour their quoted or posted prices. Exchanges may re-route Client's orders out of automated execution systems for manual handling (in which case execution or representation of Client's order may be substantially delayed). Exchange rules, policies, procedures or decisions or system delays or failures may prevent Client's order from being executed, may cause a delay in the execution or performance of Client's Instruction or may cause Client's Instruction not to be executed at the best price. In no

event shall MISL be liable to the Client for any action, inaction, decision or ruling of any Exchange, Market, Clearing House or regulatory authority.

- 6.19 If MISL cannot execute or carry out any Instruction of the Client, MISL may take any other action as MISL shall think fit. The Client understands that the Client will be responsible for all the consequences or expenses of MISL in connection with the above and that MISL will not be liable for any loss that may thereby be incurred.
- 6.20 MISL may trade or execute trading on its own account or on the account of any company of MISL, even though MISL may simultaneously hold unexecuted Client's Instructions for the same Securities which could be executed at the same price. Any directors, officers or employees of MISL and/or MG Group Companies may trade on his/their own accounts.
- 6.21 The Client is advised, and acknowledges and agrees that the price of Securities can and does fluctuate. Any individual Security may experience downward movements, and may under some circumstances become valueless. There is an inherent risk that losses may be incurred rather than profit made, as a result of Transactions. This is a risk the Client is prepared to accept.
- 6.22 MISL may elect to confirm the execution or cancellation of any Client's Instruction by the sole methods of transmitting an electronic confirmation to the Client via e-mail or through BSS, or for security purposes, by posting the information on the MISL Website, with a notification sent to the Client to login and retrieve the information. The Client agrees to accept electronic trade confirmations in lieu of printed confirmations.
- 6.23 Confirmations may be subject to delays. The Client understands that reports and confirmations of Instruction executions or cancellations may be erroneous for various reasons, including, but not limited to, cancellation, modification or adjustment by the Exchange or Clearing House. Confirmations are also subject to change by MISL, in which case the Client shall be bound by the actual Instruction execution, so long as it is consistent with Client's Instruction. In the event that MISL confirms an execution or cancellation in error and the Client unreasonably delays in reporting such error, MISL reserves the right to require the Client to accept the Transaction, or remove the Transaction from the Securities Account.
- 6.24 The Client agrees to notify MISL immediately if: (a) the Client fails to receive an accurate confirmation of an execution or cancellation; (b) the Client receives a confirmation that is not consistent with Client's Instruction; (c) the Client receives confirmation of execution or cancellation of an Instruction that the Client did not place; or (d) the Client receives an account statement, confirmation, or other information reflecting inaccurate Instructions, orders, trades, account balances, Securities or futures positions, funds, margin status, or Transaction history.
- 6.25 The Client understands and agrees that MISL may adjust the Securities Account to correct any error. The Client agrees to promptly return to MISL any assets distributed to the Client to which the Client was not entitled.
- 6.26 The Client acknowledges and accepts that neither MISL nor MISL Trading Agent shall be responsible for giving notification in whatsoever manner to the Client informing, notifying or reminding the Client of any information, action, matter relating to and in respect of: (a) the Securities purchased or held by them, (b) Client's rights, interests, obligations attached, incidental, deriving or arising to and from such Securities, and (c) the issuer of such Securities. The Client shall be responsible for reading or obtaining the information, announcements, circular or notices of such Securities and the issuer of such Securities, and taking and doing the necessary actions in relation to and in respect of: (aa) such Securities, (bb) the rights, interests, obligations attached, incidental, deriving or arising to and from such Securities, and (cc) the issuer of such Securities. MISL shall not be liable for any loss, cost or expense of the Client arising from any failure or delay of MISL in notifying the Client of the information, action, matter relating to and in respect of: (i) such Securities, (ii) the rights, interests, obligations attached, incidental, deriving or arising to and from such Securities, and (iii) the issuer of such Securities.
- 6.27 In the event that the Client instructs MISL to deliver it the Securities, MISL shall make the necessary arrangement and deliver the same to the Client within such period as may be determined by MISL.

## 7. **Funds for Settlement**

- 7.1 In respect of each Transaction, unless otherwise agreed or where MISL is already holding cash or Securities on the Client's behalf to settle the Transactions, the Client will, by such time as MISL has notified the Client in relation to the Transactions, pay MISL cleared funds (including payment in a currency other than Hong Kong dollars) or deliver to MISL which are fully paid with valid and good title and in deliverable form. The Client will be responsible to and will indemnify and keep indemnified MISL for any loss, costs, fees and expenses arising directly or indirectly out of or in connection with the Client's settlement failures.
- 7.2 If the Client fails to do so, MISL will be entitled, in its absolute discretion: -
- (a) in the case of a purchase or subscription Transaction, to sell the purchased or subscribed Securities; or
  - (b) in the case of a sale Transaction, to borrow and/or purchase sold Securities in order to settle the Transaction,
- or, in addition or as an alternative to (a) or (b) above, to have recourse to its rights of combination and set-off as set out in Clause 32 in order to settle the Transactions.
- 7.3 The Client shall on demand put MISL in moneys or funds or arrange for MISL and/or MISL Trading Agent to be put in moneys or funds in time to enable it to discharge any liability incurred or to be incurred in connection with Transactions effected in relation to the

Securities Account and shall on demand reimburse MISL and/or MISL Trading Agent for all costs and expenses incurred by it in connection therewith and settle any debit balance on the Securities Account.

- 7.4 The Client shall not give or pass any moneys, funds or share certificates to any person other than the Client or its Authorized Person (the "**Third Party**") for deposit with MISL or deposit such moneys or funds into the Third Party's accounts. The Client shall pay moneys or funds personally to MISL or deposit directly into the bank accounts designated by MISL, and the Client shall collect and deposit his share certificates with MISL in person.
- 7.5 MISL does not accept deposits of moneys or funds by Third Party cheques. MISL may, at its absolute discretion, accept cleared funds transferred to its designated account by the Third Party on the Client's behalf as the Client's deposit of funds.
- 7.6 The Client or the Third Party (as the case may be) shall immediately notify MISL after payment of funds to MISL by delivering to MISL the pay-in slips and/or other documentary evidence of such payment accepted by MISL from time to time (the "**Payment Evidence**") with the Client's name, Securities Account number and signature thereon either by fax or in person within the business hours on the date of deposit for verification. The Client acknowledges and understands that payment of funds to MISL (whether by the Client or the Third Party) may not be credited to the Securities Account or reflected in any account statement until such notification is received by MISL. The Client agrees that any interest payable to or receivable by the Client under these Terms shall be calculated on this basis.
- 7.7 The Client acknowledges and understands that the Client or the Third Party (as the case may be) is under a duty for the safekeeping of the Payment Evidence before delivering the same to MISL. MISL shall not be liable to the Client for any loss whatsoever arising out of or in connection with the Client's or the Third Party's (as the case may be) failure to deliver the Payment Evidence to MISL in time or at all, or the use of the Payment Evidence by any person other than the Client or the Third Party (whether with or without the instructions or consent of the Client).
- 7.8 The Client shall retain the originals of Payment Evidence for at least one (1) month from the date of deposit. MISL will send a statement of account to the Client as soon as possible following the deposit for record and verification. If the Client does not receive the relevant statement of account after the deposit, the Client shall immediately inform MISL.
- 7.9 The Client recognizes, understands and accepts the risks in transferring money or funds from its bank account to the designated bank account of MISL through internet for trading the Securities or settlement of the Transactions ("**Internet Depositing Money**"). The Client accepts the risks in full and agrees to bear all the risks and undertake all the responsibilities arising therefrom if the Client chooses to transfer the moneys or funds by such means. Such risks, duties and responsibilities shall include but not limited to the following: -
- (a) The Client shall be solely responsible for ensuring that all the relevant procedures, steps, information, Sub-account Number, Bill Payment Number, personal identification number, amount to be transferred and other relevant information for transferring the moneys or funds to MISL had been checked and verified as true, accurate and correct prior to giving any instruction for Internet Depositing Money. Once the Client has sent out the instructions for Internet Depositing Money in whatsoever manner, such instructions may not be amended, revoked, rescinded or withdrawn without MISL's written consent and will be effectual and valid in favour of MISL, and shall be absolutely and conclusively binding on the Client. The Client acknowledges that MISL shall not be liable for any loss, costs, damages, fees and expenses arising out of or in relation to the Internet Depositing Money in any circumstances, notwithstanding any error or misunderstanding of the Client in giving such instructions;
  - (b) MISL shall be entitled to treat the instructions given by the Client for Internet Depositing Money as fully authorized by and binding upon the Client and shall be entitled to act on or take steps in connection with or in reliance upon such instructions without inquiry or verification by MISL of the authority or identity of the person making or giving such instructions, the relevant circumstances at the material time when such instructions were given and notwithstanding any error, misunderstanding, fraud, forgery or lack of authority in relation thereto;
  - (c) The Client agrees and accepts that if MISL receives the instructions for Internet Depositing Money sent out by the Client after MISL's daily prescribed cut-off time, such instructions shall be treated as received by MISL in the next Business Day. MISL shall in its absolute discretion to determine the execution of such instructions. MISL shall not, in any circumstances, be liable (including liability for negligence) to the Client for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with the aforesaid arrangement; and
  - (d) The Client fully understands and agrees that there may be interruption, delay or lost of instructions in respect of the Internet Depositing Money caused by malfunction of communication network, system malfunction, interferences of program or software or other circumstances. The Client agrees to bear such risks in full and shall be solely responsible for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with such Internet Depositing Money.
- 7.10 All the deposits of moneys or funds shall have been cleared and actually received by MISL before such money or funds can be used or applied for the Securities Account.
- 7.11 The Client acknowledges and accepts that MISL may elect to set-off any amount receivable from, and amount payable to, the Client where such amounts arise from the purchase and sale of Securities by the Client on a cash-against-delivery basis. The Client hereby authorizes MISL to set-off such amounts against each other and to dispose of Securities held for the Client for the purpose of settling any of the amounts payable by the Client to MISL.
- 7.12 In the event that the Client shall fail to comply with any part of this Clause 7, the Client shall be wholly responsible for all Liabilities

and obligations whatsoever in connection with the deposit and shall fully indemnify MISL against all costs, claims, liabilities and expenses directly or indirectly arising out of or in connection therewith.

## 8. **Payment for Transaction Money**

- 8.1 The Client may give Instructions and MISL may accept Instructions to buy and sell Securities for delivery and payment on any Exchange or Market where permitted.
- 8.2 The Client shall provide Securities to MISL for delivery against sales or provide cleared funds to MISL for the payment of Securities purchased, by the due settlement date or payment date and at such place as MISL has notified the Client. The settlement date shall be the date on which MISL received the Securities for the relevant Transaction, and the payment date shall be the date on which MISL received cleared funds in the currency for the relevant Transaction. Any failure by the Client to provide such Securities or cleared funds to MISL by the due settlement date or payment date shall entitle MISL and/or MISL Trading Agent, without further notice or demand, to forthwith: -
- (a) borrow and/or buy the Securities required for the delivery at a price as MISL and/or MISL Trading Agent shall in its absolute discretion determine, charge any Client's Account maintained with MISL or any of the MG Group Companies for the cost thereof, deliver the Securities to satisfy the Client's obligation, and credit any Client's Account with the payment received for delivery; or
  - (b) accept delivery of the Securities, charge any Client's Account maintained with MISL or any of the MG Group Companies for the payment to satisfy the Client's obligation, transfer and/or sell the Securities at a price as MISL shall in its absolute discretion determine, and credit any Client's Account for the proceeds thereof.

or, in addition or as an alternative to (a) or (b) above, to have recourse to its rights of combination and set-off as set out in Clause 32 in order to settle the Transactions.

- 8.3 The Client shall be liable for any Deficit resulting from losses and any cost or expense (including legal costs) incurred by MISL and/or MISL Trading Agent, on a full indemnity basis, related to the purchase and sale of Securities pursuant to Clause 8.2.
- 8.4 The Client irrevocably authorizes MISL transfer, debit or deduct any money in the Securities Account and/or the Account so as to pay, discharge, satisfy the Client's indebtedness, obligations and Liabilities to MISL arising from, incurred under and relating to the Agreement, including but not limited to the outstanding purchase moneys, fees, charges, expenses, commissions and interests payable by the Client under and pursuant to the Agreement.

## 9. **Settlement Account**

- 9.1 MISL is authorized to transfer to the Settlement Account all moneys or funds payable to the Client pursuant to the Agreement. All transfers of moneys or funds payable as aforesaid to the Settlement Account or payment of such moneys or funds pursuant to the Instructions of the Client or the Authorized Person shall be and be deemed good and valid discharge of the obligation hereunder to make such payment to the Client.

## 10. **Safekeeping of Securities**

- 10.1 The Client acknowledges that there are risks in leaving Securities in the custody of MISL and/or MISL Trading Agent, and agrees that any Securities held by MISL, its associated entity or MISL Trading Agent for safekeeping may, at MISL's discretion: -
- (a) (in the case of registrable Securities) be registered in the name of the Client or in the name of MISL its nominee or MISL Trading Agent; or
  - (b) be deposited in safe custody in a designated account of MISL, its designated account with another institution or MISL Trading Agent which provides facilities for the safe custody of Securities and documents relating thereto.
- 10.2 The Client acknowledges and agrees that Securities from time to time acquired and/or held pursuant to the Agreement through or in a Clearing System shall be held subject to and in accordance with the applicable Clearing Rules.
- 10.3 The Client hereby appoints MISL and/or MISL Trading Agent as custodian of all such cash and Securities of the Client as are delivered to and accepted by MISL or any of its sub-custodians and held pursuant to the Agreement. MISL and/or MISL Trading Agent shall be entitled to deposit such cash or Securities with such other company or institution and on such terms as it may deem fit. Such cash or Securities may be co-mingled with those of other clients (but not with cash or Securities held for MISL's own account), in which case the Client shall be entitled in common with the other clients to its proportionate share of such cash or Securities or the rights thereto as are held by MISL and/or MISL Trading Agent for the account of its clients.
- 10.4 Subject to Clause 10.7, MISL and/or MISL Trading Agent shall as soon as reasonably practicable after having been required to do so by Instructions from the Client: -
- (a) procure the registration of any Securities from time to time in the Securities Account in the name of the Client or a person notified by the Client as being the nominee of the Client, or if so instructed, deliver the documents representing or evidencing the Securities to the Client or such nominee whereupon such Securities shall cease to be in the Securities Account; and

- (b) transfer any sum specified in the Instructions of the Client from the Securities Account to the Settlement Account or such bank account of the Client as the Client may advise and such transfer shall be deemed to be a good discharge of the obligation to make payment to the Client.
- 10.5 Any obligation of MISL and/or MISL Trading Agent to deliver, to hold in safe custody or otherwise or to register in the name of the Client Securities or document evidencing any Securities purchased, acquired or retained by it on behalf of the Client shall be satisfied by the delivery, the holding or registration in the name of the Client or its nominee Securities or equivalent document evidencing such Securities of the same number, class, denomination and nominal amount as, and rank pari passu with, those originally deposited with, transferred to or acquired by MISL and/or MISL Trading Agent on behalf of the Client (subject always to any capital reorganization which may have occurred in the meantime) and MISL shall not be bound to deliver or return such original document evidencing such Securities or the Securities being identical with such Securities in terms of number, class, denomination, nominal amount and rights attached thereto.
- 10.6 Where Securities listed in Foreign Stock Exchange are accepted in Foreign Jurisdictions restricting foreign ownership of Securities, MISL and/or MISL Trading Agent shall have no duty to ascertain the nationality of owner of Securities or whether the Securities deposited are approved for foreign ownership unless specifically instructed by the Client.
- 10.7 The obligations of MISL in Clause 10.4 shall be subject to the other provisions of the Agreement and to the right of MISL to require that prior to any withdrawal by the Client, the Client discharges in full all the Liabilities. MISL may, without notice to the Client, discharge any or all the Liabilities out of monies standing to the credit of the Securities Account or any Account prior to implementing any registration or transfer pursuant to Clause 10.4 or otherwise may require payment thereof to be made by the Client prior to implementing any registration or transfer pursuant to Clause 10.4.
- 10.8 The Client hereby expressly waives any or all rights attached to the Client's Securities, including any rights issues, take-over offers, capitalization issues, exercises of conversion or redemption or subscription rights, voting rights.
- 10.9 MISL will pay all dividends, distributions, interest, coupons or benefits relating to the Securities of the Client into the Securities Account within such period as may be determined by MISL. If the Securities in respect of which the dividend, interest, coupons, distribution or other benefit accrues form part of a larger holding of identical Securities held by MISL for clients, then the Client shall be entitled to the share and proportion of such dividend, distribution, interest, coupons or benefit arising on the larger holding as equals the share or proportion of the Client's holding of Securities to the total larger holding of those Securities.
- 10.10 The Client hereby authorizes MISL, MISL Trading Agent or its nominee in connection with MISL' or its nominee's custodial services to take all such actions as may be required to comply with applicable laws, Clearing Rules, regulations and rules of Exchanges. The Client acknowledges that MISL, MISL Trading Agent and its nominee shall not be liable in respect of any call, installment or other payment in relation to the Securities held by MISL or its nominee in the Securities Account.
- 10.11 MISL, MISL Trading Agent or its nominee shall levy charges as determined by MISL, MISL Trading Agent or its nominee from time to time for MISL', MISL Trading Agent or its nominee's custodian services together with all costs, expenses and disbursements incurred by MISL, MISL Trading Agent or its nominee in connection with the custodian service provided hereunder. Such charges, costs, expenses and disbursements may be deducted by MISL from the Securities Account or other Accounts maintained by the Client with any of the MG Group Companies.
- 10.12 MISL shall provide the Client with statements of the Securities Account on a monthly basis or at such intervals as MISL shall decide in its absolute discretion. The Client agrees that the Client must examine and verify such statements and will inform MISL of any mistake, omission, disagreement or unauthorized Transactions within four (4) days from the date the said statement was sent. If the Client fails to do so, the Client shall not be entitled to dispute any Transactions or entry recorded in such statements and accepts such statements as final and conclusive and the same shall be binding on the Client for all purposes. Likewise, confirmations of the execution of the Client's orders and all other documents relating to the Securities Account shall be conclusive of the matters stated therein and shall be deemed to have been accepted by the Client if not objected to in writing by the Client within four (4) days from the date the said documents were sent.
- 10.13 MISL shall issue to the Client contract notes and authorised documents as evidence of execution of sale or purchase of Securities or additional investments in Securities on behalf of the Client. Where several documents relating to a series of Transactions are involved, these will normally be held until the series is completed, when they will be forwarded to the Client.
- 10.14 Any notice to be given by the Client pursuant to Clause 30.1 shall specify the names of the persons to whom MISL shall deliver the Securities or monies in the Securities Account. If notice of termination is given by MISL, the Client shall, within two (2) business days or such longer period as MISL may agree following the giving of such notice, deliver to MISL a written notice specifying the names of the persons to whom MISL shall deliver the Securities or monies in the Securities Account. In either case, MISL shall deliver such Securities and monies to the persons so specified, after deducting therefrom all Liabilities. If after two (2) business days or such longer period as MISL may agree following the giving of a notice of termination by MISL, MISL does not receive from the Client any written notice as aforesaid, MISL shall continue to hold such Securities and monies until a written notice as aforesaid is delivered to MISL, but without being subject to the obligations imposed on MISL hereunder and the Client is liable for all costs, expenses, fees and charges as imposed by MISL for such purpose until actual delivery of the Securities and monies to the Client or other person specified by the Client.
- 10.15 Without prejudice to the rights and powers conferred to MISL under the Agreement and/or the Loan Agreement (if any), MISL shall not, without the Client's prior written consent, deposit any of the Client's Securities as security for loans or advances or lend or



otherwise part with the possession of any such Securities for any purpose.

## 11. **Tax**

- 11.1 The Client hereby authorize MISL or MISL Trading Agent to take and do all necessary actions as may be required to comply with applicable rules, regulations, laws in Hong Kong and/or Foreign Jurisdiction (as the case may be) in respect of the tax, duties, levy, charges arising out of or in connection with the Transaction and the Securities purchased or held by the Client, including filing of the returns, forms and/or other documents as may be required by the relevant authority or department in Hong Kong and/or Foreign Jurisdiction, withholding and/or making payment of payable tax, duties, levies or charges arising out of or in connection with the Transaction and the Securities purchased or held by the Client. The Client acknowledges that MISL shall withhold and/or deduct such payment from the Accounts.
- 11.2 The Client shall at its own costs furnish all the necessary documents and/or information to MISL and MISL Trading Agent for facilitating MISL to take or do all the necessary actions as stipulated in Clause 11.1 and execute the returns, or forms and other documents as may be required by the relevant authority or department in Hong Kong or Foreign Jurisdiction (as the case may be) upon the request of MISL.
- 11.3 The Client acknowledges and accepts that neither MISL nor MISL Trading Agent shall be responsible for advising or reminding the Client the due date for payment of tax, duties, levy or charges and/or giving any advice on the tax, duties, levy or charges payable by it. The Client further agrees that neither MISL nor MISL Trading Agent shall be liable for any penalty or charges levied on the Client for late payment of tax, duties, levy or charges whereas such late payment is due to or in connection with the negligence of the Client. The Client shall fully indemnify and keep MISL and MISL Trading Agent indemnified on a full indemnity basis against all reasonable costs and expenses which MISL and MISL Trading Agent may reasonably incur in making the necessary arrangement for such late payment.

## 12. **Charges and Expenses**

- 12.1 The Client shall pay MISL', MISL Trading Agent's or its nominee's commissions, charges, brokerage or other remuneration as determined by MISL, MISL Trading Agent's or its nominee in its absolute discretion on all Transactions from time to time and upon all payments to the Client, as well as all applicable levies imposed by any relevant Clearing System or Market and all applicable stamp duties. All such commissions, charges, levies and duties may be deducted by MISL from the Securities Account and any other Accounts maintained by the Client with any of the MG Group Companies.
- 12.2 Without prejudice to MISL' right to terminate the Securities Account in accordance with Clause 30, MISL may charge a monthly maintenance fee to be notified by MISL to the Client on the Client's dormant Account if the Client has no trading activity for six months or more. Payment of such fees (if any) will be automatically deducted from the Securities Account or any other Accounts maintained by the Client with any of the MG Group Companies.
- 12.3 The Client shall be liable on a full indemnity basis for all fees and expenses of any brokers, agents and nominees including MISL' nominee engaged in respect of the Securities Account, all applicable levies and/or fees, imposed by any relevant Clearing System or Market and other handling costs or expenses incurred in respect of or connected with Transactions, the Securities Account or any Securities receivables or monies held in or for account of the Securities Account, services rendered to the Client or otherwise.
- 12.4 MISL may, at its option, withdraw cash from the Client's Accounts maintained with any of the MG Group Companies to pay any amounts due to MISL under the Agreement.
- 12.5 The Client agrees and authorizes MISL to accept from any brokers and dealers engaged in the purchase or sale of, or other dealing with, Securities for the account of the Client any rebate or reallowance or soft commission as may be authorized from time to time by the Hong Kong Association of Brokers and/or the rules of any applicable Markets and Clearing Systems on and through which such Transactions are executed and settled provided always that: -
- (a) MISL and/or its nominee may enter into soft commission arrangements with brokers through which Transactions are executed for the Client. MISL and/or its nominee will enter into such an arrangement only where the goods or services are of demonstrable benefit to the clients of MISL and/or its nominee as applicable. In allocating business to the broker concerned MISL and/or its nominee is under an obligation to ensure that the quality of Transaction execution is consistent with best execution standards and that brokerage rates are not in excess of customary full-service rates. For this purpose, such goods and services may include: research and advisory services; economic and political analysis; portfolio analysis, including valuation and performance measurement; market analysis, data and quotation services; computer hardware and software incidental to the above goods and services; clearing and custodian services and investment-related publications; and
- (b) MISL and/or its nominee may receive cash or money rebates on Transactions executed for the Client's account. Such rebates will be retained by MISL and/or its nominee for their own account absolutely without prior disclosure to Client. If MISL and/or its nominee retains such rebates it is under an obligation to ensure that brokerage rates are not in excess of customary full service rates.

## 13. **Client's Money**

- 13.1 MISL shall be entitled to deposit all moneys or funds held in the Securities Account and all moneys received for or on account of the



Client with one or more accounts at one or more licensed banks. Unless otherwise agreed between the Client and MISL, any interest accrued on such moneys or funds shall belong to MISL absolutely.

- 13.2 For the Transactions executed in Foreign Jurisdiction, the Client hereby authorizes and directs MISL to pay into any trust account maintained by MISL with any financial institution, which may or may not be a licenced bank, all amounts (less all brokerage and other proper charges accruing thereon) from time to time received by MISL for and on behalf of the Client from the sale of Securities, notwithstanding that any such amounts may be reinvested for purchase of further Securities for or on behalf of the Client.
- 13.3 The Client agrees that MISL shall be entitled to receive for its own account benefit all sums derived by way of interest from the payment into and retention of: -
- (a) all amounts in any trust account; and
  - (b) all amounts received for or on account of the Client for the purchase of Securities in any trust account maintained by MISL under section 149 of the SFO.

The Client hereby expressly waives any or all rights, claims and entitlements whatsoever to such interest.

- 13.4 Whilst the Client's money remains in the segregated account of MISL, the relevant interest collected for and on behalf of the Client shall be payable and credited to the Securities Account by MISL. The interest shall be MISL' rate at its sole discretion which shall be notified to the Client from time to time. MISL may aggregate all monies received from its clients in the segregated account of MISL to achieve an overall interest rate higher than the rate being offered to the Client as aforesaid. The Client hereby agrees that MISL is entitled to retain such amount of money as may be produced by the difference in interest rates.

#### 14. **Disclosure**

- 14.1 The Client shall immediately on demand supply to MISL such financial or other information relating to the Client as MISL may, in its absolute discretion and without giving any reason therefrom, require.
- 14.2 MISL and the Client hereby agree that this Clause 14 shall continue in effect notwithstanding the termination of this Agreement.

#### 15. **Lien**

- 15.1 Without prejudice and in addition to any general lien, right of set-off or other similar right to which MISL may be entitled by laws, the Client agrees, accepts and declares that: -

- (a) all Securities which are now or will in future be deposited with, held in or transferred into the Securities Account and any other Account(s) of the Client with any of the MG Group Companies by, for or attributable to the Client for any purpose, and/or which are or will be deposited with or transferred to MISL by, for or attributable to the Client for any purpose whatsoever, and/or which have been or will be purchased, acquired or held by MISL on behalf of the Client for any purpose whatsoever all respectively together with all further or other Securities in substitution therefor or in addition thereto, all accretions thereto, all interest, rights, moneys, dividends, distributions paid, payable, accrued thereon and derived therefrom, all proceeds of sale thereof, and all moneys or funds received in connection with transfer, disposal or trading thereof; and
- (b) all the Client's properties, assets, moneys, funds, receivables, sums, title, interests, powers, options, benefits and rights of, to and in the Securities Account and any other Account(s) of the Client with any of the MG Group Companies;

((a) and (b) above are collectively referred to as the "**Retained Properties**") are subject to a lien in favour of all the MG Group Companies as continuing security (the "**Lien**") for : (i) the due and punctual performance and fulfillment of all obligations or Liabilities of the Client under the Agreement, and (ii) the payment, repayment, satisfaction and/or discharge on demand of the moneys, funds, indebtedness, obligations and Liabilities (whether past, present or future, or whether absolute or contingent) which are now or at any time hereafter shall be due, owing or incurred from or by the Client or the Client Group Company to or in favour of MISL and/or the MG Group Companies under or pursuant to the Agreement, other agreement with any of the MG Group Companies or any other agreement or document, or on any account or in any manner whatsoever (whether alone or jointly with any other person and in whatever name, style or firm) together with interest thereon and legal costs and expenses of MISL or the MG Group Companies.

- 15.2 The Client shall not, without MISL' prior written consent, assign, transfer, mortgage, pledge, charge, or create or permit to arise or exist any lien, securities or other form of Encumbrances of any nature on or over his right, title, interest and claim in or to any investment products held by MISL for account of the Client.
- 15.3 At any time as MISL shall determine appropriate and/or upon the occurrence (in the sole and subjective judgment of MISL) of any Event of Default, the Lien shall be immediately enforceable and/or MISL, without prejudice to any of the rights or powers of MISL under the Agreement, the Loan Agreement (if any) or other documents, shall have the right, without notice to the Client, to: (a) appropriate, pay, deduct, transfer or set-off the whole or any part of any funds or moneys comprised in the Retained Properties at any time and from time to time in or towards payment, satisfaction or discharge of any money, fund, indebtedness, obligation or liability secured by the Lien, and/or (b) sell, dispose of, liquidate, transfer, trade or deal with (and MISL is authorized to do all such things necessary in connection with such sale, disposal, liquidation, transfer, trading or dealing) the Retained Properties or any part thereof (to be selected by MISL in its absolute discretion) at any time and from time to time either together or in parcels and either by dealings at any broker's board through SEHK or other Exchange or by public or private means or in such other manner and for such

consideration (whether payable or deliverable immediately or by instalments and whether for cash or other valuable consideration or both) and on such terms and conditions as MISL shall think fit in its absolute discretion without being in any way liable to the Client for any loss occasioned thereby however arising. Without limiting the generality of the foregoing, MISL is hereby specifically authorized to dispose of, liquidate, transfer, trade and/or deal with the Securities Account and all Securities comprised in the Retained Properties or held in the Securities Account without notice to the Client.

- 15.4 In any sale, disposal, liquidation, transfer, trading or dealing pursuant to this Clause 15 or the Agreement, if less than all the Retained Properties are to be sold, disposed of, liquidated or transferred, MISL shall in its absolute discretion select which part of the Retained Properties are to be sold, disposed of, liquidated, transferred, traded or dealt with at any time and from time to time.
- 15.5 The Client agrees that MISL shall have the full and absolute right and discretion to determine at what time and day to exercise or enforce its right and power to carry out or execute the sale, disposal, appropriation, liquidation, transfer, trading or dealing pursuant to this Clause 15 or the Agreement. The Client shall not have any right to claim against MISL in respect of any loss arising out of any sale, disposal, appropriation, liquidation, transfer, trading or dealing pursuant to the Agreement, howsoever such loss may have been caused, and whether or not a better price or position could or might have been obtained on the sale, disposal, appropriation, liquidation, transfer, trading or dealing of any of the Retained Properties by either deferring or advancing the time or date of such sale, disposal, appropriation, liquidation, transfer, trading or dealing or otherwise howsoever.

## 16. **Client's Representations, Undertakings and Warranties**

- 16.1 The Client represents and warrants for so long as the Client maintains the Securities Account with MISL and on the giving of each Instruction to MISL in relation to a Transaction that: -
- (a) the Client will be the ultimate originator of all Transactions and is dealing on its own account as beneficial owner of the relevant Securities and the Securities Account and that no one other than the Client has any interest in the relevant Securities in or held for the Securities Account;
  - (b) the information provided in the Account Opening Form is true, complete and correct;
  - (c) the Client has or will have good and unencumbered title as beneficial owner to all Securities which the Client instructs MISL to sell or otherwise dispose of for the Securities Account in accordance with the Agreement and undertakes to deliver such Securities in time for MISL to comply with the rules of the relevant Exchange applicable thereto;
  - (d) all necessary consents, approvals or authorisations which may be required for the execution of the Agreement and for the carrying out of any Transaction on any Market have been obtained and are in full force and effect;
  - (e) the Client has the authority and power and legal capacity to open the Securities Account and to perform its obligations under the Agreement and the Agreement constitute valid and legally binding obligations of the Client;
  - (f) the Client entering into this Agreement does not and will not violate or exceed any borrowing or similar limit or other power or restriction granted or imposed by any law to the Client.
  - (g) the Agreement, when signed / executed by the Client, will constitute legal, valid and binding obligations of the Client in accordance with the terms herein.
  - (h) all written or oral answers to any questionnaire completed by the Client or any other person or other information provided to MISL or any of the MG Group Companies are true, accurate and complete, and all the MG Group Companies are entitled to rely on such information;
  - (i) the Client will forthwith notify MISL in writing of any change (material or not) in any of the aforesaid information and such change shall only take effect after receipt of such notice by MISL;
  - (j) the Client has determined that trading in Securities is appropriate for the Client, is prudent in all respects, and does not and will not violate any statute, rule, regulation, judgment, or decree, agreement or undertaking to which the Client is subject or bound;
  - (k) the Client is not carrying on any money laundering or terrorist activities. The Transaction is not relating to or in connection with any money laundering or terrorist activities. The moneys, investment or Securities in the Securities Account does not arise out of, relating to or in connection with money laundering or terrorists activities;
  - (l) the Client has read and understood the contents of this Agreement, Risk Disclosure Statements posted on the website of MISL and/or MG Group Companies; and
  - (m) the Client is not a U.S. person and will not acquire or hold Securities beneficially owned by or for a U.S. person or in violation of any applicable law.
- 16.2 The Client represents and warrants that the information provided in any completed Account Opening Form is complete and accurate and that MISL may rely on information provided in the Account Opening Form until MISL has received written notice from the Client of any changes therein. The Client shall promptly notify MISL in writing of any material changes in the information provided pursuant to the Agreement or any agreement entered into pursuant to the Agreement or relating to the Securities Account.
- 16.3 The Client undertakes to MISL to do or execute any act, deed, document or thing which MISL requires the Client to do being in the reasonable opinion of MISL necessary or desirable in connection with the implementation and enforcement of the Agreement including the execution by the Client of an irrevocable power of attorney appointing MISL as the lawful attorney of the Client to do and execute all such acts, deeds, documents or things on behalf of the Client as MISL considers necessary or desirable in connection with such implementation and enforcement. The Client agrees to ratify or confirm all such acts, deeds, documents or things by MISL.
- 16.4 The Client agrees to do such acts and things and to execute such documents as are necessary or are in the reasonable opinion of MISL desirable to ratify or confirm anything done by MISL, its nominee, subsidiary or associated company, or any other entity instructed by any of them in the proper exercise of any right or power conferred by the Agreement or any agreement entered into pursuant to the Agreement or relating to the Securities Account.

16.5 If the Client is a corporation, the Client represents, warrants and undertakes with MISL that: -

- (a) the Client is duly incorporated, validly existing and in good standing under the laws of its place of incorporation and has full power and authority to conduct the business and operations which it now conducts or proposes to conduct, and the business under the Agreement, and to own, acquire or hold Securities, property and assets;
- (b) the Client has full power and authority to enter into, sign and execute the Agreement, to perform and fulfill its duties and obligations under the Agreement, and to carry out any Transaction on any Market under the terms of the constitutional document(s) by which the Client is established or constituted;
- (c) the specimen signature(s) on the Account Opening Form is/are the genuine signature(s) of the authorized signer(s) whom is duly authorized by the Board of Directors of the Client that MISL shall dispense with making enquiries, verification or investigation in relation to the authorization of signature(s);
- (d) all necessary corporate and other action have been taken, and all necessary shareholder and other consent have been given to authorize the entering, signing, execution, performance and fulfillment of the Agreement. The Agreement when signed or executed by the Client will constitute valid and legally binding obligations of the Client;
- (e) the Client is not carrying on any money laundering or terrorist activities. The Transaction is not relating to or in connection with any money laundering or terrorist activities. The moneys, investment or Securities in the Securities Account does not arise out of, relating to or in connection with money laundering or terrorists activities;
- (f) the financial statement and accounts of the Client supplied to MISL have been prepared in accordance with accounting policies consistently applied, and present a true, fair and accurate view on the operation of the Client for the relevant accounting period and the financial position of the Client at the end of such accounting period;
- (g) the certified copy resolutions provided by the Client to MISL with the Agreement were duly passed at a meeting of its directors duly convened and held on or prior to the date hereof in accordance with its constitutional documents and were entered in its minutes book and are in full force and effect;
- (h) the certified copy resolutions provided by the Client to MISL with the Agreement were duly passed at a meeting of its directors duly convened and held on or prior to the date hereof in accordance with its constitutional documents and were entered in its minutes book and are in full force and effect; and
- (i) the Client undertakes to absolve and exonerate MISL from all blames and liabilities and to indemnify MISL against all losses, damages, liabilities, claims, demands and costs arising out or in respect or as a result of MISL agreeing to accept and act on the said resolution as effectively and duly passed and the said signature(s) as genuine and to dispense with making enquiries in relation thereto.

16.6 Where the Client effects Transactions for the account of its clients, whether on a discretionary or non-discretionary basis, and whether as agent or by entering into matching Transactions as principal with its clients, the Client hereby agrees that where MISL has received an enquiry from the Hong Kong Regulators, the following provisions shall apply: -

- (a) subject as provided below, the Client shall, immediately upon request from MISL (which request shall include the relevant contact details of the Hong Kong Regulators), inform the Hong Kong Regulators (i) the information on the identity, address, occupation, contact and other details of its client for whose account was effected; (ii) the person or entity (legal or otherwise) ultimately responsible for originating the Instruction to effect the relevant Transaction; and (iii) the person or entity (legal or otherwise) that stands to gain the commercial or economic benefit of the relevant Transaction and/or bear its commercial or economic risk;
- (b) if the Client effected the Transaction for a collective investment scheme, discretionary account or discretionary trust, the Client shall immediately upon request from MISL (which request shall include the relevant contact details of the Hong Kong Regulators), inform the Hong Kong Regulators of the name of the relevant scheme, account or trust and, if applicable, the identity, address, occupation, contact and other details of the person who, on behalf of the scheme, account or trust, ultimately originates the Instruction to effect relevant Transaction;
- (c) if the Client is acting as an investment manager for any collective investment schemes, discretionary accounts or trusts, the Client shall immediately inform MISL when any Transactions in which its investment discretion to invest on behalf of the scheme, account or trust is overridden. In the case where the Client's investment discretion is overridden, the Client shall immediately upon request by MISL (which request shall include the relevant contact details of the Hong Kong Regulators) inform the Hong Kong Regulators of the identity, address, occupation and contact details of the person(s) who has or have ultimately originated the Instruction to effect the Transaction;
- (d) if the Client is aware that its client is acting as intermediary for its underlying clients, and the Client does not know the identity, address, occupation and contact details of the underlying clients for whom the Transaction was effected, the Client confirms that: -
  - (i) it has arrangements in place with its client which entitle the Client to obtain the information set out in paragraphs (a), (b) and/or (c) above from its client immediately upon request or procure that it be so obtained; and
  - (ii) it will, on request from MISL in relation to a Transaction, promptly request the information set out in paragraphs (a), (b) and/or (c) above from its clients on whose instructions the Transaction was effected, and provide the information to the Hong Kong Regulators as soon as it received from its clients or procure that it be so provided;
- (e) the Client confirms that, where necessary, it has obtained all relevant consents or waivers from its clients, collective investment schemes, discretionary accounts or discretionary trusts for whose account Transactions may be effected and (where appropriate) complied with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong) such that it is able to release information to the Hong Kong Regulators of the identity and contact details of such clients, collective investment schemes, discretionary accounts or discretionary trusts, and of the person(s) with the ultimate beneficial interest in any such Transaction, and (if different from the Client/ultimate beneficiary) of the person(s) who originated the Transaction;

- (f) the Client agrees and undertakes to provide the client identity information set out in paragraphs (a), (b) and/or (c) above direct to the Hong Kong Regulators within two (2) Business Days of written request from MISL (which request shall include the relevant contact details of the Hong Kong Regulators);
- (g) for any intermediary in a jurisdiction with client secrecy laws, the Client confirms that agreements have been entered into by the Client's ultimate clients that waive the benefit of the secrecy laws in respect of providing the client identity information to the Hong Kong Regulators; and such agreements are binding under the relevant law; and
- (h) MISL and the Client hereby agree that the provisions of this Clause 16.6 shall continue in effect notwithstanding the termination of the Agreement.

16.7 Where the Client effects Transactions for the account of its clients, whether on a discretionary or non-discretionary basis, and whether as agent or by entering into matching Transactions as principal with its clients, the Client hereby agrees that where MISL has received an enquiry from the Foreign Regulators, the following provisions shall apply: -

- (a) subject as provided below, the Client shall, immediately upon request from MISL (which request shall include the relevant contact details of the Foreign Regulators), inform the Foreign Regulators (i) the information on the identity, address, occupation, contact and other details of its client for whose account was effected; (ii) the person or entity (legal or otherwise) ultimately responsible for originating the Instruction to effect the relevant Transaction; and (iii) the person or entity (legal or otherwise) that stands to gain the commercial or economic benefit of the relevant Transaction and/or bear its commercial or economic risk;
- (b) if the Client effected the Transaction for a collective investment scheme, discretionary account or discretionary trust, the Client shall immediately upon request from MISL (which request shall include the relevant contact details of the Foreign Regulators), inform the Foreign Regulators of the name of the relevant scheme, account or trust and, if applicable, the identity, address, occupation, contact and other details of the person who, on behalf of the scheme, account or trust, ultimately originates the Instruction to effect relevant Transaction;
- (c) if the Client is acting as an investment manager for any collective investment schemes, discretionary accounts or trusts, the Client shall immediately inform MISL when any Transactions in which its investment discretion to invest on behalf of the scheme, account or trust is overridden. In the case where the Client's investment discretion is overridden, the Client shall immediately upon request by MISL (which request shall include the relevant contact details of the Foreign Regulators) inform the Foreign Regulators of the identity, address, occupation and contact details of the person(s) who has or have ultimately originated the Instruction to effect the Transaction;
- (d) if the Client is aware that its client is acting as intermediary for its underlying clients, and the Client does not know the identity, address, occupation and contact details of the underlying clients for whom the Transaction was effected, the Client confirms that: -
  - (i) it has arrangements in place with its client which entitle the Client to obtain the information set out in paragraphs (a), (b) and/or (c) above from its client immediately upon request or procure that it be so obtained; and
  - (ii) it will, on request from MISL in relation to a Transaction, promptly request the information set out in paragraphs (a), (b) and/or (c) above from its clients on whose instructions the Transaction was effected, and provide the information to the Foreign Regulators as soon as it received from its clients or procure that it be so provided;
- (e) the Client confirms that, where necessary, it has obtained all relevant consents or waivers from its clients, collective investment schemes, discretionary accounts or discretionary trusts for whose account Transactions may be effected and (where appropriate) complied with the requirements or regulations for protecting the privacy of personal data such that it is able to release information to the Foreign Regulators of the identity and contact details of such clients, collective investment schemes, discretionary accounts or discretionary trusts, and of the person(s) with the ultimate beneficial interest in any such Transaction, and (if different from the Client/ultimate beneficiary) of the person(s) who originated the Transaction;
- (f) the Client agrees and undertakes to provide the client identity information set out in paragraphs (a), (b) and/or (c) above direct to the Foreign Regulators within two (2) Business Days of written request from MISL (which request shall include the relevant contact details of the Foreign Regulators);
- (g) for any intermediary in a jurisdiction with client secrecy laws, the Client confirms that agreements have been entered into by the Client's ultimate clients that waive the benefit of the secrecy laws in respect of providing the client identity information to the Foreign Regulators; and such agreements are binding under the relevant law; and
- (h) MISL and the Client hereby agree that the provisions of this Clause 16.7 shall continue in effect notwithstanding the termination of the Agreement.

16.8 The Client covenants to notify MISL forthwith of any material change in the information supplied in the Account Opening Form. The Client agrees and undertakes to report any loss or theft of the Client's user name and/or password, or any unauthorized access to the Securities Account immediately.

## 17. **Default**

17.1 Any one of the following events shall constitute an event of default ("**Event of Default**"): -

- (a) at any time when MISL shall, in its sole discretion, consider it necessary for the protection of MISL or any of the MG Group Companies;
- (b) the Client fails or refuses to pay or settle any outstanding amount, money, fund, purchase price or other payment becoming due or payable under the Agreement or any other agreement with any of the MG Group Companies;
- (c) the Client fails or refuses, to settle or pay any outstanding amount, money or Deficit on any of the Client's Account(s) with MISL or any of the MG Group Companies;
- (d) the Client violates or fails to perform on a timely basis any term, undertaking, agreement, covenant or condition on its part to be



- performed under the Agreement;
- (e) the Client fails or refuses to discharge, pay, satisfy or perform any of the Client's Liabilities, obligation or indebtedness under the Agreement or any other agreement with any of the MG Group Companies;
  - (f) breach, refusal, failure or default of or by the Client in complying with, fulfilling, performing or oMISLerving any terms or conditions of the Agreement or any other agreement with any of the MG Group Companies;
  - (g) any representation or warranty made in the Agreement or in any document delivered to MISL or any of the MG Group Companies being or becoming incomplete, untrue or incorrect;
  - (h) any consent or authorization required by the Client to enter into the Agreement being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;
  - (i) the filing or commencement of a petition or application in bankruptcy, liquidation or winding up, petition or application for the appointment of a receiver, or the commencement of other similar proceedings against the Client;
  - (j) the Lien or any security created or any part thereof respectively in relation to the indebtedness, obligations or Liabilities under the Agreement and/or the Loan Agreement (if any) being avoided or discontinued;
  - (k) any deterioration or impairment (in MISL' opinion) or any decline or depreciation (in MISL' opinion) in the value or market price (whether actual or reasonably anticipated) of the Retained Properties or any security or any part thereof respectively;
  - (l) the levying of attachment or charge against the Securities Account or any Account(s) of the Client with MISL or any of the MG Group Companies;
  - (m) any third party asserts a claim, right or interest in respect of any moneys or funds in the Securities Account or any Accounts of the Client with MISL or any of the MG Group Companies;
  - (n) the Client takes advantage of any bankruptcy, liquidation, reorganization, moratorium, insolvency or similar law or makes or proposes to make any arrangements or compositions for the benefit of any of the Client's creditors, or is the subject of any order, judgment or decree entered by any court providing for the winding up, reorganization, liquidation or appointment of a liquidator, trustee in bankruptcy or receiver of the Client or a substantial part of the Client's business or assets;
  - (o) the Client becomes insolvent or dissolved for any reason whatsoever, merges or becomes consolidated with any non-affiliated party, or sells all or a substantial portion of the Client's business or assets;
  - (p) the death, liquidation or judicial declaration of incompetence of the Client;
  - (q) any action or proceeding is commenced or any claim or demand is made by any person against the Client in connection with any matter herein contained or the Retained Properties or any part thereof or against MISL in connection with any matter herein contained or the Retained Properties or any part thereof;
  - (r) any adverse change (in the sole and subjective opinion of MISL) in the corporate structure, business, assets, financial condition, and general condition or prospects of the Client;
  - (s) at any time when MISL and/or any of the MG Group Companies is or becomes under any obligation imposed by any relevant Exchange and/or Clearing House and/or broker or any applicable laws, rules and regulations to do any of the acts mentioned in this Clause 17;
  - (t) at any time when MISL Trading Agent is or becomes under any obligation imposed by any relevant Foreign Stock Exchange and/or Foreign Clearing House and/or broker or any applicable laws, rules and regulations to do any of the acts mentioned in this Clause 17; and
  - (u) the occurrence of any event which, in the sole and subjective opinion of MISL, may or shall jeopardize, prejudice or affect any of the rights, interests or benefits of MISL or any of the MG Group Companies.

17.2 If an Event of Default (in the sole and subjective judgment of MISL) occurs, then all amounts owing by the Client to MISL shall become immediately payable on demand, and interest will accrue, at the rate specified in Clause 6.13, on the amounts outstanding from time to time, the further performance by MISL of any of its outstanding obligations to the Client under the Agreement (whether for payment of money or otherwise) shall be conditional upon the Client having fully discharged all its obligations to MISL under the Agreement, and MISL or any of the MG Group Companies shall be entitled at their absolute discretions, without further notice or demand and in addition to and without prejudice to any other rights or powers conferred under the Agreement and/or the Loan Agreement (if any), to forthwith:-

- (a) satisfy any obligations the Client may have to MISL (either directly or by way of guarantee or other security) by selling, realizing or otherwise dealing with, in such manner as MISL in its absolute discretion may determine, all or part of any property held by any of the MG Group Companies for any purpose in any of the Client's Accounts maintained with any of the MG Group Companies, and to apply the proceeds in reduction of all or part of any Liabilities of the Client to MISL;
- (b) set-off, combine or consolidate any of the Client's Accounts (of any nature) maintained with MISL or any of the MG Group Companies or any obligations of MISL to the Client under the Agreement against any obligations of the Client to MISL under the Agreement;
- (c) suspend MISL' obligations to perform pursuant to the Agreement;
- (d) revise, change, withdraw, stop or cancel the facilities, advances, credits or loans made or granted to the Client, or any part thereof respectively;
- (e) enforce the Lien and/or the security constituted or created under and pursuant to the Loan Agreement (if any);
- (f) liquidate the Securities Account or any Account of the Client with any of the MG Group Companies;
- (g) where applicable, sell any Securities in the Securities Account and/or any Account of the Client with any of the MG Group Companies;
- (h) where applicable, buy Securities previously sold as a short sale in the Securities Account and/or any Account of the Client with any of the MG Group Companies;
- (i) liquidate or terminate any open contract held by MISL on behalf of the Client, and make or take delivery of the Securities in respect of such contract;
- (j) borrow or purchase any Security required to make delivery on behalf of the Client;

- (k) exercise any options held by MISL on behalf of the Client;
  - (l) transfer in, transfer out, settle, clear all or any Securities;
  - (m) call upon or enforce any security which may have been issued, made or created in favour of MISL or any of the MG Group Companies as security for the indebtedness, Liabilities or obligations of the Client under the Agreement;
  - (n) exercise any or all the rights and powers of MISL under the Agreement;
  - (o) cancel any or all outstanding instructions, orders or any other commitments made on behalf of the Client;
  - (p) take any actions, or do any acts, matters or things as authorized, instructed, directed, appointed or empowered under the Agreement;
  - (q) take such actions, or do such acts, matters or things as MISL shall think fit in relation to the Retained Properties; and/or
  - (r) take or not to take any actions, or do or not to do any acts, matters or things as MISL shall think fit.
- 17.3 MISL may at its absolute discretion apply the net proceeds (after deduction of all fees, costs and expenses incurred in connection with the exercise of the powers conferred on MISL by this Clause 17) actually received by MISL pursuant to the exercise of powers under this Clause 17 in reduction of the Client's then outstanding obligations to MISL in such order or manner as MISL considers fit.
- 17.4 MISL shall have absolute discretion in all matters relating to the exercise of its rights under this Clause 17, and may sell any Securities on a single or collective basis. The Client hereby waives all claims and demands (if any) against MISL in respect of any loss, involuntary or otherwise, directly arising from the exercise by MISL of the powers conferred by this Clause 17, howsoever such loss may have been caused (other than through wilful default of MISL, or the reckless disregard of the obligations of MISL under this Clause 17), whether in relation to the timing or manner of the exercise of such powers or otherwise.
- 17.5 In the event that any of the events set out in Clause 17.1 shall occur, then the Agreement may be terminated by MISL forthwith without notice to the Client. Any such termination shall be without prejudice to the accrued rights and obligations of the Parties contained in any provision hereof which shall remain in full force and effect and shall be enforceable notwithstanding such termination.
- 17.6 The Client shall be liable for any Deficit that may exist after MISL has exercised any or any combination of rights in this Clause 17, and any cost or expense (including legal costs) incurred by MISL, on a full indemnity basis, related to such exercise.
- 17.7 MISL shall be entitled at all times to employ debt collecting agent(s) to collect any sum due but unpaid by the Client hereunder and for doing so, MISL may and is hereby authorized to disclose to such agent(s) any or all information available in relation to the Client and MISL shall not be howsoever liable or responsible (whether in contract or tort) for such disclosure or for any default negligence act conduct misconduct and/or deeds of such agent(s). The Client is hereby warned that the Client shall indemnify and keep MISL indemnified on a full indemnity basis against all reasonable costs and expenses which MISL may reasonably incur in employing debt collecting agent(s).
- 17.8 In the event that MISL or its associated person commits a default in relation to Securities listed or traded, or to be listed or traded, on a recognized stock market, and the related assets of such Securities, and the Client thereby suffers a pecuniary loss, the Client acknowledges and accepts that the right to claim compensation will be restricted to the extent provided for therein under the SFO. For Transactions which are effected in an Exchange other than a recognized stock market, the Client acknowledges and accepts that any right to compensation in the event of any default on the part of MISL or its associated person will be subject to the rules of the relevant Exchange.

## 18. **Client's Responsibility for Disclosure of Interests**

- 18.1 The Client's attention is drawn to the provisions of the SFO and the obligations therein to disclose certain shareholdings including corporate and family interests. Other disclosure obligations may arise under legislation of other jurisdictions or the rules and regulations of a Market.
- 18.2 MISL acts as a licensed corporation and is not responsible for advising the Client of any such obligations generally or any obligation that may arise from any Instruction of the Client or which has arisen as a result of any Transaction or from any holding or otherwise. Such obligations of disclosure are personal obligations of the Client. MISL shall not be obliged to give notice of holdings of the Client in any form or by any time limit for such purpose save any notice or statement to be issued as expressly set out in the Agreement. MISL shall not be liable for any loss, cost or expense of the Client from any failure or delay by the Client or any other person to disclose in accordance with any such obligation nor any delay or default in notification to the Client as to the carrying into effect of any Instructions and the Client shall indemnify MISL for any loss, cost or expense arising from any such failure, delay or default.

## 19. **Trading Recommendation**

- 19.1 The Client acknowledges and agrees that: (a) the Client assumes full responsibility for all trading decisions in the Securities Account and MISL and/or MISL Trading Agent is responsible only for the execution, clearing, and carrying out of the Instruction of the Client and trading, dealing or Transactions in the Securities Account; (b) MISL has no responsibility or obligation regarding any conduct, action, representation or statement of any introducing firm, trading advisor or other third party in connection with the Securities Account or any trading, dealing or Transaction therein; and (c) any advice or information by MISL, its directors, employees or agents, whether or not solicited, shall not constitute an offer to enter into a Transaction and MISL shall be under no liability whatsoever in respect of such advice or information.



