



## Maybank Kim Eng Securities Pte Ltd Terms and Conditions

### General Terms and Conditions

Telephone : (65) 6432 1888 (Singapore and Overseas)  
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## Part I. GENERAL TERMS & CONDITIONS

This Part I of these Terms and Conditions (“T&C”) of Maybank Kim Eng Securities Pte Ltd (“**Maybank Kim Eng**”) shall govern the general relationship between Maybank Kim Eng and the client (hereafter the “**Client**”) and apply to all types of accounts opened or to be opened from time to time by the Client with Maybank Kim Eng (the “**Account**”) and all types of services to be provided by Maybank Kim Eng from time to time.

In the event of a conflict between this Part I of these T&C and any other Part of these T&C, the other Part shall prevail.

THE CLIENT SHOULD NOT UTILISE ANY OF THE SERVICES PROVIDED BY MAYBANK KIM ENG UNLESS THE CLIENT AGREES AND IS IN A POSITION TO COMPLY WITH ALL THE TERMS AND CONDITIONS HEREIN AND IN THE ACCOUNT APPLICATION FORM AND IN ANY PART OF THESE T &C, WHERE APPLICABLE.

### 1. GENERAL

#### Definitions and Interpretation

1.1 In this document and in any other agreements entered into between Maybank Kim Eng and the Client, unless the context otherwise requires, the following terms shall have the meanings set out hereunder:

‘**Account Application Form**’ means Maybank Kim Eng’s account application form (whether in hard copy or any on-line application form) executed by the Client or on the Client’s behalf;

‘**AEOI**’ or ‘**Automatic Exchange of Information**’ means the regular automatic exchange of information in tax matters between jurisdictions;

‘**Affiliated Companies**’ means the holding companies, subsidiaries, associate and related companies of Maybank Kim Eng;

‘**Agreement**’ means this agreement (as may from time to time be varied or modified in accordance with its provisions) and includes its appendices, schedules and all other documents or instruments made supplemental to it, including but not limited to the Account Application Form; the Guide(as defined below); and Maybank Kim Eng’s CAR and/or CKA documentation;

‘**Authorised Person**’ means any officer, employee or agent of the Client duly authorised by the Client in writing from time to time;

‘**CAR**’ refers to “Customer Account Review”, which has the definition given to it in the Notice on the Sale of Investment Products [SFA 04-N12] (as may be amended or revised from time to time) issued by the Monetary Authority of Singapore;

‘**CKA**’ refers to “Customer Knowledge Assessment”, which has the definition given to it in the Notice on the Sale of Investment Products [SFA 04-N12] and/or the Notice on Recommendations on Investment Products [FAA-N16], as the case may be (as may be amended or revised from time to time) issued by the Monetary Authority of Singapore;

‘**Client’s Property**’ means all monies, Securities and/or other property of the Client in Maybank Kim Eng’s custody or control held from time to time;

‘**Confirmation**’ means the written notice (including telex, facsimile or other electronic means from which it is possible to produce a hard copy) which contains the specific terms of a transaction entered into between Maybank Kim Eng and the Client and includes a contract note. Ancillary agreements referred to in the Confirmation are part of such Confirmation;

‘**CRS**’ or ‘**Common Reporting Standard**’ means an internationally agreed standard for AEOI on financial account information for tax purposes;

‘**EIP**’ refers to “Excluded Investment Product”, which has the definition given to it in the Notice on the Sale of Investment Products [SFA 04-N12] and/or the Notice on Recommendations on Investment Products [FAA-N16], as the case may be (as may be amended or revised from time to time) issued by the Monetary Authority of Singapore;

‘**ERA**’ refers to “execution-related advice”, which has the definition given to it in the Guidelines on Conduct of Business for Execution-Related Advice [FAA-G08] (as may be amended or revised from time to time) issued by the Monetary Authority of Singapore;

‘**FATCA**’ refers to the U.S. Foreign Account Tax Compliance Act;

‘**Formal Advice**’ has the definition given to it in the Guide;

'Guide' refers to the document titled "Guide And Cautionary Notes In Applying For/Continuing With An Account With Maybank Kim Eng Securities Pte Ltd" and provided to the Client either as part of Maybank Kim Eng's account opening application documentation or separately as an update document to explain the changes in the types of services and their respective terms available from Maybank Kim Eng;

'Personal Data' refers to information protected under the Personal Data Protection Act 2012, or any other information proprietary or personal to the Client;

'Retail Singapore Client' means a Client who is (i) an individual and is either in Singapore or is a citizen or permanent resident of Singapore or is wholly or partly dependent on a citizen or permanent resident of Singapore;

and (ii) not an accredited, institutional or expert investor as the respective expressions are defined in the Securities and Futures Act, Chapter 289 of Singapore;