## 20. **Disclaimer**

- 20.1 Neither MISL nor any of the MG Group Companies nor any of its directors, employees or agents shall have any liability whatsoever (whether in negligence or otherwise) for any direct, indirect or consequential loss, expense or damages suffered by the Client as a result of: -
- (a) MISL acting or relying on any Instruction given by the Client whether or not such Instruction was given following any recommendation, advice or opinion given by MISL or by any of its directors, employees or agents;
  - (b) MISL' delay or failure to perform or execute the Client's Instruction or its obligations hereunder by the following reasons: (i) any disruption, breakdown, malfunction or failure of transmission, communication or computer facilities, (ii) any postal or other strikes or similar industrial action, (iii) any disruption, closure, breakdown or failure of any relevant Exchange and/or Clearing House and/or broker and/or any other person or firm or company whatsoever, (iv) any prevailing Market conditions, or (v) any action of government, governmental agency, Exchange and/or Clearing House;
  - (c) MISL Trading Agent acting or relying on any Instruction given by the Client whether or not such Instruction was given following any recommendation, advice or opinion given by MISL Trading Agent or by any of its directors, employees or agents; or
  - (d) MISL Trading Agent's delay or failure to perform or execute the Client's Instruction or its obligations hereunder by the following reasons: (i) any disruption, breakdown, malfunction or failure of transmission, communication or computer facilities, (ii) any postal or other strikes or similar industrial action, (iii) any disruption, closure, breakdown or failure of any relevant Foreign Stock Exchange and/or Clearing House and/or broker and/or any other person or firm or company whatsoever, (iv) any prevailing Market conditions, or (v) any action of government, governmental agency, Exchange and/or Clearing House.
- 20.2 Without limiting the generality of Clause 20.1, neither MISL nor any of the MG Group Companies nor any of its directors, employees or agents shall have any liability whatsoever (whether in negligence or otherwise) for any direct, indirect or consequential loss, expense or damages suffered by the Client arising out of or in connection with any MISL' , MISL Trading Agent's and/or any of the MG Group Companies' delay, omission or failure to perform or execute any of the Client's Instruction or its obligations hereunder for whatever reason.

## 21. **Client Information**

- 21.1 The Client shall provide such information as MISL may from time to time request, such information shall include without limitation financial data concerning the Client. Failure to supply such information may result in MISL being unable to open or continue the Securities Account or establish, continue or provide services in Securities trading or dealing. It is also the case that information are collected from the Client in the ordinary course of the continuation of Securities trading or dealing relationship.
- 21.2 The Client authorize MISL to disclose, provide or transmit to MISL Trading Agent all or any part of the information provided by the Client to MISL for purpose of effecting the relevant Transaction as instructed by the Client.
- 21.3 The Client agrees promptly (a) to furnish appropriate financial statements to MISL; (b) to disclose to MISL any material change in the financial position of the Client; (c) to furnish such other information concerning the Client as MISL may reasonably request; (d) to notify MISL in writing if any of the representations contained in the Agreement cease to be true, accurate and correct in any respects and (e) to notify MISL of the occurrence of any event specified in Clause 17.1 upon its occurrence.

## 22. **Use of Client Information**

- 22.1 The Client acknowledges that the laws of the relevant jurisdictions, the Foreign SE Rules on which MISL or MG Group Companies enters into Transactions for and on behalf of the Client may require the disclosure of information relating to the Client and/or the Client's Accounts. The Client hereby irrevocably authorizes MISL and MG Group Companies, without notice or consent from the Client, to disclose to and provide the relevant authorities with all such information and documents of the Clients as may be required for such purpose, including without limitation, the name and identity of the Client or the ultimate beneficial owner of the Securities Accounts, and the financial position of the Client as may be known to MISL or MG Group Companies. The Client shall not hold MISL or MG Group Companies liable for any consequences arising from such disclosure, and the Client shall reimburse MISL and MG Group Companies on demand for all costs and expenses (including legal costs) incurred by MISL and MG Group Companies in complying with requests for such disclosure.
- 22.2 MISL will keep information relating to the Client and the Securities Account confidential, but is authorized to use such information for the following purposes including but not limited to: (a) the daily operation of the Securities Account and the services provided to the Client; (b) conducting credit enquiries on the Client; (c) ensuring ongoing credit worthiness of the Client; (d) designing and marketing services or related products; (e) collection of amounts outstanding from the Client and those providing security for the Client's obligations; (f) make disclosure under the requirements of any law binding on MISL; and (g) purposes relating thereto. MISL may provide any such information to the following persons including but not limited to (i) its auditors, legal advisers, brokers or dealers instructed by MISL on behalf of the Client, (ii) the SEHK or other regulatory bodies, (iii) any other Market in which Securities are traded for the Securities Account, (iv) the Hong Kong Regulators or any other regulatory authority to comply with their requirements or requests for information, (v) any employee, agent, contractor, sub-contractor or third party service provider who provides administrative, telecommunications, computer, payment, clearing or other services to MISL in connection with the operation of its business; and (vi) any other person under a duty of confidentiality to MISL including but not limited to all the MG

Group Companies which have undertaken to keep such information confidential. MISL shall not be liable in any way to the Client for any disclosure made pursuant to this Clause.

- 22.3 Where the Client is an individual, the Client agrees to be bound by MISL' "Notice to Clients relating to the Personal Data (Privacy) Ordinance", and to the use of his/her personal data in the manner specified in the said Notice.
- 22.4 Under and in accordance with the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong) any individual: (a) has the right to check whether MISL holds data about him and the right of access to such data; (b) has the right to require MISL to correct any data relating to him which is inaccurate; and (c) has the right to ascertain MISL' policies and practices in relation to data and to be informed of the kind of personal data held by MISL.
- 22.5 MISL may, whether during the continuance or after the termination of the Agreement, without notice to the Client, disclose to any of the MG Group Companies or any agent, or to any actual or proposed assignee or participant or sub-participant or transferee of any of MISL' rights or obligations under the Agreement, any information relating to the Client.
- 22.6 MISL or MG Group Companies intends to use and/or transfer the Client's data to MISL or any of the MG Group Companies for direct marketing purpose and MG Group Companies requires the consent (including an indication of no objection) of the Client. For the aforesaid purpose, consent is hereby given by the Client on such use and transfer. Client's name, contact details, financial background and statistical data held by MISL and MG Group Companies from time to time may be used by MISL or MG Group Companies in direct marketing of: (i) Financial services and investment products; (ii) Related promotional schemes; (iii) Financial and investment advices; or (iv) promotional and marketing events of MG Group Companies for the aforesaid services or products until MISL or MG Group Companies receive Client's objection or requirement to cease such use or transfer through the prescribed channel.

## 23. **Liability and Indemnity**

- 23.1 The Client agrees that neither MISL nor any of the MG Group Companies nor any of their respective officers, employees or agents shall be liable to the Client for any loss or liability which the Client may incur (including losses and liabilities resulting from Transactions executed by any brokers and dealers) unless due to fraud or wilful default on the part of MISL or any of the MG Group Companies.
- 23.2 The Client shall indemnify and keep MISL indemnified against all costs, claims, demands, actions, proceedings, damages, losses and expenses whatsoever which may be suffered or incurred by MISL directly or indirectly arising out of or in connection with anything done or omitted pursuant to any Instruction of the Client, anything lawfully done or omitted by MISL, any Transaction entered into by MISL on behalf of the Client, or any action by MISL in accordance with the Agreement.
- 23.3 The Client shall indemnify MISL, all the MG Group Companies and their respective directors, officers, delegates, agents, employees, nominees, correspondents or representatives from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, legal expenses and other expenses or disbursements of any kind or nature whatsoever (other than those resulting from fraud or wilful default on the part of MISL) which may be imposed on, incurred by or asserted against MISL or any of the MG Group Companies (or any of their respective directors, officers, delegates, agents, employees, nominees, correspondents or representatives) in the performance or exercise of their duties or discretion under the Agreement or arising out of or in connection with the default or breach by the Client of any provision of the Agreement or any of the Client's obligations to MISL or any of the MG Group Companies, or any representation or warranty by the Client becoming untrue or inaccurate, including but not limited to any costs incurred by any of them in the collection of debts owed by the Client to any of them.
- 23.4 The Client shall indemnify MISL, all the MG Group Companies and their respective directors, officers, delegates, agents, employees, nominees, correspondents or representatives against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, legal expenses and other expenses or disbursements of any kind or nature whatsoever arising out of or in connection with any act of omission of the Authorized Person of the Client.
- 23.5 The Client shall further indemnify MISL against any claim which may be made against MISL by a purchaser or any other person by reason of any defect in the title of the Client to the Securities.
- 23.6 The Client also agrees to pay promptly to MISL and all the MG Group Companies all damages, costs and expenses (including legal costs and expenses on a full indemnity basis) incurred by MISL in the enforcement of any of the provisions of the Agreement.
- 23.7 If MISL fails to meet the obligations to the Client pursuant to the Agreement, the Client will have a right to claim under the Investor Compensation Fund under the SFO, subject to the terms of the Investor Compensation Fund as from time to time amended or supplemented.

## 24. **MISL' Interests**

- 24.1 When effecting any Transaction for the Client, MISL, its nominee, any of the MG Group Companies, may have an interest, relationship or arrangement that is material in relation to the Transaction, in the Securities concerned. The Client agrees that MISL may, notwithstanding any such interest, relationship or arrangement, effect Transactions for the Client with or through any of its nominees, subsidiaries or associated companies, and MISL, its nominees, subsidiaries or associated companies may: -

- (a) be the counterparty as principal for its own account in respect of any Transactions effected by the Client;
  - (b) effect Transactions in circumstances when it, any of its nominees, subsidiaries or associated companies has a position in the Securities is involved with those Securities as underwriter, sponsor or otherwise; or
  - (c) match the Client's orders with those of other clients.
- 24.2 In the absence of fraud or wilful misconduct on the part of MISL, MISL shall not be liable to the Client for any claims against MISL or any of its nominees, any of the MG Group Companies in relation to any Transaction referred to in Clause 24.1 including any claims to the effect that MISL or any of its nominees, subsidiaries or associated companies account to the Client for any emoluments, commissions, profits or any other benefits whatsoever earned or received by MISL or any of its nominees, subsidiaries or associated companies in relation to any such Transactions.
25. **Suitability**
- 25.1 Unless MISL expressly agrees in writing to the contrary, no representation or warranty, express or implied, is given by MISL as to the value or suitability for the Client of any Transaction entered into by the Client.
- 25.2 The Client hereby acknowledges that any information communicated to the Client by MISL, although obtained from sources believed by MISL to be reliable, has not been independently verified by MISL and may be incomplete, inaccurate or changed without notice to the Client. MISL makes no representation, warranty or guarantee with respect to the correctness of such information. MISL and/or MG Group Companies shall have no responsibility or liability whatsoever in respect of any information given, or views expressed by them or any of their directors, officers, employees or agents to the Client, whether or not such information or views are expressed at the request of the Client.
- 25.3 The Client shall make its own judgment and decision with respect to any Transaction which he enters. The Client understands that MISL, or one or more of the MG Group Companies, may purchase or sell, have a position in the Securities or financial instruments which are the subject of information or recommendations furnished to the Client, and that the positions or Transactions of MISL or any of the MG Group Companies may or may not be consistent with the recommendations furnished to the Client by MISL.
26. **Investor Compensation Fund**
- 26.1 In the event that MISL commits a default as defined in Part XII of the SFO and the Client thereby suffers a pecuniary loss, the Client understands that the right to claim under the Investor Compensation Fund established under Part XII of the SFO will be restricted to the extent provided for therein
- 26.2 Notwithstanding the aforesaid, the Client fully understands that the right to claim under the Investor Compensation Fund as mentioned in Clause 26.1 will not be applicable to any Instructions or Transactions in Foreign Jurisdiction.
27. **Securities Borrowing & Lending**
- 27.1 MISL shall be permitted to borrow or lend Securities only in accordance with Securities Borrowing & Lending Regulations issued by the Exchange or the Clearing Rules (as the case may be) and, where the Securities borrowing relates to Hong Kong stock, with applicable law and in particular the Stamp Duty Ordinance (Cap. 117 of the Laws of Hong Kong) and the relevant Stamp Duty Interpretation and Practice Notes.
28. **Joint and Several Liability/Successors**
- 28.1 Where the Client consists of more than one person (whether a partnership or otherwise): -
- (a) the expression "Client" shall include each such person (a "**Joint Client**") and the liability of Joint Clients under the Agreement shall be joint and several;
  - (b) any demand for payment on any one or more of the Joint Clients shall be treated as a valid demand on all Joint Clients;
  - (c) MISL and any of the MG Group Companies shall be entitled to deal separately with any of the Joint Clients on any matter including the release or discharge of any one or more of the Joint Clients from liability under the Agreement or compound with, accept compositions from, or make any other arrangement with, any of such persons without, in consequence, releasing or discharging or otherwise prejudicing or affecting its rights and remedies against any other Joint Clients;
  - (d) each of the Joint Clients shall, in favour of all the MG Group Companies, waive the right of proof in competition with any one or all of the MG Group Companies in the bankruptcy or insolvency of any of the Joint Clients and none of the Joint Clients shall take from any other Joint Client(s) any counter-security without prior written consent from all the MG Group Companies;
  - (e) the discharge, satisfaction or performance of any liability, obligation or indebtedness under the Agreement by any of the MG Group Companies in favour of or for the benefit of any of the Joint Clients shall be and be deemed to be full and sufficient discharge, satisfaction or performance of such liability, obligation or indebtedness in favour of or for the benefit of any or all of the Joint Clients. The payment of money or fund by any of the MG Group Companies toward or in favour of any of the Joint Clients shall be and be deemed to be full and sufficient discharge, satisfaction or performance of such payment of

- money or fund toward or in favour of any or all of the Joint Clients;
- (f) the Agreement shall not be affected by the death, incapacity or Dissolution of any Joint Client;
- (g) termination of the Agreement pursuant to Clause 30 by any one or more of the Joint Clients or his or their personal representatives shall not affect the continuing liability of the other Joint Clients;
- (h) MISL shall have a lien on the property (including without limitation the Securities Account) of each Joint Client. MISL's lien shall be additional to the rights and remedies of MISL pursuant to the Agreement;
- (i) The Joint Clients have authorized MISL to accept the Instructions given by any one or all of the Joint Clients ("Such Person") to MISL (including but not limited to verbal instructions and written instructions). Such Person will have the authority to handle the operation of the Securities Account and exercise all rights, powers and discretion pursuant to the Agreement on behalf of any of the Joint Client. MISL may follow the Instructions given by Such Person and will not be required to give notice to, or obtain authorization from, any one or all of the Joint Clients in respect of such Instructions. MISL will have an absolute discretion to determine whether or not to accept the relevant Instructions and MISL will not be liable as such for any loss whatsoever incurred as a result of accepting or not accepting the instructions. Any act, conduct, Instructions, directions, decisions and/or authorizations of any of the Joint Clients shall be jointly and severally binding on the other Joint Clients;
- (j) MISL shall be under no duties whatsoever (including without limitation any duty to inquire into or see to) in respect of the application of any monies or properties between the Joint Clients;
- (k) Any of the Joint Clients is not entitled to claim or assert interest, benefit, ownership or title to any particular or specific Securities in the Securities Account separately or independently with any other Joint Clients;
- (l) the Joint Clients have entered into the Agreement with a right of survivorship;
- (m) in the event of death of any Joint Client, the estate of the deceased Joint Client or the surviving Joint Client(s) shall immediately notify MISL in writing of the relevant death and produce and deliver to MISL true copy of proof of such death and such other documents as MISL may in its absolute discretion require (but MISL is not required to verify the authenticity of such evidence so produced); and
- (n) each of the Joint Clients shall be bound by the Agreement regardless of the arrangement or agreement among the Joint Clients and notwithstanding the Agreement may be invalid or unenforceable against any one or more of the Joint Clients (whether or not the deficiency is known to MISL).

## 29. **Single and Continuous Agreement**

- 29.1 The Agreement and all its amendments shall be continuous, and shall cover individually and collectively all Securities Accounts which the Client may from time to time open and maintain with MISL, each order executed by MISL shall be subject to the terms and conditions of the Agreement. The Client hereby acknowledges that all Transactions executed for the Client's account shall be executed by MISL in reliance upon such fact and as if the representations, undertakings and warranties given by the Client to MISL in Clause 16 were repeated before each such Transaction, and that the Parties would not otherwise enter into such Transaction.

## 30. **Termination**

- 30.1 The Client shall only terminate the Agreement by a valid and effective prior written notice to MISL. The aforesaid prior written notice shall be a valid and effective prior written notice only and only if such notice shall be actually received by MISL and the effective date for termination of the Agreement stated therein shall be at least seven (7) Business Days after the date of receipt of such notice by MISL. The Agreement shall be terminated by MISL at its discretion and at any time by notice given by MISL to the Client. The termination of the Agreement shall not affect or prejudice: -
- (a) the Liabilities, obligations or indebtedness of the Client existing, arisen or incurred at the time under the Agreement, the Loan Agreement (if any) and/or any agreement made with any of the MG Group Companies on or before the termination of the Agreement, including but not limited to the indebtedness, Liabilities or obligations of the Client arising out of or in connection with any open positions or outstanding Transactions at the time of the termination of the Agreement;
  - (b) the Liabilities, obligations or indebtedness of the Client arising out of or in connection with any agreements, warranties, representations, undertakings and indemnities given by the Client under the Agreement, the Loan Agreement (if any) and/or any agreement made with any of the MG Group Companies;
  - (c) the rights and powers to liquidate, terminate, transfer or settle all the open positions or outstanding Transactions of the Client, and the rights and powers to take such action or do all such acts and things incidental or in relation to the liquidation, termination, transfer or settlement mentioned in this Clause; and
  - (d) the rights and powers to take such action or do all such acts and things incidental or in relation to the termination, conclusion, consolidation, clearing or settlement of all the Client's Liabilities, obligations or indebtedness under the Agreement, or the rights and powers to take such action or do all such acts and things incidental or in relation to the termination of the Agreement.
- 30.2 Upon termination of the Agreement under Clause 30.1, all amounts due or owing by the Client to MISL under the Agreement shall become immediately due and payable. MISL shall cease to have any obligation to effect any Transaction on behalf of the Client in accordance with the provisions of the Agreement, notwithstanding any Instructions from the Client to the contrary.
- 30.3 As soon as practicable after termination of the Agreement, MISL shall have the power to sell, realize, redeem, liquidate or otherwise dispose of all or part of the Client's Securities for such consideration and in such manner as MISL shall in its absolute discretion consider necessary to satisfy first, all costs, charges, fees and expenses (including legal expenses) incurred by MISL in such sale, realization, redemption, dissolution or other disposal and all other monies and sums due or owing and other liabilities accrued or accruing due to MISL and outstanding (whether actual or contingent, present or future or otherwise) under the Agreement and second,

all other Liabilities, at the Client's sole risk and cost and without incurring any liability on the part of MISL for any loss or damage incurred by the Client.

30.4 Any cash proceeds remaining after satisfaction of all sums specified in Clause 30.3 shall be credited to the Settlement Account. All Securities not realized or disposed of together with any relevant documents of title in MISL's possession shall be delivered to the Client at the Client's sole risk and expense. MISL shall have no liability for any loss or damage incurred by the Client arising from such delivery.

30.5 If there is a debit balance on the Securities Account after application of the sale proceeds pursuant to Clause 30.3, the Client shall immediately pay to MISL an amount equal to such debit balance together with MISL's cost of funding such amount and interest at the rate of five per cent (5%) above the prevailing prime or best lending rate for Hong Kong dollars of The Bank of China (Hong Kong) Limited or such other bank as determined by MISL from time to time up to the date of actual receipt of full payment by MISL (after as well as before any judgment).

### 31. **Force Majeure**

31.1 Neither of the Parties shall be liable for any loss sustained by the other, directly or indirectly, if either Party is prevented from acting as a direct or indirect result of government restrictions, the imposition of emergency procedures or suspension of trading by any relevant Exchange, Clearing House or Market, civil disorder, acts or threatened acts of terrorism, natural disasters, war, strikes or other circumstances beyond third party's control.

### 32. **Combination and Set-Off**

32.1 Notwithstanding anything contained in the Agreement, the Loan Agreement (if any) or any other agreement between any of the MG Group Companies and the Client, the Client irrevocably and unconditionally authorizes and directs MISL to, with or without notice, set-off and withhold from and apply the Retained Properties, Securities, receivables, moneys or funds held in or for the Securities Account or any other Account with MISL or any of the MG Group Companies against and in whole or partial payment, discharge or satisfaction of any indebtedness, obligation or Liabilities of whatsoever nature (whether primary, collateral, several, joint or in other currencies and whether or not in connection with the Securities Account or any other previous closed Account) owed by the Client to MISL or any one of the MG Group Companies.

32.2 Without prejudice to the generality of Clause 32.1, if the Client has more than one Account with the MG Group Companies, any of the MG Group Companies is hereby authorized by the Client to combine or consolidate at any time without notice to the Client all or any of such Accounts and set-off, apply or transfer any of the Retained Properties, moneys, funds, Securities, properties or assets in any one or more of such Accounts in or towards payment, discharge or satisfaction of any indebtedness, obligations or Liabilities of the Client of whatsoever nature, actual or contingent, primary or collateral, secured or unsecured, joint or several, to any of the MG Group Companies in respect of any other Accounts. Where any such combination, consolidation, set-off or transfer requires the conversion of one currency into another, such conversion shall be calculated at the spot rate of exchange prevailing in such foreign exchange market as any one of the MG Group Companies shall determine to be relevant on the date of the combination, consolidation, set-off or transfer.

32.3 Subject to the Agreement, all money or other property received by MISL from the Client or from any other person for the account of the Client shall be held by MISL and within a reasonable time from receipt of such money or other property by MISL shall be segregated from MISL's own assets and paid into a segregated company account.

32.4 The Client acknowledges that in respect of any account of MISL or any of the MG Group Companies maintained with any Clearing House, whether or not such account is maintained wholly or partly in respect of any Transaction on behalf of the Client and whether or not money paid by the Client has been paid to such Clearing House, as between MISL or any of the MG Group Companies and the relevant Clearing House, MISL (or any of the MG Group Companies as the case may be) deals as principal.

### 33. **Authorization**

33.1 The Client irrevocably and unconditionally directs, instructs and authorizes MISL that upon request, direction, instruction or demand of any of the MG Group Companies from time to time, MISL shall do the following acts and things: -

- (a) to sell, purchase, enter into, make, dispose of, deal with, trade, transfer in, transfer out, liquidate, clear or settle all or any Securities and/or positions in the Securities Account; and
- (b) to sell, purchase, deal with, trade, dispose of, realize, transfer in or out all or any Securities, properties or assets in the Securities Account.

33.2 The Client irrevocably and unconditionally directs, authorizes, instructs and agrees that upon request, direction, instruction or demand of any of the MG Group Companies from time to time, MISL shall deliver, transfer, debit, deduct or pay from the Securities Account or any other Client's Account with MISL to any of the MG Group Companies such receivables, moneys or funds as any of the MG Group Companies shall direct or determine from time to time and/or in or towards the total or partial satisfaction, payment or discharge of any moneys, indebtedness, outstanding amounts, obligations or Liabilities incurred, owing, due or payable by or from the Client or the Client Group Company to or in favour of any of the MG Group Companies from time to time.



33.3 The Client agrees and accepts that all the acts, things and matters done or made by MISL pursuant to this Clause 33 shall be and be treated and deemed the acts, things, and matters done or made by the Client, and shall be absolutely binding on the Client in all respects and for all purposes.

34. **Communications, Notice and Services**

34.1 Unless otherwise specified in the Agreement, any notice to be made or given by the Client to MISL under the Agreement shall be in writing.

34.2 Without prejudice to other provisions of the Agreement relating to communication or notice by or from MISL and the right of MISL to use any way or method of communication, any report, confirmation, statements, notice and other communication from MISL to the Client under the Agreement may be delivered personally or sent by post or telex or fax or electronic mail ("E-mail") addressed to the Client at the address or telex number or fax number or E-mail address set out in the Account Opening Form, at its registered office or at such other address or telex number or fax number or E-mail address as may have been notified in writing by the Client to MISL (such notification shall only take effect twenty-four (24) hours after the actual receipt of the same by MISL). Any such report, confirmation, statements, notice and other communication shall be and be deemed to have been received by the Client (a) if hand delivered, when delivered, (b) if given by post, twenty-four (24) hours after the same has been posted, or (c) if given by telex or fax or E-mail, at the same time as it is dispatched. The contents of such report, confirmation, statement, notice or communication or statement of account issued by MISL shall be or be deemed correct, accurate and conclusive and no objection thereto shall be made by the Client unless written objection is actually received by MISL within four (4) days after delivery by hand, by telex or fax or E-mail, or by post.

34.3 Without prejudice to the other provisions of the Agreement, any letter, notice, documents or other communication from the Client to MISL shall take effect only on actual receipt and actual notice of the same by MISL.

35. **Time of the Essence**

35.1 Time shall in every respect be of the essence in relation to all Liabilities and obligations of the Client under the Agreement.

36. **Automatic Postponement**

36.1 It is hereby agreed that if any day on which MISL has agreed or obliged to do, take or conduct any matter, action or Transaction (the "Action Date") shall fall on a day which is not a Business Day or shall fall on a day on which typhoon signal No.8 or above or black rainstorm signal is hoisted in Hong Kong at any time between 9:00 a.m. and 5:00 p.m. the Action Date shall automatically be postponed to the next Business Day or such next Business Day on which no typhoon signal No.8 or above or black rainstorm signal is hoisted as aforesaid.

37. **Severability**

37.1 Any provision in the Agreement which is illegal, invalid or unenforceable for any reason in any jurisdiction shall be ineffective only to the extent of such illegality, invalidity or unenforceability and shall not affect the legality, validity or enforceability of the remaining provisions hereof or the legality, validity or enforceability of such provision in any other jurisdiction. Where, however, the provisions of any applicable law may be waived, they are waived by the Parties hereto to the full extent permitted by such law to the end that the Agreement shall be a valid and binding agreement enforceable in accordance with its terms and conditions

38. **Assignment**

38.1 The Client shall not assign, transfer, alienate, charge, delegate or otherwise dispose of any of its rights, interest, benefits, Liabilities or obligations under the Agreement. MISL may assign or transfer any of its rights and obligations under the Agreement without the prior consent of the Client. Any assignee, transferee or successor of MISL shall have the same interest, rights, benefits, liabilities and remedies as if it were MISL. MISL may delegate and sub-contract the performance of its obligations hereunder as it thinks fit.

39. **Successors and Assigns**

39.1 The Agreement shall ensure for the benefit of MISL, its successors and assigns and shall be binding upon the Client's heirs, executors, administrators, personal representatives, successors and assignees, as the case may be.

40. **Currency Conversion**

40.1 For the purposes of these Terms, in exercise of the discretion, power and right of MISL under and pursuant to these Terms, or for calculating any debit balance due from the Client or credit balance owed to the Client :-

- (a) if it is required a conversion from one currency to another, then the costs thereof and any loss arising as a result of fluctuations in the exchange rate of the relevant currency will be entirely for the account and risk of the Client;
- (b) the Client authorizes MISL may at any time at such exchange rate and for such amount as MISL deems fit convert monies into and from any currency at such rate of exchange as MISL shall in its sole discretion determine as being the then



- prevailing market rate of exchange; and  
(c) the Client authorizes MISL to debit the Client's Account for any expenses incurred in effecting any currency conversion.

40.2 All payments to be made by the Client to MISL in a foreign currency shall be in freely transferable and immediately available funds clear of any taxes, charges or payments of any nature when received by MISL.

40.3 MISL reserves the right at any time to refuse to accept any Instructions from the Client in relation to any currency conversion.

#### 41. **Miscellaneous Provisions**

41.1 The Agreement supersedes all prior engagements, arrangements, agreements and contracts whether oral or in writing whatsoever made by MISL. No warranties or representations express or implied are or have been made or given by MISL or by anybody on its behalf relating to the subject of the Agreement prior to the entering hereof. If any such warranty or representation express or implied has been made the same is withdrawn or deemed to have been withdrawn immediately before MISL entering into the Agreement. However, the Agreement does and will not supersede any prior engagements, arrangements, agreements and contracts whether oral or in writing whatsoever and whether past, present or future made by the Client with or in favour of MISL, and does and will not affect or prejudice any or all the Liabilities, obligations or indebtedness (whether oral or in writing whatsoever and whether past, present or future) of the Client to MISL.

41.2 MISL and the Client shall notify each other promptly in writing of any material changes in the information provided under the Agreement or any agreement entered into pursuant to the Agreement or relating to the Securities Account.

41.3 MISL shall have absolute rights to amend, delete or substitute any of the terms herein or add new terms to the Agreement. An amendment notice and the revised Agreement will be posted at the "**Important Terms**" column of MISL Website at www.misl.com.hk. In addition, MISL will notify the Client on such revision. The Client should visit the MISL Website from time to time for obtaining the latest Agreement and read the terms thereof. Such amendment, deletion, substitution or addition shall be deemed as effective and incorporated herein (and shall form part of the Agreement) on the date of publication of such amendment notice. The Client may raise written objection within fourteen (14) days after the publication of such amendment notice at the MISL Website. Failing which, it shall be deemed an acceptance of such amendment, deletion, substitution or addition.

41.4 Any complaint about the performance of MISL under the Agreement shall be made in writing and addressed to the Complaints Officer c/o MISL, who will investigate the complaint. The Client agrees to provide the Complaints Officer with all such information as the Complaints Officer may reasonably request to enable the Complaints Officer to investigate the complaint.

41.5 The English version and the Chinese version of this Agreement are of the same legal effect. However, in the event of any inconsistency between the English version and the Chinese version, the English version shall prevail.

41.6 The Client undertakes and acknowledges that the Client shall at all times notify MISL in writing, and sign (the signature shall conform to the specimen signature provided to MISL in the Account Opening Form), of any change of the Client's particulars (where the Client shall consist of any individual, the Client's personal particulars), address(es), telephone number(s), facsimile number(s) and/or email address(es).

41.7 Except as provided in the Agreement, the rights, powers, remedies and privileges in the Agreement are cumulative and not exclusive of any right, powers, remedies and privileges provided by law.

41.8 No failure or delay on MISL's part to exercise any power, right or remedy which MISL may have shall operate as a waiver thereof.

#### 42. **Submission to Rules and Regulations**

42.1 The Agreement shall be subject to the SFO where applicable or applicable act, ordinance or law promulgated by Foreign Regulators.

42.2 Every Transaction made for or on behalf of the Client in Hong Kong and duly concluded through and recognized by SEHK is subject to the relevant provisions of the constitution, rules, regulations, by-laws, customs and usages of SEHK, HKSCC and CCASS, and of the laws of Hong Kong.

42.3 Every Transactions made for or on behalf of the Client in any Foreign Jurisdiction and duly concluded through and recognized by Foreign Stock Exchange is subject to the relevant provisions of the constitution, rules, regulations, by-laws, customs and usages of the relevant Foreign Stock Exchange, the relevant Clearing House and the relevant Clearing System, and of the laws of such territory or country.

42.4 In respect of Transactions on SEHK: -

- (a) the rules and regulations of the SEHK, HKSCC and CCASS, in particular those SEHK Rules which relate to trading and settlement, shall be binding on the Client and MISL and the rules and regulations of the SEHK, HKSCC and CCASS shall prevail in the event of any conflict between the said rules and regulations and the Agreement;
- (b) every Transaction executed on the SEHK will be subject to a transaction charge, the cost of which shall be borne by the Client;

- (c) every Transaction executed on the SEHK will be subject to other levies the SEHK may impose from time to time; and
- (d) MISL is authorized to collect the appropriate transaction charge or other levies in paragraphs (b) and (c) above in accordance with the SEHK Rules from time to time.

42.5 In respect of Transactions on Foreign Stock Exchange: -

- (a) the Foreign SE Rules, the rules and regulations of the relevant Clearing House and Clearing System, in particular those rules which relate to trading and settlement, shall be binding on the Client and MISL and the Foreign SE Rules, the rules and regulations of the relevant Clearing House and Clearing System shall prevail in the event of any conflict between the said rules and regulations and the Agreement;
- (b) every Transaction executed on the Foreign Stock Exchange will be subject to a transaction charge, the cost of which shall be borne by the Client;
- (c) every Transaction executed on the Foreign Stock Exchange will be subject to other levies the Foreign Stock Exchange may impose from time to time; and
- (d) MISL is authorized to collect the appropriate transaction charge or other levies in paragraphs (b) and (c) above in accordance with the Foreign SE Rules from time to time.

#### 43. **Confirmation**

43.1 The Client confirms that it has read the Agreement and that the contents of the Agreement have been fully explained to the Client in a language which the Client understands, and that the Client accepts the Agreement. The Client acknowledges that, in the event of any discrepancy between the English and Chinese text of the Agreement, the English version shall prevail.

#### 44. **Governing Law and Jurisdiction**

44.1 The Agreement and all rights, obligations and liabilities hereunder shall be governed by and construed in accordance with the laws of Hong Kong. The Client and MISL hereby irrevocably submit to the exclusive jurisdiction of the courts of Hong Kong as regards any claim, matter or proceedings arising under this Agreement. The Client agrees that the rulings, orders, decisions and/or judgments of the courts of Hong Kong shall be final and conclusive.

44.2 The Client agrees that MISL is entitled to enforce and execute the judgment of the courts of Hong Kong in any jurisdiction as it thinks fit. The Client hereby further agrees not to oppose in any legal proceedings arising under this Agreement (including the legal proceedings in other jurisdiction for enforcement of judgment) and not to appeal the judgments of the courts of Hong Kong or other jurisdictions.

44.3 The Client agrees that any writ, summons, order, judgment or other document shall be and be deemed duly and sufficiently served on the Client if addressed to the Client and left at or sent by post to the Client's registered office or the address of the Client set out in the Account Opening Form or last known to MISL. The foregoing shall not limit MISL's right to serve process on the Client in any manner permitted by laws of the relevant jurisdiction.

#### 45. **Suitability**

45.1 If the Company solicits the sale of or recommend any financial product to the Customer, the financial product must be reasonably suitable for the Customer having regard to the Customer's financial situation, investment experience and investment objectives. No other provision of this agreement or any other document the Company may ask the Customer to sign and no statement the Company may ask the Customer to make derogates from this clause.

45.2 In relation to Transactions entered by the Customer without or inconsistent with any of the Company's solicitations or recommendations, the Company is not responsible to the Customer with respect to the suitability of the Transaction. Nor is the Company responsible for the profitability, tax, legal or accounting consequences of any such Transactions.

45.3 Before the Customer enters any transactions, the Customer should note that the Company has no ongoing responsibility to ensure that a product the Company has solicited the sale of or recommended to the Customer remains suitable for the customer and that if circumstances relating to the Customer, such product, such product's issuer or general market conditions change, such product may no longer be suitable for the Customer.

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## SECTION II – TERMS AND CONDITIONS FOR IPO AND PLACING

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These Terms are additional and supplemental to the terms and conditions in Section I headed "Terms and Conditions for Securities Cash Trading" ("**Section I**"). All application to be made by MISL as agent on behalf of the Client for the subscription or purchase of the Offer Securities and the financing facility to be granted or extended by MISL to the Client on demand in respect of such application shall be subject to and upon the Agreement. Where any conflict or inconsistency arises between any provision of these Terms and any provision of Section I, the provisions of these Terms shall prevail.

### 1. **Definitions**

1.1 In these Terms, unless redefined herein or the context requires otherwise, all expressions defined in Section I shall, where applicable, have the same meanings when used herein.

1.2 In these Terms, the following expressions, unless the context requires otherwise, shall have the following meanings: -

"**Acknowledgment by Client (Securities)**" means the Acknowledgment by Client for the Securities Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds from the Securities Account to the Futures Account and other information in respect of the Securities Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

"**Agreement**" means the agreement made between the Client and MISL and constituted by the Account Opening Form, these Terms, the Acknowledgement by Client (Securities), the terms and conditions in Section I, and such other documents referred to therein or added thereto (including any amendment or supplement made thereto from time to time);

"**Allotted Securities**" means all the Securities in relation to which the Application is accepted;

"**Application**" means any application to be made by MISL as agent on behalf of the Client for the subscription or purchase of the Offer Securities pursuant to Clause 2;

"**Application Amount**" means the price per Offer Securities with the total application amount (including transaction levy, commission, account opening fee and such other fees where applicable);

"**Bank**" means the bank or restricted licence bank as defined in the Banking Ordinance (Cap.155 of the Laws of Hong Kong);

"**Foreign Currency**" means a currency other than Hong Kong Dollar;

"**Funding Fee**" means the amount of moneys, fees, costs, interest, expenses, commissions, and charges (including but not limited to the moneys, fees, costs, interest, expenses, commissions, and charges referred to or incurred under or pursuant to Clause 7.5) as MISL may from time to time notify the Client (if any);

"**Hong Kong Dollar**" or "**HK\$**" means the lawful currency of Hong Kong at the relevant time;

"**IPO**" means a public offer of Securities in respect of a new listing and/or issue of such Securities on an Exchange;

"**Issuer**" means the issuer or vendor of the Offer Securities;

"**Loan**" means the financing facility to be granted or extended by MISL to the Client on demand in respect of the Application pursuant to Clause 7;

"**Offer Securities**" means the Securities offered by the Issuer for (a) subscription in an IPO; or (b) purchase in a placing of Securities;

"**Placing**" means a placing and/or selected/restricted offering of Securities;

"**Relevant Person**" means the Issuer, sponsors, underwriters, placing agents and other intermediaries involved, the Exchange, the SFC, the Clearing House or any other relevant regulators and other relevant person; and

"**these Terms**" means all the terms and conditions in this Section II headed "Terms and Conditions for IPO and Placing" as from time to time amended and supplemented.

1.3 In these Terms: -

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to MISL means the Account Opening Form as amended by such notice;
- (c) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (d) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (e) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (f) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of the Agreement, such provision shall survive the termination of the Agreement.

2. **Application**

2.1 Once the Client place the order, the Client cannot cancel the Application. The Client irrevocably and unconditionally requests and authorizes MISL to make the Application containing the following details :-

- (a) the number of Offer Securities to be applied for;
- (b) the name of Issuer of such Offer Securities; and
- (c) the Application Amount for such Offer Securities.

2.2 MISL reserves the right to refuse acting on any Client's Instructions in relation to the Application if there are insufficient funds in the Client's Account at the relevant time for settling the Application Amount and Funding Fee charges and costs or if, in MISL's opinion, there is any other reasonable ground for such refusal without giving reason therefor.

2.3 Where MISL or its agent submits the Application, MISL or its agent acts as the agent of the Client for the purpose of applying for Offer Securities and neither MISL nor its agent (as the case may be) is the agent of the Issuer or other parties involved in the relevant IPO and/or Placing of Offer Securities.

2.4 The Client must apply for the Offer Securities as principal only. Any Application by the Client as agent, nominee or trustee for any other person will not be processed by MISL.

2.5 The Client must ensure that each Application complies with any minimum, maximum, denomination and/or other requirements (whether in respect of quantity or value of Securities or number of Application) prescribed by the Issuer of the relevant IPO and/or Placing of Offer Securities. Any Application which does not fully comply with such requirements will not be processed by MISL.

2.6 The Application shall be subject to the Agreement.

2.7 MISL may aggregate the Application with a bulk application to be made by MISL or its agent on MISL's own account and/or on behalf of MISL and/or MISL's own clients. The Client acknowledges and agrees: -

- (a) that such bulk application may be rejected by reasons which are unrelated to the Client and the Application and neither MISL nor its agent shall, in the absence of fraud or willful default, be liable to the Client or any other person in consequence of such rejection;
- (b) to indemnify MISL against any losses, damages, costs, charges, expenses, claims or demands whatsoever which may be sustained or incurred by or made against MISL if such bulk application is rejected either in circumstances where the Client's representations, undertakings and warranties have been breached or otherwise because of factors relating to the Client. The Client acknowledges that the Client may also be liable in damages to other persons affected by such breach or other factors; and
- (c) that in the event that the bulk application is only partially filled, MISL is entitled to distribute the Allotted Securities in its absolute discretion, including distributing the Allotted Securities equally between all clients under the bulk application and the Client shall not have any claim to the Allotted Securities or claim of priority to another client in relation to the bulk application.

2.8 If the Offer Securities are denominated in Foreign Currency or in both Hong Kong Dollar and Foreign Currency, MISL shall have the absolute discretion to :-

- (a) request the Client to pay or transfer to MISL the Application Amount, the Funding Fee, charges and costs in Hong Kong Dollar and/or the relevant Foreign Currency to MISL in such proportion as may be requested by MISL from time to time; and
- (b) convert (the entirety or any part of) the Application Amount, the Funding Fee, charges and costs from one currency to another currency for the purpose of submission of the Application and/or other purposes relating or incidental to the

Application.

- 2.9 Regarding the Application, the Client acknowledges that MISL has invited the Client to seek independent advice or the Client does not wish to seek independent legal advice despite every chance having been offered to the Client to do so.

### 3. **Responsibility of MISL**

- 3.1 MISL shall not have any liability in respect of, nor is responsible for, has not authorized and shall not be deemed to have authorized the contents in any prospectus, offering document(s), application form(s) or other documents relating to the IPO and/or Placing of Offer Securities.
- 3.2 Unless otherwise appointed in writing, MISL is not the investment adviser of the Client and shall not be responsible for any loss which the Client may suffer as a result of any Application.
- 3.3 MISL makes no undertakings, warranties or representations as to the result of the allotment of the Offer Securities and in any event MISL shall not be responsible for the result of the allotment whether or not it is in connection with MISL's acts, omission or default.
- 3.4 MISL shall not incur any liability or responsibility whatsoever arising out of or in consequence of any failure or omission by MISL to perform any of its obligations hereunder including but without limitation the making of the Application or any refusal to make or any withdrawal of the Application.

### 4. **Notification and Results**

- 4.1 The Issuer shall be solely responsible for approving or disapproving Applications under the relevant IPO and/or Placing of Offer Securities and for announcing the results of allocation of the Offer Securities. The specific arrangements with regard to the announcement of results may differ and the Client shall be responsible for ascertaining details of such arrangements by reviewing the relevant prospectus and/or offering document(s). MISL will notify the Client of the results of its Application in such manner as MISL may deem fit.
- 4.2 Unless MISL receives from the Client notice to the contrary together with payment of all amounts payable under these Terms including but not limited to the Loan, the Application Amount, the Funding Fee, charges and costs within such time as MISL may specify in its notification of allotment to the Client (without prejudice to MISL's right of repayment on demand), MISL is authorized but not obliged without notice to the Client and without the Client's consent to sell any and all Allotted Securities in such manner and for such price or prices, without being responsible for any loss, as MISL may think fit, and to apply the proceeds of such sale towards discharging the costs incurred therein and all other costs incurred by MISL hereunder and then in or towards reimbursing to MISL first the Loan, the Funding Fee, charges and costs, and then the Application Amount and the residue (if any) shall be paid to the Client or to the Client's order. In the event of any deficiency after the sale of Allotted Securities, the Client shall make good and pay on demand to MISL such deficiency. The Client shall also pay interest on such deficiency at such rates and on such other terms as MISL notifies the Client from time to time or failing such notification at a rate equivalent to ten per cent (10%) above the prevailing prime or best lending rate for Hong Kong dollars of The Bank of China (Hong Kong) Limited or other bank as determined by MISL from time to time, such interest shall be payable on the last day of each calendar month or forthwith upon demand by MISL.
- 4.3 In the event of MISL's receiving a notice from the Client pursuant to Clause 4.2, the Client shall pay to MISL on demand all amounts payable by the Client under these Terms, including but limited to the Loan, the Application Amount, the Funding Fee, charges and costs, whereupon MISL will release or procure its agent to release to the Client the certificates relating to the Allotted Securities (upon payment of the necessary expenses required by the central depository) with the relevant transfers duly executed, or to procure the Allotted Securities to be credited to the Client's specified Account.
- 4.4 If the Offer Securities are denominated in Foreign Currency or in both Hong Kong Dollar and Foreign Currency, MISL shall have the absolute discretion to convert (the entirety or any part of) the Application Amount, the Funding Fee, charges and costs from one currency to another currency for the purpose of the subscription or purchase of the Allotted Securities and/or other purposes relating or incidental to the subscription or purchase of the Allotted Securities.

### 5. **Refund of Application Amount**

- 5.1 Where no Application has been submitted on behalf of the Client or if MISL has grounds not to process the Client's Instructions for Application, MISL will arrange for refund of the Application Amount to the extent debited (in full but without interest) to the Client by crediting the relevant sum to the Settlement Account on (a) in the case of IPO, the refund date as announced by the Issuer; or (b) in the case of Placing of Offer Securities, within 3 Business Days after completion and/or termination of such Placing pursuant to the terms and conditions of the prospectus, offering document(s), application form(s) or other documents relating to such Placing. If an Application is duly submitted but is unsuccessful (or only partly successful), MISL will arrange for refund of the Application Amount (or the applicable balance in the case of a partly successful Application) in the same manner described in this Clause.
- 5.2 In the event that the offer price (as finally determined by the Issuer) is less than the Application Amount initially paid by the Client, subject to the terms and conditions of the relevant IPO and/or Placing of Offer Securities, MISL will arrange to refund the surplus Application Amount to the Client in the same manner described in this Clause.

- 5.3 All Funding Fee in connection with the Application are not refundable unless otherwise specified by MISL in writing.
- 5.4 If the Offer Securities are denominated in Foreign Currency or in both Hong Kong Dollar and Foreign Currency, MISL shall have the absolute discretion to :-
- (a) refund, pay or transfer to the Client the Application Amount (or the applicable balance in the case of a partly successful Application) in Hong Kong Dollar and/or the relevant Foreign Currency in such proportion as may be determined by MISL from time to time; and
  - (b) convert (the entirety or any part of) the Application Amount (or the applicable balance in the case of a partly successful Application) from one currency to another currency for the purpose of such refund, payment or transfer and/or other purposes relating or incidental to such refund, payment or transfer.

## **6. Client's Representations, Undertakings and Warranties**

- 6.1 The Client warrants that MISL shall have authority to make the Application as the Client's agent and for the Client's benefit.
- 6.2 The Client warrants that the Client is not a person prohibited by any Relevant Person or any legislation, rule or regulation from making the Application.
- 6.3 The Client shall familiarize itself and comply with all the terms and conditions issued by Relevant Person: - (a) governing the IPO and/or Placing of the Offer Securities set out in the application form(s), prospectus, offering document(s) and any other relevant document in respect of such IPO and/or Placing of the Offer Securities; and (b) in the Agreement, and the Client agrees to be bound by such terms and conditions in any Application. The Client should make the investment decision based on the prospectus, offering document(s) and any other relevant document in respect of such IPO and/or Placing of Offer Securities rather than on information, particularly promotional or marketing materials and media coverage relating to such IPO and/or Placing of the Offer Securities.
- 6.4 The Client represents, undertakes and warrants to MISL that: - (a) (where multiple applications for subscription or purchase of Offer Securities are not permitted) the Client has not made and will not make, nor have procured nor will procure to have made, more than one Application; (b) the Client has not made and will not make, nor have procured nor will procure to have made, any Application as agent, nominee or trustee for any other person; (c) the Client has not been placed (for the benefit of itself or for the benefit of any of its clients) with any shares or warrants which are of the same class or type as those applied for in the Application. The Client acknowledges that the Client is aware that any breach by the Client of the representations, undertakings and warranties set out in this Clause might cause, in addition to the rejection of the Application, the rejection of other applications submitted by MISL on its own behalf or on behalf of others. The Client will indemnify MISL on demand for all losses resulting from any breach by the Client of the representations, undertakings and warranties set out in this Clause. The Client acknowledges and accepts that the aforesaid representations, undertakings and warranties will be relied upon by MISL and the Relevant Person in respect of the Application.
- 6.5 The Client gives MISL all the representations, warranties and undertakings which an applicant for the Offer Securities in an IPO and/or Placing is required to give (whether to any or all of the Relevant Persons).
- 6.6 The Client recognizes and understands that the legal and regulatory requirements and Market practice in respect of Applications may vary from time to time as may the requirements of any particular IPO and/or Placing of the Offer Securities. The Client undertakes to provide to MISL such information, make such disclosure, take such additional steps and make such additional representations, warranties and undertakings as may be required in accordance with such legal and regulatory requirements and Market practice as MISL may in its absolute discretion determine from time to time.
- 6.7 In accordance with the current Hong Kong regulatory requirements for the Application and the issue of the Allotted Securities, such nominee companies or MISL or MISL's agents as the case may be, may be required, in respect of the Client and/or the Application, to make certain undertakings, representations and warranties to any one or more of the Relevant Persons. MISL is authorized to enter into such undertakings, representations and warranties in reliance solely upon undertakings, representations and warranties being given by the Client to MISL. The Client will be bound by all applicable announcements made by any Relevant Person and all the applicable legislation, rules and regulations governing the Application and the issue of the Allotted Securities.
- 6.8 The Client accepts all things done by MISL and/or its agent on the Client's behalf pursuant to any Application Instruction given to MISL and/or its agent. The Client indemnifies MISL and/or its agent against any loss or claims suffered or incurred by each of them in connection with any Application.

## **7. Application Financing**

- 7.1 The Client applies to and requests MISL to grant or extend to the Client and on demand the Loan for the Application. The following items shall be agreed by the Client and MISL: -
- (a) the amount of Loan;
  - (b) the percentage of interest rate; and
  - (c) the Funding Fee.
- 7.2 Subject to Clause 7.3, MISL, relying on the representations, warranties and undertakings of the Client in the Agreement, agrees to



grant or extend to the Client the Loan for the Application subject to and upon the terms and conditions of the Agreement.

- 7.3 Notwithstanding anything contained herein to the contrary (in particular Clause 7.2) and without prejudice to any other rights and powers of MISL herein contained or otherwise conferred by the laws of Hong Kong, the Client agrees and acknowledges that the provision of the Loan is at MISL's sole discretion and subject to such arrangement as may be made between the Client and MISL. MISL retains the right, without notice to the Client, to withdraw, stop or cancel any part or the whole of the Loan at any time up to the moment when the Application is made. In the event of MISL exercising the aforesaid right, then the Loan (or any part thereof) shall automatically be withdrawn, stopped or cancelled, and the Loan (or any part thereof) shall not thereafter be available to the Client. For the avoidance of doubt, it is hereby agreed and declared that all the Client's rights and benefits under the Agreement shall be subject always to MISL's right of withdrawal, stop, cancellation as mentioned in this Clause.
- 7.4 The Client authorizes MISL to apply for, be granted and/or be extended financial facilities from the Bank at any time and on such terms and conditions to be agreed between MISL and the Bank from time to time, for financing all or any part of the Loan to be granted or extended to the Client under Clause 7. The Client further agrees, acknowledges and authorizes that :-
- (a) MISL may provide the Bank security or collateral arrangement up to such extent as may be determined by the Bank and MISL for securing such financial facilities from the Bank; and
  - (b) MISL and the Bank may enter into or make any kind of hedging, financial or other arrangement (including but not limited to swap arrangement) with respect to such financial facilities from the Bank.
- 7.5 The Client agrees, acknowledges and undertakes to MISL that and the Client shall bear and pay MISL and shall fully indemnify and keep MISL indemnified on demand against any moneys, fees, costs, interest, expenses, commissions, and charges arising out of or in connection with the financial facilities, security or collateral arrangement, and hedging, financial or other arrangement (including but not limited to swap arrangement) referred to in Clause 7.4.
- 7.6 The Client agrees, acknowledges and undertakes to MISL that: -
- (a) the Client will pay to MISL on demand the Loan, interest thereon, the Funding Fee, charges and costs;
  - (b) the Loan is advanced to the Client exclusively for the Application and the Loan proceeds shall be held on trust for that purpose. Notwithstanding that the Application is made by MISL as agent on the Client's behalf, the Client shall have no right, title, interest or claim of whatever nature in or to any amount to be refunded in respect of the Application to the extent that the amount refunded does not exceed the Loan, all of which shall be held by MISL/its agent on trust to be applied towards satisfaction of the Loan, interest thereon, the Funding Fee, charges and costs. The balance of any money refunded shall first be applied towards the satisfaction of any outstanding balance owed by the Client to MISL, including without limitation interests accrued, charges and costs, the Funding Fee and any such further amount payable by the Client hereunder. MISL may at its absolute discretion grant security interest of any nature over the refund moneys to any third party as security for any credit facilities made to MISL to finance its funding of all or part of the Loan;
  - (c) the Allotted Securities (including all dividends, warrants, shares, stocks, rights, money and other property accruing or offered at any time by way of substitution, redemption, bonus, preference, option or otherwise in respect thereof) shall become part of the Retained Properties (as defined in Section I) and subject to the Lien (as defined in Section I);
  - (d) MISL may at its absolute discretion pledge or grant security interest of any nature over the Allotted Securities (including all dividends, warrants, shares, stocks, rights, money and other property accruing or offered at any time by way of substitution, redemption, bonus, preference, option or otherwise in respect thereof) to any third party as security for credit facilities made to MISL to finance its funding of all or part of the Loan;
  - (e) upon failing payment by the Client on demand of all amounts payable by the Client hereunder, MISL may, without further notice to the Client and without the Client's consent, sell the Allotted Securities (or any part thereof) in such manner and for such price or prices, without being responsible for any loss, as MISL may think fit and apply the proceeds of sale to settle all Liabilities, actual or contingent, due from the Client to MISL. In the event of any deficiency after the sale of the Allotted Securities, the Client shall make good and pay on demand to MISL such deficiency. The Client shall also pay interest on such deficiency at such rates and on such other terms as MISL notifies the Client from time to time or failing such notification at a rate equivalent to ten per cent (10%) above the prevailing prime or best lending rate for Hong Kong dollars of The Bank of China (Hong Kong) Limited or such other bank as determined by MISL from time to time, such interest shall be payable on the last day of each calendar month or forthwith upon demand by MISL;
  - (f) in addition and without prejudice to any other provisions in the Agreement or any security or right MISL may have in law or otherwise, the Client authorizes MISL to apply any credit balance to which the Client is entitled on any Account and any other money payable to the Client from MG Group Companies in satisfaction of any amount due and payable to MISL hereunder but unpaid. For this purpose, MISL is authorized to purchase with the money standing to the credit of any such Account such other currency as may be necessary to effect such application;
  - (g) the Client will at its own expense execute and sign all transfers, power of attorney, proxies and other documents and do all acts and things which MISL may require for perfecting MISL's title to the Allotted Securities or any of them and/or for vesting or enabling MISL to vest such Allotted Securities in its name, in its nominee and/or any purchaser or otherwise for the purposes of obtaining full benefit of the security hereby created. MISL will be entitled to exercise all rights and powers that are conferred upon MISL herein by such documents including without limitation rights in selling the Allotted Securities;
  - (h) without prejudice to the Agreement, the Client will fully indemnify and keep MISL indemnified on demand against any losses, damages, costs, charges, expenses, claims or demands which may be sustained or incurred by or made against MISL arising out of the Loan and/or the Agreement; and
  - (i) regarding the Loan, the Client acknowledges that MISL has invited the Client to seek independent advice or the Client does not wish to seek independent legal advice despite every chance having been offered to the Client to do so.

- 7.7 If the Offer Securities are denominated in Foreign Currency or in both Hong Kong Dollar and Foreign Currency, MISL shall have the absolute discretion to :-
- (a) provide or grant the Loan to Client in Hong Kong Dollar and/or the relevant Foreign Currency to MISL in such proportion as may be requested by MISL from time to time; and
  - (b) convert (the entirety or any part of) the Loan from one currency to another currency for the purpose of provision or granting of the Loan and/or other purposes relating or incidental to the Loan.
8. **Currency Conversion**
- 8.1 For the purposes of these Terms, in exercise of the discretion, power and right of MISL under and pursuant to these Terms, or for calculating any debit balance due from the Client or credit balance owed to the Client :-
- (a) if it is required a conversion from one currency to another, then the costs thereof and any loss arising as a result of fluctuations in the exchange rate of the relevant currency will be entirely for the account and risk of the Client;
  - (b) the Client authorizes MISL may at any time at such exchange rate and for such amount as MISL deems fit convert monies into and from any currency at such rate of exchange as MISL shall in its sole discretion determine as being the then prevailing market rate of exchange; and
  - (c) the Client authorizes MISL to debit the Client's Account for any expenses incurred in effecting any currency conversion.
- 8.2 All payments to be made by the Client to MISL in a Foreign Currency shall be in freely transferable and immediately available funds clear of any taxes, charges or payments of any nature when received by MISL.
- 8.3 MISL reserves the right at any time to refuse to accept any Instructions from the Client in relation to any currency conversion.

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### **SECTION III - TERMS AND CONDITIONS FOR SECURITIES MARGIN TRADING**

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These Terms are additional and supplemental to the terms and conditions in Section I headed "Terms and Conditions for Securities Cash Trading" ("**Section I**") and the terms and conditions in Section II headed "Terms and Conditions for IPO Financing" ("**Section II**"). All transactions, purchase, investment, sale, trading, exchange, acquisition, holding, deposit, transfer, disposal, clearing, settlement or dealing in, of and with all kinds of Securities effected, conducted, carried on and entered into by the Client with and through MISL for or on the Margin Account, and the Margin Account opened and maintained by the Client with MISL shall be subject to and upon the Agreement. Where any conflict or inconsistency arises between any provision of these Terms and any provision of Section I and/or Section II, they shall be governed in the order of prevalence of Section II, these Terms and Section I.

1. **Definitions**

- 1.1 In these Terms, unless redefined herein or the context requires otherwise, all expressions defined in Section I and Section II shall, where applicable, have the same meanings when used herein.
- 1.2 In these Terms, the following expressions, unless the context requires otherwise, shall have the following meanings: -

**"Account Opening Form"** means the Account Opening Form for the Margin Account including the declaration, information, notes and statements thereto to be completed and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Acknowledgment by Client (Securities)"** means the Acknowledgment by Client for the Securities Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds from the Securities Account to the Futures Account and other information in respect of the Securities Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Agreement"** means the agreement made between the Client and MISL and constituted by the Account Opening Form, these Terms, the Acknowledgement by Client (Securities), the terms and conditions in Section I and Section II, and such other documents referred to therein or added thereto (including any amendment or supplement made thereto from time to time);

"**Authorized Person**" means the persons or any of them appointed by the Client as agent of the Client to (including but not limited to) issue Instructions on behalf of the Client in relation to the Margin Account and/or Transactions, and initially the persons specified as such in the Account Opening Form and such other person as appointed by the Client in substitution therefor or in addition thereto from time to time (the Client shall in writing notify MISL of such appointment, which shall only be effective after the actual receipt of such notification and approved by MISL);

"**Charged Properties**" shall have the meaning as ascribed to and defined in the Loan Agreement;

"**Client**" means the person or persons who have signed and/or specified as such in the Account Opening Form, and where the Margin Account is opened by more than one person means all of such persons collectively and any legal or personal representative, executor, successor in title or permitted assign thereof, and shall include the Authorized Person where the context permits;

"**Collateral**" means Charged Properties and Margin Account Fund and such other moneys or assets of the Client charged to MISL upon the terms and conditions contained in the Loan Agreement and for performance of all obligations of the Client to MISL from time to time hereunder;

"**Credit Facilities**" means all or any of the loan or credit facilities made available or granted by or agreed to be made available or granted by MISL and/or MG Group Companies under and pursuant to the Loan Agreement from time to time;

"**Margin Account**" means any account now or in future opened and maintained in the name of the Client with MISL for conducting Transactions with financing by the Credit Facilities in accordance with the Agreement, and/or all other account(s) of whatsoever nature now or in future opened and maintained in the name of the Client with MISL in accordance with the Agreement or other agreement or document;

"**Margin Account Fund**" means all and any moneys or funds standing to the credit of the Margin Account; and

"**these Terms**" means all the terms and conditions in this Section III headed "Terms and Conditions for Securities Margin Trading" as from time to time amended and supplemented.

1.3 In these Terms: -

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) "subsidiary" shall bear the meaning given by the Companies Ordinance (Cap. 32 of the Laws of Hong Kong) and "associated company" means, in respect of any person, any company (not being a subsidiary of that person) of which that person shall beneficially own twenty per cent (20%) or more of the issued share capital or in respect of which that person is entitled to appoint one or more directors or, in relation to any company, any company which is a subsidiary of a holding company of that first mentioned company;
- (c) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to MISL means the Account Opening Form as amended by such notice;
- (d) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (e) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (f) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (g) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of the Agreement, such provision shall survive the termination of the Agreement.

1.4 Where it is necessary for the true construction or interpretation of any provision of the Agreement, all references to Securities Account in Section I shall be construed as references to Margin Account.

## 2. **Credit Facilities**

2.1 Under and pursuant to the Loan Agreement, the Client shall be granted revolving Credit Facilities to be secured by the Collateral up to such extent (subject to the restrictions under the applicable laws and regulations) as may be determined by MISL (in its absolute and subjective discretion) from time to time subject to and upon the terms and conditions of the Loan Agreement.

2.2 The Client further acknowledges and agrees to abide by the terms and conditions of the Loan Agreement and the provisions of any other agreement made with MISL and/or any of the MG Group Companies from time to time in relation to the granting and maintenance of such Credit Facilities.

2.3 MISL shall have the absolute discretion to determine the value of the Collateral, to determine, amend or alter the principal amount and other terms of the Credit Facilities from time to time and/or to terminate the Credit Facilities at any time.

2.4 Notwithstanding any of the terms and conditions herein and in the Loan Agreement, the Credit Facilities are repayable on demand and may be varied or terminated in the absolute discretion of MISL. Notwithstanding any of the terms and conditions herein and in the Loan Agreement, MISL will not at any time be obliged to make any advances to the Client.

- 2.5 Without prejudice to the above, MISL shall be under no obligation to make any advances to the Client under the Credit Facilities, if any of the following circumstances apply: -
- (a) if the Client is in default of any of the provisions of the Agreement, the Loan Agreement, or any other letter, agreement or document entered into between the Client and MISL and/or any of the MG Group Companies in this respect;
  - (b) in the opinion of MISL, there is or has been a material adverse change in the Client's financial condition or in the financial condition of any person which might adversely affect the Client's ability to discharge its Liabilities or perform its obligations under the Agreement; or
  - (c) MISL in its absolute discretion considers it prudent or desirable for the protection of MISL and/or any of the MG Group Companies not to do so.
- 2.6 MISL is instructed and authorized by the Client to draw on the Credit Facilities to settle any Liabilities, whether in respect of any Transaction, margin maintenance obligations for any positions as required by MISL and/or any of the MG Group Companies, or payment of any commission or other costs and expenses owing to MISL and/or any of the MG Group Companies.
- 2.7 For so long as there exists any amounts outstanding to MISL and/or any of the MG Group Companies, MISL shall be entitled at any time and from time to time to refuse any withdrawal of any or all of the moneys in the Margin Account and/or the Securities held by MG Group Companies.

### 3. **Margin & Fund**

- 3.1 The Client agrees to provide and maintain such margin (the "**Margin Requirement**") in the Margin Account and/or such collateral, guarantees and other security to the Margin Account in such form and amount and on such terms as MISL may in its absolute discretion require from time to time. Such Margin Requirement demanded or required by MISL may exceed any margin requirement prescribed by any Exchange or Clearing House or broker. MISL may change any Margin Requirement in its sole discretion and at any time without prior notice to the Client. If MISL determines that additional margin is required, the Client agrees to deposit with MISL such additional margin forthwith upon demand. No previous Margin Requirement shall establish any precedent.
- 3.2 Without prejudice to Clauses 3.4 to 3.11, calls or demands for Margin Requirement must be met or satisfied by the Client forthwith upon demand by MISL. The Client shall on demand put MISL in funds or moneys or arrange for MISL to be put in funds or moneys in time to enable MISL to discharge any liability incurred or to be incurred in connection with trading, dealing or Transactions effected in relation to the Margin Account. The Client shall on demand reimburse MISL for all costs and expenses incurred by it in connection with the trading, dealing or Transaction effected in relation to the Margin Account and/or pay or settle any outstanding amount under the Margin Account.
- 3.3 MISL is not liable to pay interest on the moneys or funds paid to or received by MISL in respect of the Margin Account whether on deposit or however described. MISL is entitled to retain for its own benefit any interest or other realized income or increase in value earned or received in respect of such moneys or funds. MISL is entitled to charge and the Client agrees to pay interest to MISL in respect of any Deficit or any moneys or funds otherwise owing to MISL at any time at such rates and on such other terms as MISL notifies the Client from time to time or failing such notification at a rate equivalent to five per cent (5%) above the prevailing prime or best lending rate for Hong Kong dollars of The Bank of China (Hong Kong) Limited or other bank as determined by MISL from time to time. Interest shall be payable on the last day of each calendar month or forthwith upon demand by MISL.
- 3.4 The Client shall monitor the Margin Account so that at all times the Margin Account shall contain a sufficient account balance to meet the Margin Requirement. MISL may modify such Margin Requirement for the Client at any time in MISL's absolute and sole discretion. MISL may reject any Instruction or order of the Client if the Client does not have a sufficient account balance to meet Margin Requirement and may delay the processing of any Instruction or order while determining the correct margin status of the Margin Account. The Client shall maintain, without notice or demand from MISL, a sufficient account balance at all times so as to continuously meet the Margin Requirement. The Client must at all times satisfy whatever Margin Requirement calculated by MISL.
- 3.5 MISL has no obligation to notify the Client of any failure to meet Margin Requirement in the Margin Account prior to MISL exercising its rights, powers, discretion and remedies under the Agreement. The Client understands and accepts that MISL generally will not issue call or demand on Margin Requirement, that MISL generally will not credit the Margin Account to meet any deficiency on Margin Requirement, and that MISL is authorized to exercise any of its rights under Clause 4 in order to satisfy Margin Requirement without prior notice to the Client.
- 3.6 In the event that the balance of the Margin Account has zero equity or is in deficit at any time, or the Margin Account does not have a sufficient account balance to meet Margin Requirement, MISL shall have the right, in its sole discretion, but not the obligation, to exercise any of its rights under Clause 4 at any time and in such manner and in any Market as MISL deems necessary, without prior notice demand or call to the Client. The Client agrees to be responsible for, and promptly pay to MISL, any deficiency in the Margin Account that arises from such exercise of rights or remain after such exercise of rights. MISL shall not have any liability to the Client for any losses or damages sustained by the Client in connection with such exercise of rights (or if MISL experiences a delay in exercising, or does not exercise such rights).
- 3.7 The Client expressly waives and relinquishes any rights to receive prior notice or demand from MISL and agrees that any prior demand, notice, announcement or advertisement shall not be deemed a waiver of MISL's right to exercise any of its rights under Clause 4. The Client understands that, in the event that MISL exercise such rights, the Client shall have no right or opportunity to

determine the manner of exercising such rights by MISL. MISL may, in its absolute and sole discretion, exercise such rights on any Exchange or Market, and MISL or its associated company may take the other side of any closing out, liquidating or settlement transaction. In the event that MISL exercise such rights, such exercise of rights shall establish the amount of the Client's gain or loss and indebtedness to MISL, if any. The Client shall reimburse and hold MISL harmless for all actions, omissions, costs, expenses, fees (including, but not limited to, legal costs), penalties, losses, claims or liabilities associated with any exercise of such rights by MISL. The Client shall be liable to and responsible for all resulting losses, notwithstanding MISL's delay in or failure to exercise such rights. If MISL executes an order for which the Client did not have sufficient funds, MISL has the right, without notice to the Client, to liquidate the Transaction and the Client shall be responsible for any loss as a result of such liquidation, including any costs, and shall not be entitled to any profit that results from such liquidation.

- 3.8 The Client irrevocably and unconditionally authorizes MISL to transfer, debit or deduct any money in the Margin Account and/or the Account so as to pay, discharge, satisfy the Client's indebtedness, obligations and Liabilities to MISL arising from, incurred under and relating to the Agreement, including but not limited to the outstanding purchase moneys, fees (including but not limited to market data fees), charges, expenses, commissions and interests payable by the Client under and pursuant to the Agreement. The Client acknowledges and agrees that such deductions may affect the amount of money in the Margin Account to be applied against the Margin Requirement. MISL may exercise any of its rights under Clause 4 if deduction of commissions, fees or other charges causes the Margin Account to have an insufficient balance to satisfy the Margin Requirement.
- 3.9 If MISL issues a call or demand for Margin Requirement to the Client, the Client must satisfy such call or demand immediately. The Client agrees to satisfy any call or demand for Margin Requirement issued by MISL by immediately depositing cleared funds in the Margin Account to pay, in full, the under-margined open position.
- 3.10 MISL shall also have the right to exercise any of its rights under Clause 4 without prior notice to the Client in the same manner as provided above: (a) if any dispute arises concerning any trading or Transaction of the Client; (b) upon the Client's failure to timely discharge its obligations to MISL; (c) upon the Client's insolvency or filing of a petition in bankruptcy or for protection from creditors; (d) upon the appointment of a receiver, or (e) whenever MISL, in its absolute and sole discretion, deems necessary or advisable for the protection of MISL and/or any of the MG Group Companies.
- 3.11 Any failure by the Client to comply with this Clause 3 shall constitute an Event of Default under Clause 4.

#### 4. **Default**

- 4.1 Any one of the following events shall constitute an event of default ("**Event of Default**"):
- (a) at any time when MISL shall, in its sole discretion, consider it necessary for the protection of MISL or any of the MG Group Companies;
  - (b) the Client fails or refuses to pay or settle any outstanding amount, money, fund, purchase price or other payment becoming due or payable under the Agreement or any other agreement with any of the MG Group Companies;
  - (c) the Client fails or refuses to settle or pay any outstanding amount, money or Deficit on any of the Client's Account(s) with MISL or any of the MG Group Companies;
  - (d) the Client violates or fails to perform on a timely basis any term, undertaking, agreement, covenant or condition on its part to be performed under the Agreement;
  - (e) the Client fails or refuses to discharge, pay, satisfy or perform any of the Client's Liabilities, obligation or indebtedness under the Agreement or any other agreement with any of the MG Group Companies;
  - (f) the Client has not provided any margin (initial, maintenance or additional) or adjustments (variation or otherwise) when the same become due or payable under the Agreement, or has failed or refused to comply with any request, call or demand made by MISL pursuant to the Agreement;
  - (g) breach, refusal, failure or default of or by the Client in complying with, fulfilling, performing or observing any terms or conditions of the Agreement or any other agreement with any of the MG Group Companies;
  - (h) any representation or warranty made in the Agreement or in any document delivered to MISL or any of the MG Group Companies being or becoming incomplete, untrue or incorrect;
  - (i) any consent or authorization required by the Client to enter into the Agreement being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;
  - (j) the filing or commencement of a petition or application in bankruptcy, liquidation or winding up, petition or application for the appointment of a receiver, or the commencement of other similar proceedings against the Client;
  - (k) the Lien or any security created or any part thereof respectively in relation to the indebtedness, obligations or Liabilities under the Agreement and/or the Loan Agreement being avoided or discontinued;
  - (l) any deterioration or impairment (in MISL's opinion) or any decline or depreciation (in MISL's opinion) in the value or market price (whether actual or reasonably anticipated) of the Retained Properties, the Collateral or any security or any part thereof respectively;
  - (m) the levying of attachment or charge against the Margin Account or any Account(s) of the Client with MISL or any of the MG Group Companies;
  - (n) any third party asserts a claim, right or interest in respect of any moneys or funds in the Margin Account or any Accounts of the Client with MISL or any of the MG Group Companies;
  - (o) the Client takes advantage of any bankruptcy, liquidation, reorganization, moratorium, insolvency or similar law or makes or proposes to make any arrangements or compositions for the benefit of any of the Client's creditors, or is the subject of any



order, judgment or decree entered by any court providing for the winding up, reorganization, liquidation or appointment of a liquidator, trustee in bankruptcy or receiver of the Client or a substantial part of the Client's business or assets;

- (p) the Client becomes insolvent or dissolved for any reason whatsoever, merges or becomes consolidated with any non-affiliated party, or sells all or a substantial portion of the Client's business or assets;
- (q) the death, liquidation or judicial declaration of incompetence of the Client;
- (r) any action or proceeding is commenced or any claim or demand is made by any person against the Client in connection with any matter herein contained or the Retained Properties, the Collateral or any part thereof or against MISL in connection with any matter herein contained or the Retained Properties, the Collateral or any part thereof;
- (s) any adverse change (in the sole and subjective opinion of MISL) in the corporate structure, business, assets, financial condition, and general condition or prospects of the Client;
- (t) at any time when MISL and/or any of the MG Group Companies is or becomes under any obligation imposed by any relevant Exchange and/or Clearing House and/or broker or any applicable laws, rules and regulations to do any of the acts mentioned in this Clause 4; and
- (u) the occurrence of any event which, in the sole and subjective opinion of MISL, may or shall jeopardize, prejudice or affect any of the rights, interests or benefits of MISL or any of the MG Group Companies.

4.2 If an Event of Default (in the sole and subjective judgment of MISL) occurs, then all amounts owing by the Client to MISL shall become immediately payable on demand, and interest will accrue, at the rate specified in Clause 3.3, on the amounts outstanding from time to time, the further performance by MISL of any of its outstanding obligations to the Client under the Agreement (whether for payment of money or otherwise) shall be conditional upon the Client having fully discharged all its obligations to MISL under the Agreement, and MISL or any of the MG Group Companies shall be entitled at their absolute discretions, without further notice or demand and in addition to and without prejudice to any other rights or powers conferred under the Agreement and/or the Loan Agreement to forthwith: -

- (a) satisfy any obligations the Client may have to MISL (either directly or by way of guarantee or other security) by selling, realizing or otherwise dealing with, in such manner as MISL in its absolute discretion may determine, all or part of any property held by any of the MG Group Companies for any purpose in any of the Client's Accounts maintained with any of the MG Group Companies, and to apply the proceeds in reduction of all or part of any Liabilities of the Client to MISL;
- (b) set-off, combine or consolidate any of the Client's Accounts (of any nature) maintained with MISL or any of the MG Group Companies or any obligations of MISL to the Client under the Agreement against any obligations of the Client to MISL under the Agreement;
- (c) suspend MISL's obligations to perform pursuant to the Agreement;
- (d) revise, change, withdraw, stop or cancel the Credit Facilities, facilities, advances, credits or loans made or granted to the Client, or any part thereof respectively;
- (e) enforce the Lien and/or the security constituted or created under and pursuant to the Loan Agreement;
- (f) liquidate the Margin Account or any Account of the Client with any of the MG Group Companies;
- (g) where applicable, sell any Securities in the Margin Account and/or any Account of the Client with any of the MG Group Companies;
- (h) where applicable, buy Securities previously sold as a short sale in the Margin Account and/or any Account of the Client with any of the MG Group Companies;
- (i) close out any open contract held by MISL on behalf of the Client, and make or take delivery of the Securities in respect of such contract;
- (j) borrow or purchase any Security required to make delivery on behalf of the Client;
- (k) exercise any options held by MISL on behalf of the Client;
- (l) transfer in, transfer out, settle, clear all or any Securities;
- (m) call upon or enforce any security which may have been issued, made or created in favour of MISL or any of the MG Group Companies as security for the indebtedness, Liabilities or obligations of the Client under the Agreement;
- (n) exercise any or all the rights and powers of MISL under the Agreement;
- (o) cancel any or all outstanding instructions, orders or any other commitments made on behalf of the Client;
- (p) take any actions, or do any acts, matters or things as authorized, instructed, directed, appointed or empowered under the Agreement;
- (q) take such actions, or do such acts, matters or things as MISL shall think fit in relation to the Retained Properties and/or the Collateral; and/or
- (r) take or not to take any actions, or do or not to do any acts, matters or things as MISL shall think fit.

4.3 MISL may at its absolute discretion apply the net proceeds (after deduction of all fees, costs and expenses incurred in connection with the exercise of the powers conferred on MISL by this Clause 4) actually received by MISL pursuant to the exercise of powers under this Clause 4 in reduction of the Client's then outstanding obligations to MISL in such order or manner as MISL considers fit.

4.4 MISL shall have absolute discretion in all matters relating to the exercise of its rights under this Clause 4, and may sell any Securities on a single or collective basis. The Client hereby waives all claims and demands (if any) against MISL in respect of any loss, involuntary or otherwise, directly arising from the exercise by MISL of the powers conferred by this Clause 4, howsoever such loss may have been caused (other than through wilful default of MISL, or the reckless disregard of the obligations of MISL under this Clause 4), whether in relation to the timing or manner of the exercise of such powers or otherwise.

4.5 In the event that any of the events set out in Clause 4.1 shall occur, then the Agreement may be terminated by MISL forthwith without notice to the Client. Any such termination shall be without prejudice to the accrued rights and obligations of the Parties contained in any provision hereof which shall remain in full force and effect and shall be enforceable notwithstanding such

termination.

- 4.6 The Client shall be liable for any Deficit that may exist after MISL has exercised any or any combination of rights in this Clause 4, and any cost or expense (including legal costs) incurred by MISL, on a full indemnity basis, related to such exercise.
- 4.7 MISL shall be entitled at all times to employ debt collecting agent(s) to collect any sum due but unpaid by the Client hereunder and for doing so, MISL may and is hereby authorized to disclose to such agent(s) any or all information available in relation to the Client and MISL shall not be howsoever liable or responsible (whether in contract or tort) for such disclosure or for any default negligence act conduct misconduct and/or deeds of such agent(s). The Client is hereby warned that the Client shall indemnify and keep MISL indemnified on a full indemnity basis against all reasonable costs and expenses which MISL may reasonably incur in employing debt collecting agent(s).
- 4.8 In the event that MISL or its associated person commits a default in relation to Securities traded or to be traded on a recognized stock market, and the related assets of such Securities, and the Client thereby suffers a pecuniary loss, the Client acknowledges and accepts that the right to claim compensation will be restricted to the extent provided for therein under the SFO. For Transactions which are effected in an Exchange other than a recognized stock market, the Client acknowledges and accepts that any right to compensation in the event of any default on the part of MISL or its associated person will be subject to the rules of the relevant Exchange.
5. **Separate Accounts**
- 5.1 The Transactions and assets booked under the Margin Account shall not be co-mingled with those booked under the Securities Account except as expressly provided for in the Agreement.
6. **IPO Financing**
- 6.1 These Terms shall apply mutatis mutandis to the Loan and Allotted Securities as defined in Section II.

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## SECTION IV - TERMS AND CONDITIONS FOR STOCK OPTIONS TRADING

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These Terms are additional and supplemental to the terms and conditions in Section I headed "Terms and Conditions for Securities Cash Trading" ("**Section I**"). The Transactions effected, conducted, carried on and entered into by the Client with and through MISL for or on the

Stock Options Account, and the Exchange Traded Stock Options Business to be provided by MISL to the Client shall be subject to and upon the Agreement. Where any conflict or inconsistency arises between any provision of these Terms and any provision of Section I, the provisions of these Terms shall prevail.

1. **Definitions**

1.1 In these Terms, unless redefined herein or the context requires otherwise, all expressions defined in (a) the SEHK Rules (including the Options Trading Rules and the Operational Trading Procedures); and (b) Section I shall, where applicable, have the same meanings when used herein.

1.2 In these Terms, the following expressions, unless the context requires otherwise, shall have the following meanings: -

"**Account Opening Form**" means the Account Opening Form for the Stock Options Account including the declaration, information, notes and statements thereto to be completed and signed by the Client and, as the context requires, any amendments made thereto from time to time;

"**Acknowledgment by Client (Stock Options)**" means the Acknowledgment by Client for the Stock Options Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds from the Securities Account to the Futures Account and other information in respect of the Securities Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

"**Agreement**" means the agreement made between the Client and MISL and constituted by the Account Opening Form, these Terms, the Acknowledgement by Client (Securities), the terms and conditions in Section I, and such other documents referred to therein or added thereto (including any amendment or supplement made thereto from time to time);

"**Authorized Person**" means the persons or any of them appointed by the Client as agent of the Client to (including but not limited to) issue Instructions on behalf of the Client in relation to the Stock Options Account and/or Transactions, and initially the persons specified as such in the Account Opening Form and such other person as appointed by the Client in substitution therefor or in addition thereto from time to time (the Client shall in writing notify MISL of such appointment, which shall only be effective after the actual receipt of such notification and approved by MISL);

"**Client**" means the person or persons who have signed and/or specified as such in the Account Opening Form, and where the Stock Options Account is opened by more than one person means all of such persons collectively and any legal or personal representative, executor, successor in title or permitted assign thereof, and shall include the Authorized Person where the context permits;

"**Client Money Rules**" means the Securities and Futures (Client Money) Rules (Cap. 571I of the Laws of Hong Kong);

"**Client Securities Rules**" means the Securities and Futures (Client Securities) Rules (Cap. 571H of the Laws of Hong Kong);

"**Operational Trading Procedures**" means the Operational Trading Procedures for Stock Options Trading Exchange Participants of SEHK as from time to time in force;

"**Options Trading Rules**" means the Options Trading Rules of SEHK as from time to time in force;

"**Stock Options Account**" means any account now or in future opened and maintained in the name of the Client with MISL for conducting Transactions in accordance with the Agreement, and/or all other account(s) of whatsoever nature now or in future opened and maintained in the name of the Client with MISL in accordance with the Agreement or other agreement or document;

"**SEOCH**" means The SEHK Options Clearing House Limited including, where the context so requires, its agents, nominees, representatives, officers and employees;

"**Stock Options Trading**" means the purchase, trading, dealing, closing, exercise, settlement and discharge of long stock options transactions, and the writing of stock options through the Stock Options Account or otherwise creating any short open position; and

"**these Terms**" means all the terms and conditions in this Section IV headed "Terms and Conditions for Stock Options Trading" as from time to time amended and supplemented.

1.3 In these Terms: -

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) "subsidiary" shall bear the meaning given by the Companies Ordinance (Cap. 32 of the Laws of Hong Kong) and "associated company" means, in respect of any person, any company (not being a subsidiary of that person) of which that person shall beneficially own twenty per cent (20%) or more of the issued share capital or in respect of which that person is entitled to appoint one or more directors or, in relation to any company, any company which is a subsidiary of a holding company of that first mentioned company;
- (c) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to

MISL means the Account Opening Form as amended by such notice;

- (d) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (e) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (f) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (g) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of the Agreement, such provision shall survive the termination of the Agreement.

1.4 Where it is necessary for the true construction or interpretation of any provision of the Agreement, (1) all references to Securities Account in Section I shall be construed to include the Stock Options Account; (2) all references to Transactions in Section I and these Terms shall be construed to include Stock Options Trading; and (3) all references to Securities in Section I shall be construed as references to Contract.

## 2. **Law and Rules**

2.1 All Exchange Traded Stock Options Business shall be effected in accordance with all laws, rules and regulatory directions (the "**Laws and Rules**") applying to MISL. This includes the SEHK Rules, the Options Trading Rules, the clearing rules of SEOCH and the rules of HKSCC. In particular, SEOCH has authority under the Laws and Rules to make adjustments to the terms of Contracts, and MISL shall notify the Client of any such adjustments which affect Client Contracts to which the Client is a party. The Client agrees that all actions taken by MISL, by SEHK, by SEOCH or by HKSCC in accordance with such Laws and Rules shall be binding on the Client.

2.2 The Client agrees that the terms of the Standard Contract for the relevant stock options series shall apply to each Client Contract between MISL and the Client, and that all Client Contracts shall be created, exercised, settled and discharged in accordance with the Laws and Rules.

## 3. **Instructions and Dealing Practice**

3.1 MISL is hereby authorized to act upon the Instructions of the Client to create, exercise, settle and/or discharge Stock Options Contracts for the Stock Options Account(s) and otherwise deal with any margin, collateral, Securities, Premium, Stock Options Contracts, receivables or monies held in or for the Option Account(s) subject to the Client Money Rules and Client Securities Rules.

3.2 The Client acknowledges and consents that MISL shall, at its absolute discretion, be entitled to claim margin offset for the Client's positions through the Client Offset Claim Account in DCASS.

## 4. **Contracts**

4.1 In respect of all Contracts effected on the Client's Instructions, the Client shall pay MISL, within the time period notified by MISL, Premium, MISL's commission and any other charges, and applicable levies imposed by SEHK, as have been notified to the Client. If no time period is specified by MISL, then the Client is required to comply with such demand before expiry of two hours from the time of making the demand (or more quickly if MISL requires the Client to do so). MISL may require the Client to make arrangements for payment of Premium, MISL's commission and any other charges, and/or applicable levies imposed by SEHK in advance of accepting Instructions from the Client or may impose other requirements from time to time for the payment of the above items as MISL in its absolute discretion thinks fit. MISL may deduct such Premium, commissions, charges and levies from the Stock Options Account or any other Account of the Client with MG Group Companies or any subsidiary or associated company of MG Group Companies.

4.2 MISL may from time to time place limits on the open positions or delivery obligations that the Client may have without notice to the Client.

4.3 The Client acknowledges that:

- (a) MISL may close out Client Contracts to comply with position limits imposed by SEHK; and
- (b) if MISL goes into default, the default procedures of SEHK may result in Client Contracts being closed out, or replaced by Client Contracts between the Client and another Options Exchange Participant.

4.4 On exercise of a Client Contract by or against the Client, the Client shall perform the Client's delivery obligations under the relevant contract, in accordance with the Standard Contract and as notified by MISL. The Client may on or before 4:15 p.m. on the date of maturity of the Client Contract, notify MISL to exercise his rights under the Client Contract. Because the maturity date for different products is different, the Client should decide on his own when and whether he should exercise the Client Contract or not, MISL has no responsibility to inform the Client what to do on or before the maturity date, and the Client should bear his own loss and consequences.

4.5 The Client acknowledges that on the expiry day but only on the expiry day, the Stock Options System will automatically generate exercise instructions in respect of all open long positions which are in-the-money by or above the percentage prescribed by SEOCH

from time to time. The Client may instruct MISL to override such an "automatically generated exercise instruction" before the System Closure on the expiry day in accordance with the Operational Clearing Procedures of SEOCH.

- 4.6 The Client acknowledges that MISL may, at the Client's request, agree to the Client Contracts between MISL and the Client being replaced, in accordance with the Laws and Rules, by Client Contracts between the Client and another Options Exchange Participant.
- 4.7 The Client acknowledges that, although all Stock Options Contracts are to be executed on SEHK, the Client and MISL shall contract as principals under Client Contracts.
- 4.8 In respect of the Client's short positions, in cases where the Client Contract is validly exercised (including cases pursuant to Clause 4.9), the Client shall fulfill his obligations under the relevant Client Contract by 3:15 p.m. on the Business Day following the day of exercise. In default thereof, without prejudice to other rights or remedies that MISL may have against the Client, MISL may without demand or notice cover any liability of the Client under any short positions or deal with the same in the manner deemed most appropriate by MISL. The Client agrees that the Client will be responsible for all the expenses of MISL in connection with the above and that MISL will not be liable for any loss that may thereby be incurred.
- 4.9 The Client understands and agrees that in accordance with the Options Trading Rules and Clearing Rules, SEOCH may randomly select any Options Trading Exchange Participant to exercise a Client Contract in a short open position in which case, that Options Trading Exchange Participant shall randomly select a Client Contract from among all Client Contracts comprised in short open positions of clients in the same option series as that Client Contract. The Client Contract so selected shall, by operation of this Agreement and the Options Trading Rules and Clearing Rules, for all purposes be treated as having been validly exercised at the time of such selection. MISL shall notify the Client of the details of such exercise as soon as possible.
- 4.10 Delivery obligation shall arise when a Client Contract is validly exercised. On exercise of a Client Contract by or against the Client, the Client will perform its delivery obligations under the relevant Contract in accordance with the Standard Contract and as the Client has been notified by MISL.
- 4.11 The Client hereby acknowledges that the Client shall be responsible to MISL for any losses, costs, fees and expenses (including legal costs) incurred by MISL (on an indemnity basis) in connection with the Client's failure to meet his obligations by the due date as described in this Clause.

## 5. **Margin**

- 5.1 The Client agrees to provide MISL with cash and/or Securities and/or other assets and/or such collateral, guarantees and other security in such form and amount and on such terms as MISL may in its absolute discretion require from time to time (the "**Margin**") as security for the Client's obligations to MISL under the Agreement and maintain such Margin. The amounts required by way of Margin should not be less than, but may exceed the amounts as may be required by the Laws and Rules in respect of the Client's open positions and delivery obligations. MISL may change any Margin in its sole discretion and at any time without prior notice to the Client. If MISL determines that additional Margin is required, the Client agrees to deposit with MISL such additional Margin forthwith upon demand. No previous Margin shall establish any precedent.
- 5.2 If MISL accepts Securities by way of Margin, the Client shall on request provide MISL with such authority as MISL may require under the Laws and Rules to authorize MISL to deliver such Securities, directly or through an Options Exchange Participant, to SEOCH as SEOCH Collateral in respect of Exchange Traded Stock Options Business resulting from the Client's Instructions to MISL; and MISL does not have any further authority from the Client to borrow or lend the Client's Securities or otherwise part with possession (except to the Client or on the Client's Instructions) of any of the Client's Securities for any other purpose.
- 5.3 Without prejudice to Clauses 5.5 to 5.12, calls or demands for Margin must be met or satisfied by the Client forthwith upon demand by MISL. The Client shall on demand put MISL in funds or moneys or arrange for MISL to be put in funds or moneys in time to enable MISL to discharge any liability incurred or to be incurred in connection with Transactions effected in relation to the Stock Options Account. The Client shall on demand reimburse MISL for all costs and expenses incurred by it in connection with the Transaction effected in relation to the Stock Options Account and/or pay or settle any outstanding amount under the Stock Options Account.
- 5.4 MISL is not liable to pay interest on the moneys or funds paid to or received by MISL in respect of the Stock Options Account whether on deposit or however described. MISL is entitled to retain for its own benefit any interest or other realized income or increase in value earned or received in respect of such moneys or funds. MISL is entitled to charge and the Client agrees to pay interest to MISL in respect of any Deficit or any moneys or funds otherwise owing to MISL at any time at such rates and on such other terms as MISL notifies the Client from time to time or failing such notification at a rate equivalent to five per cent (5%) above the prevailing prime or best lending rate for Hong Kong dollars of The Bank of China (Hong Kong) Limited or other bank as determined by MISL from time to time. Interest shall be payable on the last day of each calendar month or forthwith upon demand by MISL.
- 5.5 The Client shall monitor the Stock Options Account so that at all times the Stock Options Account shall contain a sufficient account balance to meet the Margin. MISL may modify such Margin for the Client at any time in MISL's absolute and sole discretion. MISL may reject any Instruction or order of the Client if the Client does not have a sufficient account balance to meet the Margin and may



delay the processing of any Instruction or order while determining the correct margin status of the Stock Options Account. The Client shall maintain, without notice or demand from MISL, a sufficient account balance at all times so as to continuously meet the Margin. The Client must at all times satisfy whatever Margin calculated by MISL.

- 5.6 MISL has no obligation to notify the Client of any failure to meet the Margin in the Stock Options Account prior to MISL exercising its rights, powers, discretion and remedies under the Agreement. The Client understands and accepts that MISL generally will not issue call or demand on the Margin, that MISL generally will not credit the Stock Options Account to meet any deficiency on the Margin, and that MISL is authorized to exercise any of its rights under (a) Clause 17 of Section I and/or (b) Clause 9 in order to satisfy the Margin without prior notice to the Client.
- 5.7 In the event that the balance of the Stock Options Account has zero equity or is in deficit at any time, or the Stock Options Account does not have a sufficient account balance to meet the Margin, MISL shall have the right, in its sole discretion, but not the obligation, to exercise any of its rights under (a) Clause 17 of Section I and/or (b) Clause 9 at any time and in such manner and in any Market as MISL deems necessary, without prior notice demand or call to the Client. The Client agrees to be responsible for, and promptly pay to MISL, any deficiency in the Stock Options Account that arises from such exercise of rights or remain after such exercise of rights. MISL shall not have any liability to the Client for any losses or damages sustained by the Client in connection with such exercise of rights (or if MISL experiences a delay in exercising, or does not exercise such rights).
- 5.8 The Client expressly waives and relinquishes any rights to receive prior notice or demand from MISL and agrees that any prior demand, notice, announcement or advertisement shall not be deemed a waiver of MISL's right to exercise any of its rights under (a) Clause 17 of Section I and/or (b) Clause 9. The Client understands that, in the event that MISL exercise such rights, the Client shall have no right or opportunity to determine the manner of exercising such rights by MISL. MISL may, in its absolute and sole discretion, exercise such rights on any Exchange or Market, and MISL or its associated company may take the other side of any closing out, liquidating or settlement transaction. In the event that MISL exercise such rights, such exercise of rights shall establish the amount of the Client's gain or loss and indebtedness to MISL, if any. The Client shall reimburse and hold MISL harmless for all actions, omissions, costs, expenses, fees (including, but not limited to, legal costs), penalties, losses, claims or liabilities associated with any exercise of such rights by MISL. The Client shall be liable to and responsible for all resulting losses, notwithstanding MISL's delay in or failure to exercise such rights. If MISL executes an order for which the Client did not have sufficient funds, MISL has the right, without notice to the Client, to liquidate the Transaction and the Client shall be responsible for any loss as a result of such liquidation, including any costs, and shall not be entitled to any profit that results from such liquidation.
- 5.9 The Client irrevocably and unconditionally authorizes MISL to transfer, debit or deduct any money in the Stock Options Account and/or the Account so as to pay, discharge, satisfy the Client's indebtedness, obligations and Liabilities to MISL arising from, incurred under and relating to the Agreement, including but not limited to the outstanding purchase moneys, fees (including but not limited to market data fees), charges, expenses, commissions and interests payable by the Client under and pursuant to the Agreement. The Client acknowledges and agrees that such deductions may affect the amount of money in the Stock Options Account to be applied against the Margin. MISL may exercise any of its rights under (a) Clause 17 of Section I and/or (b) Clause 9 if deduction of commissions, fees or other charges causes the Stock Options Account to have an insufficient balance to satisfy the Margin.
- 5.10 If MISL issues a call or demand for Margin to the Client, the Client must satisfy such call or demand immediately. The Client agrees to satisfy any call or demand for Margin issued by MISL by immediately depositing cleared funds in the Stock Options Account to pay, in full, the under-margined open position.
- 5.11 MISL shall also have the right to exercise any of its rights under (a) Clause 17 of Section I and/or (b) Clause 9 without prior notice to the Client in the same manner as provided above: (a) if any dispute arises concerning any trading or Transaction of the Client; (b) upon the Client's failure to timely discharge its obligations to MISL; (c) upon the Client's insolvency or filing of a petition in bankruptcy or for protection from creditors; (d) upon the appointment of a receiver, or (e) whenever MISL, in its absolute and sole discretion, deems necessary or advisable for the protection of MISL and/or any of the MG Group Companies.
- 5.12 Any failure by the Client to comply with this Clause 5 shall constitute an Event of Default under Clause 17 of Section I.

## 6. **Commissions and Expenses**

- 6.1 All Transactions executed in pursuance of the Instructions of the Client on the Exchanges shall be subject to a transaction levy and any other levies that the relevant Exchange from time to time may impose. MISL is authorised to collect any such levies in accordance with the rules prescribed by the relevant Exchange from time to time.
- 6.2 MISL shall, at its absolute discretion, be entitled to solicit, accept and retain any benefit in connection with any Transaction effected with any person for the Client pursuant to the terms and subject to the conditions of this Agreement, including any commissions, rebates or similar payments received in connection therewith, and rebates from standard commissions charged by brokers or other agents to their clients. MISL shall also, at its absolute discretion, be entitled to offer any benefit in connection with any transaction effected with any person for the Client pursuant to the terms and subject to the conditions of this Agreement, including any benefit relating to commissions or similar payments in connection therewith.

## 7. **Foreign Currency Transactions**

- 7.1 If the Client gives Instructions to MISL to enter into any Contract requiring a conversion from one currency to another, then: -

- (a) the costs thereof and any profit or loss arising as a result of fluctuations in the exchange rate of the relevant currency will be entirely for the account and risk of the Client;
  - (b) all initial and subsequent deposits for margin shall be made in such currency and in such amounts as MISL may require in its discretion; and
  - (c) when such Contract is closed out, MISL shall debit or credit the Stock Options Account in such currency (as MISL may determine in its discretion) at such exchange rate as determined by MISL in its discretion.
- 7.2 The Client authorizes MISL may at any time at such exchange rate and for such amount as MISL deems fit convert monies into and from any currency at such rate of exchange as MISL shall in its sole discretion determine as being the then prevailing market rate of exchange. Such conversion may be made for the purpose of any Transaction or for the calculation of any debit balance due from the Client or credit balance owed to the Client.
- 7.3 The Client authorizes MISL to debit the Stock Options Account for any expenses incurred in effecting any currency conversion.
- 7.4 All payments to be made by the Client to MISL in a currency other than Hong Kong Dollars shall be in freely transferable and immediately available funds clear of any taxes, charges or payments of any nature when received by MISL.
- 7.5 MISL reserves the right at any time to refuse to accept any Instructions from the Client in relation to any currency conversion.
8. **Default**
- 8.1 If the Client fails to comply with any of the Client's obligations and/or to meet the Client's Liabilities under the Agreement, including failure to provide Collateral, or on the occurrence of any of the Events of Default (in the sole and subjective judgment of MISL) referred to in Section I, MISL or any of the MG Group Companies, in addition to their rights and powers under Clause 17 of Section I, shall be entitled at their absolute discretions, without further notice or demand and in addition to and without prejudice to any other rights or powers conferred under the Agreement and/or the Loan Agreement (if any), to forthwith: -
- (a) decline to accept further Instructions from the Client in respect of Exchange Traded Stock Options Business;
  - (b) close out some or all of the Client's Client Contracts with MISL;
  - (c) enter into Contracts, or into transactions in Securities, Commodities (as defined in Section VII headed "Terms and Conditions for Futures Trading" ("**Section VII**")), Exchange Contracts (as defined in Section VII), F/O Contracts (as defined in Section VII), in order to settle obligations arising or to hedge the risks to which MISL is exposed in relation to the Client's default;
  - (d) sell, realize or otherwise dispose of the Margin (whole or any part thereof) in such manner and for such consideration as MISL may in its absolute discretion think fit, and MISL do not has the responsibility to explain to the Client how it exercise its discretion, and apply the proceeds thereof to discharge all or part of the Client's Liabilities; or
  - (e) If the amount of the Margin is not sufficient, the Client must immediately increase the amount of the Margin at the request of MISL, otherwise, MISL has the right to claim all the loss and damages against the Client.
- 8.2 If there is any Deficit arising after the exercise by MISL of any or any combination of rights in this Clause 8, the Client hereby agrees to make good and pay on demand to MISL such Deficit and any cost or expense (including legal costs) incurred by MISL, on a full indemnity basis, related to such exercise. Any proceeds remaining after discharge of all the Client's Liabilities shall be paid to the Client.
- 8.3 MISL and its nominee shall not be in any way responsible for any loss occasioned by any action taken pursuant to Clause 8.1, howsoever such loss may have been caused or arisen, and whether or not a better price could or might have been obtained on such action, by either deferring or advancing the date of taking such action.
- 8.4 The Client shall pay interest on all overdue balances on the Stock Options Account or any amount otherwise owing to MISL at any time (including interest arising after a judgment debt is obtained against the Client) at such rates and on such other terms as MISL notifies the Client from time to time or failing such notification at a rate equivalent to five per cent (5%) above the prevailing prime or best lending rate for Hong Kong dollars of The Bank of China (Hong Kong) Limited or other bank as determined by MISL from time to time. Interest shall be payable on the last day of each calendar month or forthwith upon demand by MISL.
9. **Closure of Positions**
- 9.1 Without prejudice to MISL's rights under Clause 8, MISL may, without the Client's consent, close all or any of the Client's positions if MISL is of the opinion that there has been a change or development involving a prospective change:
- (a) in the local, national or international monetary, financial, economic or political conditions or foreign exchange controls which has resulted or is in the opinion of MISL likely to result in a material or adverse fluctuation in the stock market or stock options market in Hong Kong and/or overseas; or
  - (b) which is or may be of a material adverse nature affecting the condition or operations of the Client.
10. **Conflict of Interest**
- 10.1 MISL and its directors, officers or employees may trade on its/their own account or on the account of any of MG Group Companies subject to any applicable regulatory requirements.
- 10.2 MISL may buy, sell, hold or deal in any Stock Options Contracts or take the opposite position to the Client's order whether it is on

MISL's own account or on behalf of its other clients.

- 10.3 MISL may match the Client's orders with those of other clients.
- 10.4 MISL may effect Transactions where MISL or any of the MG Group Companies has a position in the underlying Securities or is involved with those Stock Options Contracts or Securities as underwriter, sponsor or otherwise.
- 10.5 In any of the above-mentioned events MISL shall not be obliged to account for any profits or benefits obtained.

11. **Miscellaneous Provisions**

- 11.1 The Client confirms that the Stock Options Account is operated solely for the Client's account and benefit, and not for the benefit of any other person.
- 11.2 MISL shall provide the Client, upon written request, with the product specifications for Stock Options Contracts.

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## SECTION V – TERMS AND CONDITIONS FOR ELECTRONIC TRADING FACILITIES

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These Terms are additional and supplemental to the terms and conditions governing the relevant Account. The BSS to be provided by MG Group Companies shall be subject to and upon the Agreement. Where any conflict or inconsistency arises between any provision of these Terms and any provision of the terms and conditions governing the relevant Account, MG Group Companies has absolute discretion to determine which terms and conditions shall prevail.

1. **Definitions**

- 1.1 In these Terms, unless redefined herein or the context requires otherwise, all expressions defined in Section I headed "Terms and Conditions for Securities Cash Trading", Section IV headed "Terms and Conditions for Stock Options Trading", Section VII headed "Terms and Conditions for Futures Trading" shall, where applicable, have the same meanings when used herein.
- 1.2 In these Terms, the following expressions, unless the context requires otherwise, shall have the following meanings: -

**"Account Opening Form"** means the Account Opening Form for the relevant Account including the declaration, information, notes and statements thereto to be completed and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Acknowledgment by Client (Securities)"** means the Acknowledgment by Client for the Securities Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds from the Securities Account to the Futures Account and other information in respect of the Securities Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Acknowledgment by Client (Futures)"** means the Acknowledgment by Client for the Futures Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds between the Securities Account and the Futures Account and other information in respect of the Futures Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Agreement"** means the agreement made between the Client and MG Group Companies and constituted by the Account Opening Form, these Terms, the Acknowledgment by Client (Securities) and/or the Acknowledgment by Client (Futures), the terms and conditions governing the relevant Account and such other documents referred to therein or added thereto (including any amendment or supplement made thereto from time to time);

**"Authorized Person"** means, in relation to a corporate Client, the persons or any of them appointed by such Client as agent of the Client to (including but not limited to) issue Instructions on behalf of the Client in relation to the relevant Account and/or Transactions and initially the persons specified as such in the Account Opening Form and such other person as appointed by the Client in substitution therefor or in addition thereto from time to time (the Client shall in writing notify MG Group Companies of such appointment, which shall only be effective after the actual receipt of such notification and approved by MG Group Companies);

**"MISL Trading Agent"** means "MISL Trading Agent" as defined in Section I;

**"MISL Trading Agent Agreement"** means "MISL Trading Agent Agreement" as defined in Section I;

"**MISL Website**" means any and all websites provided or operated by MG Group Companies;

"**Client**" means the person or persons who have signed and/or specified as such in the Account Opening Form, and where the relevant Account is opened by more than one person means all of such persons collectively and any legal or personal representative, executor, successor in title or permitted assign thereof, and shall include the Authorized Person only where the Client is a body corporate;

"**Client's System**" means all hardware and software system used by the Client in gaining access to BSS (including, without limitation, any computer, modem, mobile phone and any program installed therein);

"**Device**" means any device (including but not limited to any digital or electronic certificate or encrypted software), equipment, phone, machine or computer provided, whether mobile, fixed, portable or otherwise (whether by MISL or not) to or otherwise employed by the Client for giving Instruction;

"**BSS**" means, as the case may be, (a) the internet trading service and facilities, including but not limited to the Website, provided or operated by (i) MG Group Companies; and/or (ii) MISL Trading Agent for the purposes of Section VII; and/or (iii) MISL Trading Agent for the purposes of Section I; and/or (b) trading service and facilities provided by MG Group Companies through the telecommunications and/or wireless transmission systems and facilities, including but not limited to the Mobile Site or otherwise;

"**Exchange**" means SEHK, HKFE, any Foreign Stock Exchange and any Foreign Futures Exchange;

"**Futures Transactions**" means (a) any transaction, purchase, investment, sale, trading, entering, exchange, acquisition, holding, transfer, making, clearing, settlement, disposal or dealing in, of and with any Commodities and/or Exchange Contracts and/or F/O Contracts and generally dealing in any and all kinds of Commodities and/or Exchange Contracts and/or F/O Contracts;

"**FT Agent Website**" means any and all websites provided or operated by MISL Trading Agent;

"**information**" means all kinds of information including but not limited to messages, news, quotes, report, computer programs, software, images, illustrations, presentation, opinion, configuration, text and other materials;

"**Instruction**" means any instruction given by the Client to MG Group Companies through the BSS (a) for Transactions; and (b) to check the portfolio and fund position in the relevant Account(s);

"**Market**" means (a) any stock, securities or other exchange (including SEHK), responsible association of dealers or corporation, whether within or outside Hong Kong, so dealing in Securities as to provide a market for Securities, (b) any commodity, futures, options or other exchange (including HKFE), responsible association of dealers or corporation, whether within or outside Hong Kong, so dealing in Commodities and/or Exchange Contracts and/or F/O Contracts as to provide a market for Commodities and/or Exchange Contracts and/or F/O Contracts, (c) any options or other exchange (including SEHK), responsible association of dealers or corporation, whether within or outside Hong Kong, so dealing in Options Contracts and/or Client Contracts as to provide a market for Options Contracts and/or Client Contracts, and (d) any exchange, market, over-the-counter market, responsible association of dealers or corporation, whether within or outside Hong Kong;

"**Mobile Site**" means the website site provided or operated by MG Group Companies which shall be accessed by phone, whether mobile, portable or otherwise;

"**Parties**" means MG Group Companies and the Client, and each of them is referred to as "Party";

"**Password**" means the personal password of the Client used in conjunction with the User ID to gain access to BSS and/or other services provided by MG Group Companies;

"**relevant Account**" means the Account in relation to which MG Group Companies has agreed to provide BSS;

"**Section I**" means Section I headed "Terms and Conditions for Securities Cash Trading"

"**Section VII**" means Section VII headed "Terms and Conditions for Futures Trading";

"**ST Agent Website**" means any and all websites provided or operated by MISL Trading Agent;

"**Securities Transactions**" means (a) any transaction, purchase, investment, sale, trading, entering, exchange, acquisition, holding, transfer, making, clearing, settlement, disposal or dealing in, of and with any Securities and generally dealing in any and all kinds of Securities; and/or (b) Stock Options Trading;

"**these Terms**" means all the terms and conditions in this Section V headed "Terms and Conditions for Electronic Trading Facilities" as from time to time amended or supplemented;

"**Transactions**" means (a) Futures Transaction; and/or (b) Securities Transactions;

"**User ID**" means the personal identification of the Client used in conjunction with the Password to gain access to BSS and/or other

services provided by MG Group Companies; and

"Website" means (a) MISL Website and/or (b) FT Agent Website and/or (c) ST Agent Website.