'Securities' shall include (but are not limited to) debentures, stocks, shares, bonds, notes or certificates of deposit (whether listed or non-listed or traded in Singapore or elsewhere) issued by a government, a body corporate or unincorporate, or international body, or any right or any derivative instrument (including any warrant, option, transferable subscription right, loan stock and convertible right) in respect of any such debentures, stocks or shares;

'SIP' refers to "Specified Investment Product", which has the definition given to it in the Notice on the Sale of Investment Products [SFA 04-N12] and/or the Notice on Recommendations on Investment Products [FAA-N16], as the case may be (as may be amended or revised from time to time) issued by the Monetary Authority of Singapore; and

'U.S.' refers to the United States of America.

Any reference to a statute, statutory provision or subsidiary legislation ("legislation") and the rules of any regulator ("regulatory rules") shall (except where the context otherwise requires) be construed as referring to such legislation and regulatory rules as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation.

Any phrase introduced by the terms "including", "include", "in particular", "for example" or the letters "eg" or any similar expression shall be construed as illustrative and shall not limit the sense of the words that precede it.

Words incorporating the singular shall also include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

The headings contained in these T&C are for purposes of convenience only and shall not affect the construction of the provisions. For the avoidance of doubt the contents under the headings "General", "Trading", "Custodial Service", "Securities Lending" and "Electronic Payment for Shares ("EPS") Service" are not intended to be mutually exclusive; the provisions in each section are without prejudice to the generality and application of these T&C and should be read as a whole.

#### **Account Opening**

- 1.2 Upon its acceptance of an application by the Client to open an Account, Maybank Kim Eng shall, in accordance with its general operating procedures, open an Account in the name of the Client upon which the Client may effect transactions in Securities or other permitted financial products. Maybank Kim Eng shall be entitled to treat all information provided by the Client in the Account Application Form as accurate. Maybank Kim Eng will not be responsible for any error in the information provided by the Client.

#### **Single Agreement**

- 1.3 All transactions on any Account are entered into in reliance on the fact that these T&C, all outstanding transactions (and to the extent recorded in a Confirmation, and each such Confirmation) shall form a single agreement between Maybank Kim Eng and the Client and Maybank Kim Eng would not otherwise enter into these T&C and any such transactions.

#### **Applicable Laws**

- 1.3A The Client's relationship with Maybank Kim Eng, the operation of all Accounts, the provision of all services and facilities, and the implementation of all orders shall be subject at all times to all relevant or applicable statutes, laws, rules, regulations, directives and circulars (whether of governmental bodies or authorities or self-regulatory organisations in relation to which Maybank Kim Eng or any person or entity related to or associated with it is a

member of) or otherwise and, to the furthest extent permitted by applicable laws, to this Agreement. Maybank Kim Eng may take or refrain from taking any action whatsoever, and the Client shall do all things required by Maybank Kim Eng in order to procure or ensure compliance with applicable laws.

#### **No Right to Encumber Account**

- 1.4 The Client shall not without the prior written consent of Maybank Kim Eng assign, charge or encumber any Account or the Client's rights therein, or create or permit to create, in favour of any person (other than Maybank Kim Eng) any interest in any Account (by way of trust or otherwise). Maybank Kim Eng shall not be required to recognise any person other than the Client as having any interest in any Account.