1.3 In these Terms: -

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) "subsidiary" shall bear the meaning given by the Companies Ordinance (Cap. 32 of the Laws of Hong Kong) and "associated company" means, in respect of any person, any company (not being a subsidiary of that person) of which that person shall beneficially own twenty per cent (20%) or more of the issued share capital or in respect of which that person is entitled to appoint one or more directors or, in relation to any company, any company which is a subsidiary of a holding company of that first mentioned company;
- (c) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to MG Group Companies means the Account Opening Form as amended by such notice;
- (d) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (e) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (f) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (g) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of the Agreement, such provision shall survive the termination of the Agreement.

## 2. **Applicable Rules and Regulations**

2.1 All the Instructions and Futures Transactions made or entered into by MG Group Companies on behalf of the Client through BSS shall be subject to, and in respect of the above, both MISL and the Client shall be bound by: -

- (a) the Agreement;
- (b) MISL Futures' rules, regulations, procedures and policies from time to time in force; and
- (c) the MISL Trading Agent Agreement, and the rules, regulations, procedures and policies of MISL Trading Agent relating and applicable to the Instructions and Futures Transactions from time to time in force.

In the event of any conflict or discrepancy, the above applicable terms, laws, rules, regulations, procedures shall be governed in the order of prevalence of (a), (b) and (c).

2.2 All the Instructions and Securities Transactions made or entered into by MG Group Companies on behalf of the Client through BSS shall be subject to, and in respect of the above, both MISL and the Client shall be bound by: -

- (a) the Agreement;
- (b) MISL's rules, regulations, procedures and policies from time to time in force; and
- (c) the MISL Trading Agent Agreement, and the rules, regulations, procedures and policies of MISL Trading Agent relating and applicable to the Instructions and Securities Transactions from time to time in force.

In the event of any conflict or discrepancy, the above applicable terms, laws, rules, regulations, procedures shall be governed in the order of prevalence of (a), (b) and (c).

## 3. **Client's System**

3.1 The Client shall be solely responsible for making available at the Client's own cost and risk the Client's System to gain access to, and support the Client's use of, BSS by using the Device.

3.2 The Client declares that the Client is the owner of or is otherwise authorized to use the Client's System for gaining access to BSS.

3.3 The Client shall at the Client's own costs and expenses ensure that the Client's System and Device are compatible with and properly connected to the system of MG Group Companies at all times and shall at the like costs and expenses maintain the Client's System in good operating conditions.

3.4 MG Group Companies shall not be responsible for any matter caused by the fault, failure or malfunctioning of the Client's System.

3.5 The Client shall only use the Client's System in Hong Kong or other jurisdiction where BSS may lawfully be provided by MG Group Companies or MISL Trading Agent and used by the Client.

## 4. **Scope of BSS**

4.1 The Client consents to use BSS as a medium of communication with MG Group Companies and to transmit or receive information,



data and documents between MG Group Companies and the Client. All Instructions/orders communicated to MG Group Companies through BSS shall be deemed to be sent by the Client. The Instructions shall be carried out by MG Group Companies and /or MISL Trading Agent on the terms and conditions governing the relevant Account(s).

- 4.2 BSS are offered for the sole and exclusive use of the Client and only in such jurisdictions and to such extent where and when they may be lawfully offered and processed under the applicable law and regulations.
- 4.3 MG Group Companies has the sole discretion to determine and vary the scope and manner of availability of BSS to be provided from time to time, and to prescribe and change the normal service hours for BSS and any daily cut-off time for any type of Transaction. Since BSS may be accessed worldwide, the daily cut-off time in Hong Kong shall prevail.
- 4.4 Any Instruction received by MG Group Companies after the prescribed daily cut-off time shall not be executed until the next processing day for the Instruction of that kind.
- 4.5 MG Group Companies shall not be deemed to have received or have executed the Client's Instructions unless so stated in MG Group Companies regular statements of the Account and/or confirmation of execution given by MG Group Companies online and/or other means of advice. The Client agrees and acknowledges that it is the Client's sole responsibility to keep records of such statement, confirmation and/or advice given by MG Group Companies, and save for manifest error or unless proved to the contrary by the Client to MG Group Companies' satisfaction, MG Group Companies' record shall be deemed as conclusive and binding.
- 4.6 Without prejudice to any provision of these Terms or other terms and conditions governing the relevant Account, the Client agrees that the Client is under a duty to promptly check and verify the contents of each of MG Group Companies' regular statements of the Account and/or confirmation of execution given by MG Group Companies online and/or other means of advice, and report to MG Group Companies any discrepancies in writing within four (4) days from the date such statements, confirmation and/or advice was sent. If the Client fails to do so, the Client shall not be entitled to dispute any discrepancies in such statements, confirmation and/or advice and accepts such statements, confirmation and/or advice as final and conclusive and the same shall be binding on the Client for all purposes.
- 4.7 Without prejudice to any provision of these Terms or other terms and conditions governing the relevant Account, such confirmation of execution given by MG Group Companies online and/or other means of advice shall be deemed received by the Client after transmission by MG Group Companies. For the avoidance of doubt, the Client agrees that it is the Client's duty to notify MG Group Companies immediately if the Client does not receive MG Group Companies' regular statements of the Account or such online confirmation and/or other means of advice given by MG Group Companies in respect of any Transactions within the time usually required for receipt of similar statements, confirmation and/or advice.
- 4.8 Without prejudice to any provision of the terms and conditions governing the relevant Account which relate to communication or notice by or from MG Group Companies and the right of MG Group Companies to use any way or method of communication, for the purposes of BSS, each notice and communication from MG Group Companies to the Client sent by post to the last known address of the Client on MG Group Companies' record shall be deemed to have been duly delivered to the Client twenty-four (24) hours after it has been posted and if sent by electronic mail ("**E-mail**") or facsimile to the E-mail address or facsimile number provided by the Client respectively, upon it being sent unless it is otherwise shown to the contrary in MG Group Companies' internal records. For the avoidance of doubt any notice given by MG Group Companies to the Client shall be deemed to have been duly delivered by the posting of such notice on the Website or Mobile Site.
- 4.9 Notwithstanding any provision in these Terms, MG Group Companies shall have the right exercisable at its sole discretion at any time, without notice to the Client, without limitation and without any liability to the Client, to limit, vary, suspend or terminate the Client's access to BSS or any function thereunder or to any information or data from any information or service provider or any part of it, or to set limit on any Instruction that can be given and any Transaction that can be entered pursuant thereto, for any reason whatsoever, including any unauthorized use of any of the service, information, data, or any user identification or account number.
- 4.10 The Client understands and acknowledges that BSS is provided as an additional service in relation to Transactions effected, conducted, carried on and entered into by the Client with and through MG Group Companies, and shall not be considered as a substitute for other method(s) of giving instructions for such Transactions. In the event that BSS is not available for any reason whatsoever (whether or not within the control of MG Group Companies), the Client shall have no claim whatsoever against MG Group Companies for inability to use BSS and shall use other available means to give instructions for such Transactions.
- 4.11 Without prejudice to the generality of the foregoing, MG Group Companies shall be entitled to terminate BSS provided to the Client if:
  - (a) the Client commits any material breach of these Terms and/or any other terms and conditions governing the relevant Account;
  - (b) the provision and/or maintenance of BSS to the Client shall be illegal or otherwise prohibited by law; or
  - (c) MG Group Companies' records show that the relevant Account of the Client has become dormant for such period prescribed by MG Group Companies.
- 4.12 The Client may request MG Group Companies in writing or via BSS to change the Password from time to time. The issuance or assignment of a new Password shall not be regarded as the commencement or creation of a new agreement between the Client and the

MG Group Companies in respect of BSS.

## 5. **Limitation on BSS**

- 5.1 The Website, Mobile Site and/or BSS are intended to be offered in jurisdictions where and when they may be lawfully offered.
- 5.2 The Client may reside in any of those jurisdictions in which use of the Website, Mobile Site and/or BSS is unlawful, prohibited or in any way restricted. The Client acknowledges and agrees to check and observe all relevant restrictions which may apply to it.

## 6. **Website and Mobile Site**

- 6.1 The Client acknowledges that MG Group Companies may operate the Website and Mobile Site to facilitate the provision of BSS to the Client. The Website and Mobile Site are made available to the Client in MG Group Companies' discretion and the use of the Website and/or Mobile Site by the Client is subject to such terms and conditions as imposed and from time to time amended by MG Group Companies. MG Group Companies will notify the Client such terms and conditions and the amendments thereto, which shall be deemed duly notified to the Client by posting the same on the Website, Mobile Site or mailing or sending the same to the Client, as determined at MG Group Companies' sole discretion.
- 6.2 The Client acknowledges that all information and data posted on the Website, Mobile Site or otherwise made available on or through BSS and/or the Website and Mobile Site are provided on an "AS IS" and "AS AVAILABLE" basis. MG Group Companies expressly disclaims all warranties of any kind, whether express or by implication, including but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement of any third party right. Such information and data (whether supplied by MG Group Companies or any third party) are for reference only and shall not in any circumstances be binding or intended for Transaction, or regarded or used by the Client as professional or investment advice or a basis for making Transaction decision, or any other purposes. The Client shall seek independent professional advice where necessary.
- 6.3 The Client acknowledges and agrees that any material, data and/or software downloaded or otherwise obtained through the use of the Website or Mobile Site or from the Website or Mobile Site is done at the Client's own discretion and risk. The Client undertakes to take all necessary precautions, including but not limited to data backup and software testing, before using such software. MG Group Companies shall not be liable in any way to any damage to the Client's System or loss of data that may result from the download and/or use of such material, data or software (in particular, in respect of loss and damage due to computer virus or software malfunction).
- 6.4 Any hyperlinks from the Website or Mobile Site to other websites are for information purpose and convenience only. MG Group Companies accepts no liability for any loss or damage arising directly or indirectly (including incidental, consequential and special loss) from the accuracy, sequence, truth, reliability, adequacy, timeliness, completeness or otherwise of the information or loss arising directly or indirectly from defects within such websites. The inclusion of hyperlinks does not imply any endorsement by MG Group Companies of any materials on such websites.
- 6.5 The Client acknowledges and agrees that, in addition to these Terms, MG Group Companies has absolute discretion to impose from time to time other terms and conditions in respect of the use of BSS which terms will not be contained herein but may at MG Group Companies' discretion be posted on the Website or Mobile Site or mailed or sent to the Client, as the case may be, and which shall be binding on the Client. MG Group Companies has absolute discretion at any time to amend or vary such terms and conditions and/or these Terms which amendment or variation shall be deemed duly notified to the Client by posting the same on the Website or Mobile Site or mailing or sending the same to the Client, as determined at MG Group Companies' discretion. If the Client does not accept any amendment to such terms and conditions and/or these Terms proposed by MG Group Companies, the Client shall (a) cease using BSS; and (b) terminate BSS by giving not less than fourteen (14) Business Days written notice to MG Group Companies provided that all rights and obligations accrued to and the calculate day will be effected upon received official notice. The Parties prior to such termination shall not be affected. The Client shall be deemed to have accepted the terms and conditions as amended or varied once the Client uses or continues to use BSS after the relevant terms and conditions become effective.
- 6.6 The Client acknowledges and agrees that the internet is, due to unpredictable traffic congestion or any other reasons, an inherently unreliable medium of communication and that such unreliability is beyond the control of MG Group Companies and MG Group Companies does not make any warranty as to the results that may be obtained from the use of the Website or Mobile Site or as to the accuracy or reliability of any information obtained through the Website or Mobile Site or that defects in the software available on the Website or Mobile Site will be corrected.

## 7. **User Identification**

- 7.1 The Client acknowledges that only the Client will be the authorized user of BSS in relation to the relevant Account and the Client may be required to use various identification and access codes, including Password, User ID and other identification to access the service (together referred to below as "**user identification**").
- 7.2 MG Group Companies is authorized (but not obligated) in its absolute discretion to act on any Instruction received in relation to the relevant Account without any duty or liability to verify the identity or authority of the person giving the Instruction or the validity and/or authenticity of such Instruction once the correct user identification of the Client has been inputted. The Client acknowledges and agrees that the Client shall be solely responsible for all Instructions entered through the BSS using the user identification and all Transactions entered pursuant thereto (whether or not such Instructions were actually given by the Client) and neither MG Group

Companies nor its directors, officers, employees or agents shall have any liability to the Client, or to any other person whose claim may arise through the Client for any claims with respect to the handling or loss of any Instruction.

7.3 The Client shall be solely responsible for all costs and losses, whether directly or indirectly, arising out of or in connection with any unauthorized use of the Client's user identification. The Client shall also have duty to notify MG Group Companies immediately of the Client's becoming aware of any loss, theft or unauthorized use of the Client's user identification.

## **8. Client's Responsibilities**

8.1 The Client undertakes that: -

- (a) the Client shall be responsible for the confidentiality, application and proper use at all times of the Client's user identification, and shall take such action or do such act, matter or thing as is necessary including without limitation the following: -
- (b) the Client shall not use or attempt to use BSS for any purpose other than it was permitted by MG Group Companies;
- (c) the Client shall as soon as practicable report to MG Group Companies any loss or unauthorized disclosure of the user identification by phone and confirm in writing thereafter within twenty-four (24) hours or such other period as MG Group Companies may prescribe from time to time;
- (d) the Client agrees and acknowledges that it shall be fully responsible for any accidental or unauthorized disclosure of the user identification to any other person;
- (e) the Client shall not, and shall not attempt to tamper with, modify, decompile, disassemble, reverse-engineer, damage, alter or gain unauthorized access to any part of BSS or the Website or Mobile Site or any software comprised in them; and
- (f) the Client undertakes to notify MG Group Companies immediately if the Client becomes aware of any of the actions described in Clause 8.1(e) is being perpetrated by any other person.

## **9. Third Party Information**

9.1 The Client acknowledges that any information and data provided through BSS relating to Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts and/or Options Contracts and/or Client Contracts and/or Markets has been obtained from Exchanges and Markets and from other third party information or service providers appointed by MG Group Companies from time to time and that such information and data are or may be protected by copyright and other intellectual property laws, and are provided for the Client's personal non-commercial use only, and the Client shall not: -

- (a) download, reproduce, duplicate, provide, transmit, retransmit, disseminate, sell, transfer, disclose, assign, convey, lease, sub-license, share, loan, distribute, publish, broadcast, cablecast, circulate or commercially exploit any such information or data in any way without the consent of MG Group Companies or such information or service providers;
- (b) remove, obliterate, erase, relocate or modify in any way any such information or data including, without limitation, any trademark or copyright notice; or
- (c) incorporate or combine any such information or data with any other programs.

9.2 The Client acknowledges that the real-time quote service and the message alert service (to receive message alert when the prices of such Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts and/or Options Contracts and/or Client Contracts as specified by the Client reach a preset target price) that may be available through the BSS is provided by a third party appointed by MG Group Companies from time to time. The Client agrees that MG Group Companies shall not be responsible for any losses the Client or any other person may suffer for the failure of sending out the message alert and/or as a result of relying on any real time quote on prices of Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts and/or Options Contracts and/or Client Contracts, and/or any information which may be available to the Client through the BSS.

9.3 Neither MG Group Companies nor any information or service provider or any third party warrants, represents or guarantees the accuracy, reliability, adequacy, timeliness and completeness of any information or data provided through BSS and/or the Website or Mobile Site or whether any such information or data is fit for any purpose. MG Group Companies and all such information or service providers expressly disclaim all liabilities whatsoever arising from or in connection with any reliance on any such information or data.

## **10. Intellectual Property**

10.1 All proprietary and copyright and other intellectual property rights in or subsisting in BSS, the Website and the Mobile Site, are the exclusive property of MG Group Companies or the relevant information or service providers. No right, title or interest other than the right to access BSS and/or the Website or Mobile Site subject to the Agreement is conveyed or transferred to the Client. The Client shall not make any representation or do any act which may be taken to indicate that the Client has any such right, title or interest.

## **11. Limitation of Liabilities**

11.1 Unless due to the willful default of MG Group Companies, its directors, officers, employees and agents and only to the extent of direct and reasonably foreseeable loss and damage (if any) arising directly and solely therefrom or the amount of the relevant Transaction (whichever is less), MG Group Companies shall not assume any liability or responsibility whatsoever to the Client or any other person for the consequences arising from or in connection with: (a) use of BSS and/or access to any information or data through BSS and/or the Website and/or the Mobile Site as a result of such use by the Client or any other person whether or not

authorized; (b) any interruption, interception, suspension, delay, loss, unavailability, mutilation or other failure in providing BSS, in transmitting Instructions or information or data relating to BSS or in connecting with the Website or the Mobile Site (whether or not within the control of MG Group Companies) including, without limitation, failure of any communication network or computer downtime, act or omission of any third party information or service providers, housekeeping, computer virus, unauthorized access by any person (including hacker), upgrade or preventive or remedial maintenance activities, mechanical failure, power failure, malfunction, breakdown, or inadequacy of equipment, installation or facilities, or any law, rules, regulations, codes, directions, regulatory guidelines or government order (whether or not having the force of law); (c) transmission, posting and/or storage of any information and/or data relating to the Client, BSS and/or Transactions conducted by the Client in relation or pursuant to BSS through or in any system, equipment or instrument of any communication network provider; and (d) Act of God, government act, government restrictions, the imposition of emergency procedures, civil commotion, strike, acts or threatened acts of terrorism, war, natural disasters, fire, flood, explosion or other circumstances beyond third party's control.

- 11.2 MG Group Companies shall not in any circumstance and in any way be liable to the Client for any way be liable to the Client for any loss of use, revenue, profits, savings or opportunity or any other incidental, consequential, special or indirect loss or damages arising from the BSS irrespective of how such loss may be caused.

## 12. **Indemnity**

- 12.1 Without prejudice to any other provision hereof and unless due to the willful default of MG Group Companies, the Client shall fully indemnify and keep indemnified MG Group Companies and its subsidiaries, associated company, officers, employees and agents against all liabilities, claims, demand, losses, damages, costs, charges and expenses of any kind (including without limitation legal costs) on a full indemnity basis which may be incurred and all actions or proceedings which may be brought by or against MG Group Companies in connection with the provision of BSS and/or the Website and/or the Mobile Site and/or access to the information or data thereon and/or the exercise or preservation of the MG Group Companies' powers and rights MG Group Companies may have.
- 12.2 In any event, MG Group Companies shall not be liable for the Client's failure in observing the above obligations and the Client shall fully indemnify MG Group Companies in respect of any direct or indirect loss or cost of whatsoever nature that MG Group Companies may suffer or incur as a result thereof. For the avoidance of doubt, it is the responsibility of the Client to take its own initiative to contact MG Group Companies to check the status of any Instructions given through BSS.
- 12.3 If the Client gives any Instruction to MG Group Companies outside Hong Kong, the Client agrees to ensure and represent that such Instruction will have been given in compliance with any applicable law of the relevant jurisdiction from which the Instruction is given, and the Client agrees that, when in doubt, the Client shall consult its legal advisers and other professionals of the relevant jurisdiction. The Client accepts that there may be taxes or charges payable to relevant authorities in respect to any Instruction given outside Hong Kong, and the Client agrees to pay such taxes or charges.
- 12.4 The Client further undertakes to indemnify MG Group Companies, on a full indemnity basis, on demand, for any loss or damage MG Group Companies may suffer (including legal costs) as a result of the use of BSS.

## 13. **Charges and Expenses**

- 13.1 The Client shall pay all subscription, service and use fees, if any, that MG Group Companies may charge from time to time for the use of BSS. If the Client fails to pay any sum due and payable by the Client to MG Group Companies arising out of the use of BSS, the Client shall be liable to indemnify MG Group Companies, on a full indemnity basis, for all costs and expenses (including legal costs) incurred by MG Group Companies in recovering such sum. MG Group Companies is entitled at any time and without giving notice or obtaining consent from the Client, to set-off or transfer any credit balance in any Accounts towards satisfaction of any indebtedness or Liabilities by the Client to MG Group Companies arising out of the use of BSS.
- 13.2 The Client irrevocably authorizes MG Group Companies to (but MG Group Companies is not obliged to) withdraw or otherwise deduct such sums of money, including any related costs and expenses, from any Account (regardless of there being a debit balances, credit balances or otherwise in the said Account) as shall be necessary to complete any Transactions.

## 14. **No Warranty**

- 14.1 MG Group Companies does not in any way warrant that (a) any services provided in connection with or any of the Client's use of the BSS and/or the Website and/or the Mobile Site will be free of errors, interception or interruption; or that (b) the information, data, or other materials provided, used or accessible in connection with the BSS and/or the Website and/or the Mobile Site will be free of viruses, disabling devices or other contaminants. The Client acknowledges that MG Group Companies' internal records of the relevant Account, related Transactions and information shall be conclusive save for obvious error or unless the contrary is established by the Client to the MG Group Companies' satisfaction. For the avoidance of doubt, MG Group Companies may use such updated information as may be available at the time of executing any Instructions of the Client for any Transactions, and such Transactions shall be binding on the Client notwithstanding different information may have been quoted by MG Group Companies via the BSS and/or the Website and/or the Mobile Site.

## 15. **Corporation**

- 15.1 Where the Client is a body corporate, the Client, its Authorized Person and its authorized signatories who have signed and executed the

Account Opening Form on behalf of the Client agree to assume all liabilities and obligations of the Client under the Agreement on a joint and several basis and all Transactions effected by MG Group Companies pursuant to these Terms shall be binding on the Client, its Authorized Person and such authorized signatories in all aspects.

16. **Joint Account**

16.1 Where the Client is a joint account holder of the relevant Account, all joint account holders of the relevant Account agree to assume all liabilities and obligations of the Client under these Terms on a joint and several basis and all Transactions effected by MG Group Companies pursuant to these Terms shall be binding on all joint account holders in all aspects.

17. **Disclosure**

17.1 Immediately upon request by MG Group Companies, the Client shall inform MG Group Companies, or other regulators as directed by MG Group Companies, of the identity, address, occupation and contact details of the person for whom the Transaction was effected by the Client and of the person with the ultimate beneficial interest in the Transaction. The Client shall also inform MG Group Companies, or the regulators as directed by MG Group Companies, of the identity, address, occupation and contact details of any third party who originated the Transaction.

18. **Third Party Service**

18.1 The Client agrees that MG Group Companies may accept from any other third party engaged in any Transaction or providing any services in respect of the BSS and/or the Website and/or the Mobile Site any rebate or allowance of any fee, brokerage or commission or the likes payable in respect thereof and MG Group Companies shall be entitled to retain any profit or other benefit arising by way of fees, brokerage, commissions, rebate, perquisites, or otherwise obtained or received by them in connection with or arising whether directly or indirectly from the BSS and/or the Website and/or the Mobile Site.

18.2 The Client agrees to the disclosing, transferring or otherwise making available of all personal data and other information relating to the Client and the Account(s) to any other third party engaged in any Transaction or providing any service in respect of BSS and/or the Website and/or the Mobile Site and the Client's Transactions and dealings with the aforesaid among any one or more of the aforesaid and their subsidiaries, group members and agents thereof whether in or outside Hong Kong relating to or for the purpose of providing BSS and all related service.

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**SECTION VI – TERMS AND CONDITIONS FOR E-STATEMENT SERVICE**

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These Terms are additional and supplemental to the terms and conditions governing the relevant Account. The E-Statement Service to be provided by MG Group Companies, under which the Client shall receive statements of the relevant Account via the Client's electronic mail ("E-mail") at the E-mail address provided by the Client, shall be subject to and upon the Agreement. Where any conflict or inconsistency arises between any provision of these Terms and any provision of the terms and conditions governing the relevant Account, MG Group Companies has absolute discretion to determine which terms and conditions shall prevail.

## 1. **Definitions**

1.1 In these Terms, unless redefined herein or the context requires otherwise, all expressions defined in Section I headed "Terms and Conditions for Securities Cash Trading", Section VII headed "Terms and Conditions for Futures Trading" shall, where applicable, have the same meanings when used herein.

1.2 In these Terms, the following expressions, unless the context requires otherwise, shall have the following meanings: -

**"Account Opening Form"** means the Account Opening Form for the relevant Account including the declaration, information, notes and statements thereto to be completed and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Acknowledgment by Client (Securities)"** means the Acknowledgment by Client for the Securities Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds from the Securities Account to the Futures Account and other information in respect of the Securities Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Acknowledgment by Client (Futures)"** means the Acknowledgment by Client for the Futures Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds between the Securities Account and the Futures Account and other information in respect of the Futures Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

**"Agreement"** means the agreement made between the Client and MG Group Companies and constituted by the Account Opening Form, these Terms, the Acknowledgement by Client (Securities) and/or the Acknowledgement by Client (Futures), the terms and conditions governing the relevant Account and such other documents referred to therein or added thereto (including any amendment or supplement made thereto from time to time);

**"Client"** means the person or persons who have signed and/or specified as such in the Account Opening Form, and where the relevant Account is opened by more than one person means all of such persons collectively and any legal or personal representative, executor, successor in title or permitted assign thereof;

**"Client's System"** means all hardware and software system used by the Client in connection with the use of the E-Statement Service (including, without limitation, any computer, modem, mobile phone and any program installed therein);

**"Parties"** means MG Group Companies and the Client, and each of them is referred to as "Party";

**"relevant Account"** means the Account in relation to which MG Group Companies has agreed to provide E-Statement Service; and

**"these Terms"** means all the terms and conditions in this Section VI headed "Terms and Conditions for E-Statement Service" as from time to time amended and supplemented.

1.3 In these Terms: -

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to MG Group Companies means the Account Opening Form as amended by such notice;
- (c) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (d) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (e) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (f) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of the Agreement, such provision shall survive the termination of the Agreement.

## 2. **Client's System**

2.1 The Client shall be solely responsible for making available at the Client's own cost and risk the Client's System to receive the E-Statement, and to support the Client's use of, the E-Statement Service.

2.2 The Client declares that the Client is the owner of or is otherwise authorized to use the Client's System for the purposes stated in Clause 2.3. The Client shall at the Client's own costs and expenses ensure that the Client's System is compatible with and properly connected

to the system of MG Group Companies at all times and shall at the like costs and expenses maintain the Client's System in good operating conditions.

- 2.4. MG Group Companies shall not be responsible for any matter caused by the fault, failure or malfunctioning of the Client's System.
- 2.5. The Client shall only use the Client's System in Hong Kong or other jurisdiction where the E-Statement Service may lawfully be provided by MG Group Companies and used by the Client.

### 3. **E-Statement Service**

- 3.1. The Client shall abide by any and all laws, rules, regulations and official issuances applicable to the E-Statement Service, now existing or which may hereafter be enacted, issued or enforced, as well as such other terms and conditions governing the use of other facilities, benefits or services which MG Group Companies may from time to time make available to the Client in connection with the E-Statement Service.
- 3.2. The Client consents to use the E-Statement Service, and understands that the E-Statement Service means that MG Group Companies will send to the Client statements of the Account through the medium of the E-mail address accessed via the Client's computer terminal in a file attached to the electronic message ("E-Statement") and the Client shall no longer receive hard copies of the statements of the Account by post.
- 3.3. The E-Statement Service is offered for the sole and exclusive use of the Client and only in such jurisdictions and to such extent where and when the E-Statement Service may be lawfully offered and processed under the applicable law and regulations.
- 3.4. The Client understands that the E-Statement Service shall only be available to clients with telecommunication equipment/computer terminal acceptable to MG Group Companies.
- 3.5. MG Group Companies reserve the right to restrict the number of E-mail address(es) which may be provided by the Client to MG Group Companies for receiving the E-Statement from time to time and different restrictions may apply to different types of clients.
- 3.6. The Client understands that the E-Statement Service may without notice to the Client be suspended for any reason including, without limitation, any breakdown, maintenance, modification, expansion and/or enhancement work initiated by MG Group Companies' system or by the internet service provider(s) concerned in relation to their network. The Client agrees that MG Group Companies will not assume any liability or responsibility for any such suspensions.
- 3.7. MG Group Companies shall use reasonable effort to ensure that the E-Statement Service is secure and cannot be accessed by unauthorized third parties. However, the Client acknowledges that MG Group Companies do not warrant the security, secrecy or confidentiality of any information transmitted through any applicable telecommunication channel, internet service provider, network system or such other equivalent system in any jurisdiction.
- 3.8. The Client understands that MG Group Companies are unable to know whether someone other than the Client has access to the E-Statement using the user name and/or password of the Client's E-mail address. The Client shall not permit or allow any other person to have access to the Client's E-mail address for any purpose. The Client shall be responsible for the confidentiality and use of user name and password of the Client's E-mail address.
- 3.9. The Client agrees to notify MG Group Companies in writing (or in such manner as MG Group Companies may from time to time prescribe) of any change in the particulars provided to MG Group Companies including, without limitation, the Client's E-mail address(es) and the Client shall notify MG Group Companies forthwith upon the disconnection or suspension of any of the Client's E-mail address(es) provided to MG Group Companies.
- 3.10. MG Group Companies and/or any of MG Group Companies' relevant service provider(s) will not assume any liability or responsibility for any failure or delay in transmitting information to the Client or for any error or inaccuracy in such information unless it results from any wilful default on the part of MG Group Companies or such service provider. In particular, MG Group Companies and/or any such service provider shall not assume any liability or responsibility for consequences arising from any cause or in connection with: (a) use of E-Statement Service and/or access to any information or data through E-Statement Service as a result of such use by the Client or any other person whether or not authorized; (b) any interruption, interception, suspension, delay, loss, unavailability, mutilation or other failure in providing E-Statement Service, in transmitting information or data relating to E-Statement Service (whether or not within the control of MG Group Companies) including, without limitation, failure of any communication network or computer downtime, act or omission of any third party information or service providers, housekeeping, computer virus, unauthorized access by any person (including hacker), upgrade or preventive or remedial maintenance activities, mechanical failure, power failure, malfunction, breakdown, or inadequacy of equipment, installation or facilities, or any law, rules, regulations, codes, directions, regulatory guidelines or government order (whether or not having the force of law); and (c) transmission, posting and/or storage of any information and/or data relating to the Client and/or E-Statement Service through or in any system, equipment or instrument of any communication network provider; and (d) Act of God, government act, government restrictions, the imposition of emergency procedures, civil commotion, strike, acts or threatened acts of terrorism, war, natural disasters, fire, flood, explosion or other circumstances beyond third party's control.

### 4. **Cancellation**

- 4.1. The Client understands that the cancellation of use of the E-Statement Service may be effected by MG Group Companies or the Client in accordance with Clauses 4.2 and 4.3.
- 4.2. MG Group Companies reserve the right to cancel the Client's enrollment to the E-Statement Service. MG Group Companies shall, prior to canceling the Client's enrollment in to the E-Statements Service, give reasonable notice to the Client of such cancellation through electronic or paper document.
- 4.3. The Client may cancel its enrollment to the E-Statement Service by giving MG Group Companies at least fourteen (14) Business Days' prior written notice. The aforesaid prior written notice shall be a valid and effective prior written notice only and only if such notice shall be actually received by MG Group Companies and the effective date for cancellation of the E-Statement Service stated therein shall be at least seven (7) Business Days after the date of receipt of such notice by MG Group Companies.
- 4.4. MG Group Companies reserve the right to suspend or terminate the E-Statement Service at any time without giving any prior notice

and reason.

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## SECTION VII - TERMS AND CONDITIONS FOR FUTURES TRADING

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All transactions, purchase, investment, sale, trading, entering, exchange, acquisition, holding, transfer, making, clearing, settlement, disposal or dealing in, of and with all kinds of Commodities and/or Exchange Contracts and/or F/O Contracts effected, conducted, carried on and entered into by the Client with and through MISL and/or MISL Trading Agent, and the Futures Account opened and maintained by the Client with MISL shall be subject to and upon the Agreement.

### 1. **Definitions**

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

"**Account**" means any account of whatsoever nature now or in future opened and maintained in the name of the Client with any of the MG Group Companies in accordance with the Agreement or other agreement or document;

"**Account Opening Form**" means the Account Opening Form for the Futures Account including the declaration, information, notes and statements thereto to be completed and signed by the Client and, as the context requires, any amendments made thereto from time to time;

"**Acknowledgment by Client (Futures)**" means the Acknowledgment by Client for the Futures Account including the information for trading, procedure for funds deposit and withdrawal, procedure for transferring funds between the Securities Account and the Futures Account and other information in respect of the Futures Account thereto to be acknowledged and signed by the Client and, as the context requires, any amendments made thereto from time to time;

"**Agreement**" means the agreement made between the Client and MISL and constituted by the Account Opening Form, these Terms, the Acknowledgment by Client (Futures), and such other documents referred to therein or added thereto (including any amendment or supplement made thereto from time to time);

"**approved debt securities**" means the approved debt securities as defined in HKFE Rules;

"**Authorized Person**" means the persons or any of them appointed by the Client as agent of the Client to (including but not limited to) issue Instructions on behalf of the Client in relation to the Futures Account and/or Transactions, and initially the persons specified as such in the Account Opening Form and such other person as appointed by the Client in substitution therefor or in addition thereto from time to time (the Client shall in writing notify MISL of such appointment, which shall only be effective after the actual receipt of such notification and approved by MISL);

"**Bill Payment Number**" means the designated depositing money reference number issued by MISL and the Client may rely on such designated depositing money reference number to transfer moneys or funds from Bank of China (Hong Kong) Limited or such other bank as determined by MISL from time to time to MISL in accordance with these Terms;

"**MG Group Companies**" means MISL, MG Asset Management Limited, MG Immigration Consultant Limited and such other company as MISL may from time to time add and notify the Client;

"**MISL**" means Marigold International Securities Limited, a company incorporated under the laws of Hong Kong (SFC-CE Number: AUQ298) and its successors and assigns;

"**MISL Trading Agent**" means any agent appointed, engaged and instructed by MISL for executing, effecting, trading, implementing, clearing and settling the Instructions and Transactions in a Foreign Jurisdiction on behalf of the Client;

"**MISL Trading Agent Agreement**" means the agreements and the terms and conditions made between MISL and MISL Trading Agent for the purposes of these Terms and the Transactions (including any amendment or supplement made thereto from time to time);

"**MISL Website**" means any and all websites provided or operated by MG Group Companies;

"**Business Day**" means (a) a day (other than Saturday and Sunday and a day on which a black rainstorm warning or a number 8 or higher typhoon signal is hoisted before 2:00 p.m. in Hong Kong) on which banks are open for business in Hong Kong in relation to Hong Kong; and (b) a day (other than Saturday and Sunday in the relevant Foreign Jurisdiction) on which banks are open for business in relation to such Foreign Jurisdiction;

"**Clearing House**" means, as the case may be, (a) HKCC in relation to HKFE; and/or (b) the relevant Foreign Clearing House providing similar services of HKCC to the relevant Foreign Futures Exchange in that Foreign Jurisdiction;

"**Clearing Rules**" means, as the case may be, (a) the general rules, operational procedures and other applicable rules, procedures and regulations of HK-DCASS from time to time in force; and/or (b) the rules, procedures and regulations of the relevant Foreign Clearing System, from time to time in force;

"**Clearing System**" means, as the case may be, (a) HK-DCASS; and/or (b) the relevant Foreign Clearing System;

"**Client**" means the person or persons who has/have signed and/or specified as such in the Account Opening Form, and where the Futures Account is opened by more than one person means all of such persons collectively and any legal or personal representative, executor, successor in title or permitted assign thereof, and shall include the Authorized Person where the context permits;

"**Client Group Company**" means any company which is controlled by the Client; a person is in "control" of a company if: (a) it is in accordance with such person's instructions the directors of the company or of another company of which it is a subsidiary are accustomed to act; or (b) such person, either alone or with any of its associate, is entitled to exercise or control the exercise of more than 30% of the voting power at general meeting of the company or of another company of which it is a subsidiary;

"**closed out contract**" means either: -

- (a) a closed out contract as defined in HKFE Rules or, if applicable, as defined in the relevant Foreign FE Rules;
- (b) any F/O Contract in respect of which the Client (either voluntarily or compulsorily under the rules of the relevant Exchange or Clearing House), MISL (in pursuance of the Agreement) or the MISL Trading Agent or the relevant person or authority (in pursuance of the relevant laws, rules, regulations or procedures) enters into a second F/O Contract on identical terms to the first-mentioned F/O Contract, except: -
  - (i) that the price may not be the same as the price specified in the first-mentioned F/O Contract; and
  - (ii) that the Client, MISL or the MISL Trading Agent or the said relevant person or authority takes the opposite side to the side he or it holds under the first-mentioned F/O Contract;  
for the express purpose of crystallizing the profit or loss on that first-mentioned F/O Contract or for the purpose of offsetting or ending that first-mentioned F/O Contract; or
- (c) an F/O Contract deemed to be a closed out contract pursuant to the rules, regulations or bylaws of the relevant Foreign Futures Exchange or the relevant Foreign Clearing House;

and "**close out**", "**closing out**" or "**closed out**" shall be construed accordingly;

"**Commodity**" means (a) a property as defined in SFO, and/or (b) a commodity as defined in HKFE Rules, and/or (c) any items, interests, rights and properties, agricultural products, assets, goods, things, commodities, oil, lands, securities, metals, currencies, shares, interest rates, indices (whether stock market or otherwise), products, ratings, references, derivatives, or other financial contracts, energy, physical assets, right or authority, and/or (d) any other items or descriptions as announced by MISL as commodities for the purpose of these Terms from time to time, and shall where the case requires include a F/O Contract in respect of any of the above and in each case whether or not any of the above is capable of being delivered, and "**Commodities**" shall be construed accordingly;

"**Credit Facilities**" means all or any of the loan or credit facilities made available or granted by or agreed to be made available or granted by MISL and/or MISL and/or MG Group Companies under and pursuant to the Loan Agreement from time to time;

"**Deficit**" means the negative balance in the Client's Account whatsoever and howsoever arising;

"**Device**" means any device (including but not limited to any digital or electronic certificate or encrypted software), equipment, phone, machine or computer provided, whether mobile, fixed, portable or otherwise (whether by MISL or not) to or otherwise employed by the Client for giving Instruction;

"**Dissolution**" of a person also includes the winding-up, liquidation or bankruptcy of that person, and any equivalent or analogous procedure under the law of any jurisdiction in which that person is incorporated, domiciled, resident, carries on business or has assets and "**dissolved**" shall be construed accordingly;

"**Encumbrance**" means any mortgage, charge, pledge, lien, assignment by way of security, financial lease, deferred purchase, sale-and-repurchase or sale-and-leaseback arrangement, hypothecation, retention of title by a vendor or other security interest given or arising in respect of any assets, and any arrangement the effect of which is to prefer any creditor or any agreement for any of the same;

"**BSS**" means "BSS" as defined in Section V;

"**Exchange**" means, as the case may be, (a) HKFE; and/or (b) the relevant Foreign Futures Exchange;

"**Exchange Contract**" means, as the case may be, (a) an exchange contract as defined in HKFE Rules and/or (b) a contract for a Commodity approved by HKFE for trading on a Market and which may result in a F/O Contract and/or (c) a contract for a Commodity approved by the Foreign Futures Exchange for trading on a Market and which may result in a F/O Contract;

"**F/O Contract**" means, as the case may be, (a) a Futures/Options Contract as defined in HKFE Rules, and/or (b) a Futures Contract and/or an Option Contract;

**"Foreign Clearing House"** means the clearing or settlement house, corporation, organization or body (being appointed, authorized or engaged by or established and operated by a Foreign Futures Exchange to provide clearing and settlement services to that Foreign Futures Exchange in respect of Commodities and/or Exchange Contract and/or F/O Contract) including, where the context so requires, its agents, nominees, representatives, officers and employees;

**"Foreign Clearing System"** means the clearing and settlement system operated by the relevant Foreign Clearing House from time to time;

**"Foreign Futures Exchange"** means a commodity, futures or options exchange which is permitted to operate in a Foreign Jurisdiction by the law of that Foreign Jurisdiction including, where the context so requires, its agents, nominees, representatives, officers and employees ;

**"Foreign Futures Laws"** means the relevant laws, legislations, rules and regulations of the relevant Foreign Jurisdiction relating to the Transactions;

**"Foreign FE Rules"** means the rules, regulations, bylaws and procedures of or made by the Foreign Futures Exchange, and any amendments, supplements, variations or modifications thereto from time to time in force;

**"Foreign Jurisdiction"** means a country, territory or jurisdiction outside Hong Kong;

**"Foreign Regulators"** means any regulatory or supervisory corporation, organization or body in a Foreign Jurisdiction having jurisdiction or regulatory or supervisory power or authority over the Transactions;

**"Futures Account"** means any account now or in future opened and maintained in the name of the Client with MISL for conducting Transactions in accordance with the Agreement, and/or all other account(s) of whatsoever nature now or in future opened and maintained in the name of the Client with MISL in accordance with the Agreement or other agreement or document;

**"Futures Contract"** means (a) a futures contract as defined in SFO, and/or (b) a futures contract as defined in HKFE Rules, and/or (c) a futures contract as defined in or deemed or ascribed as such in the relevant Foreign Futures Laws and/or the relevant Foreign FE Rules and/or relevant Clearing Rules and/or (d) a contract executed on any Exchange, the effect of which is that: (i) one party agrees to deliver to the other party at an agreed future time an agreed Commodity or quantity of a Commodity at an agreed price; or (ii) the parties agree to make an adjustment between them at an agreed future time according to whether the agreed Commodity is worth more or less or, as the case may be, stands higher or lower at that time than a level agreed at the time of making of the contract, the difference being determined in accordance with the rules of the Exchange in which the contract is made;

**"HKCC"** means HKFE Clearing Corporation Limited (being the body appointed by or established and operated by HKFE to provide clearing and settlement services to members of HKFE in respect of Exchange Contract and/or F/O Contract) including, where the context so requires, its agents, nominees, representatives, officers and employees;

**"HK-DCASS"** means the Derivatives Clearing and Settlement System operated by HKCC and the SEHK Options Clearing House Limited from time to time;

**"HKFE"** means Hong Kong Futures Exchange Limited including, where the context so requires, its agents, nominees, representatives, officers and employees;

**"HKFE Rules"** means the rules, regulations and procedures of or made by HKFE, and any amendments, supplements, variations or modifications thereto from time to time in force;

**"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;

**"Hong Kong Regulators"** means HKFE, SFC, the Hong Kong Monetary Authority and/or any other regulatory or supervisory corporation, organization or body in Hong Kong having jurisdiction or regulatory or supervisory power or authority over the Transactions;

**"Sub-account Number"** means the designated account number issued by designated banks as selected by MISL from time to time and the Client may rely on such designated bank account number to transfer moneys or funds to MISL in accordance with these Terms;

**"Instruction"** means any instruction or order communicated by the Client or its Authorized Person in whatever means (including but not limited to oral, phone, fax, email, internet or any electronic means or any written form) to MISL in accordance with these Terms;

**"Loan Agreement"** means (a) Section X headed "Terms and Conditions for Loan and Security" or (b) the General Loan and Security Agreement or (c) any other loan or credit facility agreement (as the case may be) made or to be made between any of the MG Group Companies and the Client, as amended or supplemented from time to time, whereby, subject to the terms and conditions thereof, MISL and/or MG Group Companies have agreed to provide or grant Credit Facilities to the Client for the purposes stated therein;

**"Liabilities"** means all monies, liabilities and obligations, whether actual or contingent, present or future, due, owing or incurred from or by the Client to MG Group Companies, their respective nominee, subsidiary or other associated company in connection with the Account and/or the Agreement or for which the Client may otherwise be or become liable to MG Group Companies on any account or



in any manner or currency whatsoever (whether alone or jointly with any other person and in whatever name, style or firm), together with interest from the date of demand to the date of payment, legal costs and all other costs, charges and expenses incurred by MG Group Companies, their respective nominee, subsidiary or other associated company in connection with the recovery or attempted recovery of such monies, liabilities and obligations;

**"Market"** means any commodity, futures, options or other exchange (including HKFE), responsible association of dealers or corporation, whether within or outside Hong Kong, so dealing in Commodities and/or Exchange Contracts and/or F/O Contracts as to provide a market for Commodities and/or Exchange Contracts and/or F/O Contracts;

**"open contract"** or **"open position"** means an Exchange Contract or a F/O Contract other than a closed out contract;

**"Option Contract"** means, as the case may be, (a) an option contract as defined in HKFE Rules, and/or (b) a option contract as defined in or deemed or ascribed as such in the relevant Foreign Futures Laws, and/or the relevant Foreign FE Rules, and/or relevant Clearing Rules, and/or (c) a contract executed between one party (the **"first party"**) and another party (the **"second party"**) on any Foreign Futures Exchange under which: -

- (i) the first party grants the second party the right, but not the obligation, to buy an agreed Commodity, or quantity of a Commodity, from the first party at an agreed price on or before an agreed future date or on an agreed future date as the case may be and, in the event that the second party exercises his right to buy: -
  - (1) the first party is obliged to deliver the Commodity at the agreed price; or
  - (2) the second party receives a payment referable to the amount (if any) by which the Commodity is worth more than the agreed price, such payment being determined in accordance with the rules of the Exchange in which the contract is made; or
- (ii) the first party grants to the second party the right, but not the obligation, to sell an agreed Commodity, or quantity of a Commodity, to the first party at an agreed price on or before an agreed future date or on an agreed future date as the case may be and, in the event that the second party exercises his right to sell: -
  - (1) the first party is obliged to take delivery of the Commodity at the agreed price; or
  - (2) the second party receives a payment referable to the amount (if any) by which the agreed price is worth more than the Commodity, such payment being determined in accordance with the rules of the Exchange in which the contract is made;

**"Parties"** means MISL and the Client, and each of them is referred to as **"Party"**;

**"Settlement Account"** means the bank account of the Client for the purpose of Clause 9 of these Terms, the particulars of which are specified in the Account Opening Form;

**"SFC"** means the Securities and Futures Commission of Hong Kong;

**"SFO"** means the Securities and Futures Ordinance (Cap.571 of the Laws of Hong Kong) and any subsidiary legislation made thereunder;

**"these Terms"** means all the terms and conditions in this Section VII headed "Terms and Conditions for Futures Trading" as from time to time amended or supplemented;

**"Transactions"** means any transaction, purchase, investment, sale, trading, entering, exchange, acquisition, holding, transfer, making, clearing, settlement, disposal or dealing in, of and with any Commodities and/or Exchange Contracts and/or F/O Contracts and generally dealing in any and all kinds of Commodities and/or Exchange Contracts and/or F/O Contracts; and

**"U.S. person"** includes any natural person who is a citizen of or resident in the United States; a corporation, partnership or other business organization organized or incorporated under the laws of the United States or any political subdivision thereof, any estate or trust which is administered by an executor or trustee who is a U.S. person or the income of which is subject to U.S. federal income taxation regardless of its source; any account (other than any estate or trust) held by a dealer or fiduciary for the benefit of a U.S. person and any partnership or corporation organized and incorporated under the laws of any foreign jurisdiction which was formed by a U.S. person principally for the purpose of investing in securities not registered under the United States Securities Act of 1933. "U.S. person" shall not include any branch or agency of a United States bank or insurance company that is operating outside the United States for valid business reasons as a locally regulated branch or agency engaged in the banking or insurance business and not formed primarily for the purpose of investing in securities not registered under the United States Securities Act of 1933. For the purposes of this definition, the **"United States"** includes the United States of America, its states, territories and possessions and the District of Columbia.

## 1.2 In these Terms: -

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) "subsidiary" shall bear the meaning given by the Companies Ordinance (Cap. 32 of the Laws of Hong Kong) and "associated company" means, in respect of any person, any company (not being a subsidiary of that person) of which that person shall beneficially own twenty per cent (20%) or more of the issued share capital or in respect of which that person is entitled to appoint one or more directors or, in relation to any company, any company which is a subsidiary of a holding company of that first mentioned company;

- (c) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to MISL means the Account Opening Form as amended by such notice;
- (d) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (e) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (f) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (g) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of the Agreement, such provision shall survive the termination of the Agreement.

## 2. **Applicable Rules and Regulations**

2.1 All the Instructions and Transactions made or entered into by MISL and/or MISL Trading Agent on behalf of the Client shall be subject to, and in respect of the above, both MISL and the Client shall be bound by: -

- (a) the Agreement;
- (b) MISL's rules, regulations, procedures and policies from time to time in force;
- (c) the memorandum and articles of association of HKFE, HKFE Rules, Regulations (as defined in the HKFE Rules), Procedures (as defined in the HKFE Rules), Clearing Rules in Hong Kong and the customs, usages, rulings and procedures of HKFE;
- (d) the SFO and all applicable laws, rules and regulations of Hong Kong;
- (e) the MISL Trading Agent Agreement, and the rules, regulations, procedures and policies of MISL Trading Agent relating and applicable to the Transactions from time to time in force;
- (f) the constitution of the relevant Foreign Futures Exchange, the relevant Foreign FE Rules, the Clearing Rules in the relevant Foreign Jurisdiction and the Market (and their respective Clearing House, if any) and Foreign FE Rules and the customs, usages, rulings and procedures of the relevant Foreign Futures Exchange, where the Instructions and Transactions are executed, performed, cleared or settled; and
- (g) the relevant Foreign Futures Law in which Foreign Jurisdiction the Instructions and Transactions are executed, performed, cleared or settled.

In the event of any conflict or discrepancy, the above applicable terms, laws, rules, regulations, procedures shall be governed in the order of prevalence of (a), (b), (c), (d), (e), (f) and (g).

2.2 Notwithstanding the foregoing, if there shall be any conflict or inconsistency between any of the provisions of the Agreement and anything contained in paragraphs (b), (c), (d), (e), (f) and (g) of Clause 2.1, MISL may, in its absolute discretion, take or refuse to take any action, or demand the Client to take or refrain from taking any action to ensure compliance with the same.

## 3. **Appointment and Scope of Agency**

3.1 The Client appoints MISL and MISL agrees to act as the Client's agent to effect Transactions on the Client's behalf unless MISL indicates (in the contract note for the relevant Transaction or otherwise) that MISL is acting as principal. Nothing herein contained shall constitute MISL as trustee for the Client or a partnership between MISL and the Client.

3.2 Notwithstanding that MISL is acting as the Client's agent in carrying out, executing or effecting any Transaction, MISL may, in its absolute discretion, (a) decline to accept, carry out, execute or effect any Instructions and/or any Transaction; or (b) decline to act on or stop carrying out, executing and effecting any accepted Instructions and/or any Transaction without giving any reason therefor. MISL shall not, in any circumstances, be liable (including liability for negligence) in any way to the Client for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with its not accepting, carrying out, executing, effecting or acting on such Instructions and/or Transactions or omitting to give notice therefor.

3.3 The Client acknowledges and accepts that it may not be possible to cancel, vary or amend an Instruction. Any attempt to cancel, vary or amend an Instruction is simply a request to cancel or modify. MISL shall not be obliged to act on any Instruction for cancellation, variation or amendment of any Instruction already given to MISL. MISL is not responsible for or liable to the Client for any loss or expense suffered or incurred by the Client if the original Instruction has already been completed, or in the opinion of MISL, MISL has insufficient time or is unable to act on such Instructions to cancel, vary or amend the original Instruction. The Client further acknowledges and accepts that attempts to cancel, vary or amend an Instruction can result in an over-execution of the Instruction, or the execution of duplicate or repeated Instructions, and the Client shall be responsible for all such executions. The Client further acknowledges and accepts that in respect of the Instruction involving MISL Trading Agent, attempts to cancel, vary or amend an Instruction is subject to the consent or agreement of the MISL Trading Agent, and the Client shall be responsible for all such executions.

3.4 The Client is an independent third party not connected with or acting in concert with any directors, chief executive, substantial shareholders of MISL and/or any of their respective subsidiaries or an associate of any of them. The Client does not hold any interest in MISL.

3.5 Without prejudice to other provisions in these Terms, the Client agrees and authorizes MISL to appoint, engage and instruct MISL

Trading Agents as MISL may in its absolute discretion deem fit to execute, effect, trade, implement, clear and settle any Instructions and Transactions in a Foreign Jurisdiction.

- 3.6 Notwithstanding that MISL has accepted or agreed to carry out, execute or effect any Instructions and/or any Transaction, if the MISL Trading Agent, in its absolute discretion, (a) decline to accept, carry out, execute or effect any Instructions and/or any Transaction; or (b) decline to act on or stop carrying out, execute or effect any accepted Instructions and/or any Transaction, MISL may, in its absolute discretion, (a) stop or discontinue to accept, carry out, execute or effect any such accepted or agreed Instructions and/or any Transaction; or (b) decline to act on or stop carrying out, execute or effect any such accepted Instructions and/or any Transaction without giving any reason therefor. MISL shall not, in any circumstances, be liable (including liability for negligence) in any way to the Client for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with its not accepting, carrying out, executing, effecting or acting on such Instructions and/or Transactions or omitting to give notice therefor.

#### 4. **Authorized Person**

- 4.1 The Client authorizes the Authorized Person to represent the Client in all matters in relation to all Instructions and Transactions, in particular, to give Instructions and execute all agreements and documents in relation to the Agreement and the Futures Account and its operation. All such Instructions, Transactions, agreements and documents shall be absolutely and conclusively binding on the Client. The Client agrees that MISL is entitled to act on the Instructions of the Authorized Person until the Client notifies MISL in writing that the authority of the Authorized Person has been revoked or varied.
- 4.2 The Client undertakes with MISL from time to time and at all times to ratify and confirm any Instructions whatsoever given or purported to be given by the Authorized Person including but not limited to any Instructions which may be given or purported to be given between the revocation of the authority of the Authorized Person and the actual receipt of notice of such revocation by MISL. The Client agrees that any Instructions given or purported to be given by the Authorized Person after revocation of the Authorized Person's authority (but before the actual receipt of notice of such revocation by MISL) shall be absolutely and conclusively binding on the Client, and shall be valid and effectual in favour of MISL.
- 4.3 Notwithstanding anything herein contained, the Client acknowledges and confirms that the Authorized Person is neither an employee nor agent of MISL and there is no partnership or employment relationship between the Authorized Person and MISL. The Authorized Person is appointed by the Client as agent and shall have full authority to act on behalf of the Client under the Agreement as if he were the Client himself, and shall have the authority to give good and valid receipt to any payment, monies, funds, Commodities, securities, properties or assets comprised in the Futures Account made or given to the Authorized Person. All Instructions given by the Authorized Person shall be and be deemed to be the Instructions of the Client and all acts, omissions, default or breach by the Authorized Person (whether with or without the instructions or consent of the Client) shall be and be deemed to be the acts, omissions, default or breach by the Client. MISL shall not be in any way liable to the Client or any other parties for the acts, omissions, default or breach by the Authorized Person (whether with or without the instructions or consent of the Client). In the Agreement, the expression "Client" shall, where the context permits, include the Authorized Person.