#### **Instructions and Orders**

- 1.5 (a) The Client authorises Maybank Kim Eng to rely and act on, and treat as fully authorised by and binding upon the Client, any order instruction or communication (by whatever means transmitted and whether or not in writing) which purports to have been given and which is reasonably accepted by Maybank Kim Eng in good faith as having been given by the Client or on the Client's behalf by any person, without further enquiry on the part of Maybank Kim Eng as to the genuineness of authority or identity of the person giving or purporting to give such instructions and regardless of the circumstances prevailing at the time. Without prejudice to the foregoing, Maybank Kim Eng shall be entitled (but not obliged) to verify and be satisfied with respect to the identity of the person purporting to give such order or the source and origin of such order and Maybank Kim Eng may not rely or act upon any such order unless and until Maybank Kim Eng is satisfied as to the matters on which Maybank Kim Eng sought verification. The Client agrees that it shall be responsible to Maybank Kim Eng for all engagements, indebtedness and any obligations made or entered into in the Client's name whether in writing or orally, and howsoever communicated or purported to be given in the manner above. Maybank Kim Eng shall not be liable for any loss, damage, cost and expense incurred by the Client as a result of Maybank Kim Eng so acting. Maybank Kim Eng shall have the discretion to refuse to accept or act on any orders, instructions or requests of the Client without having to assign any reason for such refusal and Maybank Kim Eng shall bear no liability whatsoever for failing to comply with any orders, instructions or requests of the Client or for exercising or failing to exercise any discretion, power or authority conferred upon Maybank Kim Eng by these T&C. The record or recollection of any of Maybank Kim Eng's officers, employees or agents receiving oral instructions from the Client is conclusive against the Client as to the contents of such oral instructions.
- (b) Once an order is received by Maybank Kim Eng, such order is binding on the Client provided that the Client may give an order to withdraw, cancel, revoke or vary a previous order in the manner set out in Clause 1.5(c).
- (c) Where the Client gives Maybank Kim Eng an instruction to withdraw, cancel, revoke or vary a previous order, Maybank Kim Eng shall not be obliged to execute such withdrawal, cancellation, revocation or variation unless the previous order has not yet been executed, and provided that the withdrawal, cancellation, revocation or variation, as the case may be, will not prejudice Maybank Kim Eng's position. The Client acknowledges that subsequent orders given to one of Maybank Kim Eng's representatives may not be sufficient to revoke an earlier order given to another of Maybank Kim Eng's representatives, or to cancel an order made with the relevant Maybank Kim Eng representative implementing such order.
- (d) For the avoidance of doubt, the Client shall not assume that its orders have been executed until Maybank Kim Eng confirms the same orally or in writing. However, nothing in this Clause implies that the Client's orders have not been executed if the Client, for whatever reason, does not receive confirmations of such orders.
- (e) In the event that Maybank Kim Eng decides to act on any order or is otherwise under an obligation to act on any order, Maybank Kim Eng shall be allowed such amount of time to act upon and implement the order as may be reasonable, having regard to the systems and operations of Maybank Kim Eng and the other circumstances then prevailing, and shall not be liable for any loss arising from any delay on the part of Maybank Kim Eng in acting on the order.
- (f) Maybank Kim Eng shall send to the Client a Confirmation after its receipt of an order. The Client shall be responsible for reviewing the Confirmation to ensure that an order has been transmitted, received, processed and duly executed, and shall immediately notify Maybank Kim Eng of any failure to receive an appropriate Confirmation that the order has been received and executed.

- (g) The Client acknowledges and consents to the right of Maybank Kim Eng to aggregate the Client's orders with the orders of Maybank Kim Eng's other clients (whether for execution on other jurisdictions or otherwise). The allotment or distribution of any Securities, monies or other property pursuant to such order aggregation to or amongst the Client and Maybank Kim Eng's other clients shall be at Maybank Kim Eng's sole and absolute discretion, and Maybank Kim Eng may also effect such transactions as principal to the counterparty in such jurisdiction. If Maybank Kim Eng so acts, Maybank Kim Eng may also take such actions as Maybank Kim Eng may require in order to avoid liability to its counterparty. The Client accepts that such allotment or distribution or actions by Maybank Kim Eng may result in inequities and/or loss to the Client and accepts the risk thereof as being for the Client's account.
- (h) The Client acknowledges and agrees that Maybank Kim Eng's representatives may carry out dealing activities or otherwise operate outside Maybank Kim Eng's office premises and, in this respect, the Client acknowledges and agrees that:
  - (i) it is in the Client's own interest not to use the representative's address as the Client's mailing address for contract notes and statements;
  - (ii) the Client may only enter into transactions with or otherwise give instructions to Maybank Kim Eng using the telephone or via an internet trading platform, unless Maybank Kim Eng agrees to accept other forms of communication, and such orders are subject to these T&C;
  - (iii) the Client is responsible for and aware of the attendant risk attached to transactions executed off-premises;
  - (iv) the Client understands that there might be limitations that may potentially affect the Client's customer service experience, including, but not limited to delays in responding to or executing an instruction or entering into a transaction, and there is the risk of possible delay in trade processing, outages and unauthorised trading; and
  - (v) the Client agrees to communicate, give instructions and/or place orders only with the representative assigned by Maybank Kim Eng to the Client, and the Client shall be responsible for monitoring its accounts for any unauthorised trading and direct all complaints if any, to Maybank Kim Eng for investigation.
- (i) Maybank Kim Eng may, in its sole and absolute discretion, act either as broker or dealer, or agent or principal in respect of any transaction, whether such transaction is effected on the order of the Client or otherwise, and shall not be required to inform the Client of the same. In the event that Maybank Kim Eng assumes the role of the counterparty to any transaction, Maybank Kim Eng shall be entitled to all gains, profits and benefits derived from such transaction. Unless otherwise agreed by Maybank Kim Eng, in respect of transactions on an exchange, Maybank Kim Eng shall act as the Client's agent, and in respect of other transactions, Maybank Kim Eng shall act as principal to the Client.

#### **Commissions, Fees & Other Charges**

- 1.6 The Client agrees to pay all fees commissions brokerage stamp duties clearing fees goods and services tax and other charges which may be payable in relation to any of the services provided or transactions effected for the Client by Maybank Kim Eng and at such rate(s) as may be determined by Maybank Kim Eng. All payments shall be made without deductions or withholding for or on account of any tax duty or levy. If Maybank Kim Eng is obliged to so deduct or withhold, the Client shall pay such additional sums to Maybank Kim Eng in order to ensure that the net amount received by Maybank Kim Eng shall be the full amount properly due to Maybank Kim Eng had the deduction or withholding not applied.

#### **Agents**

- 1.7 Maybank Kim Eng is authorised to employ agents who may or may not be any of its affiliated companies, to perform all or part of its services or duties, and to provide to such agents information relating to the Client and/or to transactions requested by the Client. The Client acknowledges and consents to Maybank Kim Eng delegating to and/or using foreign brokers in other jurisdictions for the execution of the Client's orders with respect to Securities listed and traded in those jurisdictions. So long as Maybank Kim Eng uses reasonable care in the selection of such brokers, Maybank Kim Eng shall have no liability or responsibility referable to any default or negligence of such foreign brokers. Notwithstanding that as between the Client and Maybank Kim Eng, Maybank Kim Eng is in fact the agent of the Client in using the foreign broker to carry out the Client's orders, Maybank Kim Eng may have to accept sole and principal responsibility to the foreign broker for the executed order. Accordingly the Client shall indemnify Maybank Kim Eng against any and all loss, damage, cost or expense suffered or incurred by Maybank Kim Eng arising from or in connection with carrying out the Client's orders, and actions which Maybank Kim Eng deems in good faith necessary to ensure that Maybank Kim Eng will not be in default of its principal

obligation or responsibility or to contain or minimize its loss.

#### **Payment/Handling of Securities/Monies**

- 1.8 Trading representatives are not authorised to collect payment or handle Securities on behalf of Maybank Kim Eng. The Client acknowledges that if the Client chooses to effect payment or to deposit Securities by delivering a cheque or Securities to his trading representative, payment or deposit of the Securities shall be deemed to be made only when Maybank Kim Eng receives the cheque or Securities from the trading representative and not when the cheque or Securities are delivered to the trading representative. The Client agrees that in the event where payments are made prior to the date for settlement of purchases, Maybank Kim Eng shall deposit such amounts into the Client's trust account and shall not withdraw any monies from such trust account except for the purposes stipulated in Regulation 21 of the Securities and Futures (Licensing and Conduct of Business) Regulations.
- 1.9 Maybank Kim Eng may, for the purpose of depositing monies or Securities received on account of the Client which are denominated in a foreign currency in a trust account, maintain a trust account with a custodian outside Singapore which is licensed, registered or authorised to conduct banking business in the country or territory where the account is maintained.
- 1.10 The Client acknowledges that Maybank Kim Eng may place monies received on account of the Client in an omnibus customer trust account together with monies that Maybank Kim Eng holds for other clients. As such the Client further acknowledges that it would be administratively and operationally difficult, if not impossible (in view of the constant fluctuation of the aggregate balance in such account), to account separately for each of Maybank Kim Eng's clients the interest due on their cash balance in the omnibus account as interest will be received on an aggregated basis. In any event, it is also acknowledged and accepted that such an exercise would be likely to cost more than any interest earned. In these circumstances, it is a condition that the Client waives and relinquishes in Maybank Kim Eng's favour all claims for interest that may otherwise accrue with respect to the Client's said monies received by Maybank Kim Eng on the Client's account.
- 1.11 The Client consents that Maybank Kim Eng may hold monies received on account of the Client on trust in the forms of investment stipulated in Regulation 20 of the Securities and Futures (Licensing and Conduct of Business) Regulations.
- 1.12 The Client acknowledges that any Securities belonging to the Client which are deposited with Maybank Kim Eng may be held with securities held by Maybank Kim Eng for other clients on an aggregate or omnibus basis. This may in some instances result in prejudice to the Client and the Client accepts and consents to this.