#### 5. **Form of Instructions**

- 5.1 Subject as provided herein, all Instructions in relation to Transactions shall be given by the Client or its Authorized Person direct to MISL (whether oral (in person or by telephone), via internet or any electronic means, by BSS, or other means of communication accepted by MISL from time to time) in such manner as may be prescribed by MISL from time to time. If Instructions are given by telephone, internet, electronic means or by BSS, MISL is entitled to rely upon and act in accordance with such Instructions without inquiry or verification by MISL of the authority or identity of the person making or giving or purporting to make or give such Instructions and regardless of the circumstances prevailing at the time of the giving of such Instructions or amount of money involved in the Instructions, and notwithstanding any error, misunderstanding, lack of clarity, fraud, forgery or lack of authority in relation thereto.
- 5.2 MISL shall be entitled to treat an Instruction given as provided in Clause 5.1 as fully authorized by and binding upon the Client, whether such instructions given by the Client or its Authorized Person or any other person, it shall be obtained from sources believed by MISL to be reliable, MISL shall be entitled (but not bound) to act on or take such steps in connection with or in reliance upon such Instruction as MISL may in good faith consider appropriate, whether it be an Instruction to acquire, purchase, sell, dispose of or otherwise deal with Commodities and/or Exchange Contracts and/or F/O Contracts or transfer Commodities and/or Exchange Contracts and/or F/O Contracts from the Futures Account or purport to bind the Client to any agreement or other arrangement with MISL or with any other person or to commit the Client to any other type of Transaction or arrangement whatsoever, regardless of the nature of the Transaction or arrangement or the value, type and quantity of the Commodities and/or Exchange Contracts and/or F/O Contracts involved or the amount of moneys or funds involved and notwithstanding any error or misunderstanding or lack of clarity in the terms of such Instruction.
- 5.3 If Instructions are given by the Client or its Authorized Person by telephone: -
- (a) the Client or its Authorized Person must use the designated telephone number provided by MISL from time to time (the "**Designated Telephone**"). For the avoidance of doubt, any Instructions given by telephone without using the Designated Telephone, and any Instructions given by messages left at the voicemails of any telephone numbers of MISL or any personal mobile phone numbers of the employees or agents of MISL shall not be regarded as valid or effective Instructions to MISL.

MISL shall not be liable to the Client for any loss whatsoever arising out of or in connection with the Client's or its Authorized Person's failure to comply with the terms of this Clause;

- (b) Notwithstanding the designation of the Designated Telephone and the provisions in Clause 5.3(a) above, MISL (but not the Client) has the absolute discretion to accept, act on, carry out or effect any Instructions given by telephone other than the Designated Telephone (the "**Non-Designated Telephone Instruction**"). If MISL accepts, acts on, carries out or effects any Non-Designated Telephone Instruction, such Non-Designated Telephone Instruction shall be treated and deemed as an Instruction within the meaning of these Terms in all respects and all MISL's rights, protections, powers and remedies shall be applicable to such Non-Designated Telephone Instruction; and
- (c) MISL has no responsibility for any delay, failure, error, interruption or suspension in the transmission or communication of Instructions or information on prices or the mistaken receipt of any Instructions by any other party. MISL is authorized to act upon any Instructions received by it (regardless of delay, failure, error, interruption or suspension as aforesaid) and MISL shall not be required to check the accuracy or authenticity of such Instructions with the Client, nor shall MISL be liable for any losses or costs suffered or incurred by the Client as a result of MISL acting upon the same. MISL shall be entitled to require the Client to enter into a further agreement if the Client wishes it to act on telephonic Instruction.

5.4 In the case of Instruction by BSS, the Client or its Authorized Person must give such Instruction: -

- (a) only by such means and in such manner as MISL may from time to time designate for the relevant type of Transaction;
- (b) by use of the suitable Device (if applicable) to obtain access to the designated computer or other systems of MISL for the relevant type of Transaction; and
- (c) at the request of MISL (such request may be represented by electronic image or digitized voice or other electronic form, as the case may be), by inputting the designated number and/or the relevant password and any other information relating to the identity of the Client as may be required by MISL, as well as the information and details with respect to the Transaction.

5.5 The Client recognizes the risks in giving Instructions by telephone or BSS including, without limitation, the risk of any Instruction being unauthorized or given by an unauthorized person. The Client accepts the risks in full if the Client chooses to give Instructions by such means.

5.6 Once the Client has given an Instruction, it may not be amended, rescinded or withdrawn without MISL's written consent.

5.7 MISL shall have no responsibility to procure compliance by the Client with any law or regulation governing the Client's conduct as a fiduciary (if applicable).

5.8 MISL and/or MISL Trading Agent may aggregate the Client's order with its own orders or with those of persons connected with MISL or with those of other clients. Such aggregation may on some occasions operate to the Client's disadvantage and on other occasions to the Client's advantage. The Client agrees that in the event of there being insufficient Exchange Contracts and/or F/O Contracts available to satisfy the orders so aggregated, the Transactions shall be attributed to the relevant clients in the order in which such orders were received by MISL.

5.9 Where the Client is acting as agent for and on behalf of any other person when giving Instructions to MISL pursuant to the Agreement, MISL shall be entitled to treat the Client (rather than any such other person) as its client for all purposes and in relation to all obligations, and the Client will be liable as such. This applies even if the Client is acting on behalf of a person whom the Client has notified MISL and no such person will be an "indirect client".

5.10 The Client understands that MISL is unable to know whether someone other than the Client has given or entered, or is giving or entering, instructions using the Client's name or the Client's user name or password. The Client shall not permit or allow any other person to have access to the Futures Account for any purpose. The Client shall be responsible for the confidentiality and use of, and any order given or entered with, the Client's name or the Client's user name and password. The Client shall remain responsible for all instructions using the Client's name or the Client's user name and password.

5.11 The Client acknowledges that it will be responsible to and will indemnify and keep indemnified MISL for any loss, costs, fees and expenses arising directly or indirectly out of or in connection with the Client's Instructions and MISL acting thereon hereunder.

5.12 The Client acknowledges and consents that MISL shall, at its absolute discretion, be entitled to claim margin offset for the Client's positions through the Client Offset Claim Account in DCASS.

5.13 The Client shall bear all risks arising from any fax communication with the MISL, which is discharged from any responsibility in respect thereof apart from risks arising from its own wilful default or negligence. No claim to the contrary by the Client shall be admissible against the MISL unless (i) the unauthorized transaction was by any third party and the MISL failed to exercise reasonable skill and care in respect of it or (ii) any unauthorized transaction arose from the wilful default or negligence of the MISL or any of its employees, agents or servants.

5.14 The risks for which the MISL shall not be responsible shall include those resulting from errors in transmission and misunderstandings or reasonable errors by the MISL regarding the identity of the Client or its Authorized Representative.

5.15 The Client agrees to hold the MISL harmless and to keep the MISL indemnified against any reasonable loss which it may suffer as a result of acting on fax communications which the MISL reasonably believes in good faith to have been given on behalf of the Client

and agrees to perform and ratify any contract entered into or action taken by the MISL as a result of such communications.

5.16 The Client shall bear all risks arising from any fax communication with the MISL, which is discharged from any responsibility in respect thereof apart from risks arising from its own wilful default or negligence. No claim to the contrary by the Client shall be admissible against the MISL unless (i) the unauthorized transaction was by any third party and the MISL failed to exercise reasonable skill and care in respect of it or (ii) any unauthorized transaction arose from the wilful default or negligence of the MISL or any of its employees, agents or servants.

## 6. Transactions

6.1 MISL has the absolute discretion to select MISL Trading Agent, the Market and Foreign Jurisdiction to which to route, execute, perform or fulfill the Client's Instructions.

6.2 The Client authorizes MISL to instruct such MISL Trading Agent, executing brokers, agents, custodians, nominees, overseas brokers and dealers as MISL may in its absolute discretion deem fit to execute any Instructions and Transactions, such persons shall have the benefit of all of MISL's rights, powers and remedies hereunder. The Client acknowledges that the terms of business of such persons and the applicable rules of any relevant Exchange and/or Clearing System on and through which such Instructions and Transactions are executed and settled shall apply to such Instructions and Transactions.

6.3 All Transactions which MISL effects on the Client's Instructions shall be effected in accordance with all laws, rules and regulatory directions of government agencies and statutory bodies of competent jurisdiction applying to MISL. All actions taken by MISL in accordance with such laws, rules and directions shall be binding on the Client. In the absence of wilful misconduct or fraud of MISL, MISL shall not be liable to the Client as a result of any action or omission taken by MISL or any of the persons specified in Clause 6.2 to comply with such laws, rules and directions.

6.4 MISL may post the specification of Commodity, Exchange Contract or F/O Contract on the MISL Website from time to time. The Client acknowledges that it will be responsible to read and fully understand such specification before giving Instructions and shall review such specification regularly to obtain timely notice of any amendment. The Client further acknowledges that such specification and amendment shall be binding on it.

6.5 By reasons of the environment of or physical restraints on any Exchange, Clearing House or Market and the volatility of price or point movements, there may, on occasions and despite MISL's, MISL Trading Agent's, executing brokers', overseas brokers' or dealers' reasonable endeavours, be a delay in making prices, executing Instruction or dealing at any specific time. The Client accepts that MISL may not be able to trade or make deal at the price or point specified by the Client, and that MISL may not be able to trade or make deal at the price or point quoted at any specific time or "at best", "at the best quoted or posted" or "at market". The Client agrees in any event to accept and be bound by Transactions executed by MISL following Instructions, and agrees that MISL shall not be liable for any loss arising by reason of its failing, or being unable, to comply with any terms of an order of the Client.

6.6 Where MISL or the persons specified in Clause 6.2 are unable to perform any of the Client's orders in full, MISL or such persons are entitled to effect partial performance only without prior reference to or confirmation from the Client. The Client shall be bound by such part of the Client's orders so performed by MISL. MISL shall not have any obligation or liability whatsoever in respect of such part of the Client's orders which has not been performed.

6.7 Unless the Client gives specific Instructions to MISL to the contrary, the Client acknowledges that all orders or requests are good for the day only and that, to the extent unfulfilled, they will lapse at the end of the official trading day of the Exchange or Market in respect of which they are given.

6.8 Subject to applicable laws and regulations and Market requirements, MISL may in its absolute discretion determine the priority in the execution of its clients' orders, having due regard to the sequence in which such orders were received, and the Client shall not have any claim of priority to another client in relation to the execution of any order received by MISL.

6.9 The Client acknowledges that it will be responsible to and will indemnify and keep indemnified MISL for any loss, costs, fees and expenses in connection with the Client's failure to meet its obligations by the settlement dates or to pay any other sum due to MISL hereunder.

6.10 The Client shall pay interest on all overdue balances on the Futures Account or any amount otherwise owing to MISL at any time (including interest arising after a judgment debt is obtained against the Client) at such rates and on such other terms as MISL notifies the Client from time to time or failing such notification at a rate equivalent to five per cent (5%) above the prevailing prime or best lending rate for Hong Kong dollars of Bank of China (Hong Kong) Limited or other bank as determined by MISL from time to time. Interest shall be payable on the last day of each calendar month or forthwith upon demand by MISL.

6.11 The Client acknowledges that all telephone conversations between the Client and MISL may be taped without an automatic tone-warning device in order to enable MISL to verify the Instructions of the Client. The Client agrees to accept the recordings on relevant tapes as final and conclusive evidence of the contents of the Instructions in case of dispute. Such tapes will always remain the property of MISL.

6.12 The Client acknowledges that the books and records of MISL in respect of any Instruction or Transaction shall be conclusive evidence



(except for manifest error) against the Client in all courts of law and for all purposes. In this connection, a certificate signed by an authorized officer of MISL as to any matter in respect of any Instruction or Transaction, save for manifest error, shall be conclusive and binding against the Client.

- 6.13 Where MISL knows of or suspects a breach of security or other suspicious circumstances in respect of or in connection with the operation of one or more of the Client's Accounts or any service to the Client generally, MISL may, in its absolute discretion and without any liability, refuse to act on or delay acting on the Instruction and in that event, MISL will, to the extent possible, inform the Client as soon as practicable.
- 6.14 In the event of death or liquidation of the Client or in the event of the Client being rendered incapable or disabled from managing and administering the Client's property or affairs, then prior to the actual receipt by all the MG Group Companies of written notice of death, liquidation or incapacity or disability of the Client, all the MG Group Companies may, but not obliged to, continue to act upon the Instructions of the Client or the Authorized Person as if the Client were still alive, existing or capable of managing and administering the Client's property or affairs.
- 6.15 If any relevant Exchange and/or Clearing House and/or agent on or through whom any Exchange Contract and/or F/O Contract has been entered into by MISL on behalf of the Client requires any alteration in any terms or conditions of such contract, MISL may take all such action as it shall in its absolute discretion consider necessary or desirable to comply therewith or to avoid or mitigate loss thereunder. All such actions shall be binding upon the Client.
- 6.16 MISL and/or MISL Trading Agent may not have access to every Market at which a particular product, Commodity, Exchange Contract or F/O Contract may trade. Exchanges or Market makers may fail or refuse to honour their quoted or posted prices. Exchanges may re-route Client's orders out of automated execution systems for manual handling (in which case execution or representation of Client's order may be substantially delayed). Exchange rules, policies, procedures or decisions or system delays or failures may prevent Client's order from being executed, may cause a delay in the execution or performance of Client's Instruction or may cause Client's Instruction not to be executed at the best price. In no event shall MISL be liable to the Client for any action, inaction, decision or ruling of any Exchange, Market, Clearing House or regulatory authority.
- 6.17 If MISL cannot execute or carry out any Instruction of the Client, MISL may take any other action as MISL shall think fit. The Client understands that the Client will be responsible for all the consequences or expenses of MISL in connection with the above and that MISL will not be liable for any loss that may thereby be incurred.
- 6.18 Notwithstanding any provision contained herein to the contrary, Instructions are to be received and executed on the understanding that no taking or making of delivery of the Commodity will be made or required in respect of the Exchange Contract or F/O Contract entered into by MISL on behalf of the Client, and that only cash settlement or payment shall be made or required in respect of such contract. The Client will be required to make or receive payment of money unless the Client's initial position is closed out. Every Exchange Contract or F/O Contract entered into by MISL on behalf of the Client is made on the understanding that both MISL and the Client contemplate performance thereof by cash settlement or payment and, as between MISL and the Client, shall be deemed to contain obligations on the Client and MISL to make settlement of such contract by paying or receiving money or fund. In respect of open position maturing in current month, the Client shall, at least five (5) Business Days prior to the last trading day in the case of long position and at least five (5) Business Days prior to the last trading day in the case of short position, either give Instruction to MISL to close out the same or deliver to MISL all moneys, funds or documents deliverable by the Client under such contract in order to enable due settlement (by cash) of such contract by MISL in accordance with the rules and regulations of the relevant Exchange or Clearing House and the applicable laws of the relevant jurisdiction. If the Client fails to provide MISL with such Instruction, moneys, funds, or documents within the period as aforesaid, MISL may without notice either close out the relevant contract or pay or receive moneys or funds on behalf of the Client upon such terms and by such methods as MISL shall in its absolute discretion determine. If the Client fails to provide MISL with such Instruction to MISL and such failure renders or makes MISL becoming obliged to take or make delivery of the Commodity under the relevant Exchange Contract or F/O Contract, MISL will make all necessary arrangements and actions to terminate, cancel, discharge, released such obligation of BE Futures to the effect that no taking or making of delivery of the Commodity will be made or required at the risks, costs, and expenses of the Client. The Client shall keep MISL indemnified in respect of all costs, losses, claims, penalties, fines, taxes, damages and expenses incurred by MISL as a result of action taken by MISL to this Clause.
- 6.19 If MISL or its agent (as the case may be) shall for any reason whatsoever fail to receive payment of all or any amount of money or fund (whether from the relevant Exchange and/or Clearing House and/or any other person) due to be paid to the Client in respect of any Exchange Contract and/or F/O Contract entered into by MISL on behalf of the Client on the due date for payment in accordance with the rules and regulations of the relevant Exchange and/or Clearing House and/or the applicable laws of the relevant jurisdiction, MISL's obligations to make payment of any money or fund to the Client in respect of such Exchange Contract and/or F/O Contract shall thereupon and by virtue of such failure become obligations to make payment of such amount of money or fund equal to the amount of money or fund as is actually received by MISL in respect thereof.
- 6.20 MISL is not obliged to provide the Client with information with respect to any position of the Client and (except as directed by the Client) has no obligation but shall have the right at the discretion of MISL to close out any position in the Futures Account on behalf of the Client. Nothing herein contained shall place MISL under any duty to disclose to the Client any fact or thing which comes to its notice in the course of acting in any capacity for any other person or in its own capacity.
- 6.21 Upon the demand by MISL, the Client shall forthwith supply to MISL in relation to any Exchange Contract or F/O Contract entered

into by MISL on the Client's behalf such information in relation to the settlement and/or (in the case of an Option Contract) exercise of any such contract which has not been closed out or, as the case may be, exercised, as MISL may request.

- 6.22 MISL may trade or execute trading on its own account or on the account of any associated company of MISL, even though MISL may simultaneously hold unexecuted Client's Instructions for the same product, Commodity, Exchange Contract or F/O Contract which could be executed at the same price. Any directors, officers or employees of MISL and/or MG Group Companies may trade on his/their own accounts.
- 6.23 MISL may elect to confirm the execution or cancellation of any Client's Instruction by the sole methods of transmitting an electronic confirmation to the Client via e-mail or through BSS, or for security purposes, by posting the information on the MISL Website, with a notification sent to the Client to login and retrieve the information. The Client agrees to accept electronic trade confirmations in lieu of printed confirmations.
- 6.24 Confirmations may be subject to delays. The Client understands that reports and confirmations of Instruction executions or cancellations may be erroneous for various reasons, including, but not limited to, cancellation, modification or adjustment by the Exchange or Clearing House. Confirmations are also subject to change by MISL, in which case the Client shall be bound by the actual Instruction execution, so long as it is consistent with Client's Instruction. In the event that MISL confirms an execution or cancellation in error and the Client unreasonably delays in reporting such error, MISL reserves the right to require the Client to accept the Transaction, or remove the Transaction from the Futures Account.
- 6.25 The Client agrees to notify MISL immediately if: (a) the Client fails to receive an accurate confirmation of an execution or cancellation; (b) the Client receives a confirmation that is not consistent with Client's Instruction; (c) the Client receives confirmation of execution or cancellation of an Instruction that the Client did not place; or (d) the Client receives an account statement, confirmation, or other information reflecting inaccurate Instructions, orders, trades, account balances, securities or futures positions, funds, margin status, or Transaction history.
- 6.26 The Client understands and agrees that MISL may adjust the Futures Account to correct any error. The Client agrees to promptly return to MISL any assets distributed to the Client to which the Client was not entitled.

## **7 Margin & Fund**

- 7.1 The Client agrees to provide and maintain such margin, variation adjustment and Interest Rate Cash Adjustments (as defined in HKFE Rules) (collectively the "**Margin Requirements**" and each of them "**Margin Requirement**") in the Futures Account and/or such collateral, guarantees and other security to the Futures Account in such form and amount and on such terms as MISL may in its absolute discretion require from time to time. Such Margin Requirement(s) demanded or required by MISL may exceed any margin requirement, variation adjustment or Interest Rate Cash Adjustments prescribed by any Exchange or Clearing House or MISL Trading Agent or broker. MISL may change any Margin Requirement in its sole discretion and at any time without prior notice to the Client. If MISL Futures determines that additional margin, variation adjustment or Interest Rate Cash Adjustments is required, the Client agrees to deposit with MISL such additional margin, variation adjustment or Interest Rate Cash Adjustments forthwith upon demand. No previous Margin Requirement(s) shall establish any precedent. Change on Margin Requirement(s) shall apply to existing positions as well as to new positions in the Exchange Contracts and F/O Contracts affected by such change.
- 7.2 Without prejudice to Clauses 7.7 to 7.14, calls or demands for Margin Requirement must be met or satisfied by the Client forthwith upon demand by MISL. MISL may close out the open position in respect of which any call or demand for Margin Requirement is not met or satisfied. The Client shall on demand put MISL in funds or moneys or arrange for MISL to be put in funds or moneys in time to enable MISL to discharge any liability incurred or to be incurred in connection with trading, dealing or Transactions effected in relation to the Futures Account. The Client shall on demand reimburse MISL for all costs and expenses incurred by it in connection with the trading, dealing or Transaction effected in relation to the Futures Account and/or pay or settle any outstanding amount under the Futures Account.
- 7.3 MISL may be required to report to HKFE and/or Foreign Futures Exchange particulars of all open positions in respect of which the Client has failed on two successive occasions to meet calls or demands for Margin Requirement or additional Margin Requirement as demanded by MISL within the period specified by MISL.
- 7.4 MISL is not liable to pay interest on the moneys or funds paid to or received by MISL in respect of the Futures Account whether on deposit or however described. MISL is entitled to retain for its own benefit any interest or other realized income or increase in value earned or received in respect of such moneys or funds. MISL is entitled to charge and the Client agrees to pay interest to MISL in respect of any Deficit or any moneys or funds otherwise owing to MISL at any time at such rate as may be specified from time to time by MISL.
- 7.5 All money, approved debt securities and other property received by MISL from the Client or from any other person (including the Clearing House) for the account of the Client shall be held by MISL as trustee, segregated from MISL's own assets and paid to a Segregated Bank Account (as defined in HKFE Rules) or a Segregated Debt Securities Account (as defined in HKFE Rules). All money, approved debt securities or other property so held by MISL shall not form part of the assets of MISL for insolvency or winding up purposes but shall be returned to the Client promptly upon the appointment of a provisional liquidator, liquidator or similar officer over all or any part of MISL's business or assets. MISL shall be entitled and is hereby authorized by the Client, in its absolute discretion, to withdraw Client's Money (as defined in HKFE Rules) and pay into any bank accounts (whether under the control of MISL or not) except the bank accounts of MISL unless that account is segregated trust account.

- 7.6 The Client acknowledges that in respect of any account of MISL maintained with the Clearing House, whether or not such account is maintained wholly or partly in respect of the business of dealing in F/O Contracts transacted on behalf of the Client and whether or not money or approved debt securities paid by the Client has been paid to MISL Trading Agent and/or the Clearing House, as between MISL and MISL Trading Agent and/or the Clearing House, MISL deals as principal and accordingly no such account is impressed with any trust or other equitable interest in favour of the Client and moneys and approved debt securities paid to MISL Trading Agent and/or the Clearing House are thereby freed from the trust referred to in Clause 7.5.
- 7.7 The Client shall monitor the Futures Account so that at all times the Futures Account shall contain a sufficient account balance to meet the applicable Margin Requirements. MISL may modify such Margin Requirements for the Client for open and new contract or positions, at any time, in MISL's absolute and sole discretion. MISL may reject any Instruction or order of the Client if the Client does not have a sufficient account balance to meet Margin Requirements and may delay the processing of any Instruction or order while determining the correct margin status of the Futures Account. The Client shall maintain, without notice or demand from MISL, a sufficient account balance at all times so as to continuously meet the Margin Requirements. The Client must at all times satisfy whatever Margin Requirement calculated by MISL.
- 7.8 MISL has no obligation to notify the Client of any failure to meet Margin Requirements in the Futures Account prior to MISL exercising its rights, powers, discretion and remedies under the Agreement. The Client understands that MISL generally will not issue call or demand on Margin Requirement, that MISL generally will not credit the Futures Account to meet any deficiency on Margin Requirement, and that MISL is authorized to close out, liquidate or settle open contracts or open positions in the Futures Account in order to satisfy Margin Requirements without prior notice to the Client.
- 7.9 In the event that the balance of the Futures Account has zero equity or is in deficit at any time, or the Futures Account does not have a sufficient account balance to meet Margin Requirements, MISL shall have the right, in its sole discretion, but not the obligation, to close out, liquidate or settle all or any part of the Client's positions in the Futures Account, whether carried individually or jointly with others at any time and in such manner and in any Market as MISL deems necessary, without prior notice demand or call to the Client. The Client agrees to be responsible for, and promptly pay to MISL, any deficiency in the Futures Account that arises from such closing out, liquidation or settlement or remains after such closing out, liquidation or settlement. MISL shall not have any liability to the Client for any losses or damages sustained by the Client in connection with such closing out, liquidation or settlement (or if the MISL experiences a delay in effecting, or does not effect, such closing out, liquidation or settlement) even if the Client subsequently re-established its position at a less favorable price or point.
- 7.10 The Client expressly waives and relinquishes any rights to receive prior notice or demand from MISL and agrees that any prior demand, notice, announcement or advertisement shall not be deemed a waiver of MISL's right to close out, liquidate or settle any open position of the Client. The Client understands that, in the event open position is closed out, liquidated or settled by MISL, the Client shall have no right or opportunity to determine the open position to be liquidated or the order or manner of closing out, liquidation or settlement. MISL may, in its absolute and sole discretion, effect closing out, liquidation or settlement on any Exchange or Market, and MISL or its associated company may take the other side of such closing out, liquidating or settlement transaction. In the event that MISL closes out, liquidates or settles any or all open positions in the Futures Account, such closing out, liquidation or settlement shall establish the amount of the Client's gain or loss and indebtedness to MISL, if any. The Client shall reimburse and hold MISL harmless for all actions, omissions, costs, expenses, fees (including, but not limited to, legal fees), penalties, losses, claims or liabilities associated with any such Transaction undertaken by MISL. The Client shall be liable to and responsible for all resulting losses on the Client's positions, notwithstanding MISL's delay in or failure to close out, liquidate or settle any such open positions. If MISL executes an order for which the Client did not have sufficient funds, MISL has the right, without notice to the Client, to liquidate the Transaction and the Client shall be responsible for any loss as a result of such liquidation, including any costs, and shall not be entitled to any profit that results from such liquidation.
- 7.11 The Client irrevocably and unconditionally authorizes MISL transfer, debit or deduct any money in the Futures Account and/or the Account so as to pay, discharge, satisfy the Client's indebtedness, obligations and Liabilities to MISL arising from, incurred under and relating to the Agreement, including but not limited to the outstanding purchase moneys, fees (including but not limited to market data fees), charges, expenses, commissions and interests payable by the Client under and pursuant to the Agreement. The Client acknowledges and agrees that such deductions may affect the amount of money in the Futures Account to be applied against the Margin Requirements. The Client's open positions are subject to closing out, liquidation or settlement as described herein if deduction of commissions, fees or other charges causes the Futures Account to have an insufficient balance to satisfy the Margin Requirements.
- 7.12 If MISL does not, for any reason, effect a closing out, liquidation or settlement, and MISL issues a call or demand for Margin Requirement to the Client, the Client must satisfy such call or demand immediately. The Client agrees to satisfy any call or demand for Margin Requirement issued by MISL by immediately depositing cleared funds in the Futures Account to pay, in full, the under-margined open position. Notwithstanding such call or demand for Margin Requirement, the Client acknowledges that MISL, in its sole discretion, may close out, liquidate or settle the Client's open positions at any time.
- 7.13 MISL shall also have the right to close out, liquidate or settle all or any part of the Client's open positions without prior notice to the Client in the same manner as provided above: (a) if any dispute arises concerning any trading or Transaction of the Client; (b) upon Client's failure to timely discharge its obligations to MISL; (c) upon the Client's insolvency or filing of a petition in bankruptcy or for protection from creditors; (d) upon the appointment of a receiver, or (e) whenever MISL, in its absolute and sole discretion, deems closing out, liquidation or settlement necessary or advisable for the protection of MISL and/or any of the MG Group Companies.
- 7.14 Any failure by the Client to comply with this Clause 7 shall constitute an Event of Default under Clause 17.

## 8 Deposits of Money or Funds

- 8.1 The Client shall pay moneys or funds personally to MISL or deposit directly into the bank accounts designated by MISL. MISL may, at its sole and absolute discretion, refuse to accept deposits of moneys or funds by any person other than the Client or its Authorized Person (the "**Third Party**").
- 8.2 MISL does not accept deposits of moneys or funds by Third Party cheques. MISL may, at its absolute discretion, accept cleared funds transferred to its designated account by the Third Party on the Client's behalf as the Client's deposit of funds.
- 8.3 The Client or the Third Party (as the case may be) shall immediately notify MISL after payment of funds to MISL by delivering to MISL the pay-in slips and/or other documentary evidence of such payment accepted by MISL from time to time (the "**Payment Evidence**") with the Client's name, Futures Account number and signature thereon either by fax or in person within the business hours on the date of deposit for verification. The Client acknowledges and understands that payment of funds to MISL (whether by the Client or the Third Party) may not be credited to the Futures Account or reflected in any account statement until such notification is received by MISL. The Client agrees that any interest payable to or receivable by the Client under these Terms shall be calculated on this basis.
- 8.4 The Client acknowledges that the Client or the Third Party (as the case may be) is under a duty for the safekeeping of the Payment Evidence before delivering the same to MISL. MISL shall not be liable to the Client for any loss whatsoever arising out of or in connection with the Client's or the Third Party's (as the case may be) failure to deliver the Payment Evidence to MISL in time or at all, or the use of the Payment Evidence by any person other than the Client or the Third Party (whether with or without the instructions or consent of the Client).
- 8.5 The Client shall retain the originals of Payment Evidence for at least one (1) month from the date of deposit. MISL will send a statement of account to the Client as soon as possible following the deposit for record and verification. If the Client does not receive the relevant statement of account after the deposit, the Client shall immediately inform MISL.
- 8.6 The Client recognizes, understands and accepts the risks in transferring money or funds from its bank account to the designated bank account of MISL through internet for trading the Futures or settlement of the Transactions ("**Internet Depositing Money**"). The Client accepts the risks in full and agrees to bear all the risks and undertake all the responsibilities arising therefrom if the Client chooses to transfer the moneys or funds by such means. Such risks, duties and responsibilities shall include but not limited to the following: -
- (a) The Client shall be solely responsible for ensuring that all the relevant procedures, steps, information, Sub-account Number, Bill Payment Number, personal identification number, amount to be transferred and other relevant information for transferring the moneys or funds to MISL had been checked and verified as true, accurate and correct prior giving any instruction for Internet Depositing Money. Once the Client has sent out the instructions for Internet Depositing Money in whatsoever manner, such instructions may not be amended, revoked, rescinded or withdrawn without MISL's written consent and will be effectual and valid in favour of MISL, and shall be binding on the Client. The Client acknowledges that MISL shall not be liable for any loss, costs, damages, fees and expenses arising out of or in relation to the Internet Depositing Money in any circumstances, notwithstanding any error or misunderstanding of the Client in giving such instructions;
  - (b) MISL shall be entitled to treat the instructions given by the Client for Internet Depositing Money as fully authorized by and binding upon the Client and shall be entitled to act on or take steps in connection with or in reliance upon such instructions without inquiry or verification by MISL of the authority or identity of the person making or giving such instructions, the relevant circumstances at the material time when such instructions were given and notwithstanding any error, misunderstanding, fraud, forgery or lack of authority in relation thereto;
  - (c) The Client agrees and accepts that if MISL receives the instructions for Internet Depositing Money sent out by the Client after MISL's daily prescribed cut-off time, such instructions shall be treated as received by MISL in the next Business Day. MISL shall not, in any circumstances, be liable (including liability for negligence) to the Client for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with the aforesaid arrangement; and
  - (d) The Client fully understands and agrees that there may be interruption, delay or lost of instructions in respect of Internet Depositing Money caused by malfunction of communication network, system malfunction, interferences of the programs or the software or other circumstances. The Client agrees to bear such risk in full and shall be solely responsible for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Client arising out (directly or indirectly) of or in connection with such Internet Depositing Money.
- 8.7 All the deposits of moneys or funds shall have been cleared and actually received by MISL before such money or funds can be used or applied for the Futures Account.
- 8.8 In the event that the Client shall fail to comply with any part of this Clause 8, the Client shall be wholly responsible for all Liabilities and obligations whatsoever in connection with the deposit and shall fully indemnify MISL against all costs, claims, liabilities and expenses directly or indirectly arising out of or in connection therewith.

## 9 Settlement Account

- 9.1 MISL is authorized to transfer to the Settlement Account all moneys or funds payable to the Client pursuant to the Agreement. All transfers of moneys or funds payable as aforesaid to the Settlement Account or payment of such moneys or funds pursuant to the



Instructions of the Client or the Authorized Person shall be and be deemed good and valid discharge of the obligation hereunder to make such payment to the Client.

## 10 **Tax**

- 10.1 The Client hereby authorize MISL or MISL Trading Agent to take and do all necessary actions as may be required to comply with applicable rules, regulations, laws in Hong Kong and/or Foreign Jurisdiction (as the case may be) in respect of the tax, duties, levy, charges arising out of or in connection with the Transaction and the Commodities, Exchange Contracts or F/O Contracts purchased or held by the Client, including filing of the returns, forms and/or other documents as may be required by the relevant authority or department in Hong Kong and/or Foreign Jurisdiction, withholding and/or making payment of payable tax, duties, levies or charges arising out of or in connection with the Transaction and the Commodities, Exchange Contracts or F/O Contracts purchased or held by the Client. The Client acknowledges that MISL shall withhold and/or deduct such payment from the Accounts.
- 10.2 The Client shall at its own costs furnish all the necessary documents and/or information to MISL and MISL Trading Agent for facilitating MISL to take or do all the necessary actions as stipulated in Clause 10.1 and execute the returns, or forms and other documents as may be required by the relevant authority or department in Hong Kong or Foreign Jurisdiction (as the case may be) upon the request of MISL.
- 10.3 The Client acknowledges and accepts that neither MISL nor MISL Trading Agent shall be responsible for advising or reminding the Client the due date for payment of tax, duties, levy or charges and/or giving any advice on the tax, duties, levy or charges payable by it. The Client further agrees that neither MISL nor MISL Trading Agent shall be liable for any penalty or charges levied on the Client for late payment of tax, duties, levy or charges whereas such late payment is due to or in connection with the negligence of the Client. The Client shall fully indemnify and keep MISL and MISL Trading Agent indemnified on a full indemnity basis against all reasonable costs and expenses which MISL and MISL Trading Agent may reasonably incur in making the necessary arrangement for such late payment.

## 11. **Charges and Expense**

- 11.1 The Client shall pay MISL's, MISL Trading Agent's or its nominee's commissions, charges, brokerage or other remuneration as determined by MISL, MISL Trading Agent or its nominee in its absolute discretion on all Transactions from time to time and upon all payments to the Client, as well as all applicable levies imposed by any relevant Clearing System or Market and all applicable stamp duties. All such commissions, charges, levies and duties may be deducted by MISL from the Futures Account and any other Accounts maintained by the Client with any of the MG Group Companies.
- 11.2 Without prejudice to MISL's right to terminate the Futures Account in accordance with Clause 31, MISL may charge a monthly maintenance fee to be notified by MISL to the Client on the Client's dormant Account if the Client has no trading activity for six months or more. Payment of such fees (if any) will be automatically deducted from the Futures Account or any other Accounts maintained by the Client with any of the MG Group Companies.
- 11.3 The Client shall be liable on a full indemnity basis for all fees and expenses of any brokers, agents and nominees including MISL's nominee engaged in respect of the Futures Account, all applicable levies and/or fees imposed by any relevant Clearing System or Market and other handling costs or expenses incurred in respect of or connected with Transactions, the Futures Account or any receivables or monies held in or for account of the Futures Account, services rendered to the Client or otherwise.
- 11.4 MISL may, at its option, withdraw cash from the Client's Accounts maintained with any of the MG Group Companies to pay any amounts due to MISL under the Agreement.
- 11.5 The Client agrees and authorizes MISL to accept from any brokers and dealers engaged in the Transactions for the account of the Client any rebate or allowance or soft commission as may be authorized from time to time by the Hong Kong Association of Brokers and/or the rules of any applicable Markets and Clearing Systems on and through which such Transactions are executed and settled provided always that: -
- (a) MISL and/or its nominee may enter into soft commission arrangements with brokers through which Transactions are executed for the Client. MISL and/or its nominee will enter into such an arrangement only where the goods or services are of demonstrable benefit to the clients of MISL Futures and/or its nominee as applicable. In allocating business to the broker concerned MISL and/or its nominee is under an obligation to ensure that the quality of Transaction execution is consistent with best execution standards and that brokerage rates are not in excess of customary full-service rates. For this purpose, such goods and services may include: research and advisory services; economic and political analysis; portfolio analysis, including valuation and performance measurement; market analysis, data and quotation services; computer hardware and software incidental to the above goods and services; clearing and custodian services and investment-related publications; and
  - (b) MISL and/or its nominee may receive cash or money rebates on Transactions executed for the Client's account. Such rebates will be retained by MISL and/or its nominee for their own account absolutely without prior disclosure to Client. If MISL and/or its nominee retains such rebates it is under an obligation to ensure that brokerage rates are not in excess of customary full service rates.

## 12. **Foreign Currency Transactions**



- 12.1 If the Client gives Instructions to MISL to enter into any Exchange Contract or F/O Contract requiring a conversion from one currency to another, then: -
- (a) the costs thereof and any profit or loss arising as a result of fluctuations in the exchange rate of the relevant currency will be entirely for the account and risk of the Client;
  - (b) all initial and subsequent deposits for margin or variation requirement shall be made in such currency and in such amounts as MISL may require in its discretion; and
  - (c) when such an open contract is closed out, MISL shall debit or credit the Futures Account in such currency (as MISL may determine in its discretion) at such exchange rate as determined by MISL in its discretion.
- 12.2 The Client authorizes MISL may at any time at such exchange rate and for such amount as MISL deems fit convert monies into and from any currency at such rate of exchange as MISL shall in its sole discretion determine as being the then prevailing market rate of exchange. Such conversion may be made for the purpose of any Transaction or for the calculation of any debit balance due from the Client or credit balance owed to the Client.
- 12.3 The Client authorizes MISL to debit the Futures Account for any expenses incurred in effecting any currency conversion.
- 12.4 MISL reserves the right at any time to refuse to accept any Instructions from the Client in relation to any currency conversion.
13. **Client's Money**
- 13.1 MISL shall be entitled to deposit all moneys or funds held in the Futures Account and all moneys received for or on account of the Client with one or more accounts at one or more licensed banks. Unless otherwise agreed between the Client and MISL, any interest accrued on such moneys or funds shall belong to MISL absolutely.
- 13.2 For the Transactions executed outside Hong Kong, the Client hereby authorizes and directs MISL to pay into any trust account maintained by MISL with any financial institution, which may or may not be a licenced bank, all amounts (less all brokerage and other proper charges accruing thereon) from time to time received by MISL for and on behalf of the Client from the sale of Commodities, notwithstanding that any such amounts may be reinvested for purchase of further Commodities for or on behalf of the Client.
- 13.3 The Client agrees that MISL shall be entitled to receive for its own account benefit all sums derived by way of interest from the payment into and retention of: -
- (a) all amounts in any trust account; and
  - (b) all amounts received for or on account of the Client for the purchase of Commodities in any trust account maintained by MISL under section 149 of the SFO.
- The Client hereby expressly waives any or all rights, claims and entitlements whatsoever to such interest.
- 13.4 Whilst the Client's money remains in the segregated account of MISL, the relevant interest collected for and on behalf of the Client shall be payable and credited to the Futures Account by MISL. The interest shall be MISL's rate at its sole discretion which shall be notified to the Client from time to time. MISL Futures may aggregate all monies received from its clients in the segregated account of MISL to achieve an overall interest rate higher than the rate being offered to the Client as aforesaid. The Client hereby agrees that MISL is entitled to retain such amount of money as may be produced by the difference in interest rates.
14. **Disclosure**
- 14.1 The Client shall immediately on demand supply to MISL such financial or other information relating to the Client as MISL may, in its absolute discretion and without giving any reason therefrom, require.
- 14.2 The Client acknowledges that HKFE Rules contain provisions requiring MISL upon the request of HKFE or SFC or in certain circumstances to disclose the name, Beneficial Identity of the Client (as defined in HKFE Rules) and such other information concerning the Client as HKFE or SFC may require. The Client shall immediately on demand supply to MISL the name, the Beneficial Identity of the Client and such information concerning the Client as MISL may require in order for MISL to comply with HKFE Rules, the Regulations (as defined in HKFE Rules), the Procedures (as defined in HKFE Rules) and the Ordinances (as defined in HKFE Rules). The Client agrees that in the event MISL fails to comply with the disclosure requirement under Rule 606(a) or 613(a) of HKFE Rules, the Chief Executive (as defined in HKFE Rules) may require the closing out of positions on behalf of the Client or the imposition of a margin surcharge on the positions of the Client.
- 14.3 The Client acknowledges that the Foreign FE Rules may contain provisions requiring MISL upon the request of such Foreign Futures Exchange or in certain circumstances to disclose the name, beneficial identity of the Client and such other information concerning the Client as such Foreign Futures Exchange may require. The Client shall immediately on demand supply to MISL the name, the beneficial identity of the Client and such information concerning the Client as MISL may require in order for MISL to comply with the rules and Regulations of such Foreign Futures Exchange. The Client agrees that in the event MISL fails to comply with such disclosure requirement, the relevant authority may require the closing out of positions on behalf of the Client or the imposition of a margin surcharge on the positions of the Client.
- 14.4 MISL and the Client hereby agree that this Clause 14 shall continue in effect notwithstanding the termination of this Agreement.

## 15. **Lien**

15.1 Without prejudice and in addition to any general lien, right of set-off or other similar right to which MISL may be entitled by laws, the Client agrees, accepts and declares that: -

- (a) all Commodities, and all the Client's interest, title, rights, powers, benefits to, of and in all Exchange Contracts and F/O Contracts which are now or will in future be held in, deposited with or transferred into the Futures Account and any other Account(s) of the Client with any of the MG Group Companies by, for or attributable to the Client for any purpose whatsoever together with all proceeds, moneys or funds received in connection with the settlement, clearing, performance, purchase, sale, acquisition, entering, transfer, disposal, exchange, closing out, trading or dealing with, of or in such Commodities, Exchange Contracts or F/O Contracts;
- (b) all Commodities, and all the Client's interest, title, rights, powers, benefits to, of and in all Exchange Contracts and F/O Contracts which are now or will in future be made, entered or acquired by MISL on behalf of the Client for any purpose whatsoever, or be held by, deposited with or transferred to MISL by, for or attributable to the Client for any purpose whatsoever together with all proceeds, moneys or funds received in connection with the settlement, clearing, performance, purchase, sale, acquisition, entering, transfer, disposal, exchange, closing out, trading or dealing with, of or in such Commodities, Exchange Contracts or F/O Contracts; and
- (c) all the Client's properties, assets, moneys, funds, receivables, sums, title, interests, powers, options, benefits and rights of, to and in the Futures Account and any other Account(s) of the Client with any of the MG Group Companies;

((a), (b) and (c) above are collectively referred to as the "**Retained Properties**") are subject to a lien in favour of all the MG Group Companies as continuing security (the "**Lien**") for : (i) the due and punctual performance and fulfillment of all obligations or Liabilities of the Client under the Agreement, and (ii) the payment, repayment, satisfaction and/or discharge on demand of the moneys, funds, indebtedness, obligations and Liabilities (whether past, present or future, or whether absolute or contingent) which are now or at any time hereafter shall be due, owing or incurred from or by the Client or the Client Group Company to or in favour of MISL and/or the MG Group Companies under or pursuant to the Agreement, other agreement with any of the MG Group Companies or any other agreement or document, or on any account or in any manner whatsoever (whether alone or jointly with any other person and in whatever name, style or firm) together with interest thereon and legal costs and expenses of MISL or the MG Group Companies.

15.2 The Client shall not, without MISL's prior written consent, assign, transfer, mortgage, pledge, charge, or create or permit to arise or exist any lien, securities or other form of Encumbrances of any nature on or over his right, title, interest and claim in or to any investment products held by MISL for account of the Client.

15.3 At any time as MISL shall determine appropriate and/or upon the occurrence (in the sole and subjective judgment of MISL) of any Event of Default, the Lien shall be immediately enforceable and/or MISL, without prejudice to any of the rights or powers of MISL under the Agreement, the Loan Agreement or other documents, shall have the right, without notice to the Client, to: (a) appropriate, pay, deduct, transfer or set-off the whole or any part of any funds or moneys comprised in the Retained Properties at any time and from time to time in or towards payment, satisfaction or discharge of any money, fund, indebtedness, obligation or liability secured by the Lien, and/or (b) sell, dispose of, liquidate, transfer, trade, deal with or close out (and MISL is authorized to do all such things necessary in connection with such sale, disposal, liquidation, transfer, trading, dealing or closing out) the Retained Properties or any part thereof (to be selected by MISL in its absolute discretion) at any time and from time to time either together or in parcels and either by dealings at any broker's board through HKFE or other Exchange or by public or private means or in such other manner and for such consideration (whether payable or deliverable immediately or by instalments and whether for cash or other valuable consideration or both) and on such terms and conditions as MISL shall think fit in its absolute discretion without being in any way liable to the Client for any loss occasioned thereby however arising. Without limiting the generality of the foregoing, MISL is hereby specifically authorized to dispose of, liquidate, transfer, trade, deal with and/or close out the Futures Account, all Commodities and/or Exchange Contracts and/or F/O Contracts comprised in the Retained Properties or held in the Futures Account, and all positions in the Futures Account without notice to the Client.

15.4 In any sale, disposal, liquidation, transfer, trading, dealing or closing out pursuant to this Clause 15 or the Agreement, if less than all the Retained Properties are to be sold, disposed of, liquidated, transferred or closed out, MISL shall in its absolute discretion select which part of the Retained Properties are to be sold, disposed of, liquidated, transferred, traded, dealt with or closed out at any time and from time to time.

15.5 The Client agrees that MISL shall have the full and absolute right and discretion to determine at what time and day to exercise or enforce its right and power to carry out or execute the sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out pursuant to this Clause 15 or the Agreement. The Client shall not have any right to claim against MISL in respect of any loss arising out of any sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out pursuant to the Agreement, howsoever such loss may have been caused, and whether or not a better price or position could or might have been obtained on the sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out of any of the Retained Properties by either deferring or advancing the time or date of such sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out or otherwise howsoever.

## 16. **Client's Representations, Undertakings and Warranties**

16.1 The Client represents and warrants that he is not employed by HKFE, SFC or the Clearing House or any Exchange, board of trade, or

by any corporation of which any Exchange owns a majority of the share capital, or (unless written consent to such trading is filed with MISL) employed by a member of any Exchange or by a firm registered on any Exchange.

16.2 The Client represents and warrants for so long as the Client maintains the Futures Account with MISL and on the giving of each Instruction to MISL in relation to a Transaction that: -

- (a) the Client will be the ultimate originator of all Transactions and is dealing on its own account as beneficial owner of the relevant Commodities and/or Exchange Contract and/or F/O Contract and the Futures Account and that no one other than the Client has any interest in the relevant Commodities and/or Exchange Contract and/or F/O Contract in or held for the Futures Account;
- (b) the information provided in the Account Opening Form is true, complete and correct;
- (c) the Client has or will have good and unencumbered title as beneficial owner to all Commodities which the Client instructs MISL to sell or otherwise dispose of for the Futures Account in accordance with the Agreement and undertakes to deliver such Commodities in time for MISL to comply with the rules of the relevant Exchange applicable thereto;
- (d) all necessary consents, approvals or authorisations which may be required for the execution of the Agreement and for the carrying out of any Transaction on any Market have been obtained and are in full force and effect;
- (e) the Client has the authority and power and legal capacity to open the Futures Account and to perform its obligations under the Agreement and the Agreement constitute valid and legally binding obligations of the Client;
- (f) the Client entering into this Agreement does not and will not violate or exceed any borrowing or similar limit or other power or restriction granted or imposed by any law to the Client;
- (g) the Agreement, when signed / executed by the Client, will constitute legal, valid and binding obligations of the Client in accordance with the terms herein;
- (h) all written or oral answers to any questionnaire completed by the Client or any other person or other information provided to MISL or any of the MG Group Companies are true, accurate and complete, and all the MG Group Companies are entitled to rely on such information;
- (i) the Client will forthwith notify MISL in writing of any change (material or not) in any of the aforesaid information and such change shall only take effect after receipt of such notice by MISL;
- (j) the Client has determined that trading in Commodities and/or Exchange Contracts and/or F/O Contracts is appropriate for the Client, is prudent in all respects, and does not and will not violate any statute, rule, regulation, judgment, or decree, agreement or undertaking to which the Client is subject or bound;
- (k) the Client is not carrying on any money laundering or terrorist activities. The Transaction is not relating to or in connection with any money laundering or terrorist activities. The moneys, investment or Commodities, Exchange Contracts, F/O Contracts, property and assets in the Futures Account does not arise out of, relating to or in connection with money laundering or terrorists activities; and
- (l) the Client is not a U.S. person and will not acquire or hold Commodities and/or Exchange Contracts and/or F/O Contracts beneficially owned by or for a U.S. person or in violation of any applicable law.

16.3 The Client represents and warrants that the information provided in any completed Account Opening Form is complete, true and accurate and that MISL may rely on information provided in the Account Opening Form until MISL has received written notice from the Client of any changes therein. The Client shall promptly notify MISL in writing of any material changes in the information provided pursuant to the Agreement or any agreement entered into pursuant to the Agreement or relating to the Futures Account.

16.4 The Client undertakes to MISL to do or execute any act, deed, document or thing which MISL requires the Client to do being in the reasonable opinion of MISL necessary or desirable in connection with the implementation and enforcement of the Agreement including the execution by the Client of an irrevocable power of attorney appointing MISL as the lawful attorney of the Client to do and execute all such acts, deeds, documents or things on behalf of the Client as MISL considers necessary or desirable in connection with such implementation and enforcement. The Client agrees to ratify or confirm all such acts, deeds, documents or things by MISL.

16.5 The Client agrees to do such acts and things and to execute such documents as are necessary or are in the reasonable opinion of MISL desirable to ratify or confirm anything done by MISL, its nominee, subsidiary or associated company, or any other entity instructed by any of them in the proper exercise of any right or power conferred by the Agreement or any agreement entered into pursuant to the Agreement or relating to the Futures Account.

16.6 If the Client is a corporation, the Client represents, warrants and undertakes with MISL that: -

- (a) the Client is duly incorporated, validly existing and in good standing under the laws of its place of incorporation and has full power and authority to conduct the business and operations which it now conducts or proposes to conduct, and the business under the Agreement, and to own, acquire, enter into or hold Commodities, Exchange Contracts, F/O Contracts, property and assets;
- (b) the Client has full power and authority to enter into, sign and execute the Agreement, to perform and fulfill its duties and obligations under the Agreement, and to carry out any Transaction on any Market under the terms of the constitutional document(s) by which the Client is established or constituted;
- (c) the specimen signature(s) on the Account Opening Form is/are the genuine signature(s) of the authorized signer(s) whom is duly authorized by the Board of Directors of the Client that MISL shall dispense with making enquiries, verification or investigation in relation to the authorization of signature(s);
- (d) all necessary corporate and other action have been taken, and all necessary shareholder and other consent have been given to authorize the entering, signing, execution, performance and fulfillment of the Agreement. The Agreement when signed or executed by the Client will constitute valid and legally binding obligations of the Client;

- (e) the Client is not carrying on any money laundering or terrorist activities. The Transaction is not relating to or in connection with any money laundering or terrorist activities. The moneys, investment or Commodities, Exchange Contracts, F/O Contracts, property and assets in the Futures Account does not arise out of, relating to or in connection with money laundering or terrorists activities;
- (f) the financial statement and accounts of the Client supplied to MISL have been prepared in accordance with accounting policies consistently applied, and present a true, fair and accurate view on the operation of the Client for the relevant accounting period and the financial position of the Client at the end of such accounting period;
- (g) the certified copy resolutions provided by the Client to MISL with the Agreement were duly passed at a meeting of its directors duly convened and held on or prior to the date hereof in accordance with its constitutional documents and were entered in its minutes book and are in full force and effect;
- (h) the certified copy resolutions provided by the Client to MISL with the Agreement were duly passed at a meeting of its directors duly convened and held on or prior to the date hereof in accordance with its constitutional documents and were entered in its minutes book and are in full force and effect; and
- (i) The Client undertakes to absolve and exonerate MISL from all blames and liabilities and to indemnify MISL against all losses, damages, liabilities, claims, demands and costs arising out or in respect or as a result of MISL agreeing to accept and act on the said resolution as effectively and duly passed and the said signature(s) as genuine and to dispense with making enquiries in relation thereto.