#### **Excess Funds**

- 1.13 The Client acknowledges that as a general rule excess funds of the Client unless title transferred in favour of Maybank Kim Eng will be held commingled with excess funds of other clients (also not title transferred in favour of Maybank Kim Eng) of Maybank Kim Eng in a trust account in accordance with the provisions of the Securities and Futures (Licensing and Conduct of Business) Regulations. The Client hereby grants Maybank Kim Eng the authority at its discretion to pool any excess funds in the Client's trust account with those of other clients of Maybank Kim Eng and at its further discretion to place such funds with either an interest-paying institution or with a fund manager for management with intent to enhance returns on such excess funds by way of investing the same in money market funds. The Client acknowledges that such placement is at Maybank Kim Eng's discretion and Maybank Kim Eng shall have no liability or responsibility if no such placement is made and so long as a placement is made in good faith. As the returns from the funds placed will be returns on a fluctuating amount, it is neither practical nor feasible to calculate the amount pro rata due to the Client and thus the Client accordingly agrees to waive entitlement to claim the returns actually due to the Client's amount of excess funds in return for Maybank Kim Eng paying the Client out of the overall returns from the funds, of which the Client's excess funds is a part of, the returns as Maybank Kim Eng in good faith deems appropriate. It is Maybank Kim Eng's objective to try and ensure that the Client receives a return that is at least equivalent to the average interest payable on savings accounts at local banks in Singapore or any other rates as may be decided by Maybank Kim Eng from time to time but Maybank Kim Eng shall not be liable if for any reason the said overall returns is not, in Maybank Kim Eng's good faith determination, sufficient for Maybank Kim Eng to pay each of its clients (including the Client) the minimum interest that it is Maybank Kim Eng's said objective to try to pay to the Client out of the same and Maybank Kim Eng only pays out to the Client a lesser sum or no sum at all by way of interest.

#### **Interest**

- 1.14 The Client agrees to pay interest on all sums due to Maybank Kim Eng after as well as before judgment at such rate(s) of interest as may be determined from time to time by Maybank Kim Eng, and whether or not prior notification thereof has been given to the Client. Foreign currency denominated accounts (e.g. M\$ or HK\$) are charged different interest rates. Interest shall be settled in S\$ at an exchange rate to be determined by Maybank

Kim Eng. Interest shall accrue on a daily basis on a 365-day year or 366-day leap year for all outstanding sums due from the due date to the date of full payment.

#### **Set-off**

- 1.15 Maybank Kim Eng shall be entitled, without prior notice to the Client, to set-off any debts, liabilities or amounts owing by the Client against any amounts due to the Client or any monies held on behalf of the Client or to which the Client is beneficially entitled including any monies held on trust or as collateral or in the trust account for the Client whether the debts are actual or contingent and irrespective of any differences in currency. Maybank Kim Eng shall be entitled to effect such currency conversions and at such rates of exchange as Maybank Kim Eng may in its absolute discretion deem necessary or appropriate in order to effect such set-off.

#### **Lien**

- 1.16 The Client agrees that all of the Client's property shall be subject to a general lien or liens in favour of Maybank Kim Eng, its nominees, custody and/ or other agents (and the Client shall be deemed to have given any required consent(s) in writing or otherwise in respect thereof) for the discharge of all or any indebtedness and other obligations of the Client to Maybank Kim Eng. The Client shall not be entitled to withdraw any monies or Securities held by Maybank Kim Eng pending the repayment in full to Maybank Kim Eng of any indebtedness of the Client to Maybank Kim Eng. Maybank Kim Eng shall be entitled at any time and without prior notice to the Client to retain apply sell or dispose of all or any of the Client's property if any such obligation or liability is not discharged in full by the Client when due or on demand in or towards the payment and discharge of such obligation or liability, and Maybank Kim Eng shall be under no duty to the Client as to the price obtained or any losses or liabilities incurred or arising in respect of any such sale or disposal.

#### **Charge**

- 1.17 (a) As a continuing security for the payment and satisfaction on demand of all monies and liabilities and the performance of all obligations hereunder which are now or any time hereafter may be due, owing or incurred by the Client to Maybank Kim Eng, the Client hereby charges to Maybank Kim Eng, free of all encumbrances and adverse interests, by way of first fixed and equitable charge of all Securities which are or have been deposited with or are held by Maybank Kim Eng or its nominee, by way of a first fixed legal mortgage all Securities, the title to which has been transferred by the Client or the Client's nominee to Maybank Kim Eng or Maybank Kim Eng's nominee, in each case, including dividends, rights, monies or property accruing in respect thereof.
- (b) The Client shall, upon request by Maybank Kim Eng, forthwith execute all such transfers and other documents as may be necessary to enable Maybank Kim Eng or Maybank Kim Eng's nominee to perfect the charge, to be registered as owner of, or otherwise to obtain legal title to, any Securities deposited with or held by it and which are charged to Maybank Kim Eng pursuant to Clause 1.17(a) above.
- (c) Subject to Maybank Kim Eng being satisfied that all obligations and liabilities of the Client under the Account have been duly performed or observed, Maybank Kim Eng may re-transfer or re-deliver any Securities charged to Maybank Kim Eng at any time and shall do so upon request by the Client.
- (d) Nothing in this Clause shall restrict the operation of any general lien or other rights or lien whatsoever which Maybank Kim Eng may be entitled to under the general law.