16.7 Where the Client effects Transactions for the account of its clients, whether on a discretionary or non-discretionary basis, and whether as agent or by entering into matching Transactions as principal with its clients, the Client hereby agrees that where MISL has received an enquiry from the Hong Kong Regulators, the following provisions shall apply: -

- (a) subject as provided below, the Client shall, immediately upon request from MISL (which request shall include the relevant contact details of the Hong Kong Regulators), inform the Hong Kong Regulators (i) the information on the identity, address, occupation, contact and other details of its client for whose account was effected; (ii) the person or entity (legal or otherwise) ultimately responsible for originating the Instruction to effect the relevant Transaction; and (iii) the person or entity (legal or otherwise) that stands to gain the commercial or economic benefit of the relevant Transaction and/or bear its commercial or economic risk;
- (b) if the Client effected the Transaction for a collective investment scheme, discretionary account or discretionary trust, the Client shall immediately upon request from MISL (which request shall include the relevant contact details of the Hong Kong Regulators), inform the Hong Kong Regulators of the name of the relevant scheme, account or trust and, if applicable, the identity, address, occupation, contact and other details of the person who, on behalf of the scheme, account or trust, ultimately originates the Instruction to effect relevant Transaction;
- (c) if the Client is acting as an investment manager for any collective investment schemes, discretionary accounts or trusts, the Client shall immediately inform MISL when any Transactions in which its investment discretion to invest on behalf of the scheme, account or trust is overridden. In the case where the Client's investment discretion is overridden, the Client shall immediately upon request by MISL (which request shall include the relevant contact details of the Hong Kong Regulators) inform the Hong Kong Regulators of the identity, address, occupation and contact details of the person(s) who has or have ultimately originated the Instruction to effect the Transaction;
- (d) if the Client is aware that its client is acting as intermediary for its underlying clients, and the Client does not know the identity, address, occupation and contact details of the underlying clients for whom the Transaction was effected, the Client confirms that: -
  - (i) it has arrangements in place with its client which entitle the Client to obtain the information set out in paragraphs (a), (b) and/or (c) above from its client immediately upon request or procure that it be so obtained; and
  - (ii) it will, on request from MISL in relation to a Transaction, promptly request the information set out in paragraphs (a), (b) and/or (c) above from its clients on whose instructions the Transaction was effected, and provide the information to the Hong Kong Regulators as soon as it received from its clients or procure that it be so provided;
- (e) the Client confirms that, where necessary, it has obtained all relevant consents or waivers from its clients, collective investment schemes, discretionary accounts or discretionary trusts for whose account Transactions may be effected and (where appropriate) complied with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong) such that it is able to release information to the Hong Kong Regulators of the identity and contact details of such clients, collective investment schemes, discretionary accounts or discretionary trusts, and of the person(s) with the ultimate beneficial interest in any such Transaction, and (if different from the Client/ultimate beneficiary) of the person(s) who originated the Transaction;
- (f) the Client agrees and undertakes to provide the client identity information set out in paragraphs (a), (b) and/or (c) above direct to the Hong Kong Regulators within two Business Days of written request from MISL (which request shall include the relevant contact details of the Hong Kong Regulators);
- (g) for any intermediary in a jurisdiction with client secrecy laws, the Client confirms that agreements have been entered into by the Client's ultimate clients that waive the benefit of the secrecy laws in respect of providing the client identity information to the Hong Kong Regulators; and such agreements are binding under the relevant law; and
- (h) MISL and the Client hereby agree that the provisions of this Clause 16.7 shall continue in effect notwithstanding the termination of the Agreement.

16.8 Where the Client effects Transactions for the account of its clients, whether on a discretionary or non-discretionary basis, and whether as agent or by entering into matching Transactions as principal with its clients, the Client hereby agrees that where MISL has received an enquiry from the Foreign Regulators, the following provisions shall apply: -

- (a) subject as provided below, the Client shall, immediately upon request from MISL (which request shall include the relevant

contact details of the Foreign Regulators), inform the Foreign Regulators (i) the information on the identity, address, occupation, contact and other details of its client for whose account was effected; (ii) the person or entity (legal or otherwise) ultimately responsible for originating the Instruction to effect the relevant Transaction; and (iii) the person or entity (legal or otherwise) that stands to gain the commercial or economic benefit of the relevant Transaction and/or bear its commercial or economic risk;

- (b) if the Client effected the Transaction for a collective investment scheme, discretionary account or discretionary trust, the Client shall immediately upon request from MISL (which request shall include the relevant contact details of the Foreign Regulators), inform the Foreign Regulators of the name of the relevant scheme, account or trust and, if applicable, the identity, address, occupation, contact and other details of the person who, on behalf of the scheme, account or trust, ultimately originates the Instruction to effect relevant Transaction;
- (c) if the Client is acting as an investment manager for any collective investment schemes, discretionary accounts or trusts, the Client shall immediately inform MISL when any Transactions in which its investment discretion to invest on behalf of the scheme, account or trust is overridden. In the case where the Client's investment discretion is overridden, the Client shall immediately upon request by MISL (which request shall include the relevant contact details of the Foreign Regulators) inform the Foreign Regulators of the identity, address, occupation and contact details of the person(s) who has or have ultimately originated the Instruction to effect the Transaction;
- (d) if the Client is aware that its client is acting as intermediary for its underlying clients, and the Client does not know the identity, address, occupation and contact details of the underlying clients for whom the Transaction was effected, the Client confirms that: -
  - (i) it has arrangements in place with its client which entitle the Client to obtain the information set out in paragraphs (a), (b) and/or (c) above from its client immediately upon request or procure that it be so obtained; and
  - (ii) it will, on request from MISL in relation to a Transaction, promptly request the information set out in paragraphs (a), (b) and/or (c) above from its clients on whose instructions the Transaction was effected, and provide the information to the Foreign Regulators as soon as it received from its clients or procure that it be so provided;
- (e) the Client confirms that, where necessary, it has obtained all relevant consents or waivers from its clients, collective investment schemes, discretionary accounts or discretionary trusts for whose account Transactions may be effected and (where appropriate) complied with the requirements or regulations for protecting the privacy of personal data such that it is able to release information to the Foreign Regulators of the identity and contact details of such clients, collective investment schemes, discretionary accounts or discretionary trusts, and of the person(s) with the ultimate beneficial interest in any such Transaction, and (if different from the Client/ultimate beneficiary) of the person(s) who originated the Transaction;
- (f) the Client agrees and undertakes to provide the client identity information set out in paragraphs (a), (b) and/or (c) above direct to the Foreign Regulators within two (2) Business Days of written request from MISL (which request shall include the relevant contact details of the Foreign Regulators);
- (g) for any intermediary in a jurisdiction with client secrecy laws, the Client confirms that agreements have been entered into by the Client's ultimate clients that waive the benefit of the secrecy laws in respect of providing the client identity information to the Foreign Regulators; and such agreements are binding under the relevant law; and
- (h) MISL and the Client hereby agree that the provisions of this Clause 16.8 shall continue in effect notwithstanding the termination of the Agreement.

16.9 The Client covenants to notify MISL forthwith of any material change in the information supplied in the Account Opening Form. The Client agrees and undertakes to report any loss or theft of the Client's user name and/or password, or any unauthorized access to the Futures Account immediately.

## 17. **Default**

17.1 Any one of the following events shall constitute an event of default ("**Event of Default**"):

- (a) at any time when MISL shall, in its sole discretion, consider it necessary for the protection of MISL or any of the MG Group Companies;
- (b) the Client fails or refuses to pay or settle any outstanding amount, money, fund, purchase price or other payment becoming due or payable under the Agreement or any other agreement with any of the MG Group Companies;
- (c) the Client fails or refuses, to settle or pay any outstanding amount, money or Deficit on any of the Client's Account(s) with MISL or any of the MG Group Companies;
- (d) the Client violates or fails to perform on a timely basis any term, undertaking, agreement, covenant or condition on its part to be performed under the Agreement;
- (e) the Client fails or refuses to discharge, pay, satisfy or perform any of the Client's Liabilities, obligation or indebtedness under the Agreement or any other agreement with any of the MG Group Companies;
- (f) the Client has not provided any margin (initial, maintenance or additional) or adjustments (variation or otherwise) when the same become due or payable under the Agreement, or has failed or refused to comply with any request, call or demand made by MISL pursuant to the Agreement;
- (g) breach, refusal, failure or default of or by the Client in complying with, fulfilling, performing or observing any terms or conditions of the Agreement or any other agreement with any of the MG Group Companies;
- (h) any representation or warranty made in the Agreement or in any document delivered to MISL or any of the MG Group Companies being or becoming incomplete, untrue or incorrect;
- (i) any consent or authorization required by the Client to enter into the Agreement being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;



- (j) the filing or commencement of a petition or application in bankruptcy, liquidation or winding up, petition or application for the appointment of a receiver, or the commencement of other similar proceedings against the Client;
- (k) the Lien or any security created or any part thereof respectively in relation to the indebtedness, obligations or Liabilities under the Agreement and/or the Loan Agreement being avoided or discontinued;
- (l) any deterioration or impairment (in MISL's opinion) or any decline or depreciation (in MISL's opinion) in the value or market price (whether actual or reasonably anticipated) of the Retained Properties or any security or any part thereof respectively;
- (m) the levying of attachment or charge against the Futures Account or any Account(s) of the Client with MISL or any of the MG Group Companies;
- (n) any third party asserts a claim, right or interest in respect of any moneys or funds in the Futures Account or any Accounts of the Client with MISL or any of the MG Group Companies;
- (o) the Client takes advantage of any bankruptcy, liquidation, reorganization, moratorium, insolvency or similar law or makes or proposes to make any arrangements or compositions for the benefit of any of the Client's creditors, or is the subject of any order, judgment or decree entered by any court providing for the winding up, reorganization, liquidation or appointment of a liquidator, trustee in bankruptcy or receiver of the Client or a substantial part of the Client's business or assets;
- (p) the Client becomes insolvent or dissolved for any reason whatsoever, merges or becomes consolidated with any non-affiliated party, or sells all or a substantial portion of the Client's business or assets;
- (q) the death, liquidation or judicial declaration of incompetence of the Client;
- (r) any action or proceeding is commenced or any claim or demand is made by any person against the Client in connection with any matter herein contained or the Retained Properties or any part thereof or against MISL in connection with any matter herein contained or the Retained Properties or any part thereof;
- (s) any adverse change (in the sole and subjective opinion of MISL) in the corporate structure, business, assets, financial condition, and general condition or prospects of the Client;
- (t) at any time when MISL and/or any of the MG Group Companies is or becomes under any obligation imposed by any relevant Exchange and/or Clearing House and/or broker or any applicable laws, rules and regulations to do any of the acts mentioned in Clauses 17 and 18;
- (u) at any time when MISL Trading Agent is or becomes under any obligation imposed by any relevant Foreign Futures Exchange and/or Foreign Clearing House and/or broker or any applicable laws, rules and regulations to do any of the acts mentioned in Clauses 17 and 18; and
- (v) the occurrence of any event which, in the sole and subjective opinion of MISL, may or shall jeopardize, prejudice or affect any of the rights, interests or benefits of MISL or any of the MG Group Companies.

17.2 If an Event of Default (in the sole and subjective judgment of MISL) occurs, then all amounts owing by the Client to MISL shall become immediately payable on demand, and interest will accrue, at the rate specified in Clause 6.10, on the amounts outstanding from time to time, the further performance by MISL of any of its outstanding obligations to the Client under the Agreement (whether for payment of money or otherwise) shall be conditional upon the Client having fully discharged all its obligations to MISL under the Agreement, and MISL or any of the MG Group Companies shall be entitled at their absolute discretions, without further notice or demand and in addition to and without prejudice to any other rights or powers conferred under the Agreement and/or the Loan Agreement, to forthwith: -

- (a) satisfy any obligations the Client may have to MISL (either directly or by way of guarantee or other security) by selling, realizing or otherwise dealing with, in such manner as MISL in its absolute discretion may determine, all or part of any property held by any of the MG Group Companies for any purpose in any of the Client's Accounts maintained with any of the MG Group Companies, and to apply the proceeds in reduction of all or part of any Liabilities of the Client to MISL;
- (b) set-off, combine or consolidate any of the Client's Accounts (of any nature) maintained with MISL or any of the MG Group Companies or any obligations of MISL to the Client under the Agreement against any obligations of the Client to MISL under the Agreement;
- (c) suspend MISL's obligations to perform pursuant to the Agreement;
- (d) revise, change, withdraw, stop or cancel the facilities, advances, credits or loans made or granted to the Client, or any part thereof respectively;
- (e) enforce the Lien and/or the security constituted or created under and pursuant to the Loan Agreement;
- (f) liquidate the Futures Account or any Account of the Client with any of the MG Group Companies;
- (g) close out or perform any or all open contracts in the Futures Account;
- (h) transfer in, transfer out, settle, clear all or any Commodities, Exchange Contracts or F/O Contracts;
- (i) call upon or enforce any security which may have been issued, made or created in favour of MISL or any of the MG Group Companies as security for the indebtedness, Liabilities or obligations of the Client under the Agreement;
- (j) exercise any or all the rights and powers of MISL under the Agreement;
- (k) cancel any or all outstanding instructions, orders or any other commitments made on behalf of the Client;
- (l) take any actions, or do any acts, matters or things as authorized, instructed, directed, appointed or empowered under the Agreement;
- (m) take such actions, or do such acts, matters or things as MISL shall think fit in relation to the Retained Properties; and/or
- (n) take or not to take any actions, or do or not to do any acts, matters or things as MISL shall think fit.

17.3 MISL may at its absolute discretion apply the net proceeds (after deduction of all fees, costs and expenses incurred in connection with the exercise of the powers conferred on MISL by this Clause 17) actually received by MISL pursuant to the exercise of powers under this Clause 17 in reduction of the Client's then outstanding obligations to MISL in such order or manner as MISL considers fit.

- 17.4 MISL shall have absolute discretion in all matters relating to the exercise of its rights under this Clause 17, and may sell any securities, Commodities, Exchange Contracts or F/O Contracts on a single or collective basis. The Client hereby waives all claims and demands (if any) against MISL in respect of any loss, involuntary or otherwise, directly arising from the exercise by MISL of the powers conferred by this Clause 17, howsoever such loss may have been caused (other than through wilful default of MISL, or the reckless disregard of the obligations of MISL under this Clause 17), whether in relation to the timing or manner of the exercise of such powers or otherwise.
- 17.5 In the event that any of the events set out in Clause 17.1 shall occur, then the Agreement may be terminated by MISL forthwith without notice to the Client. Any such termination shall be without prejudice to the accrued rights and obligations of the Parties contained in any provision hereof which shall remain in full force and effect and shall be enforceable notwithstanding such termination.
- 17.6 The Client shall be liable for any Deficit that may exist after MISL has exercised any or any combination of rights in this Clause 17, and any cost or expense (including legal costs) incurred by MISL, on a full indemnity basis, related to such exercise.
- 17.7 MISL shall be entitled at all times to employ debt collecting agent(s) to collect any sum due but unpaid by the Client hereunder and for doing so, MISL may and is hereby authorized to disclose to such agent(s) any or all information available in relation to the Client and MISL shall not be howsoever liable or responsible (whether in contract or tort) for such disclosure or for any default negligence act conduct misconduct and/or deeds of such agent(s). The Client is hereby warned that the Client shall indemnify and keep MISL indemnified on a full indemnity basis against all reasonable costs and expenses which MISL may reasonably incur in employing debt collecting agent(s).
- 17.8 In the event that MISL or its associated person commits a default in relation to Commodities, Exchange Contracts or F/O Contracts traded or to be traded on a recognized futures market, and the related assets of such Commodities, Exchange Contracts or F/O Contracts, and the Client thereby suffers a pecuniary loss, the Client acknowledges and accepts that the right to claim compensation will be restricted to the extent provided for therein under the SFO. For Transactions which are effected in an Exchange other than a recognized futures market, the Client acknowledges and accepts that any right to compensation in the event of any default on the part of MISL or its associated person will be subject to the rules of the relevant Exchange.

## 18. **Liquidation of Futures Account**

- 18.1 At any time as MISL shall determine appropriate and/or upon the occurrence (in the sole and subjective judgment of MISL) of any Event of Default, MISL shall have the right, without notice and in its absolute discretion, to: -
- (a) take such action or do such act, matter or thing as it shall consider necessary or desirable to comply with or to perform, cancel or satisfy any obligations of MISL to the Client or any obligations of the Client and/or MISL to the relevant Exchange and/or Clearing House and/or broker, as the case may be, in respect of any outstanding Transaction of or dealing in the Commodities and/or Exchange Contracts and/or F/O Contracts or in respect of any open contract (such action includes but not limited to closing out and/or performing such open contract);
  - (b) close out or perform any or all open contracts in the Futures Account;
  - (c) sell, purchase, transfer in, transfer out, trade, dispose of, deal with, settle, clear all or any Commodities, Exchange Contracts or F/O Contracts; and/or
  - (d) cancel any outstanding orders in order to close the Futures Account.
- Any sale, purchase, disposal, trading, dealing, transfer and/or closing out of the Commodities and/or Exchange Contracts and/or F/O Contracts or open contract shall be made according to the judgment of and at the discretion of MISL, either by direct sale, purchase, disposal, trading, dealing, transfer or closing out at any time or in the same contract month or on any Exchange or Market where such business is then usually transacted. In all cases, a prior demand or call, or prior notice of the time or place of sale, purchase, disposal, trading, dealing, transfer or closing out shall not be considered as waiver of the right of MISL herein provided.
- 18.2 On the exercise of the rights of MISL under Clause 18.1, all moneys or funds owing to MISL hereunder shall become immediately payable and MISL shall not be obliged to deliver to the Client any amount of the underlying Commodity or any money or fund due to the Client in respect of any Transaction, dealing, Exchange Contract or F/O Contract until all indebtedness, obligations and Liabilities of the Client to MISL under the Agreement are paid, satisfied or discharged.

## 19. **Client's Responsibility for Disclosure of Interests**

- 19.1 The Client's attention is drawn to the provisions of the SFO and the obligations therein to disclose certain interests including corporate and family interests. Other disclosure obligations may arise under legislation of other jurisdictions or the rules and regulations of a Market.
- 19.2 MISL acts as a licensed corporation and is not responsible for advising the Client of any such obligations generally or any obligation that may arise from any Instruction of the Client or which has arisen as a result of any Transaction or from any holding or otherwise. Such obligations of disclosure are personal obligations of the Client. MISL shall not be obliged to give notice of holdings of the Client in any form or by any time limit for such purpose save any notice or statement to be issued as expressly set out in the Agreement. MISL shall not be liable for any loss, cost or expense of the Client from any failure or delay by the Client or any other person to disclose in accordance with any such obligation nor any delay or default in notification to the Client as to the carrying into effect of any Instructions and the Client shall indemnify MISL for any loss, cost or expense arising from any such failure, delay or

default.

20. **Trading Recommendation**

20.1 The Client acknowledges and agrees that: (a) the Client assumes full responsibility for all trading decisions in the Futures Account and MISL is responsible only for the execution, clearing, and carrying out of the Instruction of the Client and trading, dealing or Transactions in the Futures Account; (b) MISL has no responsibility or obligation regarding any conduct, action, representation or statement of any introducing firm, trading advisor or other third party in connection with the Futures Account or any trading, dealing or Transaction therein; and (c) any advice or information by MISL, its directors, employees or agents, whether or not solicited, shall not constitute an offer to enter into a Transaction and MISL shall be under no liability whatsoever in respect of such advice or information.

21. **Disclaimer**

21.1 Neither MISL nor any of the MG Group Companies nor any of its directors, employees or agents shall have any liability whatsoever (whether in negligence or otherwise) for any direct, indirect or consequential loss, expense or damages suffered by the Client as a result of: -

- (a) MISL acting or relying on any Instruction given by the Client whether or not such Instruction was given following any recommendation, advice or opinion given by MISL or by any of its directors, employees or agents;
- (b) MISL's delay or failure to perform or execute the Client's Instruction or its obligations hereunder by the following reasons: (i) any disruption, breakdown, malfunction or failure of transmission, communication or computer facilities, (ii) any postal or other strikes or similar industrial action, (iii) any disruption, closure, breakdown or failure of any relevant Exchange and/or Clearing House and/or broker and/or any other person or firm or company whatsoever, (iv) any prevailing Market conditions, or (v) any action of government, governmental agency, Exchange and/or Clearing House;
- (c) MISL Trading Agent acting or relying on any Instruction given by the Client whether or not such Instruction was given following any recommendation, advice or opinion given by MISL Trading Agent or by any of its directors, employees or agents;
- (d) MISL Trading Agent's delay or failure to perform or execute the Client's Instruction or its obligations hereunder by the following reasons: (i) any disruption, breakdown, malfunction or failure of transmission, communication or computer facilities, (ii) any postal or other strikes or similar industrial action, (iii) any disruption, closure, breakdown or failure of any relevant Foreign Futures Exchange and/or Clearing House and/or broker and/or any other person or firm or company whatsoever, (iv) any prevailing Market conditions, or (v) any action of government, governmental agency, Exchange and/or Clearing House; or
- (e) any relevant Exchange and/or Clearing House and/or broker ceasing for any reason to recognize the existence of any Exchange Contracts or F/O Contracts entered into by MISL on behalf of the Client, or failing to perform or close out any such contracts provided that such cessation or failure shall not affect the Client's obligations hereunder in respect of any such contracts or other obligations or liabilities of the Client arising therefrom.

21.2 Without limiting the generality of Clause 21.1, neither MISL nor any of the MG Group Companies nor any of its directors, employees or agents shall have any liability whatsoever (whether in negligence or otherwise) for any direct, indirect or consequential loss, expense or damages suffered by the Client arising out of or in connection with any MISL's, MISL Trading Agent's and/or any of the MG Group Companies' delay, omission or failure to perform or execute any of the Client's Instruction or its obligations hereunder for whatever reason.

21.3 HSI Services Limited ("**HSI**") currently publishes, compiles and computes a number of stock indices and may publish, compile and compute such additional stock indices at the request of Hang Seng Data Services Limited ("**HSDS**") from time to time (collectively, the "**Hang Seng Indices**"). The marks, names and processes of compilation and computation of the respective Hang Seng Indices are the exclusive property of and proprietary to HSDS. HSI has granted to the Exchange by way of licence the use of the Hang Seng Index and the four Sub-indices of the Hang Seng Index, the Hang Seng China-Affiliated Corporations Index and the Hang Seng China Enterprises Index solely for the purposes of and in connection with the creation, marketing and trading of Futures Contracts based on such indices respectively and may from time to time grant to the Exchange corresponding use of any other Hang Seng Indices for the purposes of and in connection with Futures Contracts based on such other Hang Seng Indices (collectively, "**HSI Futures Contracts**"). The process and basis of compilation and computation of any of the Hang Seng Indices and any of the related formula or formulae, constituent stocks and factors may at any time be changed or altered by HSI without notice and the Exchange may at any time require that trading in and settlement of such of the HSI Futures Contracts as the Exchange may designate be conducted by reference to an alternative index or alternative indices to be calculated. Neither the Exchange nor HSDS nor HSI warrants or represents or guarantees to any participant of the Exchange or any third party the accuracy or completeness of the Hang Seng Indices or any of them and the compilation and computation thereof or any information related thereto and no such warranty or representation or guarantee of any kind whatsoever relating to the Hang Seng Indices of any of them is given or may be implied. Further, no responsibility or liability whatsoever is accepted by the Exchange, HSDS or HSI in respect of the use of the Hang Seng Indices or any of them for the purposes of and in connection with the HSI Futures Contracts or any of them and/or dealings therein, or for any inaccuracies, omissions, mistakes, errors, delays, interruptions, suspension, changes or failures (including but not limited to those resulting from negligence) of HSI in the compilation and computation of the Hang Seng Indices or any of them or for any economic or other losses which may be directly or indirectly sustained as a result thereof by any participant of the Exchange or any third party dealing with the HSI Futures Contracts or any of them. No claims, actions or legal proceedings may be brought by any participant of the Exchange or any third party against the Exchange and/or HSDS and/or HSI in connection with or arising out of

matters referred to in this disclaimer. Any participant of the Exchange or any third party deals in the HSI Futures Contracts or any or them in full knowledge of this disclaimer and can place no reliance whatsoever on the Exchange, HSDS and/or HSI.

21.4 HSI Services Limited ("**HSI**") currently publishes, compiles and computes a number of stock indices and may publish, compile and compute such additional stock indices at the request of Hang Seng Data Services Limited ("**HSDS**") from time to time (collectively, the "**Hang Seng Indices**"). The marks, names and processes of compilation and computation of the respective Hang Seng Indices are the exclusive property of and proprietary to HSDS, HSI has granted to the Exchange by way of license the use of the Hang Seng Index and the four Sub-indices of the Hang Seng Index, the Hang Seng China-Affiliated Corporations Index and the Hang Seng China Enterprises Index solely for the purposes of and in connection with the creation, marketing and trading of option contracts based on such indices respectively and may from time to time grant to the Exchange corresponding use of any other Hang Seng Indices for the purposes of and in connection with option contracts based on such other Hang Seng Indices (collectively, "**HSI Option Contracts**"). The process and basis of compilation and computation of any of the Hang Seng Indices and any of the related formula or formulae, constituent stocks and factors may at any time be changed or altered by HSI without notice and the Exchange may at any time require that trading in and settlement of such of the HSI Option Contracts as the Exchange may designate be conducted by reference to an alternative index or alternative indices to be calculated. Neither the Exchange nor HSDS nor HSI warrants or represents or guarantees to any participant of the Exchange or any third party the accuracy or completeness of the Hang Seng Indices or any of them and the compilation and computation thereof or any information related thereto and no such warranty or representation or guarantee of any kind whatsoever relating to the Hang Seng Indices or any of them is given information related thereto and no such warranty or representation or guarantee of any kind whatsoever relating to the Hang Seng Indices or any of them is given or may be implied. Further, no responsibility or liability whatsoever is accepted by the Exchange, HSDS or HSI in respect of the use of the Hang Seng Indices or any of them for the purposes of and in connection with the HSI Option Contracts or any of them and/or dealings therein, or for any inaccuracies, omissions, mistakes, errors, delays, interruptions, suspension, changes of failures (including but not limited to those resulting from negligence) of HSI in the compilation and computation of the Hang Seng Indices or any of them or for any economic or other losses which may be directly or indirectly sustained as a result thereof by any participant the Exchange or any third party dealing with the HSI Option Contracts or any of them. No claims, actions or legal proceedings may be brought by any participant of the Exchange or any third party against the Exchange and/or HSDS and/or HSI in connection with or arising out of matters referred to in this disclaimer. Any participant of the Exchange or any third party deals in the HSI Option Contracts or any of them in full knowledge of this disclaimer and can place no reliance whatsoever on the Exchange, HSDS and/or HSI.

21.5 Stock indices and other proprietary products upon which contracts traded on the Exchange may be based may from time to time be developed by the Exchange. The HKFE Taiwan Index is the first of such stock indices developed by the Exchange. The HKFE Taiwan Index and such other indices or proprietary products as may from time to time be developed by the Exchange (the "**HK Exchange Indices**") are the property of the Exchange. The process of compilation and computation of each of the HK Exchange Indices is and will be the exclusive property of and proprietary to the Exchange. The process and basis of compilation and computation of the HK Exchange Indices may at any time be changed or altered by the Exchange without notice and the Exchange may at any time require that trading in and settlement of such futures or options contracts based on any of the HK Exchange Indices as the Exchange may designate be conducted by reference to an alternative index to be calculated. The Exchange does not warrant or represent or guarantee to any Exchange Participant or any third party the accuracy or completeness of any of the HK Exchange Indices or their compilation and computation or any information related thereto and no such warranty or representation or guarantee of any kind whatsoever relating to any of the HK Exchange Indices is given or may be implied. Further, no responsibility or liability whatsoever is accepted by the Exchange in respect of the use of any of the HK Exchange Indices or for any inaccuracies, omissions, mistakes, errors, delays, interruption, suspensions, changes or failures (including but not limited to those resulting from negligence) of the Exchange or any other person or persons appointed by the Exchange to compile and compute any of the HK Exchange Indices in the compilation and computation of any of the HK Exchange Indices or for any economic or other losses which may be directly or indirectly sustained as a result thereof by any Exchange Participant or any third party dealing with futures and options contracts based on any of the HK Exchange Indices. No claims, actions or legal proceedings may be brought by any Exchange Participant or any third party against the Exchange in connection with or arising out of matters referred to in this disclaimer. Any Exchange Participant or any third party engages in transactions in futures and options contracts based on any of the HK Exchange Indices in full knowledge of this disclaimer and can place no reliance on the Exchange in respect of such transactions.

## 22. **Client Information**

22.1 The Client shall provide such information as MISL may from time to time request, such information shall include without limitation financial data concerning the Client. Failure to supply such information may result in MISL being unable to open or continue the Futures Account or establish, continue or provide services in Commodities and/or Exchange Contracts and/or F/O Contracts trading or dealing. It is also the case that information are collected from the Client in the ordinary course of the continuation of Commodities and/or Exchange Contracts and/or F/O Contracts trading or dealing relationship.

22.2 The Client authorize MISL to disclose, provide or transmit to MISL Trading Agent all or any part of the information provided by the Client to MISL for purpose of effecting the relevant Transaction as instructed by the Client.

22.3 The Client agrees promptly (a) to furnish appropriate financial statements to MISL; (b) to disclose to MISL any material change in the financial position of the Client; (c) to furnish such other information concerning the Client as MISL may reasonably request; (d) to notify MISL in writing if any of the representations contained in the Agreement cease to be true, accurate and correct in any respects and (e) to notify MISL of the occurrence of any event specified in Clause 17.1 upon its occurrence.



## 23. Use of Client Information

- 23.1 The Client acknowledges that the laws of the relevant jurisdictions, the Foreign FE Rules on which MISL or MG Group Companies enters into Transactions for and on behalf of the Client may require the disclosure of information relating to the Client and/or the Client's Accounts. The Client hereby irrevocably authorizes MISL and MG Group Companies, without notice or consent from the Client, to disclose to and provide the relevant authorities with all such information and documents of the Clients as may be required for such purpose, including without limitation, the name and identity of the Client or the ultimate beneficial owner of the Futures Accounts, and the financial position of the Client as may be known to MISL or MG Group Companies. The Client shall not hold MISL or MG Group Companies liable for any consequences arising from such disclosure, and the Client shall reimburse MISL and MG Group Companies on demand for all costs and expenses (including legal costs) incurred by MISL and MG Group Companies in complying with requests for such disclosure.
- 23.2 MISL will keep information relating to the Client and the Futures Account confidential, but is authorized to use such information for the following purposes including but not limited to: (a) the daily operation of the Futures Account and the services provided to the Client; (b) conducting credit enquiries on the Client; (c) ensuring ongoing credit worthiness of the Client; (d) designing and marketing services or related products; (e) collection of amounts outstanding from the Client and those providing security for the Client's obligations; (f) make disclosure under the requirements of any law binding on MISL; and (g) purposes relating thereto. MISL may provide any such information to the following persons including but not limited to (i) its auditors, legal advisers, brokers or dealers instructed by MISL on behalf of the Client, (ii) the HKFE or other regulatory bodies, (iii) any other Market in which Commodities and/or Exchange Contracts and/or F/O Contracts are traded for the Futures Account, (iv) the Hong Kong Regulators or any other regulatory authority to comply with their requirements or requests for information, (v) any employee, agent, contractor, sub-contractor or third party service provider who provides administrative, telecommunications, computer, payment, clearing or other services to MISL in connection with the operation of its business; and (vi) any other person under a duty of confidentiality to MISL including but not limited to all the MG Group Companies which have undertaken to keep such information confidential. MISL shall not be liable in any way to the Client for any disclosure made pursuant to this Clause.
- 23.3 Where the Client is an individual, the Client agrees to be bound by MISL's "Notice to Clients relating to the Personal Data (Privacy) Ordinance", and to the use of his/her personal data in the manner specified in the said Notice.
- 23.4 Under and in accordance with the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong) any individual: (a) has the right to check whether MISL holds data about him and the right of access to such data; (b) has the right to require MISL to correct any data relating to him which is inaccurate; and (c) has the right to ascertain MISL's policies and practices in relation to data and to be informed of the kind of personal data held by MISL.
- 23.5 MISL may, whether during the continuance or after the termination of the Agreement, without notice to the Client, disclose to any of the MG Group Companies or any agent, or to any actual or proposed assignee or participant or sub-participant or transferee of any of MISL's rights or obligations under the Agreement, any information relating to the Client.
- 23.6 MISL or MG Group Companies intends to use and/or transfer the Client's data to MISL or any of the MG Group Companies for direct marketing purpose and MG Group Companies requires the consent (including an indication of no objection) of the Client. For the aforesaid purpose, consent is hereby given by the Client on such use and transfer. Client's name, contact details, financial background and statistical data held by MISL and MG Group Companies from time to time may be used by MISL or MG Group Companies in direct marketing of: (i) Financial services and investment products; (ii) Related promotional schemes; (iii) Financial and investment advices; or (iv) promotional and marketing events of MG Group Companies for the aforesaid services or products until MISL or MG Group Companies receive Clients objection or requirement to cease such use or transfer through the prescribed channel.

## 24. Liability and Indemnity

- 24.1 The Client agrees that neither MISL nor any of the MG Group Companies nor any of their respective officers, employees or agents shall be liable to the Client for any loss or liability which the Client may incur (including losses and liabilities resulting from Transactions executed by any brokers and dealers) unless due to fraud or willful default on the part of MISL or any of the MG Group Companies.
- 24.2 The Client shall indemnify and keep MISL indemnified against all costs, claims, demands, actions, proceedings, damages, losses and expenses whatsoever which may be suffered or incurred by MISL directly or indirectly arising out of or in connection with anything done or omitted pursuant to any Instruction of the Client, anything lawfully done or omitted by MISL, any Exchange Contract or F/O Contract entered into by MISL on behalf of the Client, or any action by MISL in accordance with the Agreement.
- 24.3 The Client shall indemnify MISL, all the MG Group Companies and their respective directors, officers, delegates, agents, employees, nominees, correspondents or representatives from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, legal expenses and other expenses or disbursements of any kind or nature whatsoever (other than those resulting from fraud or willful default on the part of MISL) which may be imposed on, incurred by or asserted against MISL or any of the MG Group Companies (or any of their respective directors, officers, delegates, agents, employees, nominees, correspondents or representatives) in the performance or exercise of their duties or discretion under the Agreement or arising out of or in connection with the default or breach by the Client of any provision of the Agreement or any of the Client's obligations to MISL or any of the MG Group Companies, or any representation or warranty by the Client becoming untrue or inaccurate, including but not limited to any costs incurred by any of them in the collection of debts owed by the Client to any of them.



- 24.4 The Client shall indemnify MISL, all the MG Group Companies and their respective directors, officers, delegates, agents, employees, nominees, correspondents or representatives against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, legal expenses and other expenses or disbursements of any kind or nature whatsoever arising out of or in connection with any act or omission of the Authorized Person of the Client.
- 24.5 The Client shall further indemnify MISL against any claim which may be made against MISL by a purchaser or any other person by reason of any defect in the title of the Client to the Commodities.
- 24.6 The Client also agrees to pay promptly to MISL and all the MG Group Companies all damages, costs and expenses (including legal costs and expenses on a full indemnity basis) incurred by MISL in the enforcement of any of the provisions of the Agreement.
- 24.7 If MISL fails to meet the obligations to the Client pursuant to the Agreement, the Client will have a right to claim under the Investor Compensation Fund under the SFO, subject to the terms of the Investor Compensation Fund as from time to time amended or supplemented.
25. **MISL's Interests**
- 25.1 MISL may, subject to the provisions of the SFO and any applicable law, take the opposite position to the Client's order in relation to any Exchange Contract and/or F/O Contract, whether on MISL's own account or for the account of any of the MG Group Companies or other clients of MISL, provided that such trade is executed competitively on or through the facilities of HKFE in accordance with the HKFE Rules or the facilities of any other Exchange in accordance with the rules and regulations of such other Exchange.
- 25.2 The Client acknowledges and agrees that, when MISL executes an Instruction on behalf of the Client to purchase or sell Commodities and/or Exchange Contracts and/or F/O Contracts, MISL, its directors, officers, employees and agents may execute such Instruction for an account in which any such person has a direct or indirect interest, subject to the limitations and conditions, if any, contained in the constitution, rules, regulations, customs, usages, rulings, and interpretations then in force of the relevant Exchanges or Markets upon which such Instruction is executed, and subject to the limitations and conditions, if any, contained in any applicable regulations lawfully promulgated by such Exchanges or Markets.
- 25.3 In the absence of fraud or willful misconduct on the part of MISL, MISL shall not be liable to the Client for any claims against MISL or any of its nominees, any of the MG Group Companies in relation to any Transaction referred to in Clauses 25.1 and 25.2 including any claims to the effect that MISL or any of its nominees, subsidiaries or associated companies account to the Client for any emoluments, commissions, profits or any other benefits whatsoever earned or received by MISL or any of its nominees, subsidiaries or associated companies in relation to any such Transactions.
26. **Suitability**
- 26.1 Unless MISL expressly agrees in writing to the contrary, no representation or warranty, express or implied, is given by MISL as to the value or suitability for the Client of any Transaction entered into by the Client.
- 26.2 The Client hereby acknowledges that any information communicated to the Client by MISL, although obtained from sources believed by MISL to be reliable, has not been independently verified by MISL and may be incomplete, inaccurate or changed without notice to the Client. MISL makes no representation, warranty or guarantee with respect to the correctness of such information. MISL and/or MG Group Companies shall have no responsibility or liability whatsoever in respect of any information given, or views expressed by them or any of their directors, officers, employees or agents to the Client, whether or not such information or views are expressed at the request of the Client.
- 26.3 The Client shall make its own judgment and decision with respect to any Transaction which he enters. The Client understands that MISL, or one or more of the MG Group Companies, may purchase or sell, have a position in the Commodities or Exchange Contracts or F/O Contracts or financial instruments which are the subject of information or recommendations furnished to the Client, and that the positions or Transactions of MISL or any of the MG Group Companies may or may not be consistent with the recommendations furnished to the Client by MISL.
27. **Investor Compensation Fund**
- 27.1 In the event that MISL commits a default as defined in Part XII of the SFO and the Client thereby suffers a pecuniary loss, the Client understands that the right to claim under the Investor Compensation Fund established under Part XII of the SFO will be restricted to the extent provided for therein.
- 27.2 Notwithstanding the aforesaid, the Client fully understands that the right to claim under the Investor Compensation Fund as mentioned in Clause 27.1 will not be applicable to any Instructions or Transactions in Foreign Jurisdiction.

28. **Relevant Provisions**

- 28.1 Without prejudice and in addition to any other provisions of the Agreement, all Transactions entered into on HKFE shall be subject to the following provisions: -
- (a) Every Exchange Contract shall be subject to the charge of a Investor Compensation Fund (as defined in HKFE Rules) levy and a levy pursuant to SFO, the cost of both of which shall be borne by the Client;
  - (b) If the Client suffers pecuniary loss by reason of a default of MISL, the liability of the Investor Compensation Fund (as defined in HKFE Rules) will be restricted to valid claims as provided for in SFO and will be subject to the monetary limits specified in SFO and accordingly there can be no assurance that any pecuniary loss sustained by the Client by reason of such a default will necessarily be recouped from the Investor Compensation Fund (as defined in HKFE Rules) in full, in part or at all;
  - (c) In respect of Transactions related to the business of dealing in F/O Contracts which are entered into on Markets other than those operated by HKFE, such Transactions will be subject to the rules and regulations of those Markets and not those of HKFE, with the result that the Client may have a markedly different level and type of protection in relation to those Transactions as compared to the level and type of protection afforded by HKFE Rules, the Regulations (as defined in HKFE Rules) and the Procedures (as defined in HKFE Rules);
  - (d) The Client acknowledges that subject to the provisions of SFO and any applicable law, MISL may take the opposite position to the Client's order in relation to any Exchange Contract and/or F/O Contract, whether on MISL's own account or for the account of any of the MG Group Companies or other clients of MISL, provided that such trade is executed competitively on or through the facilities of HKFE in accordance with HKFE Rules, Regulations (as defined in HKFE Rules) and the Procedures (as defined in HKFE Rules) or the facilities of any other Exchange in accordance with the rules of such other Exchange;
  - (e) The Client agrees and acknowledges that the Clearing House (as defined in HKFE Rules) may do all things necessary to transfer any open positions held by MISL on behalf of the Client and any money and security standing to the credit of the Client's Account with MISL to another member of HKFE in the event of the membership rights of MISL are suspended or revoked by HKFE;
  - (f) The Client authorizes MISL to apply any moneys or approved debt securities which the Client may pay to MISL in the manner specified in HKFE Rules and, in particular, MISL may apply such moneys in or towards meeting MISL's obligations to any party insofar as such obligations arise in connection with or incidental to the business of dealing in F/O Contracts transacted on the Client's behalf;
  - (g) The Client acknowledges that MISL is bound by HKFE Rules which permit HKFE or the Chief Executive (as defined in HKFE Rules) to take steps to limit the positions or require the closing out of contracts of the Client who in the opinion of HKFE or the Chief Executive (as defined in HKFE Rules) are accumulating positions which are or may be detrimental to any particular Market (as defined in HKFE Rules) or Markets or which are or may be capable of adversely affecting the fair and orderly operation of any Market or Markets as the case may be;
  - (h) MISL shall provide to the Client Contract Specifications (as defined in HKFE Rules), a full explanation of margin procedures and the circumstances under which a Client's position may be closed without the Client consent; and
  - (i) The Client acknowledges and accepts that if MISL exceeds any trading limits or position limits imposed pursuant to HKFE Rules, the Chief Executive (as defined in HKFE Rules) shall be entitled to require MISL to close out or to effect the transfer in accordance with the Clearing House Rules (as defined in HKFE Rules) to another member of such number of open positions (which may include all or part of the open positions of the Client) as will in the opinion the Chief Executive (as defined in HKFE Rules) result in MISL complying with the position limits.
- 28.2 Without prejudice and in addition to any other provisions of the Agreement, all Transactions entered into Markets other than those operated by HKFE shall be subject to the following provisions: -
- (a) The Client acknowledges and agrees that such Transactions will be subject to the Foreign FE Rules, with the result that the Client may have a markedly different level and type of protection in relation to those Transactions as compared to the level and type of protection afforded by HKFE Rules, the Regulations (as defined in HKFE Rules) and the Procedures (as defined in HKFE Rules);
  - (b) The Client acknowledges that subject to any applicable law, MISL may take the opposite position to the Client's order in relation to any Exchange Contract and/or F/O Contract, whether on MISL's own account or for the account or for the account of any of the MG Group Companies or other clients of MISL, provided that such trade is executed competitively on or through the facilities of Foreign Futures Exchange in accordance with the Foreign FE Rules;
  - (c) The Client agrees and acknowledges that the Clearing House other than HKCC may do all things necessary to transfer any open positions held by MISL on behalf of the Client and any money and security standing to the credit of the Client's Account with MISL to another member of the relevant Foreign Futures Exchange in the event of the membership rights of MISL are suspended or revoked by those Foreign Futures Exchange;
  - (d) The Client authorizes MISL to apply any moneys or approved debt securities which the Client may pay to MISL in the manner specified in the relevant Foreign FE Rules and, in particular, MISL may apply such moneys in or towards meeting MISL's obligations to any party insofar as such obligations arise in connection with or incidental to the business of dealing in F/O Contracts transacted on the Client's behalf;
  - (e) The Client acknowledges that MISL is bound by the relevant Foreign FE Rules which may permit such Foreign Futures Exchange to take steps to limit the positions or require the closing out of contracts of the Client who in the opinion of such Foreign Futures Exchange are accumulating positions which are or may be detrimental to any particular Market or Markets or which are or may be capable of adversely affecting the fair and orderly operation of any Market or Markets as the case may be;
  - (f) The Client acknowledges and agrees that the contract specifications, product specifications, prospectus, risk disclosure

statements, disclaimers, full explanation of margin procedures and the circumstances under which a Client's position may be closed without the Client's consent may be posted on the MISL Website from time to time which shall be binding on the Client; and

- (g) The Client acknowledges and accepts that if MISL exceeds any trading limits or position limits imposed pursuant to the Foreign FE Rules, the relevant authority shall be entitled to require MISL to close out or to effect the transfer in accordance with the Clearing Rules to another member of such number of open positions (which may include all or part of the open positions of the Client) as will in the opinion such Foreign Futures Exchange result in MISL complying with the position limits.

## 29. Joint and Several Liability/Successors

29.1 Where the Client consists of more than one person (whether a partnership or otherwise): -

- (a) the expression "Client" shall include each such person (a "**Joint Client**") and the liability of Joint Clients under the Agreement shall be joint and several;
- (b) any demand for payment on any one or more of the Joint Clients shall be treated as a valid demand on all Joint Clients;
- (c) MISL and any of the MG Group Companies shall be entitled to deal separately with any of the Joint Clients on any matter including the release or discharge of any one or more of the Joint Clients from liability under the Agreement or compound with, accept compositions from, or make any other arrangement with, any of such persons without, in consequence, releasing or discharging or otherwise prejudicing or affecting its rights and remedies against any other Joint Clients;
- (d) each of the Joint Clients shall, in favour of all the MG Group Companies, waive the right of proof in competition with any one or all of the MG Group Companies in the bankruptcy or insolvency of any of the Joint Clients and none of the Joint Clients shall take from any other Joint Client(s) any counter-security without prior written consent from all the MG Group Companies;
- (e) the discharge, satisfaction or performance of any liability, obligation or indebtedness under the Agreement by any of the MG Group Companies in favour of or for the benefit of any of the Joint Clients shall be and be deemed to be full and sufficient discharge, satisfaction or performance of such liability, obligation or indebtedness in favour of or for the benefit of any or all of the Joint Clients. The payment of money or fund by any of the MG Group Companies toward or in favour of any of the Joint Clients shall be and be deemed to be full and sufficient discharge, satisfaction or performance of such payment of money or fund toward or in favour of any or all of the Joint Clients;
- (f) the Agreement shall not be affected by the death, incapacity or Dissolution of any Joint Client;
- (g) termination of the Agreement pursuant to Clause 31 by any one or more of the Joint Clients or his or their personal representatives shall not affect the continuing liability of the other Joint Clients;
- (h) MISL shall have a lien on the property (including without limitation the Futures Account) of each Joint Client. MISL's lien shall be additional to the rights and remedies of MISL pursuant to the Agreement;
- (i) The Joint Clients have authorized MISL to accept the Instructions given by any one or all of the Joint Clients ("**Such Person**") to MISL (including but not limited to verbal instructions and written instructions). Such Person will have the authority to handle the operation of the Futures Account and exercise all rights, powers and discretion pursuant to the Agreement on behalf of any of the Joint Client. MISL may follow the Instructions given by Such Person and will not be required to give notice to, or obtain authorization from, any one or all of the Joint Clients in respect of such Instructions. MISL will have an absolute discretion to determine whether or not to accept the relevant Instructions and MISL will not be liable as such for any loss whatsoever incurred as a result of accepting or not accepting the instructions. Any act, conduct, Instructions, directions, decisions and/or authorizations of any of the Joint Clients shall be jointly and severally binding on the other Joint Clients;
- (j) MISL shall be under no duties whatsoever (including without limitation any duty to inquire into or see to) in respect of the application of any monies or properties between the Joint Clients;
- (k) Any of the Joint Clients is not entitled to claim or assert interest, benefit, ownership or title to any particular or specific Commodities and/or Exchange Contracts and/or F/O Contracts in the Futures Account separately or independently with any other Joint Clients;
- (l) the Joint Clients have entered into the Agreement with a right of survivorship;
- (m) in the event of death of any Joint Client, the estate of the deceased Joint Client or the surviving Joint Client(s) shall immediately notify MISL in writing of the relevant death and produce and deliver to MISL true copy of proof of such death and such other documents as MISL may in its absolute discretion require (but MISL is not required to verify the authenticity of such evidence so produced); and
- (n) each of the Joint Clients shall be bound by the Agreement regardless of the arrangement or agreement among the Joint Clients and notwithstanding the Agreement may be invalid or unenforceable against any one or more of the Joint Clients (whether or not the deficiency is known to MISL).

## 30. Single and Continuous Agreement

30.1 The Agreement and all its amendments shall be continuous, and shall cover individually and collectively all Futures Accounts which the Client may from time to time open and maintain with MISL, each order executed by MISL shall be subject to the terms and conditions of the Agreement. The Client hereby acknowledges that all Transactions executed for the Client's account shall be executed by MISL in reliance upon such fact and as if the representations, undertakings and warranties given by the Client to MISL in Clause 16 were repeated before each such Transaction, and that the Parties would not otherwise enter into such Transaction.

## 31. Termination

- 31.1 The Client shall only terminate the Agreement by a valid and effective prior written notice to MISL. The aforesaid prior written notice shall be a valid and effective prior written notice only and only if such notice shall be actually received by MISL and the effective date for termination of the Agreement stated therein shall be at least 7 Business Days after the date of receipt of such notice by MISL. The Agreement shall be terminated by MISL at its discretion and at any time by notice given by MISL to the Client. The termination of the Agreement shall not affect or prejudice: -
- (a) the Liabilities, obligations or indebtedness of the Client existing, arisen or incurred at the time under the Agreement, the Loan Agreement and/or any agreement made with any of the MG Group Companies on or before the termination of the Agreement, including but not limited to the indebtedness, Liabilities or obligations of the Client arising out of or in connection with any open positions or outstanding Transactions at the time of the termination of the Agreement;
  - (b) the Liabilities, obligations or indebtedness of the Client arising out of or in connection with any agreements, warranties, representations, undertakings and indemnities given by the Client under the Agreement, the Loan Agreement and/or any agreement made with any of the MG Group Companies;
  - (c) the rights and powers to close out, transfer or settle all the open positions or outstanding Transactions of the Client, and the rights and powers to take such action or do all such acts and things incidental or in relation to the closing out, transfer or settlement mentioned in this Clause; and
  - (d) the rights and powers to take such action or do all such acts and things incidental or in relation to the termination, conclusion, consolidation, clearing or settlement of all the Client's Liabilities, obligations or indebtedness under the Agreement, or the rights and powers to take such action or do all such acts and things incidental or in relation to the termination of the Agreement.
- 31.2 Upon termination of the Agreement under Clause 31.1, all amounts due or owing by the Client to MISL under the Agreement shall become immediately due and payable. MISL shall cease to have any obligation to effect any Transaction on behalf of the Client in accordance with the provisions of the Agreement, notwithstanding any Instructions from the Client to the contrary.
- 31.3 As soon as practicable after termination of the Agreement, MISL shall have the power to sell, realise, redeem, liquidate or otherwise dispose of all or part of the Client's Commodities, Exchange Contracts or F/O Contracts for such consideration and in such manner as MISL shall in its absolute discretion consider necessary to satisfy first, all costs, charges, fees and expenses (including legal expenses) incurred by MISL in such sale, realization, redemption, dissolution or other disposal and all other monies and sums due or owing and other liabilities accrued or accruing due to MISL and outstanding (whether actual or contingent, present or future or otherwise) under the Agreement and second, all other Liabilities, at the Client's sole risk and cost and without incurring any liability on the part of MISL for any loss or damage incurred by the Client.
- 31.4 Any cash proceeds remaining after satisfaction of all sums specified in Clause 31.3 shall be credited to the Settlement Account.
- 31.5 If there is a debit balance on the Futures Account after application of the sale proceeds pursuant to Clause 31.3, the Client shall immediately pay to MISL an amount equal to such debit balance together with MISL's cost of funding such amount and interest at the rate of five per cent (5%) above the prevailing prime or best lending rate for Hong Kong dollars of Bank of China (Hong Kong) Limited or such other bank as determined by MISL from time to time up to the date of actual receipt of full payment by MISL (after as well as before any judgment).

## 32. **Force Majeure**

- 32.1 Neither of the Parties shall be liable for any loss sustained by the other, directly or indirectly, if either Party is prevented from acting as a direct or indirect result of government restrictions, the imposition of emergency procedures or suspension of trading by any relevant Exchange, Clearing House or Market, civil disorder, acts or threatened acts of terrorism, natural disasters, war, strikes or other circumstances beyond third party's control.

## 33. **Combination and Set-Off**

- 33.1 Notwithstanding anything contained in the Agreement, the Loan Agreement or any other agreement between any of the MG Group Companies and the Client, the Client irrevocably and unconditionally authorizes and directs MISL to, with or without notice, set-off and withhold from and apply the Retained Properties, securities, receivables, moneys or funds held in or for the Futures Account or any other Account with MISL or any of the MG Group Companies against and in whole or partial payment, discharge or satisfaction of any indebtedness, obligations or Liabilities of whatsoever nature (whether primary, collateral, several, joint or in other currencies and whether or not in connection with the Futures Account or any other previous closed Account) owed by the Client to MISL or any one of the MG Group Companies.
- 33.2 Without prejudice to the generality of Clause 33.1, if the Client has more than one Account with the MG Group Companies, any of the MG Group Companies is hereby authorized by the Client to combine or consolidate at any time without notice to the Client all or any of such Accounts and set-off, apply or transfer any of the Retained Properties, moneys, funds, securities, Commodities, properties or assets in any one or more of such Accounts in or towards payment, discharge or satisfaction of any indebtedness, obligations or Liabilities of the Client of whatsoever nature, actual or contingent, primary or collateral, secured or unsecured, joint or several, to any of the MG Group Companies in respect of any other Accounts. Where any such combination, consolidation, set-off or transfer requires the conversion of one currency into another, such conversion shall be calculated at the spot rate of exchange prevailing in such foreign exchange market as any one of the MG Group Companies shall determine to be relevant on the date of the

combination, consolidation, set-off or transfer.

33.3 Subject to the Agreement, all money or other property received by MISL from the Client or from any other person for the account of the Client shall be held by MISL and within a reasonable time from receipt of such money or other property by MISL shall be segregated from MISL's own assets and paid into a segregated company account.

33.4 The Client acknowledges that in respect of any account of MISL or any of the MG Group Companies maintained with any Clearing House, whether or not such account is maintained wholly or partly in respect of any Transaction on behalf of the Client and whether or not money paid by the Client has been paid to such Clearing House, as between MISL or any of the MG Group Companies and the relevant Clearing House, MISL (or any of the MG Group Companies as the case may be) deals as principal.

#### 34. **Authorization**

34.1 The Client irrevocably and unconditionally directs, instructs and authorizes MISL that upon request, direction, instruction or demand of any of the MG Group Companies from time to time, MISL shall do the following acts and things: -

- (a) to sell, purchase, enter into, make, dispose of, deal with, trade, transfer in, transfer out, liquidate, close out, clear or settle all or any Commodities and/or Exchange Contracts and/or F/O Contracts and/or positions in the Futures Account; and
- (b) to sell, purchase, deal with, trade, dispose of, realize, transfer in or out all or any securities, properties or assets in the Futures Account.

34.2 The Client irrevocably and unconditionally directs, authorizes, instructs and agrees that upon request, direction, instruction or demand of any of the MG Group Companies from time to time, MISL shall deliver, transfer, debit, deduct or pay from the Futures Account or any other Client's Account with MISL to any of the MG Group Companies such receivables, moneys or funds as any of the MG Group Companies shall direct or determine from time to time and/or in or towards the total or partial satisfaction, payment or discharge of any moneys, indebtedness, outstanding amounts, obligations or Liabilities incurred, owing, due or payable by or from the Client or the Client Group Company to or in favour of any of the MG Group Companies from time to time.

34.3 The Client agrees and accepts that all the acts, things and matters done or made by MISL pursuant to this Clause 34 shall be and be treated and deemed the acts, things, and matters done or made by the Client, and shall be absolutely binding on the Client in all respects and for all purposes.

#### 35. **Communications, Notice and Services**

35.1 Unless otherwise specified in the Agreement, any notice to be made or given by the Client to MISL under the Agreement shall be in writing.

35.2 Without prejudice to other provisions of the Agreement relating to communication or notice by or from MISL and the right of MISL to use any way or method of communication, any report, confirmation, statements, notice and other communication from MISL to the Client under the Agreement may be delivered personally or sent by post or telex or fax or electronic mail ("E-mail") addressed to the Client at the address or telex number or fax number or E-mail address set out in the Account Opening Form, at its registered office or at such other address or telex number or fax number or E-mail address as may have been notified in writing by the Client to MISL (such notification shall only take effect 24 hours after the actual receipt of the same by MISL). Any such report, confirmation, statements, notice and other communication shall be and be deemed to have been received by the Client (a) if hand delivered, when delivered, (b) if given by post, 24 hours after the same has been posted, or (c) if given by telex or fax or E-mail, at the same time as it is dispatched. The contents of such report, confirmation, statement, notice or communication or statement of account issued by MISL shall be or be deemed correct, accurate and conclusive and no objection thereto shall be made by the Client unless written objection is actually received by MISL within four (4) days after delivery by hand, by telex or fax or E-mail, or by post.

35.3 Without prejudice to the other provisions of the Agreement, any letter, notice, documents or other communication from the Client to MISL shall take effect only on actual receipt and actual notice of the same by MISL.

#### 36. **Time of the Essence**

36.1 Time shall in every respect be of the essence in relation to all Liabilities and obligations of the Client under the Agreement.

#### 37. **Automatic Postponement**

37.1 It is hereby agreed that if any day on which MISL has agreed or obliged to do, take or conduct any matter, action or Transaction (the "Action Date") shall fall on a day which is not a Business Day or shall fall on a day on which typhoon signal No.8 or above or black rainstorm signal is hoisted in Hong Kong at any time between 9:00 a.m. and 5:00 p.m. the Action Date shall automatically be postponed to the next Business Day or such next Business Day on which no typhoon signal No.8 or above or black rainstorm signal is hoisted as aforesaid.

#### 38. **Severability**

38.1 Any provision in the Agreement which is illegal, invalid or unenforceable for any reason in any jurisdiction shall be ineffective only



to the extent of such illegality, invalidity or unenforceability and shall not affect the legality, validity or enforceability of the remaining provisions hereof or the legality, validity or enforceability of such provision in any other jurisdiction. Where, however, the provisions of any applicable law may be waived, they are waived by the Parties hereto to the full extent permitted by such law to the end that the Agreement shall be a valid and binding agreement enforceable in accordance with its terms and conditions.

39. **Assignment**

- 39.1 The Client shall not assign, transfer, alienate, charge, delegate or otherwise dispose of any of its rights, interest, benefits, Liabilities or obligations under the Agreement. MISL may assign or transfer any of its rights and obligations under the Agreement without the prior consent of the Client. Any assignee, transferee or successor of MISL shall have the same interest, rights, benefits, liabilities and remedies as if it were MISL. MISL may delegate and sub-contract the performance of its obligations hereunder as it thinks fit.
- 39.2 Upon MISL assigning and transferring all its rights and obligations under the Agreement to another intermediary (as defined under the SFO) (whether due to a restructuring or transfer of business or otherwise), the Client undertakes to give a written direction in favour of MISL or its associated entity, authorizing MISL or its associated entity to transfer all the Client's Commodities and/or Exchange Contracts and/or F/O Contracts held by MISL or its associated entity to the assignee intermediary, failing which MISL shall terminate the Futures Account in accordance with Clause 31.

40. **Successors and Assigns**

- 40.1 The Agreement shall ensure for the benefit of MISL, its successors and assigns and shall be binding upon the Client's heirs, executors, administrators, personal representatives, successors and assignees, as the case may be.

41. **Miscellaneous Provisions**

- 41.1 The Agreement supersedes all prior engagements, arrangements, agreements and contracts whether oral or in writing whatsoever made by MISL. No warranties or representations express or implied are or have been made or given by MISL or by anybody on its behalf relating to the subject of the Agreement prior to the entering hereof. If any such warranty or representation express or implied has been made the same is withdrawn or deemed to have been withdrawn immediately before MISL entering into the Agreement. However, the Agreement does and will not supersede any prior engagements, arrangements, agreements and contracts whether oral or in writing whatsoever and whether past, present or future made by the Client with or in favour of MISL, and does and will not affect or prejudice any or all the Liabilities, obligations or indebtedness (whether oral or in writing whatsoever and whether past, present or future) of the Client to MISL.
- 41.2 MISL and the Client shall notify each other promptly in writing of any material changes in the information provided under the Agreement or any agreement entered into pursuant to the Agreement or relating to the Futures Account.
- 41.3 MISL shall have absolute rights to amend, delete or substitute any of the terms herein and add new terms to the Agreement. An amendment notice and the revised Agreement will be posted at the "**Important Terms**" column of MISL Website at [www.misl.com.hk](http://www.misl.com.hk). In addition, MISL will notify the Client on such revision. The Client should visit the MISL Website from time to time to obtain the latest Agreement and read the terms thereof. Such amendment, deletion, substitution or addition shall be deemed as effective and incorporated herein (and shall form part of the Agreement) on the date of publication of such amendment notice. The Client may raise written objection within fourteen (14) days after the publication of such amendment notice at the MISL Website. Failing which, it shall be deemed an acceptance of such amendment, deletion, substitution and addition.
- 41.4 Any complaint about the performance of MISL under the Agreement shall be made in writing and addressed to the Complaints Officer c/o MISL, who will investigate the complaint. The Client agrees to provide the Complaints Officer with all such information as the Complaints Officer may reasonably request to enable the Complaints Officer to investigate the complaint.
- 41.5 The English version and the Chinese version of this Agreement are of the same legal effect. However, in the event of any inconsistency between the English version and the Chinese version, the English version shall prevail.
- 41.6 The Client undertakes and acknowledges that the Client shall at all times notify MISL in writing, and sign (the signature shall conform to the specimen signature provided to MISL in the Account Opening Form), of any change of the Client's particulars (where the Client shall consist of any individual, the Client's personal particulars), address(es), telephone number(s), facsimile number(s) and/or email address(es).
- 41.7 Except as provided in the Agreement, the rights, powers, remedies and privileges in the Agreement are cumulative and not exclusive of any right, powers, remedies and privileges provided by law.

42. **Submission to Rules and Regulations**

- 42.1 The Agreement shall be subject to the SFO where applicable or applicable act, ordinance or law promulgated by Foreign Regulators.

- 42.2 Every Transaction made for or on behalf of the Client in Hong Kong and duly concluded through and recognized by HKFE is subject to the relevant provisions of the constitution, rules, regulations, by-laws, customs and usages of HKFE, HKCC and HK-DCASS, and of the laws of Hong Kong.
- 42.3 Every Transactions made for or on behalf of the Client in any Foreign Jurisdiction and duly concluded through and recognized by Foreign Futures Exchange is subject to the relevant provisions of the constitution, rules, regulations, by-laws, customs and usages of the relevant Foreign Futures Exchange, the relevant Clearing House and the relevant Clearing System, and of the laws of such territory or country.
- 42.4 In respect of Transactions on HKFE: -
- (a) the rules and regulations of the HKFE, HKCC and HK-DCASS, in particular those HKFE Rules which relate to trading and settlement, shall be binding on the Client and MISL and the rules and regulations of the HKFE, HKCC and HK-DCASS shall prevail in the event of any conflict between the said rules and regulations and the Agreement;
  - (b) every Transaction executed on the HKFE will be subject to a transaction charge, the cost of which shall be borne by the Client;
  - (c) every Transaction executed on the HKFE will be subject to other levies the HKFE may impose from time to time; and
  - (d) MISL is authorized to collect the appropriate transaction charge or other levies in paragraphs (b) and (c) above in accordance with the HKFE Rules from time to time.
- 42.5 In respect of Transactions on Foreign Futures Exchange: -
- (a) the Foreign FE Rules, the rules and regulations of the relevant Clearing House and Clearing System, in particular those rules which relate to trading and settlement, shall be binding on the Client and MISL and the Foreign FE Rules, the rules and regulations of the relevant Clearing House and Clearing System shall prevail in the event of any conflict between the said rules and regulations and the Agreement;
  - (b) every Transaction executed on the Foreign Futures Exchange will be subject to a transaction charge, the cost of which shall be borne by the Client;
  - (c) every Transaction executed on the Foreign Futures Exchange will be subject to other levies the Foreign Futures Exchange may impose from time to time; and
  - (d) MISL is authorized to collect the appropriate transaction charge or other levies in paragraphs (b) and (c) above in accordance with the Foreign FE Rules from time to time.
43. **Confirmation**
- 43.1 The Client confirms that it has read the Agreement and that the contents of the Agreement have been fully explained to the Client in a language which the Client understands, and that the Client accepts the Agreement. The Client acknowledges that, in the event of any discrepancy between the English and Chinese text of the Agreement, the English version shall prevail.
44. **Waiver**
- 44.1 No failure or delay on MISL's part to exercise any power, right or remedy which MISL may have shall operate as a waiver thereof.
45. **Governing Law and Jurisdiction**
- 45.1 The Agreement and all rights, obligations and liabilities hereunder shall be governed by and construed in accordance with the laws of Hong Kong. The Client and MISL hereby irrevocably submit to exclusive jurisdiction of the courts of Hong Kong as regards any claim, matter or proceedings arising under this Agreement. The Client agrees that the rulings, orders, decisions and/or judgments of the courts of Hong Kong are final and conclusive.
- 45.2 The Client agrees that MISL is entitled to enforce and execute the judgment of the courts of Hong Kong in any jurisdiction as it thinks fit. The Client hereby further agrees not to oppose in any legal proceedings arising under this Agreement (including the legal proceedings in other jurisdictions for enforcement of judgment) and not to appeal the judgment of the courts of Hong Kong or other jurisdiction.
- 45.3 The Client agrees that any writ, summons, order, judgment or other document shall be and be deemed duly and sufficiently served on the Client if addressed to the Client and left at or sent by post to the Client's registered office or the address of the Client set out in the Account Opening Form or last known to MISL. The foregoing shall not limit MISL's right to serve process on the Client in any manner permitted by laws of the relevant jurisdiction.

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## SECTION VIII – RISK DISCLOSURE STATEMENTS

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### **RISK OF SECURITIES TRADING**

The prices of securities fluctuate, sometimes dramatically. The price of a security may move up or down, and may become valueless. It is as likely that losses will be incurred rather than profit made as a result of buying and selling securities.

### **FOREIGN EXCHANGE RISK INVOLVED IN IPO AND PLACING**

If the Offer Securities (as defined in Section II) are denominated in Foreign Currency (as defined in Section II) or in both Hong Kong Dollar and Foreign Currency, investor are exposed to exchange rate risk and may suffer loss as a result of the fluctuations in exchange rate.

### **RISK OF TRADING FUTURES AND OPTIONS**

The risk of loss in trading futures contracts or options is substantial. In some circumstances, you may sustain losses in excess of your initial margin funds. Placing contingent orders, such as "stop-loss" or "stop-limit" orders, will not necessarily avoid loss. Market conditions may make it impossible to execute such orders. You may be called upon at short notice to deposit additional margin funds. If the required funds are not provided within the prescribed time, your position may be liquidated. You will remain liable for any resulting deficit in your account. You should therefore study and understand futures contracts and options before you trade and carefully consider whether such trading is suitable in the light of your own financial position and investment objectives. If you trade options you should inform yourself of exercise and expiration procedures and your rights and obligations upon exercise or expiry.

This brief statement does not disclose all of the risks and other significant aspects of trading in futures and options. In light of the risks, you should undertake such transactions only if you understand the nature of the contracts (and contractual relationships) into which you are entering and the extent of your exposure to risk. Trading in futures and options is not suitable for many members of the public. You should carefully consider whether trading is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances.

You should ask the licensed or registered person about the terms and conditions of the specific futures or options which you are trading and associated obligations (e.g. the circumstances under which you may become obliged to make or take delivery of the underlying interest of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise). Under certain circumstances the

specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

Market conditions (e.g. illiquidity) and/or the operation of the rules of certain markets (e.g. the suspension of trading in any contract or contract month because of price limits or "circuit breakers") may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions. If you have sold options, this may increase the risk of loss.

Normal pricing relationships between the underlying interest and the futures, and the underlying interest and the option may not exist. This can occur when, for example, the futures contract underlying the option is subject to price limits while the option is not. The absence of an underlying reference price may make it difficult to judge "fair value".

You should familiarize yourself with the protections given to money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some jurisdictions, property which had been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the licensed or registered person for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

The profit or loss in transactions in foreign currency-denominated contracts (whether they are traded in your own or another jurisdiction) will be affected by fluctuations in currency rates where there is a need to convert from the currency denomination of the contract to another currency.

Electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or the licensed or registered person. Such limits may vary: you should ask the licensed or registered person's deal for details in this respect.

Trading on an electronic trading system may differ from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

In some jurisdictions, and only then in restricted circumstances, the licensed or registered person is permitted to effect off-exchange transactions. The licensed or registered person with which you deal may be acting as your counterparty to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize with applicable rules and attendant risks.

#### **In relation to Futures:-**

- (a) Effect of "Leverage" or "Gearing"
  - (i) Transactions in futures carry a high degree of risk. The amount of initial futures margin is small relative to the value of the futures contract so that transactions are "leveraged" or "geared". A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit: this may work against you as well as for you. You may sustain a total loss of initial futures margin funds and any additional funds deposited with the licensed or registered person to maintain your position. If the market moves against your position or futures margin levels are increased, you may be called upon to pay substantial additional funds on short notice to maintain your position. If you fail to comply with a request for additional funds within the time prescribed, your position may be liquidated at a loss and you will be liable for any resulting deficit.
- (b) Risk-reducing orders or strategies
  - (i) The placing of certain orders (e.g. "stop-loss" orders, or "stop-limit" orders) which are intended to limit losses to certain amounts may not be effective because market conditions may make it impossible to execute such orders. Strategies using combinations of positions, such as "spread" and "straddle" positions may be as risky as taking simple "long" or "short" positions.

#### **In relation to Options: -**

- (a) Variable degree of risk
  - (i) Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (i.e. put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.
  - (ii) The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a futures contract, the purchaser will acquire a futures position with associated liabilities for futures margin. If the purchased options expire worthless, you will suffer a total loss of your investment which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.
  - (iii) Selling ("writing" or "granting") an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will

be liable for additional futures margin to maintain the position if the market moves unfavourably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is on a futures contract, the seller will acquire a position in a futures contract with associated liabilities for futures margin. If the option is "covered" by the seller holding a corresponding position in the underlying interest or a futures contract or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

- (iv) Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for futures margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

## **RISK OF TRADING GROWTH ENTERPRISE MARKET STOCKS**

Growth Enterprise Market (GEM) stocks involve a high investment risk. In particular, companies may list on GEM with neither a track record of profitability nor any obligation to forecast future profitability. GEM stocks may be very volatile and illiquid.

You should make the decision to invest only after due and careful consideration. The greater risk profile and other characteristics of GEM mean that it is a market more suited to professional and other sophisticated investors.

Current information on GEM stocks may only be found on the internet website operated by The Stock Exchange of Hong Kong Limited. GEM Companies are usually not required to issue paid announcements in gazetted newspapers.

You should seek independent professional advice if you are uncertain of or have not understood any aspect of this risk disclosure statement or the nature and risks involved in trading of GEM stocks.

## **RISKS INVOLVED IN TRADING CALLABLE BULL/BEAR CONTRACTS ("CBBC")**

### **(a) Mandatory call**

CBBC are not suitable for all types of investors and investors should consider their risk appetite prior to trading. In any case, one should not trade in CBBC unless he/she understands the nature of the product and is prepared to lose the total amount invested since a CBBC will be called by the issuer when the price of the underlying asset hits the Call Price and trading in that CBBC will expire early. Payoff for Category N CBBC will be zero when they expire early. When Category R CBBC expire early the holder may receive a small amount of Residual Value payment, but there may be no Residual Value payment in adverse situations. Brokers may charge their clients a service fee for the collection of the Residual Value payment from the respective issuers.

In general, the larger the buffer between the Call Price and the Spot Price of the underlying asset, the lower the probability of the CBBC being called since the underlying asset of that CBBC would have to experience a larger movement in the price before the CBBC will be called. However at the same time, the larger the buffer, the lower the leverage effect will be.

Once the CBBC is called, even though the underlying asset may bounce back in the right direction, the CBBC which has been called will not be revived and investors will not be able to profit from the bounce-back.

Besides, the Mandatory Call Event (MCE) of a CBBC with overseas assets as underlying may be triggered outside the Exchange's trading hours.

### **(b) Gearing effects**

Since a CBBC is a leveraged product, the percentage change in the price of a CBBC is greater compared with that of the underlying asset. Investors may suffer higher losses in percentage terms if they expect the price of the underlying asset to move one way but it moves in the opposite direction.

### **(c) Limited life**

A CBBC has a limited life, as denoted by the fixed expiry date, with a lifespan of 3 months to 5 years. The life of a CBBC may be shorter if called before the fixed expiry date. The price of a CBBC fluctuates with the changes in the price of the underlying asset from time to time and may become worthless after expiry and in certain cases, even before the normal expiry if the CBBC has been called early.

### **(d) Movement with underlying asset**

Although the price of a CBBC tends to follow closely the price of its underlying asset, but in some situations it may not (i.e. delta may not always be close to one). Prices of CBBC are affected by a number of factors, including its own demand and supply, funding costs and time to expiry. Moreover, the delta for a particular CBBC may not always be close to one, in particular when the price of the underlying asset is close to the Call Price.

### **(e) Liquidity**

Although CBBC have liquidity providers, there is no guarantee that investors will be able to buy/sell CBBC at their target prices any time they wish.

### **(f) Funding costs**

The issue price of a CBBC includes funding costs and issuers will specify the formula for calculating the funding costs of their



CBBC at launch in the listing documents. Since the funding costs for each CBBC issue may be different as it includes the issuer's financing /stock borrowing costs after adjustment for expected ordinary dividend of the stock (if the underlying is a Hong Kong stock since the CBBC will not be adjusted for ordinary dividend) plus the issuer's profit margin, investors are advised to compare the funding costs of different issuers for CBBC with similar underlying assets and terms. The funding costs will gradually be reduced over time along with the CBBC in the secondary market as the CBBC moves towards expiry. In general, the longer the duration of the CBBC, the higher the total funding costs will be since it is similar to investors borrowing for a longer tenure to trade in the underlying asset. When a CBBC is called, the CBBC holders (investors) will lose the funding cost for the full period since the funding cost is built into the CBBC price upfront at launch even though with the MCE, the actual period of funding for the CBBC turns out to be shorter. In any case, investors should note that the funding costs of a CBBC after launch may vary during its life and the Liquidity Provider is not obliged to provide a quote for the CBBC based on the theoretical calculation of the funding costs for that CBBC at launch.

(g) Trading of CBBC close to Call Price

When the underlying asset is trading close to the Call Price, the price of a CBBC may be more volatile with wider spreads and uncertain liquidity. CBBC may be called at any time and trading will terminate as a result.

However, the trade inputted by the investor may still be executed and confirmed by the investors after the MCE since there may be some time lapse between the MCE time and suspension of the CBBC trading. Any trades executed after the MCE (i.e. Post MCE Trades) will not be recognized and will be cancelled. Therefore, investors should be aware of the risk and ought to apply special caution when the CBBC is trading close to the Call Price. Issuers will announce the exact call time within 1 hour after the trigger of MCE, and HKEx will also send the list of Post MCE Trades to the relevant Exchange Participants (brokers) who in turn will inform their clients accordingly. For avoidance of doubt on whether their trades have been cancelled (i.e. whether they are Post MCE Trades), the investors may check with their brokers.

(h) CBBC with overseas underlying assets

Investors trading CBBC with overseas underlying assets are exposed to an exchange rate risk as the price and cash settlement amount of the CBBC are converted from a foreign currency into Hong Kong dollars. Exchange rates between currencies are determined by forces of supply and demand in the foreign exchange markets which are affected by various factors.

Besides, CBBC issued on overseas underlying assets may be called outside the Exchange's trading hours. In such case, the CBBC will be terminated from trading on the Exchange in the next trading session or soon after the issuer has notified the Exchange about the occurrence of the MCE. There will be no automatic suspension of the CBBC by AMS/3. For Category R CBBC, valuation of the residual value will be determined on the valuation day according to the terms in the listing documents

## **RISKS INVOLVED IN TRADING DERIVATIVE WARRANTS**

Derivative warrant trading involves high risks and is not suitable for every investor. Investors should understand and consider the following risks before trading in derivative warrants:

(a) Issuer Risk

Derivative warrant holders are unsecured creditors of an issuer and have no preferential claim to any assets an issuer may hold. Therefore, investors are exposed to credit risk in respect of the issuer.

(b) Gearing Risk

Although derivative warrants may cost a fraction of the price of the underlying assets, a derivative warrant may change in value more or less rapidly than the underlying asset. In the worst case the value of the derivative warrants falls to zero and holders lose their entire purchase price.

(c) Limited Life

Unlike stocks, derivative warrants have an expiry date and therefore a limited life. Unless the derivative warrants are in-the-money, they become worthless at expiration.

(d) Time Decay

One should be aware that other factors being equal the value of derivative warrants will decrease over time. Therefore, derivative warrants should never be viewed as products that are bought and held as long term investments.

(e) Volatility

Other factors being equal an increase in the volatility of the underlying asset should lead to a higher warrant price and a decrease in volatility lead to a lower derivative warrant price.

(f) Market Forces

In addition to the basic factors that determine the theoretical price of a derivative warrant, derivative warrant prices are also affected by all other prevailing market forces including the demand for and supply of the derivative warrants. Supply and demand forces may be greatest when a derivative warrant issue is almost sold out and when issuers make further issues of an existing derivative warrant issue.

## **RISKS INVOLVED IN TRADING EXCHANGE TRADED FUNDS (“ETFs”)**

### **(a) Market risk**

ETFs are typically designed to track the performance of certain indices, market sectors, or groups of assets such as stocks, bonds, or commodities. ETF managers may use different strategies to achieve this goal, but in general they do not have the discretion to take defensive positions in declining markets. Investors must be prepared to bear the risk of loss and volatility associated with the underlying index/assets.

### **(b) Tracking errors**

Tracking errors refer to the disparity in performance between an ETF and its underlying index/assets. Tracking errors can arise due to factors such as the impact of transaction fees and expenses incurred to the ETF, changes in composition of the underlying index/assets, and the ETF manager’s replication strategy. (The common replication strategies include full replication/representative sampling and synthetic replication which are discussed in more detail below.)

### **(c) Trading at discount or premium**

An ETF may be traded at a discount or premium to its Net Asset Value (NAV). This price discrepancy is caused by supply and demand factors, and may be particularly likely to emerge during periods of high market volatility and uncertainty. This phenomenon may also be observed for ETFs tracking specific markets or sectors that are subject to direct investment restrictions.

### **(d) Foreign exchange risk**

Investors trading ETFs with underlying assets not denominated in Hong Kong dollars are also exposed to exchange rate risk. Currency rate fluctuations can adversely affect the underlying asset value, also affecting the ETF price.

### **(e) Liquidity risk**

Securities Market Makers (SMMs) are Exchange Participants that provide liquidity to facilitate trading in ETFs. Although most ETFs are supported by one or more SMMs, there is no assurance that active trading will be maintained. In the event that the SMMs default or cease to fulfill their role, investors may not be able to buy or sell the product.

Counterparty risk involved in ETFs with different replication strategies:

### **(a) Full replication and representative sampling strategies**

An ETF using a full replication strategy generally aims to invest in all constituent stocks/assets in the same weightings as its benchmark. ETFs adopting a representative sampling strategy will invest in some, but not all of the relevant constituent stocks/assets. For ETFs that invest directly in the underlying assets rather than through synthetic instruments issued by third parties, counterparty risk tends to be less of concern.

### **(b) Synthetic replication strategies**

ETFs utilizing a synthetic replication strategy use swaps or other derivative instruments to gain exposure to a benchmark. Currently, synthetic replication ETFs can be further categorized into two forms:

#### **(i) Swap-based ETFs**

Total return swaps allow ETF managers to replicate the benchmark performance of ETFs without purchasing the underlying assets. (total return swaps)

Swap-based ETFs are exposed to counterparty risk of the swap dealers and may suffer losses if such dealers default or fail to honor their contractual commitments.

#### **(ii) Derivative embedded ETFs**

ETF managers may also use other derivative instruments to synthetically replicate the economic benefit of the relevant benchmark. The derivative instruments may be issued by one or multiple issuers.

Derivative embedded ETFs are subject to counterparty risk of the derivative instruments’ issuers and may suffer losses if such issuers default or fail to honour their contractual commitments.

Even where collateral is obtained by an ETF, it is subject to the collateral provider fulfilling its obligations. There is a further risk that when the right against the collateral is exercised, the market value of the collateral could be substantially less than the amount secured resulting in significant loss to the ETF.

It is important that investors understand and critically assess the implications arising due to different ETF structures and characteristics.

## **RISKS OF CLIENT ASSETS RECEIVED OR HELD OUTSIDE HONG KONG**

Client assets received or held by the licensed or registered person outside Hong Kong are subject to the applicable laws and regulations of the relevant overseas jurisdiction which may be different from the Securities and Futures Ordinance (Cap.571 of the Laws of Hong Kong) and the rules made thereunder. Consequently, such client assets may not enjoy the same protection as that conferred on client assets received or held in Hong Kong.

## **RISK OF PROVIDING AN AUTHORITY TO REPLEDGE YOUR SECURITIES COLLATERAL ETC.**

There is risk if you provide the licensed or registered person with an authority that allows it to apply your securities or securities collateral pursuant to a securities borrowing and lending agreement, repledge your securities collateral for financial accommodation or deposit your securities collateral as collateral for the discharge and satisfaction of its settlement obligations and liabilities.

If your securities or securities collateral are received or held by the licensed or registered person in Hong Kong, the above arrangement is allowed only if you consent in writing. Moreover, unless you are a professional investor, your authority must specify the period for which it is current and be limited to not more than twelve (12) months. If you are a professional investor, these restrictions do not apply.

Additionally, your authority may be deemed to be renewed (i.e. without your written consent) if the licensed or registered person issues you a reminder at least fourteen (14) days prior to the expiry of the authority, and you do not object to such deemed renewal before the expiry date of your then existing authority.

You are not required by any law to sign these authorities. But an authority may be required by licensed or registered persons, for example, to facilitate margin lending to you or to allow your securities or securities collateral to be lent to or deposited as collateral with third parties. The licensed or registered person should explain to you the purposes for which one of these authorities is to be used.

If you sign one of these authorities and your securities or securities collateral are lent to or deposited with third parties, those third parties will have a lien or charge on your securities or securities collateral. Although the licensed or registered person is responsible to you for securities or securities collateral lent or deposited under your authority, a default by it could result in the loss of your securities or securities collateral.

A cash account not involving securities borrowing and lending is available from most licensed or registered persons. If you do not require margin facilities or do not wish your securities or securities collateral to be lent or pledged, do not sign the above authorities and ask to open this type of cash account.

#### **RISK OF PROVIDING AN AUTHORITY TO HOLD MAIL OR TO DIRECT MAIL TO THIRD PARTIES**

If you provide the licensed or registered person with an authority to hold mail or to direct mail to third parties, it is important for you to promptly collect in person all contract notes and statements of your account and review them in detail to ensure that any anomalies or mistakes can be detected in a timely fashion.

#### **RISK OF MARGIN TRADING**

The risk of loss in financing a transaction by deposit of collateral is significant. You may sustain losses in excess of your cash and any other assets deposited as collateral with the licensed or registered person.

Market conditions may make it impossible to execute contingent orders, such as "stop-loss" or "stop-limit" orders. You may be called upon at short notice to make additional margin deposits or interest payments. If the required margin deposits or interest payments are not made within the prescribed time, your collateral may be liquidated without your consent.

Moreover, you will remain liable for any resulting deficit in your account and interest charged on your account. You should therefore carefully consider whether such a financing arrangement is suitable in light of your own financial position and investment objectives.

#### **RISK OF TRADING NASDAQ-AMEX SECURITIES AT THE STOCK EXCHANGE OF HONG KONG LIMITED**

The securities under the Nasdaq-Amex Pilot Program ("PP") are aimed at sophisticated investors. You should consult the licensed or registered person and become familiarized with the PP before trading in the PP securities. You should be aware that the PP securities are not regulated as a primary or secondary listing on the Main Board or the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited.

#### **RISK OF INTERNET FACILITIES**

Trading on an electronic trading system may differ from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

You acknowledge and bear the risk that messages sending over the internet may be delayed due to internet traffic jam or other reasons. The licensed or registered person shall not be responsible for any consequences of these delays, including without limitation delays in the transmission of instructions/orders to the place of execution or the transmission of reports of execution to you due to any failure of communication facilities, or any other delays beyond the reasonable control of the licensed or registered person. Communications over the internet may be subject to transmission blackout, interruption, interception, or incorrect data transmission due to the public nature of the internet or other reasons that are beyond the licensed or registered person's control. Messages sent over the internet cannot be guaranteed to be completely secure. You shall be aware of and bear the risk of any delay, loss, diversion, alteration, corruption or virus infection of any messages/instructions either sent to or received from the licensed or registered person's systems. The licensed or registered person shall not be responsible for any losses or damages incurred or suffered as a result thereof.

#### **RISK OF E-STATEMENT SERVICE**

Access to the internet or other electronic medium may be limited or unavailable during periods of peak demand, market volatility, systems upgrades or maintenance or for other reasons. Any communication through the internet or other electronic medium may be subject to interruption, transmission blackout, and delayed transmission due to unpredictable traffic congestion and other reasons beyond the licensed or registered person's control. Internet is, due to technical limitation, an inherently unreliable medium of communication. As a result of such unreliability, there may be delays in the transmission and receipt of information. The statements may not be sent to the designed email address at all. Moreover, communications and personal data may be accessed by unauthorized third parties, and there are risks of misunderstanding or error in any communication and that such risks shall be absolutely borne by you.

## **RISK OF STOCK OPTIONS TRADING**

You acknowledge that due to the volatile nature of securities markets, the purchase of options over securities involves a high degree of risk.

### **Warning to Option Holders**

Some options may only be exercised on an expiry day (European-style exercise) and other options may be exercised at any time before expiration (American-style exercise). You understand that upon exercise some options require delivery and receipt of the underlying security and that other options require a cash payment.

An option is a wasting asset and there is a possibility that as an option holder you may suffer the loss of the total premium paid for the option. You acknowledge that, as an option holder, in order to realize a profit it will be necessary to either exercise the option or close the long option position in the market. Under some circumstances it may be difficult to trade the option due to lack of liquidity in the market. You acknowledge that the licensed or registered person has no obligation either to exercise a valuable option in the absence of your instruction or to give to you prior notice of the expiration date of the option.

### **Warning to Option Writers**

As a writer of an option you may be required to pay additional margin at any time. You acknowledge that as an option writer, unlike an option holder, it may be liable for unlimited losses based on the rise or fall of the price of the underlying security and its gains are limited to the option premium.

Additionally, writers of American-style call (Put) options may be required at any time before expiry to deliver (pay for) the underlying securities to the full value of the strike price multiplied by the number of underlying securities. You recognize that this obligation may be wholly disproportionate to the value of premium received at the time the options were written and may be required at short notice.

The risk of loss in trading options is substantial. In some circumstances, you may sustain losses in excess of your initial margin funds. Placing contingent orders, such as "stop-loss" or "stop-limit" orders, will not necessarily avoid loss. Market conditions may make it impossible to execute such orders. You may be called upon at short notice to deposit additional margin funds. If the required funds are not provided within the prescribed time, your position may be liquidated. You will remain liable for any resulting deficit in your account. You should therefore study and understand options before you trade and carefully consider whether such trading is suitable in the light of your own financial position and investment objectives. If you trade options you should inform yourself of exercise and expiration procedures and your rights and obligations upon exercise or expiry.

You should ask the licensed or registered person about the terms and conditions of the options which you are trading and associated obligations (e.g. expiration dates and restrictions on the time for exercise). Under certain circumstances the specifications of outstanding contracts (including the exercise price of an option) may be modified by the exchange or clearing house to reflect changes in the underlying interest.

Market conditions (e.g. illiquidity) and/or the operation of the rules of certain markets (e.g. the suspension of trading in any contract or contract month because of price limits or "circuit breakers") may increase the risk of loss by making it difficult or impossible to effect transactions or liquidate/offset positions. If you have sold options, this may increase the risk of loss.

Normal pricing relationships between the underlying interest and the option may not exist. The absence of an underlying reference price may make it difficult to judge "fair value".

You should familiarize yourself with the protections given to money or other property you deposit for domestic and foreign transactions, particularly in the event of a firm insolvency or bankruptcy. The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some jurisdictions, property which had been specifically identifiable as your own will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

Before you begin to trade, you should obtain a clear explanation of all commission, fees and other charges for which you will be liable. These charges will affect your net profit (if any) or increase your loss.

Transactions on markets in other jurisdictions, including markets formally linked to a domestic market, may expose you to additional risk. Such markets may be subject to regulation which may offer different or diminished investor protection. Before you trade you should enquire about any rules relevant to your particular transactions. Your local regulatory authority will be unable to compel the enforcement of the rules of regulatory authorities or markets in other jurisdictions where your transactions have been effected. You should ask the licensed or registered person for details about the types of redress available in both your home jurisdiction and other relevant jurisdictions before you start to trade.

Electronic trading facilities are supported by computer-based component systems for the order-routing, execution, matching, registration or clearing of trades. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Your ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or the licensed or registered person. Such limits may vary: you should ask the licensed or registered person's deal for details in this respect.

Trading on an electronic trading system may differ from trading on other electronic trading systems. If you undertake transactions on an electronic trading system, you will be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that your order is either not executed according to your instructions or is not executed at all.

In some jurisdictions, and only then in restricted circumstances, the licensed or registered person is permitted to effect off-exchange transactions. The licensed or registered person with which your deal may be acting as your counterparty to the transaction. It may be difficult or impossible to liquidate an existing position, to assess the value, to determine a fair price or to assess the exposure to risk. For these reasons, these transactions may involve increased risks. Off-exchange transactions may be less regulated or subject to a separate regulatory regime. Before you undertake such transactions, you should familiarize with applicable rules and attendant risks.

Transactions in options carry a high degree of risk. Purchasers and sellers of options should familiarize themselves with the type of option (i.e. put or call) which they contemplate trading and the associated risks. You should calculate the extent to which the value of the options must increase for your position to become profitable, taking into account the premium and all transaction costs.

The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the purchased options expire worthless, you will suffer a total loss of your investment which will consist of the option premium plus transaction costs. If you are contemplating purchasing deep-out-of-the-money options, you should be aware that the chance of such options becoming profitable ordinarily is remote.

Selling ("writing" or "granting") an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavourably. The seller will also be exposed to the risk of the purchaser exercising the option and the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest. If the option is "covered" by the seller holding a corresponding position in the underlying interest or a futures contract or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited.

Certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.



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## SECTION IX – STANDING AUTHORITY

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### **Part A – Standing Authority (Client Money)**

1. In this Part A, all expressions defined in the terms and conditions in Section I headed "Terms and Conditions for Securities Cash Trading" and Section VII headed "Terms and Conditions for Futures Trading" shall, where applicable, have the same meanings when used herein.
2. Pursuant to the Securities and Futures (Client Money) Rules (Cap. 571I of the Laws of Hong Kong), the Client may authorize and/or instruct MISL and any of the MG Group Companies to deal, from time to time, with the money received from him/her, received on his/her behalf or held on his/her behalf, in the following manner: -

To transfer the money from the Securities Account and pay to the Futures Account or vice-versa for the purpose of trading or meeting the settlement or Margin Requirements (if applicable).

3. The Standing Authority given by the Client under this Part A shall remain valid for twelve (12) months commencing from the date of the said Standing Authority unless revoked by MG Group Companies giving not less than two (2) Business Days' prior notice in writing to Client, and/or Client giving not less than seven (7) Business Days' prior notice in writing to MG Group Companies in accordance with the Securities and Futures (Client Money) Rules. The Standing Authority shall be deemed to have been renewed for further periods of twelve (12) months upon expiry of each period of twelve (12) months on the same terms and conditions as specified in this Part A if MG Group Companies give the Client a written notice at least fourteen (14) days prior to the expiry date, unless such renewal of standing authority is objected by the Client in accordance with the Securities and Futures (Client Money) Rules.
4. The Client undertakes to indemnify MISL and/or any of the MG Group Companies against all costs, expenses, liabilities, losses or damages arising out of or suffered by MISL and/or any of the MG Group Companies as a result of their acting in accordance with the Standing Authority given by the Client under this Part A.

### **Part B – Standing Authority (Client Securities)**

1. In this Part B, all expressions defined in the terms and conditions in Section III headed "Terms and Conditions for Securities Margin Trading" and "Terms and Conditions for Stock Options Trading" shall have the same meanings when used herein. All references to securities collateral in this Part shall include Margin as defined in Section IV headed "Terms and Conditions for Stock Options Trading".
2. Pursuant to the Securities and Futures (Client Securities) Rules (Cap. 571H of the Laws of Hong Kong), the Client may authorize and/or instruct MISL to deal, from time to time, with the Securities and/or securities collateral received or held on his/her behalf in one or more of the following ways: -
  - (a) To apply any of the Securities or securities collateral pursuant to the Loan Agreement;
  - (b) To deposit any of the securities collateral with an authorized financial institution as collateral for financial accommodation provided to MISL;
  - (c) To deposit any of the securities collateral with any clearing house recognized by the SFC or another intermediary licensed or registered for dealing in Securities as collateral for the discharge and satisfaction of the Client's settlement obligations and Liabilities towards MISL;
  - (d) To deposit the Securities or securities collateral with the SEOCH as SEOCH Collateral in respect of Exchange Traded Options Business resulting from the Client's Instructions to MISL; and
  - (e) To treat and deal with the Securities and securities collateral in such manners as MISL consider appropriate taking into account any applicable legal and regulatory requirements from time to time.
3. The Client acknowledges, and confirms having been informed by MISL, that MISL has the practice of repledging the Client's Securities and securities collateral.
4. The Standing Authority given by the Client under this Part B shall remain valid for twelve (12) months commencing from the date of the said Standing Authority unless revoked by MISL giving not less than two (2) Business Days' prior notice in writing to Client, and/or Client giving not less than seven (7) Business Days' prior notice in writing to MISL in accordance with the Securities and Futures (Client Securities) Rules. The Standing Authority shall be deemed to have been renewed for further periods of twelve (12) months upon expiry of each period of twelve (12) months on the same terms and conditions as specified in this Part B if MISL gives the Client a written notice at least fourteen (14) days prior to the expiry date, unless such renewal of standing authority is objected by the Client in accordance with the Securities and Futures (Client Securities) Rules.

5. The Client undertakes to indemnify MISL against all costs, expenses, liabilities, losses or damages arising out of or suffered by MISL and/or any of the MG Group Companies as a result of their acting in accordance with the Standing Authority given by the Client under this Part B.

Unless otherwise defined, all the terms used in this standing authority shall have the same meaning as in the Securities & Futures Ordinance (including Chapter 571I) as amended from time to time. Segregated account(s) includes any account(s) designated as client account(s) established and maintained in or outside Hong Kong.

This standing authority is to authorize MISL to:-

1. combine or consolidate any or all segregated accounts maintained by MISL and MISL may transfer any sum of Monies to and between such segregated accounts to satisfy my/our obligation(s) or liabilities to MISL, whether such obligations and liabilities are actual, contingent, primary or collateral, secured or unsecured, or joint or several; and
2. transfer any sum of Monies interchangeably between any of the segregated accounts maintained at any time by MISL.

MISL may do any of the above-mentioned actions without giving me/us notice. Also, this standing authority is given to MISL:-

1. in consideration of its agreeing to continue to maintain securities cash and/or futures trading account(s) for me/us; and
2. without prejudice to other authorities or rights may have in relations to dealing in Monies in the segregated accounts.

In this Section IX headed "Standing Authority" as from time to time amended and supplemented.

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## SECTION X - TERMS AND CONDITIONS FOR LOAN AND SECURITY

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The provision or grant of Credit Facilities by the Lender to the Client for conducting Transactions with financing by the Credit Facilities in accordance with the Agreement shall be subject to and upon these Terms.

### 1. **Definitions**

1.1 In these Terms, unless redefined herein or the context requires otherwise, all expressions defined in Section I, Section II, Section III, Section IV and Section VII shall, where applicable, have the same meanings when used herein.

1.2 In these Terms, the following expressions, unless the context requires otherwise, shall have the following meanings respectively :-

"**Accounts**" means (a) the Securities Account, Margin Account, Futures Account and/or (b) all accounts for transaction, purchase, investment, sale, exchange, acquisition, disposal, holding, deposit, transfer, making, entering, clearing, settlement, trading or dealing of, with or in all kinds of Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts, and/or (c) all other account(s) of whatsoever nature now or in future opened and maintained in the name of the Client with MISL and/or any of the MG Group Companies, and "Account" means each or any one of them;

"**Account Opening Form**" means the Account Opening Form as defined in Section I, Section III and/or Section VII, as the case may be;

"**Agreement**" means the Agreement as defined in Section I, Section II, Section III, Section IV and/or Section VII, as the case may be;

"**MISL Financed Securities**" means (a) Securities purchased, invested, sold, exchanged, acquired, disposed, held, transferred, made, entered, cleared, settled, traded or dealt with, of or in by MISL on behalf of the Client, and (b) the moneys or funds for the margins (initial, maintenance or additional) or adjustments (variation or otherwise) of, or for the entire or partial payment of the transaction, purchase, investment, sale, exchange, acquisition, disposal, deposit, holding, transfer, making, entering, clearing, settlement, trading or dealing in, of or with such Securities, which (i.e. such moneys or funds) are partially or entirely financed or supported by MISL directly or indirectly;

"**MISL**" means Marigold International Securities Limited, a company incorporated under the laws of Hong Kong (SFC-CE Number: AUQ298) and its successors and assigns;

"**MG Group Companies**" means MISL, MG Asset Management Limited, MG Immigration Consultant Limited and such other company as MISL may from time to time add and notify the Client;

"**MG Asset**" means MG Asset Management Limited, a company incorporated under the laws of Hong Kong (SFC-CE Number: BBT933) and its successors and assigns;

"**MISL Trading Agent**" means "MISL Trading Agent" as defined in Section I;

"**Charge**" shall have the meaning as ascribed to and defined in Clause 6.1;

"**Clearing House**" means the Clearing House as defined in Section I and/or Section VII, as the case may be;

"**Client**" means the Client as defined in Section I, Section III, Section VII and/or Section VIII, as the case may be;

"**Credit Facilities**" shall have the meaning as ascribed to and defined in Clause 2.1;

"**Event of Default**" shall have the meaning as ascribed to and defined in Clause 19.1

"**Exchange**" means the Exchange as defined in Section I and/or Section VII, as the case may be;

"**Indebtedness**" means all moneys, sums, funds, amounts, debts, obligations and liabilities whatsoever and interest thereon which are now or shall at any time hereafter be or become from time to time due, payable or outstanding to the Lender and all the MG Group Companies from the Client under or pursuant to these Terms, including but not limited to all moneys, sums, funds, amounts, debts, obligations and liabilities whatsoever and interest thereon agreed and covenanted by the Client with the Lender and all the MG Group Companies to pay, repay, discharge or satisfy under or pursuant to Clauses 2 and 3 and other provisions of these Terms, and/or secured by the Charge;

"**Lender**" means MISL and such other company as may from time to time add and notify the Client, as the case may be;

"**Parties**" means the Lender and the Client, and each of them is referred to as "**Party**";

"**Section I**" means the terms and conditions in Section I headed "Terms and Conditions for Securities Cash Trading" of the Trading Accounts Terms, as from time to time amended and supplemented;

"**Section II**" means the terms and conditions in Section II headed "Terms and Conditions for IPO Financing" of the Trading Accounts Terms, as from time to time amended and supplemented;

"**Section III**" means the terms and conditions in Section III headed "Terms and Conditions for Securities Margin Trading" of the Trading Accounts Terms, as from time to time amended and supplemented;

"**Section IV**" means the terms and conditions in Section IV headed "Terms and Conditions for Stock Options Trading" of the Trading Accounts Terms, as from time to time amended and supplemented;

"**Section VII**" means the terms and conditions in Section VII headed "Terms and Conditions for Futures Trading" of the Trading Accounts Terms, as from time to time amended and supplemented;

"**these Terms**" means all the terms and conditions in this Section X headed "Terms and Conditions for Loan and Security" of the Trading Accounts Terms, as from time to time amended and supplemented;

"**Trading Account Terms**" means the Terms and Conditions for Trading Account of MG Group Companies as from time to time amended and supplemented; and

"**Transactions**" means the Transactions as defined in Section I and/or Section VII and/or Stock Options Trading as defined in Section IV, as the case may be.

### 1.3 In this Terms :-

- (a) "include(s)" and "including" mean respectively "include(s) but not limited to" and "including but not limited to";
- (b) reference to a Clause is to a clause of these Terms and reference to the Account Opening Form is to the Account Opening Form as completed by or on behalf of the Client and where such information has been amended by subsequent notice to MISL (as the case may be) means the Account Opening Form as amended by such notice;
- (c) reference to an Ordinance is to an Ordinance or law of Hong Kong and any subsidiary legislation related thereto as from time to time amended, consolidated, extended, codified or re-enacted and for the time being in force;
- (d) words importing the singular include the plural and vice versa; words importing person include bodies corporate or unincorporated or other entity; words importing gender include every gender and the neuter gender;
- (e) the headings to the Clauses are for convenience only and do not affect their interpretation or construction; and
- (f) where it is necessary for the true construction or interpretation of any provision herein so that the indebtedness, liability or obligation of any of the Parties shall continue after the termination of these Terms, such provision shall survive the termination of these Terms.

## 2. **Credit Facilities**

- 2.1 Subject to Clause 2.2, the Lender (jointly and severally), relying on the agreements, covenants, representations, warranties and undertakings of the Client in these Terms, agrees to make available or continue to make available from time to time general credit facilities, advances and/or loans up to such extent to be determined by the Lender from time to time ("**Credit Facilities**") to the Client for the purpose of conducting Transactions, and for payments of any moneys, funds or indebtedness to or under any Account and any other account(s) with MISL and/or any of the MG Group Companies subject to and upon the terms and conditions of these Terms and/or other agreements made between the Client on the one part and MISL or any of the MG Group Companies on the other part.
- 2.2 Notwithstanding anything contained herein to the contrary (in particular Clause 2.1) and without prejudice to any other rights and powers of the Lender herein contained or otherwise conferred by the laws of Hong Kong, the Lender hereby reserves its absolute, unfettered and overriding right, exercisable (jointly or severally) at any time and from time to time and even in the absence of an Event of Default, to revise or change (whether increasing, reducing or otherwise) the Credit Facilities or any other facilities, loans, credits or advances, without notice to the Client, and/or to withdraw, stop, terminate or cancel any part or the whole of the Credit

Facilities or any other facilities, loans, credits or advances without notice to the Client. In the event of the Lender exercising the aforesaid rights, then (a) the Credit Facilities or any other facilities, loans, credits or advances shall automatically be revised, changed, withdrawn, stopped, terminated or cancelled, and the Credit Facilities or any other facilities, loans, credits or advances shall thereafter only be available to the Client as revised or changed by the Lender or (as the case may be ) shall not thereafter be available to the Client, and (b) the Client shall forthwith repay to the Lender such amount as demanded by the Lender or (as the case may be) the entire of the Indebtedness. For the avoidance of doubt, it is hereby agreed and declared that all the Client's rights and benefits under these Terms shall be subject always to the Lender's absolute, unfettered and overriding right (exercisable jointly and severally) of revision, change, withdrawal, stop, termination, cancellation and repayment as mentioned in this Clause.

### 3. **Covenant for Repayment & Repayable on Demand**

3.1 In consideration of the agreement by the Lender to make available or continue to make available from time to time the Credit Facilities or any other facilities, loans, credits or advances to the Client subject to and upon the terms and conditions of these Terms (in particular Clause 2.2) and notwithstanding anything contained herein or in any other representation, agreement or document made by the Lender or any of the MG Group Companies to the contrary, the Client hereby jointly and severally covenants and agrees with the Lender and all the MG Group Companies that the Client shall on demand by the Lender or any of the MG Group Companies (whether any such obligation or liability shall be the sole obligation or liability of the Client or shall be a joint obligation or liability of the Client with any other person, firm or corporation) pay, repay, discharge, satisfy, perform or fulfill in favour of the Lender and/or the MG Group Companies the following :-

- (a) all past, present and future loans, advances, indebtedness, obligations and liabilities of the Client and/or the Client Group Company to the Lender under the Credit Facilities or any other facilities, loans, credits or advances made or granted by the Lender to or for the accommodation or use of the Client and/or the Client Group Company;
- (b) all past, present and future loans, advances, indebtedness, obligations and liabilities of the Client and/or the Client Group Company to the MG Group Companies under any facilities, loans, credits or advances made or granted by the MG Group Companies to or for the accommodation or use of the Client and/or the Client Group Company;
- (c) all other obligations, liabilities or indebtedness whatsoever or however arising of the Client and the Client Group Company to MISL, MISL Trading Agent and the MG Group Companies whether past, present or future, actual or contingent; and
- (d) all costs, fees, charges and expenses owed to or incurred directly or indirectly by the Lender, MISL Trading Agent, and all the MG Group Companies in relation to these Terms or any security held by the Lender and all the MG Group Companies in connection with the Credit Facilities or any other facilities, loans, credits or advances granted to or made available to the Client and/or the Client Group Company by the Lender and/or any of the MG Group Companies, or in relation to the enforcement of any such security or in relation to any such indebtedness, obligations or liabilities on a full and unlimited indemnity basis (and not on the footing of party and party or any other kind of taxation);

together with interest, commission, expenses and charges on all of the foregoing.

3.2 Notwithstanding anything contained in these Terms, the Indebtedness, Credit Facilities and/or all other facilities, loans, credits, advances, moneys, funds, accounts and acceptances owing or outstanding from the Client to the Lender and/or to any of the MG Group Companies shall be and becoming due and payable to the Lender and/or any of the MG Group Companies on demand by the Lender and/or any of the MG Group Companies. For the avoidance of doubt, it is hereby agreed and declared that all the Client's rights and benefits under these Terms shall be subject always to the Lender's or any of the MG Group Companies' absolute, unfettered and overriding right of requesting or demanding payment or repayment on demand as mentioned in this Clause 3.

### 4. **Interest**

4.1 The Client agrees to pay interest to the Lender in respect of any amount, moneys, funds, indebtedness or liabilities owing to the Lender at such rate and calculated in such manner as shall be specified or determined by the Lender from time to time. Any variation of the rate of interest or manner of calculation shall be effected by the Lender without notice to the Client. The interest accrued shall be debited to the Client's account with the Lender and thenceforward such accrued interest shall bear interest at such rate and calculated in such manner as shall be specified or determined by the Lender from time to time. All the interests charged by the Lender under this Clause shall become due and payable forthwith on demand by the Lender.

4.2 If default is made in the payment or discharge of any principal moneys, funds, interest, indebtedness or liabilities hereunder, the Lender is entitled to charge interest on such amount of any principal moneys, funds, indebtedness, liabilities and interest due to the Lender from the date of default until the date of payment or discharge (after as well as before judgment) at such rate and calculated in such manner as shall be specified or determined by the Lender from time to time.