#### **Power of Attorney**

- 1.18 The Client hereby irrevocably appoints Maybank Kim Eng, through any of its directors or officers as the attorney of the Client for each and all of the purposes of these T&C and with the power to sign and execute all documents and perform all acts in the name and on behalf of the Client to facilitate any transactions under or pursuant to the Account or to implement or perform any of the Client's duties or responsibilities herein or the enforcement of these T&C or to give effect or substance thereto.

#### **Ratification**

- 1.19 The Client agrees to ratify and confirm any and all acts and things done or caused to be done by Maybank Kim Eng for and on behalf of the Client or otherwise in relation to the Account, or any of the services provided by Maybank Kim Eng or anything done pursuant to these T&C.

#### **Representations, Warranties and Undertakings**

- 1.20 The Client represents and warrants to Maybank Kim Eng as follows (which representations and warranties shall be deemed to be repeated on a continuous basis for so long as the Client has any Account with, receives any services from, or has any outstanding transaction with, Maybank Kim Eng):

- (a) the Client has full capacity and authority to accept and agree to these T&C, to open, maintain and/or continue to maintain all Account(s) from time to time opened and/or maintained and/or continued to be maintained with Maybank Kim Eng, and to give Maybank Kim Eng orders thereon;
- (b) the Client has read, understood and accepted the terms of the Risk Disclosure Statement (Part VII of these T&C), that the Risk Disclosure Statement is not a substitute for taking independent advice, and that, unless otherwise agreed by Maybank Kim Eng in writing or otherwise stated in this Agreement, no transaction will be entered into in reliance on any statement, advice or information by Maybank Kim Eng;
- (c) the Client has all authorisations, consents, licences or approvals (whether under applicable laws or otherwise) required to accept and agree to these terms and conditions, to open, maintain and/or continue to maintain all Account(s) from time to time opened and/or maintained and/or continued to be maintained with Maybank Kim Eng, and to give Maybank Kim Eng orders thereon;
- (d) the Client is not an employee of any governmental or self-regulatory organisation in any jurisdiction, including any exchange or a member firm thereof, or engaged in the business of dealing (either as agent or principal) in any of the property traded under the Account(s), and the Client shall promptly notify Maybank Kim Eng if it becomes so employed;
- (e) unless agreed by Maybank Kim Eng, no person other than the Client has an interest in any Account;
- (f) except with the express written consent of Maybank Kim Eng, and except for any security or encumbrance created hereunder, no person has or will have any security or other encumbrance over any Account and/or over any cash or property in any Account;
- (g) any orders, with the sole exception of orders placed consistently and in accordance with ERA or Formal Advice (given where the Client had provided all relevant information to Maybank Kim Eng to enable such ERA or Formal Advice to take into account the Client's investment objectives, financial situation, particular needs, ability and willingness to take relevant risks), placed or any other dealings in the Account(s) are solely and exclusively based on the Client's own judgment and after the Client's own independent appraisal and investigation into the risks associated with such orders or dealings and the Client's own independent determination of the orders or dealings being specifically suitable for the Client based on the Client's own assessment of its investment objectives, financial situation, particular needs, ability and willingness to take relevant risks;
- (h) Maybank Kim Eng shall not be under any duty or obligation to inquire into the purpose or propriety of any order and shall be under no obligation to see to the application of any funds delivered by the Client in respect of any Account;
- (i) any person(s) empowered to act on the Client's behalf has been duly authorised;
- (j) all information provided by the Client to Maybank Kim Eng in connection with these T&C, the Account Application Form and each transaction is true, complete and accurate in all respects and shall remain true, complete and accurate unless and until the Client notifies Maybank Kim Eng to the contrary;
- (k) the Client has received, read, understood and accepted that the level(s) of services available to the Client will, where the Client is a Retail Singapore Client, vary depending on whether the Client is transacting or intending to transact in an SIP or an EIP. The Client further and specifically confirms that it has read and understood all the contents of the Guide; and accepts the conditions and limitations for each and every service available to the Client depending on whether the Client is transacting or intending to transact in an SIP or an EIP; and
- (l) the Client has read, understood and accepted the terms for Maybank Kim Eng's provision of services to the Client as described in the Guide and therefore that where the Client is not a Retail Singapore Client, the Client agrees and accepts that Maybank Kim Eng provides the Client with solely **execution only** services for and with respect to all the Client's transactions with or through Maybank Kim Eng. As such the Client also accepts sole responsibility for determining the merits or suitability of any and all transactions that it may enter into with or through Maybank Kim Eng.