### 5. **Authorization**

5.1 The Client irrevocably and unconditionally instructs, directs, authorizes and agrees to the following :-

- (a) The Lender shall, and/or the MG Group Companies shall demand, direct, instruct and request the Lender to, pay, credit or transfer (upon and subject to the terms and conditions of these Terms) to the MG Group Companies from time to time or on the settlement day or due payment day the necessary moneys or funds to pay, settle or discharge any moneys or funds due or payable by the Client to the MG Group Companies in respect of : (i) demand or request by MISL for margins (initial,



maintenance or additional), adjustments (variation or otherwise) or other payments, (ii) transaction, purchase, investment, sale, exchange, acquisition, disposal, holding, transfer, deposit, clearing, settlement, trading or dealing in, of or with Securities through MISL by, for or attributable to the Client, (iii) application of new issue of Securities through MISL by, for or attributable to the Client, or (iv) any other reasons or purposes, so that on such payment, credit or transfer of moneys or funds by the Lender, the Client shall be liable to pay or repay (in accordance with the terms and conditions of these Terms) the Lender such moneys or funds so paid, credited or transferred;

- (b) the MG Group Companies shall, and/or the Lender shall demand, direct, request and instruct the MG Group Companies to, deposit, deliver or transfer to the Lender or into the Securities Account and/or Margin Account: (i) all MISL Financed Securities, (ii) Securities which are now or shall in future be acquired or held by the MG Group Companies on behalf of the Client, or be deposited with or transferred to the MG Group Companies by, for or attributable to the Client for any purpose whatsoever, or (iii) receivables, moneys or funds in any Account or other Client's account with the MG Group Companies, to the intent that the same shall upon and from such deposit, delivery or transfer become the subject security or the Charged Properties under the Charge and stand as a continuing security for the payment, discharge or satisfaction of the Indebtedness and the Client's indebtedness, obligations and liabilities to the Lender and all the MG Group Companies;
- (c) subject to any other rights or claims of all the MG Group Companies and subject to the discretion of the Lender, any MISL Financed Securities or Securities in the Securities Account and/or Margin Account or otherwise attributable to the Client shall be delivered or transferred back to the Client's account with MISL upon sale, transfer, disposal, trading, clearing or settlement of the same or upon any other purpose as determined by MISL. The Client instructs and authorizes the Lender to demand and request the MG Group Companies, and instructs and authorizes the MG Group Companies, to deliver, transfer, debit, deduct, use or pay the proceeds of sale, moneys or funds received in connection with such sale, transfer, disposal, trading, clearing or settlement of such MISL Financed Securities or Securities or such other purpose, or moneys or funds in any Account or other Client's account with the MG Group Companies to and with the Lender as the Lender shall direct from time to time and/or towards payment, discharge or satisfaction of the Indebtedness or the Client's indebtedness, obligations and liabilities to the Lender and/or any of the MG Group Companies; and
- (d) the Lender shall (at any time as it thinks fit) instruct, direct, demand and request the MG Group Companies to, and the MG Group Companies shall (upon request, instruction, direction or demand of the Lender from time to time), perform, fulfill and comply with all instructions, directions, requests and demands made by the Lender in relation to : (i) any Account or any other Client's account with the MG Group Companies, (ii) MISL Financed Securities, (iii) Securities which are now or shall in future be acquired or held by the MG Group Companies on behalf of the Client, or be deposited with or transferred to the MG Group Companies by, for or attributable to the Client for any purpose whatsoever, and (iv) receivables, moneys or funds in any Account or other Client's account with the MG Group Companies.

5.2 The Client irrevocably and unconditionally instructs, directs, authorizes and agrees that the Lender and the MG Group Companies shall (at any time as it thinks fit) request, direct, demand and instruct the MG Group Companies to, and/or the MG Group Companies shall (upon request, direction, instruction or demand of the Lender or any of the MG Group Companies from time to time) deliver, transfer, debit, deduct or pay from any Account or any other Client's account with the MG Group Companies to the Lender or any of the MG Group Companies such receivables, moneys or funds as the Lender or any of the MG Group Companies shall direct or determine from time to time and/or in or towards the total or partial satisfaction, payment or discharge of the Indebtedness or any moneys, indebtedness, outstanding amounts, obligations or liabilities incurred, owing, due or payable by or from the Client or the Client Group Company to or in favour of the Lender or any of the MG Group Companies from time to time.

5.3 The Client irrevocably and unconditionally instructs, directs, authorizes and agrees to the following :-

- (a) the Lender shall, and/or MG Group Companies shall demand, direct, instruct and request the Lender to, pay, credit, or transfer (upon and subject to the terms and conditions of these Terms) to MG Group Companies from time to time or on the settlement day or due payment day the necessary moneys or funds to pay, settle or discharge any moneys or funds due or payable by the Client to the MG Group Companies in respect of : (i) demand or request by MISL for margins (initial, maintenance or additional), adjustments (variation or otherwise) or other payments, (ii) transaction, purchase, investment, sale, exchange, acquisition, disposal, holding, transfer, making, entering, clearing, settlement, closing out, trading or dealing in, of or with the Commodities and/or Exchange Contracts and/or F/O Contracts through MISL and/or MISL Trading Agent by, for or attributable to the Client, or (iii) any other reasons or purposes, so that on such payment, credit or transfer of moneys or funds by the Lender, the Client shall be liable to pay or repay (in accordance with the terms and conditions of these Terms) the Lender such moneys or funds so paid, credited or transferred;
- (b) the MG Group Companies shall, and/or the Lender shall demand, direct, request and instruct the MG Group Companies to, hold, deposit, transfer, trade or deal with (i) all MISL Financed Commodities and/or MISL Financed Exchange Contracts and/or MISL Financed F/O Contracts; (ii) Commodities and/or Exchange Contracts and/or F/O Contracts which are now or shall in future be made, entered, acquired or held by MG Group Companies on behalf of the Client, or be held by, deposited with or transferred to the MG Group Companies by, for or attributable to the Client for any purpose whatsoever, or (iii) receivables, moneys or funds in any Account or other Client's account with the MG Group Companies, to the intent that the same shall be or become the subject security or the Charged Properties under the Charge and stand as a continuing security for the payment, discharge or satisfaction of the Indebtedness and the Client's indebtedness, obligations and liabilities to the Lender and all the MG Group Companies;
- (c) the Client instructs and authorizes the Lender to demand and request the MG Group Companies, and instructs and authorizes the MG Group Companies, to deliver, transfer, debit, deduct, pay or use the proceeds, moneys or funds received in connection with the settlement, clearing, performance, purchase, sale, acquisition, entering, transferring, disposing, exchanging, closing out, trading or dealing with, of or in MISL Financed Commodities, MISL Financed Exchange Contracts, MISL Financed F/O Contracts, Commodities, Exchange Contracts or F/O Contracts or any other purpose, or moneys or funds in any Account or other Client's account with the MG Group Companies to or with the Lender as the Lender shall direct from

time to time and/or towards payment, discharge or satisfaction of the Indebtedness or the Client's indebtedness, obligations and liabilities to the Lender and/or any of the MG Group Companies; and

- (d) the Lender shall (at any time as it thinks fit) instruct, direct, demand and request MG Group Companies to, and the MG Group Companies shall (upon request, instruction, direction or demand of the Lender from time to time), perform, fulfill and comply with all instructions, directions, requests and demands made by the Lender in relation to : (i) any Account or any other Client's account with the MG Group Companies, (ii) MISL Financed Commodities, MISL Financed Exchange Contracts or MISL Financed F/O Contracts, (iii) Commodities, Exchange Contracts or F/O Contracts which are now or shall in future be made, entered, acquired or held by the MG Group Companies and/or MISL Trading Agent on behalf of the Client, or be held by, deposited with or transferred to the MG Group Companies and/or MISL Trading Agent by, for or attributable to the Client for any purpose whatsoever, and (iv) receivables, moneys or funds in any Account or other Client's account with the MG Group Companies.

5.4 The Client irrevocably or unconditionally directs, authorizes, instructs and agrees that the Lender and the MG Group Companies shall (at any time it thinks fit) request, direct, demand and instruct the MG Group Companies to, and/or MG Group Companies shall (upon request, direction, instruction or demand of the Lender or any of the MG Group Companies from time to time) deliver, transfer, debit, deduct or pay from any Account or any other Client's account with the MG Group Companies to the Lender or any of the MG Group Companies such receivables, moneys or funds as the Lender or any of the MG Group Companies shall direct or determine from time to time and/or in or towards the total or partial satisfaction, payment or discharge of the Indebtedness or any moneys, indebtedness, outstanding amounts, obligations or liabilities incurred, owing, due or payable by or from the Client or the Client Group Company to or in favour of the Lender or any of the MG Group Companies from time to time.

5.5 The Client agrees and accepts that all the acts, things and matters done or made by MISL or any of the MG Group Companies pursuant to this Clause 5 shall be and be treated and deemed the acts, things, and matters done or made by the Client, and shall be absolutely binding on the Client in all respects and for all purposes. The Client also agrees and accepts that all the moneys, funds, loans, advances, acceptance and amounts made, advanced or granted by the Lender pursuant to this Clause 5 shall be and be treated or deemed as moneys, funds, loans, advances, acceptance and amounts made, advanced or granted by the Lender to the Client upon and subject to the terms and conditions of these Terms, and shall be absolutely binding on the Client in all respects and for all purposes.

## 6. **Charge Over Properties in the Accounts**

6.1 In consideration of the Lender agreeing to make available or continue to make available to the Client the Credit Facilities or any other facilities, loans, credits or advances, the Client, as beneficial owner, hereby charges and agrees to charge to the Lender (in its own capacity or as agent of MISL and all the MG Group Companies) by way of first legal charge, and hereby assigns, transfers and releases and agrees to assign, transfer and release to the Lender (in its own capacity or as agent of MISL and all the MG Group Companies) the following :-

- (a) all MISL Financed Securities together with all further or other Securities in substitution therefor or in addition thereto, all accretions thereto, all interest, rights, moneys, dividends, distributions paid, payable, accrued thereon and derived therefrom, all proceeds of sale thereof, and all moneys or funds received in connection with transfer, disposal or trading thereof;
- (b) all Securities which are now or will in future be deposited with, held in or transferred into the Securities Account, the Margin Account, any Account and any other account(s) of the Client with MISL or any of the MG Group Companies by, for or attributable to the Client for any purpose whatsoever together with all further or other Securities in substitution therefor or in addition thereto, all accretions thereto, all interest, rights, moneys, dividends, distributions paid, payable, accrued thereon and derived therefrom, all proceeds of sale thereof, and all moneys or funds received in connection with transfer, disposal or trading thereof;
- (c) all Securities which are now or will in future be deposited with or transferred to MISL or any of the MG Group Companies by, for or attributable to the Client for any purpose whatsoever, or which have been or will in future be acquired or held by MISL and all the MG Group Companies on behalf of the Client for any purpose whatsoever both together with all further or other Securities in substitution therefor or in addition thereto, all accretions thereto, all interest, rights, moneys, dividends, distributions paid, payable, accrued thereon and derived therefrom, all proceeds of sale thereof, and all moneys or funds received in connection with transfer, disposal or trading thereof;
- (d) all the Client's moneys, funds, receivables, sums, title, interests, powers, options, benefits and rights of, to and in any Account and any other account(s) of the Client with any or all of the MG Group Companies; and
- (e) all the moneys, funds, receivables, sums, properties, assets, things, goods, chattels, undertakings, negotiable instruments, financial instruments or documents, commercial instruments or documents, deeds, instruments, documents, matters, interests, powers and rights of the Client which are now or will in future be acquired by, deposited with, delivered to, transferred to, held by, possessed by, retained by or kept by any or all of the MG Group Companies;

((a), (b), (c), (d) and (e) above are collectively referred to as the "Charged Properties") as continuing security (the "Charge") for : (i) the due and punctual performance and fulfilment of all obligations or liabilities of the Client under these Terms, the Agreement and other agreement with any of the MG Group Companies, (ii) the payment, repayment, satisfaction and/or discharge on demand of the Indebtedness, facilities, loans, advances, credits, moneys, funds, indebtedness, obligations and liabilities (whether past, present or future, or whether absolute or contingent) which are now or at any time hereafter shall be due, owing or incurred from or by the Client or the Client Group Company to or in favour of MISL and/or any of the MG Group Companies under or pursuant to these Terms, the Agreement, other agreement with any of the MG Group Companies or any other agreement or document, or on any account or in any manner whatsoever (whether alone or jointly with any other person and in whatever name, style or firm), and (iii) the payment, repayment, satisfaction and/or discharge on demand of the Indebtedness, facilities, loans, advances, credits, moneys, funds, indebtedness, obligations and liabilities (whether past, present or future, or whether absolute or contingent) which are now or at any time hereafter shall be due, owing or incurred from or by the Client or the Client Group Company under or in Securities

Account, Margin Account, Futures Account, and any Account (whether alone or jointly with any other person and in whatever name, style or firm) together with interest thereon and legal costs and expenses of MISL or any of the MG Group Companies (the "Secured Liabilities").

6.2 The Client agrees that the Lender, pursuant to the provisions of these Terms, is entitled to transfer, or procure, demand or request to transfer the Charged Properties to MISL and/or their respective nominee through any clearing and settlement system or other manner. The Client agrees and covenants to deliver to the Lender such documents as the Lender shall require to effect such transfer of the Charged Properties to MISL and/or their respective nominee.

6.3 The Client agrees :-

(a) any dividend, interest, payment, money or fund forming or deriving from all or part of the Charged Properties which may be received by the Client shall be held by the Client on trust for the Lender and shall be paid over or delivered to the Lender on demand; and

(b) notwithstanding Clause 6.3(a), upon the occurrence of any of the Events of Default and/or the Charge becoming enforceable, the Lender and its nominee shall (and the Client as primary obligor and not merely as guarantor irrevocably instruct and authorize the Lender or its nominee to) collect and receive all dividend, interest, payment, money or fund on or with respect to the Charged Properties, and the Lender or its nominee shall be entitled to use and apply all the said dividend, interest, payment, money or fund so collected or received in payment, discharge or satisfaction of the Indebtedness.

## 7. **Title to Charged Properties**

The Client represents and warrants to the Lender that subject to any security interest of the Lender created pursuant to these Terms, the Charged Properties are legally and beneficially owned by the Client, that the Client has good right to charge, assign, transfer and release the same to the Lender, that the same are and will remain free from any lien, charge, equity, option, mortgage, third party right or encumbrance of any kind, and that any stocks, shares and other Securities comprised in the Charged Properties are and will be fully paid up.

## 8. **Voting Right and Call**

8.1 The Lender or its nominees is entitled to exercise at its discretion (in the Client's name or otherwise at any time and without any further consent or authority of the Client) in respect of the Charged Properties any voting rights and all powers and rights given to trustees by the Trustee Ordinance (Cap. 29 of the Laws of Hong Kong).

8.2 The Client during the continuance of the Charge shall pay all calls or other payments due in respect of any of the Charged Properties and in the event of default the Lender (if it thinks fit) shall make such payments on the Client's behalf. Any moneys or funds so paid by the Lender shall be repayable by the Client on demand.

## 9. **Sufficient Securities**

The Client agrees and undertakes to deposit at all times sufficient Securities, security, properties and moneys with the Lender. In the event that the Lender is in the opinion that the Charged Properties are insufficient or unsatisfactory, the Client agrees and undertakes that upon demand by the Lender the Client shall forthwith pay to the Lender such sum in cash or at the option of the Lender to deliver to the Lender such additional Securities, security, properties or moneys as are acceptable to the Lender as security in addition to or in substitution for the Charged Properties, and to procure the registration thereof with any appropriate authorities.

## 10. **Enforcement of Charge**

10.1 At any time as the Lender or any of the MG Group Companies shall determine appropriate and/or upon the occurrence (in the sole and subjective judgment of the Lender) of any Event of Default, the Charge shall be immediately enforceable and the Lender, without prejudice to any of the rights or powers of the Lender under these Terms or other documents, shall have the right, without notice to the Client, to : (i) appropriate, pay, deduct, transfer or offset the whole or any part of any funds or moneys comprised in the Charged Properties at any time and from time to time in or towards payment, satisfaction or discharge of the Indebtedness or any money, fund, indebtedness, obligation or liability secured by the Charge, and/or (ii) sell, dispose of, liquidate, transfer, trade, deal with or close out (and the Lender is authorized to do all such things necessary in connection with such sale, disposal, liquidation, transfer, trading, dealing or closing out) the Charged Properties or any part thereof (to be selected by the Lender in its absolute discretion) at any time and from time to time either together or in parcels and either by dealings at any broker's board through SEHK, HKFE , Foreign Futures Exchange, Foreign Stock Exchange or other Exchange or by public or private means or in such other manner and for such consideration (whether payable or deliverable immediately or by installments and whether for cash or other valuable consideration or both) and on such terms and conditions as the Lender shall think fit in its absolute discretion without being in any way responsible for any loss occasioned thereby however arising. Without limiting the generality of the foregoing, the Lender is hereby specifically authorized to give instructions or directions to MISL (as the case may be) to sell, dispose of, liquidate, transfer, trade, deal with and/or close out the Margin Account (as the case may be), all Securities, Commodities and/or Exchange Contracts and/or F/O Contracts comprised in the Charged Properties or held in the Margin Account, or any Account (as the case may be), and all positions in the Margin Account or any Account (as the case may be) without notice to the Client.

- 10.2 Without prejudice to the generality of Clause 10.1, the Lender shall be entitled to appropriate, sell, dispose of, liquidate, transfer, trade, deal with or close out the Charged Properties or any part thereof at any time and from time to time at market price or market conditions thereof to, with or in favour of the Lender or any of the MG Group Companies without being in any way responsible for any loss occasioned thereby however arising and without being accountable for any profit made by the Lender and/or any of the MG Group Companies.
- 10.3 In any sale, disposal, liquidation, transfer, trading, dealing or closing out pursuant to this Clause 10 or these Terms, if less than all the Charged Properties are to be sold, disposed of, liquidated, transferred or closed out, the Lender shall in its absolute discretion select which part of the Charged Properties are to be sold, disposed of, liquidated, transferred, traded, dealt with or closed out at any time and from time to time.
- 10.4 The Client agrees that the Lender or any of the MG Group Companies shall have the full and absolute right and discretion to determine at what time and day to exercise or enforce its right and power to carry out or execute the sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out pursuant to this Clause 10 or these Terms. The Client shall not have any right to claim against the Lender and/or any of the MG Group Companies in respect of any loss arising out of any sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out pursuant to these Terms, howsoever such loss may have been caused, and whether or not a better price or position could or might have been obtained on the sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out of any of the Charged Properties by either deferring or advancing the time or date of such sale, disposal, appropriation, liquidation, transfer, trading, dealing or closing out or otherwise howsoever.
- 10.5 If the proceeds, moneys or funds realized or received by exercise or enforcement of the Charge shall be insufficient to pay, discharge or satisfy the Indebtedness and the indebtedness, obligations or liabilities of the Client or the Client Group Company to the Lender and all the MG Group Companies, then nothing herein contained shall prejudice the rights or powers of the Lender or any of the MG Group Companies against the Client or the Client Group Company for recovery of such insufficiency or deficiency. The Client agrees and undertakes to make good and pay on demand to the Lender such insufficiency or deficiency.
- 10.6 No failure, delay or omission on the part of the Lender or any of the MG Group Companies in exercising or enforcing any right, power, privilege or remedy under or in respect of these Terms shall impair such right, power, privilege or remedy, or be construed or operated as a waiver of it. Any single or partial exercise or enforcement of any such right, power, privilege or remedy shall not preclude any further exercise of it or the exercise of any other right, power, privilege or remedy.

#### 11. **Proceeds on Enforcement**

The proceeds, moneys or funds realized or received by the exercise or enforcement of the Charge pursuant to these Terms or any part thereof shall be held or retained by the Lender in such manner and for such period of time as shall be determined by the Lender in its absolute discretion and/or shall be applied or used (without limitation) in the following payments but in such order of priority and at such time as shall be determined by the Lender in its absolute discretion :-

- (a) payment or discharge of all costs, charges, legal fees and expenses including but not limited to stamp duty, commission and brokerage incurred by the Lender in transferring, selling, disposing, liquidating, trading, dealing or closing out all or any of the Charged Properties or in perfecting title thereto;
- (b) payment, discharge or satisfaction of the Secured Liabilities;
- (c) payment, discharge or satisfaction of the Indebtedness, and all other moneys, funds, indebtedness, obligations and liabilities due, payable owing or incurred by the Client or the Client Group Company to the Lender or all the MG Group Companies;
- (d) payment or discharge of interest for the time being accruing due; and
- (e) payment, discharge or satisfaction of such obligations, indebtedness, moneys and liabilities of the Client or the Client Group Company.

#### 12. **Release of Charged Properties**

- 12.1 Subject to : (a) the payment of the whole of the Indebtedness and all interests as provided in these Terms, (b) the payment of all such moneys or funds due, payable or owing to the Lender or all the MG Group Companies under these Terms, (c) the payment, discharge or satisfaction of all indebtedness, obligations or liabilities of the Client or the Client Group Company under these Terms, (d) the payment, discharge or satisfaction of all the Secured Liabilities, and (e) the due performance or fulfillment of all the obligations and liabilities of the Client under these Terms, the Lender shall, at any time after such payments, discharge, performance, fulfillment or satisfaction and upon written request of the Client and at the cost of the Client, release, discharge or return the Charged Properties or any part thereof to the Client and upon such release, discharge or return the Lender shall not be bound to release, discharge or return to the Client Securities or Commodities identical with those acquired by, deposited with, held by or transferred to the Lender so long as the Charged Properties or any part thereof released, discharged or returned to the Client are of the same type, kind, class, denomination and nominal amount and rank pari passu with those originally acquired by, deposited with, held by or transferred to the Lender (subject always to any capital re-organization which may have occurred in the meantime).
- 12.2 The Client agrees that in the event that the Lender or any of the MG Group Companies shall have made a mistake or an error in the Client's favour in calculating the moneys or funds due to the Lender or any of the MG Group Companies or in respect of Securities or Commodities released, discharged or returned then such release, discharge and return shall have no effect and the Charge shall remain in full force and effect.



### 13. **Additional & Continuing Security**

- 13.1 The Charge is in addition to and without prejudice to any collateral or security which the Lender shall now or hereafter hold from or on account of the Client. Such collateral or security to which the Lender shall be otherwise entitled (including any collateral or security created or made prior to the date of these Terms on the Charged Properties) or the liability of any person not being a party hereto for all or any part of the indebtedness, obligations and liabilities hereby secured shall not be in any way prejudiced or affected by the Charge. The Lender shall have full power at its discretion to deal with, exchange, release, modify or abstain from perfecting or enforcing any such collateral or security or rights which the Lender shall now or hereafter have from or against such person or to give time for payment or any indulgence to any such person without discharging or in any way affecting the Client's indebtedness, obligations and liabilities or the Charge or security created hereunder. All moneys or funds received by the Lender from the Client or any person liable to pay the same shall be applied by the Lender to any account or any transactions to which the same shall be applicable.
- 13.2 The Charge shall be a continuing security notwithstanding any intermediate payment or settlement of account or satisfaction of the whole or any part of the Indebtedness or any sum of money owing by the Client to the Lender and notwithstanding the closing of any of the Client's account with the Lender or any of the MG Group Companies, the reopening of a closed account with the Lender or any of the MG Group Companies or the opening of any account by the Client (either alone or jointly with others) with the Lender or any of the MG Group Companies, and shall extend to cover all or any indebtedness, moneys or funds due or payable from the Client to the Lender and all the MG Group Companies on any account or otherwise as herein provided.
- 13.3 No change in the constitution of the Client nor of the persons, firms or companies or other entity for whose indebtedness, obligations and liabilities the Charge shall at any time stand as security shall affect the validity of or discharge the Charge. If the Client is a firm and in the event of dissolution of the firm the Charge shall apply to all the indebtedness, obligations and liabilities incurred by the firm or in the firm name until the actual receipt by the Lender of written notice of dissolution, provided always that such notice of dissolution shall not affect the indebtedness, obligations and liabilities incurred by the Client prior to actual receipt by the Lender of such notice. If, however, the dissolution is by reason only of the introduction of a partner into the firm the Charge shall continue and in addition to the indebtedness, obligations and liabilities of the old firm shall apply to all indebtedness, obligations and liabilities due, payable or incurred from or by the new firm thereby constituted as though there had been no change in the firm as previously constituted.
- 13.4 All rights and powers of the Lender hereunder and the Charge shall remain in full force and effect notwithstanding any neglect or delay in the enforcement thereof or any indulgence or forbearance given or continued to be given to the Client.

### 14. **Protection & Indemnity**

- 14.1 The Lender shall not be answerable or responsible for the loss of or damage to or diminution in value of any of the Charged Properties however arising whilst the same are in the possession, custody, retention or control of the Lender or its agents.
- 14.2 If any action or proceeding is commenced or any claim or demand is made by any person against the Client in connection with any matter herein contained or the Charged Properties or any part thereof or against the Lender in connection with any matter herein contained or the Charged Properties or any part thereof, the Client agrees to indemnify the Lender against any loss, costs or expenses including all legal or other professional fees which shall be incurred by the Lender in connection therewith. If any such action or proceeding is commenced or claim or demand is made, the Lender shall be entitled (but not obliged or bound) to take such reasonable steps as it shall deem advisable including the withholding of payment or delivery to the Client of any part or all of the money or fund or the Charged Properties and the cancellation or non-compliance with any orders or instructions which the Client may have given or may give to the Lender.

### 15. **Information of Client**

- 15.1 From time to time, it is necessary for the Client to supply the Lender with data in connection with the opening or continuation of the Accounts and the establishment, continuation of Credit Facilities or loans or provision of finance services. Failure to supply such data may result in the Lender being unable to open or continue the Accounts or establish, continue Credit Facilities, loans, credits, advances or provide finance services. It is also the case that data are collected from the Client in the ordinary course of the continuation of the credit or finance relationship.
- 15.2 The purposes for which data relating to the Client may be used are (without limitation) as follows : (a) the daily operation of the Accounts and the services and Credit Facilities provided to the Client; (b) conducting credit checks; (c) ensuring ongoing credit worthiness of the Client; (d) designing and marketing services or related products; (e) determining the amount of indebtedness owed to or by the Client; (f) collection of amounts outstanding from the Client and those providing security for the Client's obligations; (g) meeting the requirements to make disclosure under the requirements of any law binding on the Lender; and (h) purposes relating thereto.
- 15.3 Data or information held by the Lender relating to the Client and/or the Accounts will be kept confidential but the Lender may provide such information to (without limitation) the following : (a) any employee, agent, contractor, sub-contractor or third party service provider who provides administrative, telecommunications, computer, payment, clearing or other services to the Lender in connection with the operation of its business; (b) any other person under a duty of confidentiality to the Lender including but not limited to all the MG Group Companies which have undertaken to keep such information confidential; (c) any actual or proposed



assignee of the Lender or participant or sub-participant or transferee of the Lender's rights in respect of the Client; and (d) the relevant regulatory bodies, if so requested by such regulatory bodies.

- 15.4 Under and in accordance with the terms of the Personal Data (Privacy) Ordinance any individual: (i) has the right to check whether the Lender holds data about him and the right of access to such data; (ii) has the right to require the Lender to correct any data relating to him which is inaccurate; and (iii) has the right to ascertain the Lender's policies and practices in relation to data and to be informed of the kind of personal data held by the Lender.

#### 16. **Dealing, Mortgage and Custody of Charged Properties**

- 16.1 The Client irrevocably and unconditionally consents, agrees and authorizes the Lender and/or any of the MG Group Companies at any time and from time to time to :-
- (a) deposit, mortgage, charge, pledge, create any security interest over, transfer, assign or release the Charged Properties or any part thereof (either separately or together with other Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts and/or properties or assets) by way of collateral or security or otherwise for facilities, credits, loans or advances (of any amount, for any period of time and upon any terms) made or continued to be made to the Lender and/or any of the MG Group Companies without notice to the Client;
  - (b) use, borrow or lend the Charged Properties or any part thereof (either separately or together with other Securities and/or properties or assets) for the purpose of performing or fulfilling settlement or clearing obligations of MISL between the members of SEHK or the relevant Clearing House without notice to the Client;
  - (c) use, borrow or lend the Charged Properties or any part thereof (either separately or together with other Commodities and/or Exchange Contracts and/or F/O Contracts and/or properties or assets) for the purpose of performing or fulfilling margins (initial, maintenance or additional) or adjustments (variation or otherwise) requirements on MISL, or settlement or clearing obligations of MISL between the members of HKFE or the relevant Exchange or Clearing House without notice to the Client;
  - (d) use, borrow or lend the Charged Properties or any part thereof (either separately or together with other Securities and/or properties or assets) for the purpose of performing or fulfilling settlement or clearing obligations of MISL between the members of Foreign Stock Exchange or the relevant Clearing House without notice to the Client;
  - (e) deliver, transfer or deposit the Charged Properties or any part thereof (either separately or together with other Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts and/or properties or assets) with any agent or contractor for custodial purpose at the risk, cost, charge or expense of the Client without notice to the Client; and
  - (i) use, deal with, deposit, mortgage, charge, pledge, create any security interest over, transfer, assign, lend or release the Charged Properties or any part thereof (either separately or together with other Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts and/or properties or assets) for any purpose or reason whatsoever, in such manner or way, for such period of time, upon such terms, for such consideration, for such benefit or advantage as MISL and/or any of the MG Group Companies shall (in their respective absolute discretion) think fit without notice to the Client.
- 16.2 The Client agrees and acknowledges that all the risks of the Charged Properties are remaining with the Client and that neither the Lender nor any of the MG Group Companies nor their respective agent or contractor shall be under any obligation to insure any of them against any kind of risks, which obligation is remained with the Client.
- 16.3 The Client understands, accepts, agrees and acknowledges that all the risks, consequences, effects and results of the consents, agreements, authorizations and acknowledgments contained in this Clause 16, and in particular understands, accepts, agrees and acknowledges that the Charged Properties or any part thereof may be subject to mortgage, charge, pledge, lien, security interest or third party interest or right, and the release, discharge or return of the Charged Properties or any part thereof may be subject to the discharge, release or satisfaction of such mortgage, charge, pledge, lien, security interest or third party interest or right.

#### 17. **Liquidation of Accounts**

- 17.1 At any time as the Lender or any of the MG Group Companies shall determine appropriate and/or upon the occurrence (in the sole and subjective judgment of the Lender) of any Event of Default, the Lender or any of the MG Group Companies shall have the right, without notice and in their respective absolute discretion, to :-
- (a) take such action or do such act, matter or thing as it shall consider necessary or desirable to comply with or to perform, cancel or satisfy any obligations of the Lender or such MG Group Companies to the Client or any obligations of the Client and/or the Lender or such MG Group Companies to the relevant Exchange and/or Clearing House and/or Market and/or broker, as the case may be, in respect of any outstanding transaction of or dealing in the Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts and/or in respect of any open contract (such action includes but not limited to closing out and/or performing such open contract);
  - (b) close out or perform any or all open contracts in the Accounts;
  - (c) sell, purchase, transfer in, transfer out, trade, dispose of, deal with, settle, clear all or any Securities, Commodities, Exchange Contracts, F/O Contracts; and/or
  - (d) cancel any outstanding orders in order to close the Margin Account or any Account.

Any sale, purchase, disposal, trading, dealing, transfer and/or closing out of the Securities, Commodities, Exchange Contracts, F/O Contracts or open contract shall be made according to the judgment of and at the discretion of the Lender or such MG Group Companies, either by direct sale, purchase, disposal, trading, dealing, transfer or closing out at any time or in the same contract month or on any Exchange or market where such business is then usually transacted. In all cases, a prior demand or call, or prior

notice of the time or place of sale, purchase, disposal, trading, dealing, transfer or closing out shall not be considered as waiver of the right of the Lender or such MG Group Companies herein provided.

17.2 On the exercise of the rights of the Lender and the MG Group Companies under Clause 17.1, all moneys or funds owing to the Lender or any of the MG Group Companies hereunder shall become immediately payable and the Lender or any of the MG Group Companies shall not be obliged to deliver to the Client any amount of the Securities or the underlying Commodity or any money or fund due to the Client in respect of any transaction, dealing, Exchange Contract or F/O Contract until all indebtedness, obligations and liabilities of the Client to the Lender or any of the MG Group Companies under these Terms are paid, satisfied or discharged.

#### 18. **Offset and Combination of Accounts**

18.1 Notwithstanding anything contained in these Terms or in any other document between any of the MG Group Companies and the Client, the Client irrevocably and unconditionally authorizes and directs the Lender to, with or without notice, offset and withhold from and apply the Charged Properties, Securities, receivables, moneys or funds held in or for the Margin Account, any Account or any other account with the Lender or any of the MG Group Companies against and in whole or partial payment, discharge or satisfaction of any indebtedness, obligations or liability (of whatsoever nature whether primary, collateral, several, joint or in other currencies and whether or not in connection with the Margin Account or any Account) owed by the Client to the Lender or any of the MG Group Companies.

18.2 Without prejudice to the generality of Clause 18.1, if the Client has more than one account with the MG Group Companies, any of the MG Group Companies is hereby authorized by the Client to at any time combine or consolidate all or any of the Margin Account and Accounts and offset or transfer any of the Charged Properties, moneys, funds, Securities, Commodities, properties or assets in any one or more of the Margin Account or Accounts in or towards payment, discharge or satisfaction of any indebtedness, obligations or liabilities of whatsoever nature to any of the MG Group Companies in respect of any of the Margin Account, Accounts or other accounts. Where any such combination, consolidation, offset or transfer requires the conversion of one currency into another, such conversion shall be calculated at the spot rate of exchange (as conclusively determined by any of the MG Group Companies) prevailing in such foreign exchange market as any of the MG Group Companies shall determine to be relevant on the date of the combination, consolidation, offset or transfer.

#### 19. **Default**

19.1 Any one of the following events shall constitute an event of default ("**Event of Default**") :-

- (a) at any time when the Lender shall, in its sole discretion, consider it necessary for the protection of the Lender or any of the MG Group Companies;
- (b) the Client fails or refuses to pay or settle any outstanding amount, money, fund, purchase price or other payment becoming due or payable under these Terms, the Agreement or any other agreement with any of the MG Group Companies;
- (c) the Client has failed or refused, on demand, to settle or pay any outstanding amount, money or debit balance on any of the Client's account(s) with MISL or any of the MG Group Companies;
- (d) the Client violates or fails to perform on a timely basis any term, undertaking, agreement, covenant or condition on its part to be performed under these Terms;
- (e) the Client fails or refuses to discharge, pay, satisfy or perform any of the Client's liability, obligation or indebtedness under these Terms, the Agreement or any other agreement with any of the MG Group Companies;
- (f) the Client has not provided any margin (initial, maintenance or additional) or adjustments (variation or otherwise) when the same become due or payable under these Terms, the Agreement, or has failed or refused to comply with any request, call or demand made by MISL pursuant to these Terms or the Agreement;
- (g) breach, refusal, failure or default of or by the Client in complying with, fulfilling, performing or observing any term or condition of these Terms, the Agreement or any other document with any of the MG Group Companies;
- (h) any representation or warranty made in these Terms or in any document delivered to MISL or any of the MG Group Companies being or becoming incomplete, untrue or incorrect;
- (i) any consent or authorization required by the Client to enter into these Terms being wholly or partly revoked, suspended, terminated or ceasing to remain in full force and effect;
- (j) the filing or commencement of a petition or application in bankruptcy, liquidation or winding up, petition or application for the appointment of a receiver, or the commencement of other similar proceedings against the Client;
- (k) the Charge or any security created or any part thereof respectively in relation to the indebtedness, obligations or liabilities under these Terms being avoided or discontinued;
- (l) any deterioration or impairment (in the Lender's opinion) or any decline or depreciation (in the Lender opinion) in the value or market price (whether actual or reasonably anticipated) of the Charged Properties or any security or any part thereof respectively;
- (m) the levying of attachment or charge against the Accounts or any account(s) of the Client with MISL or any of the MG Group Companies;
- (n) any third party asserts a claim, right or interest in respect of any moneys or funds in the Accounts or any accounts of the Client with MISL or any of the MG Group Companies;
- (o) the Client takes advantage of any bankruptcy, liquidation, reorganization, moratorium, insolvency or similar law or makes or proposes to make any arrangements or compositions for the benefit of any of the Client's creditors, or is the subject of any order, judgment or decree entered by any court providing for the winding up, reorganization, liquidation or appointment of a liquidator, trustee in bankruptcy or receiver of the Client or a substantial part of the Client's business or assets;

- (p) the Client becomes insolvent or dissolved for any reason whatsoever, merges or becomes consolidated with any non-affiliated party, or sells all or a substantial portion of its business or assets;
- (q) the death, liquidation or judicial declaration of incompetence of the Client;
- (r) any action or proceeding is commenced or any claim or demand is made by any person against the Client in connection with any matter herein contained or the Charged Properties or any part thereof or against the Lender in connection with any matter herein contained or the Charged Properties or any part thereof;
- (s) the occurrence of an event of default (as defined in the Agreement);
- (t) any adverse change (in the opinion of the Lender) in the corporate structure, business, assets, financial condition, and general condition or prospects of the Client;
- (u) at any time when MISL and/or any of the MG Group Companies is or becomes under any obligation imposed by any relevant Exchange and/or Clearing House and/or Market and/or broker or any applicable laws, rules and regulations to do any of the acts mentioned in Clauses 17 and 19; and
- (v) the occurrence of any event which, in the opinion of the Lender, may or shall jeopardize, prejudice or affect any of the rights, interests or benefits of MISL or any of the MG Group Companies.

19.2 If an Event of Default (in the sole and subjective judgment of the Lender) occurs, the Lender or any of the MG Group Companies shall, without notice to the Client and in addition to and without prejudice to any other rights or powers conferred under these Terms, be entitled (in their respective discretion) to :-

- (a) revise, change, withdraw, stop or cancel the Credit Facilities, facilities, advances, credits or loans made or granted to the Client, or any part thereof respectively;
- (b) demand payment, repayment, discharge, satisfaction, performance or fulfillment of the Indebtedness and/or other amount, interest, sum, moneys or funds owing by the Client to the Lender or any of the MG Group Companies;
- (c) enforce the Charge;
- (d) liquidate the Accounts or any account of the Client with any of the MG Group Companies;
- (e) close out or perform any or all open contracts in the Accounts;
- (f) transfer in, transfer out, settle, clear all or any Securities, Commodities, Exchange Contracts or F/O Contracts;
- (g) call upon or enforce any security which may have been issued, made or created in favour of the Lender or any of the MG Group Companies as security for the Indebtedness or the indebtedness, liabilities or obligations of the Client under these Terms or the Agreement;
- (h) exercise the right of offset and combination any of the Client's Accounts maintained with any of the MG Group Companies;
- (i) exercise any options held by MISL on behalf of the Client;
- (j) immediately terminate these Terms and/or the Agreement and/or other agreement with any of the MG Group Companies;
- (k) exercise any or all the rights and powers of the Lender under these Terms or the Agreement;
- (l) sell, purchase, dispose of, transfer, deal with any Securities, Commodities, Exchange Contracts, F/O Contracts, properties or assets in the Accounts or any account of the Client with any of the MG Group Companies;
- (m) cancel any or all outstanding orders or any other commitments made on behalf of the Client;
- (n) take any actions, or do any acts, matters or things as authorized, instructed, directed, appointed or empowered under these Terms or the Agreement;
- (o) take such actions, or do such acts, matters or things as the Lender or any of the MG Group Companies shall think fit in relation to the Charged Properties; and/or
- (p) take or not to take any actions, or do or not to do any acts, matters or things as the Lender or any of the MG Group Companies shall think fit.

## 20. **Representation, Undertaking and Warranty**

The Client represents, warrants and undertakes with the Lender and all the MG Group Companies that :-

- (a) the Client is duly incorporated, validly existing and in good standing under the laws of the place of its incorporation. The Client has power and authority to carry on the Client's business which the Client now conducts or proposes to conduct and the business under these Terms, and to own, acquire, enter into or hold Securities, Commodities, Exchange Contracts, F/O Contracts, property and assets;
- (b) the Client has full power and authority to enter into, sign, execute, perform and fulfill the Client's duties and obligations under these Terms, and to purchase, invest, sell, trade, exchange, acquire, enter, make, hold, deposit, transfer, dispose, clear, settle or deal in, of and with all kinds of Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts in accordance with and subject to the terms and conditions of the Agreement, and to incur indebtedness and liabilities as a result;
- (c) all necessary corporate and other action have been taken, and all necessary shareholder and other consent have been given to authorize the entering, signing, execution, performance and fulfillment of these Terms. These Terms when signed or executed by the Client will constitute valid and legally binding obligations of the Client in accordance with its terms and conditions;
- (d) the financial statement and accounts of the Client supplied to the Lender have been prepared in accordance with accounting policies consistently applied, and present a true, fair and accurate view on the operation of the Client for the relevant accounting period and the financial position of the Client at the end of such accounting period;
- (e) the meeting of the board of directors of the Client (certified extract minutes of which have been supplied to the Lender) resolving, inter alia, the approval, entering into, signing, execution, performance and fulfilment of these Terms was duly convened and held on or prior to the date of these Terms and such resolutions which were duly passed thereat in accordance with its constitutional documents have been entered in its minutes book and are in full force and effect;

- (f) other than the Client, no one has interest in the Accounts;
- (g) all information stated in these Terms or provided by the Client in connection with the opening of the Accounts are true, complete and correct;
- (h) the specimen signature(s) on the Account Opening Form is/are the genuine signature(s) of the authorized signer(s) whom is duly authorized by the Board of Directors of the Client that MG Group Companies shall dispense with making enquiries, verification or investigation in relation to the authorization of signature(s);
- (i) The Client undertakes to absolve and exonerate MG Group Companies from all blames and liabilities and to indemnify MG Group Companies against all losses, damages, liabilities, claims, demands and costs arising out of or in respect of or as a result of MG Group Companies agreeing to accept and act on the said resolution as effectively and duly passed and the said signature(s) as genuine and to dispense with making enquiries in relation thereto.
- (j) the Client entering into these Terms does not and will not violate or exceed any borrowing or similar limit or other power or restriction granted or imposed by any law to the Client;
- (k) these Terms, when signed / executed by the Client, will constitute legal, valid and binding obligations of the Client in accordance with the terms herein; and
- (l) all necessary consents or authorization which may be required for the entering and execution of these Terms have been obtained and are and shall continue in full force and effect.

21. **Further Assurance**

The Client agrees and undertakes with the Lender that upon the request of the Lender, the Client shall or shall procure such person who is acceptable to the Lender at the Client's own costs and expenses forthwith and at any time hereafter, whether before or after the Charge shall have become enforceable, execute, do and pass, or cause or procure to be executed, done or passed such legal or other mortgages, charges, pledges, assignments, transfers, assurances, powers of attorney, deeds, documents, letters, resolutions, acts and things in favour or for the benefit of the Lender as the Lender shall require (a) in connection with the implementation, execution and enforcement of any of the term and any right in favour of the Lender under these Terms, and (b) over or in respect of the Charged Properties or any of them as further security for the Indebtedness or (as the Lender shall require) for perfecting the security hereby constituted or vesting the full benefits of the Charged Properties or any of them in the Lender, the Lender's nominee(s) or (after the Charge has become enforceable) any purchaser thereof. Such mortgages, charges, pledges, assignments, transfers, assurances, powers of attorney, deeds, documents, letters, resolutions, acts and things shall be prepared by the Lender, at the cost and expense of the Client, and shall contain such provisions as the Lender shall require, for which purposes the Client appoints the Lender as the duly authorized representative of and on behalf of the Client.

22. **More than One Person**

Where the Client consists of more than one person (whether a partnership or otherwise):-

- (a) each of them shall be bound though any other of such persons intended to be bound is not, for whatever reason, so bound. References to the Client shall be construed to any or each of them;
- (b) each of them shall be jointly and severally liable to and responsible for the liabilities, obligations and indebtedness under these Terms;
- (c) the rights, powers, claims, demands, instructions, directions, decisions and/or authorizations under these Terms shall be exercised, performed or made by any of them separately and independently with any other of such persons. The act, conduct, instructions, directions, decisions and/or authorizations of any of such persons shall be jointly and severally binding on any or all of such persons;
- (d) the Lender and any of the MG Group Companies shall be entitled to deal separately with any of them on any matter including the discharge, satisfaction or performance of any liability, obligation or indebtedness to any extent without affecting the liability of any other of such persons;
- (e) each one of them shall waive in favour of all the MG Group Companies the right of proof in competition with any one or all of the MG Group Companies in the bankruptcy or insolvency of the other(s) and none of them shall take from the other(s) any counter-security without prior written consent from all the MG Group Companies;
- (f) the discharge, satisfaction or performance of any liability, obligation or indebtedness under these Terms by any of the MG Group Companies in favour of or for the benefit of any of such persons shall be and be deemed to be full and sufficient discharge, satisfaction or performance of such liability, obligation or indebtedness in favour of or for the benefit of any or all of such persons. The payment of money or fund by any of the MG Group Companies toward or in favour of any of such persons shall be and be deemed to be full and sufficient discharge, satisfaction or performance of such payment of money or fund toward or in favour of any or all of such persons; and
- (g) subject to the consent or discretion of the Lender, any of such persons is entitled to deposit or transfer any Securities and/or Commodity and/or Exchange Contract and/or F/O Contract to or out the Accounts. Any one of such persons is not entitled to claim or assert interest, benefit, ownership or title to any particular or specific Securities and/or Commodities and/or Exchange Contracts and/or F/O Contracts in the Accounts separately or independently with any other of such persons.

23. **Power of Attorney**

- 23.1 The Client willingly and irrevocably appoints and constitutes each and any of the MG Group Companies as its lawful attorney to do and execute all such acts, deeds, documents or things on behalf of the Client as it considers necessary or desirable in connection with the implementation, execution and enforcement of any of the terms, rights and powers conferred by these Terms and agrees to ratify or confirm all such acts, deeds, documents or things by any of the MG Group Companies, including (without limitation) the

following: -

- (a) to sign or execute any documents and do all acts and things which may be required or which the Lender thinks fit for carrying out any obligations of the Client under the Agreement, these Terms or otherwise or for realizing any security given to the Lender or for giving to the Lender the full benefit of the Agreement and these Terms; and
- (b) to make any claim or take any action which the Lender may consider necessary or desirable in connection with any transaction contemplated by, or related to, the Agreement, these Terms or in connection with any asset subject to lien or security in favour of the Lender, in each case on such terms as the Lender may in its sole discretion consider appropriate..

23.2 The Client also agrees that this power of attorney is in addition to and in no way limits or restricts any rights which any of the MG Group Companies may have under any other agreement between the Client and any of the MG Group Companies.

23.3 The Client declares that the powers conferred upon all the MG Group Companies under these Terms shall be given the widest interpretation and may be exercised by any person authorized by any of the MG Group Companies for such purpose.

23.4 The Client hereby further declares that the authority herein contained shall remain in full force and effect until the termination of these Terms in accordance with these Terms.

## 24. **Termination**

24.1 The Client shall only terminate these Terms by a valid and effective prior written notice to the Lender. The aforesaid prior written notice shall be a valid and effective prior written notice only and only if such notice shall be actually received by the Lender and the effective date for termination of these Terms stated therein shall be at least 7 Business Days after the date of receipt of such notice by the Lender. These Terms shall be terminated by the Lender at its discretion and at any time by notice given by the Lender to the Client.

24.2 The termination of these Terms shall not affect or prejudice :-

- (a) the liabilities, obligations or indebtedness of the Client existing, arisen or incurred at the time under these Terms or any agreement made with any of the MG Group Companies on or before the termination of these Terms, including but not limited to the indebtedness, liabilities or obligations of the Client arising out of or in connection with any open positions or outstanding transactions at the time of the termination of these Terms;
- (b) the liabilities, obligations or indebtedness of the Client arising out of or in connection with any agreements, warranties, representations, undertakings and indemnities given by the Client under these Terms or any agreement made with any of the MG Group Companies;
- (c) the rights and powers to close out, transfer or settle all the open positions or outstanding transactions of the Client, and the rights and powers to take such action or do all such acts and things incidental or in relation to the closing out, transfer or settlement mentioned in this Clause; and
- (d) the rights and powers to take such action or do all such acts and things incidental or in relation to the termination, conclusion, consolidation, clearing or settlement of all the Client's liabilities, obligations or indebtedness under these Terms, or the rights and powers to take such action or do all such acts and things incidental or in relation to the termination of these Terms.

## 25. **Miscellaneous Provisions**

25.1 The provisions of these Terms shall be binding on and ensure to the benefit of the successor, assign and personal representative of each Party provided that the Client shall not assign, transfer, alienate, charge or otherwise dispose of any of the interest, rights, benefits, liabilities or obligations hereunder without the prior written consent of the Lender, and the Lender and any of the MG Group Companies may at any time assign, alienate or otherwise dispose of all or a part only of their respective interest, rights, benefits, liabilities and obligations under these Terms to any person without the prior consent or approval of the Client. Any assignee, transferee or successor of the Lender or any of the MG Group Companies shall have the same interest, rights, benefits, liabilities and remedies as if it were the Lender or such MG Group Company. The Lender or any of the MG Group Companies may delegate or sub-contract the performance of its obligations hereunder as it think fit.

25.2 Any provision of these Terms becoming prohibited by or unlawful or unenforceable under any applicable law actually applied by any court of competent jurisdiction shall, to the extent required by such law, be severed from these Terms and rendered ineffective so far as is possible without modifying the remaining provisions of these Terms. Where, however, the provisions of any such applicable law may be waived, they are waived by the Parties to the full extent permitted by such law to the end that these Terms shall be a valid and binding agreement enforceable in accordance with its terms and conditions.

25.3 Without prejudice to other provisions of these Terms relating to communication or notice by or from the Lender or any of the MG Group Companies and the right of the Lender or any of the MG Group Companies to use any way or method of communication, any report, confirmation, statements, notice and other communication from the Lender or any of the MG Group Companies to the Client under these Terms may be delivered personally or sent by post or telex or fax or electronic mail (“E-mail”) addressed to the Client at the address or telex number or fax number or E-mail address set out in the Account Opening Form, at its registered office or at such other address or telex number or fax number or E-mail address as may have been notified in writing by the Client to the Lender (such notification shall only take effect 24 hours after the actual receipt of the same by the Lender). Any such report, confirmation, statements, notice and other communication shall be deemed to have been received by the Client (a) if hand delivered, when



delivered, (b) if given by post, 24 hours after the same has been posted, or (c) if given by telex or fax or E-mail, at the same time when it is dispatched. The contents of such report, confirmation, statements, notice or communication or statement of account issued by the Lender or any of the MG Group Companies shall be or be deemed correct, accurate and conclusive and no objection thereto shall be made by the Client unless written objection is actually received by the Lender or such MG Group Company within 24 hours after hand delivery or transmission by telex or fax or E-mail, or in case of posting 48 hours thereafter.

- 25.4 Any letter, notice, documents or other communication from the Client to the Lender or any of the MG Group Companies shall take effect only on actual receipt of the same by the Lender or such MG Group Companies (as the case may be).
- 25.5 These Terms supersede all prior engagements, arrangements, agreements and contracts whether oral or in writing whatsoever made by the Lender. No warranties or representations express or implied are or have been made or given by the Lender or by anybody on his behalf relating to the subject of these Terms prior to the signing hereof. If any such warranty or representation express or implied has been made the same is withdrawn or deemed to have been withdrawn immediately before the Lender entering into these Terms. However, these Terms do and will not supersede any prior engagements, arrangements, agreements and contracts whether oral or in writing whatsoever and whether past, present or future made by the Client with or in favour of the Lender or any of the MG Group Companies, and do and will not affect or prejudice any or all the liabilities, obligations or indebtedness whether oral or in writing whatsoever and whether past, present or future of the Client to the Lender or any of the MG Group Companies.
- 25.6 In the event of death or liquidation of the Client or in the event of the Client being rendered incapable or disabled from managing and administering the Client's property or affairs then prior to the actual receipt by the Lender of written notice of death, liquidation or incapacity or disability of the Client, all the MG Group Companies may, but not obliged to, continue to act upon the instructions of the Client as if the Client were still alive, existing or capable of managing and administering the Client's property or affairs.
- 25.7 The rights, remedies, powers and privileges of the Lender and the MG Group Companies under these Terms are cumulative and not exclusive of any rights or remedies provided by law. No time, indulgence or forbearance granted by the Lender or any of the MG Group Companies shall operate to waive any of its rights under these Terms nor shall any single or partial exercise thereof preclude any other or further exercise thereof.
- 25.8 The Lender shall have absolute rights to amend, delete or substitute any of the terms herein or add new terms to these Terms and/or the Agreement. An amendment notice and the revised Agreement will be posted at the "**Important Terms**" column of MISL Website at [www.misl.com.hk](http://www.misl.com.hk). In addition, the Lender will notify the Client on such revision. The Client should visit the MISL Website from time to time for obtaining the latest Agreement and read the terms thereof. Such amendment, deletion, substitution or addition shall be deemed as effective and incorporated herein (and shall form part of the Agreement) on the date of publication of such amendment notice. The Client may raise written objection within fourteen (14) days after the publication of such amendment notice at the MISL Website. Failing which, it shall be deemed an acceptance of such amendment, deletion, substitution or addition.
- 25.9 Time shall in every respect be of the essence of the liabilities and obligations of the Client under these Terms.
- 25.10 The English version and the Chinese version of these Terms are of the same legal effect. However, in the event of any inconsistency between the English version and the Chinese version, the English version shall prevail.

## 26. **Governing Law and Jurisdiction**

- 26.1 These Terms shall be governed by and construed in accordance with the laws of Hong Kong. The Client and MISL and/or MG Group Companies hereby irrevocably submit to the exclusive jurisdiction of the courts of Hong Kong as regards any claim, matter or proceedings arising under these Terms. The Client agrees that the rulings, orders, decisions and/or judgments of the courts of Hong Kong shall be final and conclusive.
- 26.2 The Client agrees that MISL and/or MG Group Companies is/are entitled to enforce and execute the judgment of the courts of Hong Kong in any jurisdiction as it thinks fit. The Client hereby further agrees not to oppose in any legal proceedings arising under these Terms (including the legal proceedings in other jurisdiction for enforcement of judgment) and not to appeal the judgments of the courts of Hong Kong or other jurisdictions.
- 26.3 The Client agrees that any writ, summons, order, judgment or other document shall be and be deemed duly and sufficiently served on the Client if addressed to the Client and left at or sent by post to the address of the Client set out in the Account Opening Form or last known to the Lender. The foregoing shall not limit the Lender's right to serve process on the Client in any manner permitted by laws of the relevant jurisdiction.