1.21 The Client agrees and undertakes with Maybank Kim Eng as follows (which undertakings shall be deemed to be repeated on a continuous basis for so long as the Client has any Account with, receives any services from, or has any outstanding transaction with, Maybank Kim Eng):

- (a) to immediately inform Maybank Kim Eng of any changes to the representations and warranties provided by the Client in these T&C or the Account Application Form, or in the event that such representations or warranties are no longer accurate or correct;

- (b) to immediately notify Maybank Kim Eng in writing in the event of any change to the personal information or circumstances or any other relevant information the Client provided or is required to provide to Maybank Kim Eng;
- (c) to effect all stamping, filing or registration of all documents which may be required under the laws of any relevant jurisdiction;
- (d) to forthwith furnish such financial information to Maybank Kim Eng as it may request from time to time; and
- (e) to assume responsibility for any disclosure of any shareholding or other interest required under any applicable law, rules and regulations.
- (f) to immediately notify Maybank Kim Eng in writing of any change to the specimen signature used by the Client from what was used in the Account Application Form and to provide a copy of the same.

1.21A For the purposes of Clause 1.21(a), (b), (d) and (f), any change to the Client's information, including his address, that is notified to Maybank Kim Eng by the Central Depository (Pte) Ltd, may, at Maybank Kim Eng's sole discretion, be treated as a written notification of the same from the Client to Maybank Kim Eng.

#### **Service of Documents and Notices**

1.22 Any documents and notices served on the Client by Maybank Kim Eng may be in writing and addressed to the Client's address stated in the Account Application Form or any agreements entered into between the Client and Maybank Kim Eng or any other address as the Client may notify Maybank Kim Eng in writing from time to time and shall be deemed to have been duly served and effective 48 hours after posting or, if sent by telex, facsimile or any other electronic means, upon dispatch or, if served by hand, upon delivery. Whenever the Client receives any statements of account or any document in connection with the Account, the Client agrees that he will inform Maybank Kim Eng of any mistake, omission or disagreement within fourteen (14) days from the date the same was posted/delivered or such other duration as may be stipulated in the said document. If the Client fails to do this, he agrees he no longer has the right to dispute the accuracy of the statement or document. Accordingly, Maybank Kim Eng has the right to treat the Client's silence as the Client's representation that the statement or document is accurate. However, should Maybank Kim Eng discover at any time that the statement or document is inaccurate, Maybank Kim Eng can still amend the same.

#### **Waiver**

1.23 No act omission or forbearance by Maybank Kim Eng or any of its employees or agents shall constitute a waiver of any of Maybank Kim Eng's rights.

#### **Indemnity**

1.24 The Client agrees to indemnify Maybank Kim Eng, its employees and agents against all liabilities claims losses and expenses of any nature including legal costs (on a full indemnity basis) arising from or in connection with any transaction or instruction that may be carried out by Maybank Kim Eng on behalf of the Client or at the Client's request or the Client's access/use of the internet trading platform or any breach of these T&C or the provisions of any agreement entered into between the parties or any action taken to enforce the same.

#### **Force Majeure**

1.25 Maybank Kim Eng shall not be held liable to the Client for any partial performance delay in performance or non-performance of any of its obligations under any agreement with the Client by reason of any cause beyond Maybank Kim Eng's control, including but not limited to any act of force majeure, any breakdown or failure of transmission communication or computer facilities postal strikes or other industrial actions the failure of any exchange market or clearing house or failure of any relevant correspondent or other agent for any reason to perform its obligations war hostility riot civil commotion requisition by any government or any regional or local authority, or any agency thereof, or any law, regulation, edict, executive order or mandate of any such body or any act of God fire flood frost storm or explosion. The Client agrees that any and all Securities documents and/or other personal property heretofore or hereafter deposited, whether held by Maybank Kim Eng or its agents, are at the Client's sole risk as regards any loss or destruction of or any damage to the same.

#### **Limitation of Liability**

1.26 Maybank Kim Eng shall not be liable for any loss or damage whatsoever (including indirect or consequential loss, anticipated profits or punitive damages) that the Client may suffer or incur due to any act or omission of Maybank Kim Eng or any of its appointed agents or servants in the execution or performance of any transaction which it is authorised to do pursuant to the conditions herein or otherwise requested by the Client except for any act,

omission or default caused by the willful default, gross negligence or fraud of Maybank Kim Eng its officers or employees. Provided always that Maybank Kim Eng shall not be liable for any economic or consequential loss whatsoever that may be suffered by the Client.

#### Disclosure

- 1.27A The Client may provide Maybank Kim Eng Personal Data in connection with the Account or Personal Data may be collected or compiled in the ordinary course of the relationship between the Client and Maybank Kim Eng.
- 1.27B The Client accepts that Personal Data will be collected, used, disclosed and/or processed by Maybank Kim Eng for one or more of the following purposes:
- (a) Account opening, and operations relating to the Account including closing the Account;
  - (b) Providing the Client with the products and services of Maybank Kim Eng, as well as products and services by other external providers provided through or co-branded with Maybank Kim Eng;
  - (c) Administration and/or managing the relationship or Account with Maybank Kim Eng, including carrying out the instructions of the Client, to update the Client on the products and services of Maybank Kim Eng from time to time, responding to any enquiries by the Client, handling feedback or complaints by the Client or processing any applications or requests for new products and/or services made by the Client;
  - (d) Carrying out due diligence or other screening activities (including background checks) in accordance with legal or regulatory obligations or risk management procedures (including but not limited to those designed to combat financial crime, “know-your-client”, anti-money laundering, counter-terrorist financing or anti-bribery), that may be required by law or by the policies and procedures of Maybank Kim Eng;
  - (e) Dealing in any matters relating to the products and/or services which the Client is entitled to under these Terms and Conditions (including the creation and distribution of correspondence, statements, invoices, confirmations, advice, information, reports or notices, which may involve disclosure of Personal Data to third parties);
  - (f) To provide the Client with marketing, advertising and promotional information, materials and/or documents relating to banking, investment, credit and/or financial products and/or services that Maybank Kim Eng may be selling, marketing, offering or promoting, whether such products and/or services exist now or are created in the future;
  - (g) Enforcing Maybank Kim Eng’s legal and/or contractual rights against the Client, including the recovery of any amounts owed to Maybank Kim Eng;
  - (h) Credit or Account review and approval, including undertaking initial and anticipatory credit checks or assessments, and verification of ongoing creditworthiness and standing;
  - (i) Preventing, detecting and investigating fraud, misconduct, any unlawful action or omission in connection with the Account or the Client;
  - (j) Managing the infrastructure and business operations of Maybank Kim Eng, and complying with policies and procedures that may be required by law or that may have been put in place by Maybank Kim Eng, including those relating to audit, finance and accounting, billing and collections, information technology systems, risk management, data warehousing and website hosting, training, knowledge management, testing, business continuity, and records, document and print management;
  - (k) Maintaining the security of Maybank Kim Eng premises (including but not limited to the use of security cameras);
  - (l) Complying with any regulatory requirement or applicable law;
  - (m) As Maybank Kim Eng is compliant with both FATCA and CRS, the Client agrees that all necessary information on reportable accounts will be provided to the relevant regulator in the applicable markets or jurisdiction, and such regulator may report the information disclosed to the Internal Revenue Service or any equivalent regulator under the terms of any inter-governmental agreement applicable to the Account or Client;
  - (n) Where the Client consents in the manner provided in Clause 1.27D:
    - (i) Subject to any other terms and conditions, registration or participation in any contest, lucky draw, campaign, promotion, event, survey or questionnaire of Maybank Kim Eng or the Affiliated Companies; and
    - (ii) The provision of marketing information relating to banking, financial or investment services or products offered by Maybank Kim Eng or its business partners or the Affiliated Companies for the purposes of promoting, marketing or cross-selling of banking, financial or investment products and services to the Client;

- (o) Conducting data analyses, market research and surveys relating to any products and/or services provided by Maybank Kim Eng or jointly with another party with the aim of improving the products and/or services which may be relevant to the Client;
- (p) Facilitating any proposed or actual business assignment, transfer, participation, or sub-participation in any of Maybank Kim Eng's rights or obligations in respect of the Client's relationship with Maybank Kim Eng; and
- (q) Purposes which are reasonably related to the above or in a manner consistent with Maybank Kim Eng Privacy Policy on the Maybank Kim Eng website.

1.27C The Client acknowledges and accepts that Maybank Kim Eng may disclose Personal Data to any of the following third parties, whether in Singapore or elsewhere, to process Personal Data for any of the purposes in Clause 1.27B:

- (a) The Affiliated Companies;
- (b) Service providers, suppliers, agents, or intermediaries of Maybank Kim Eng;
- (c) Credit reference agencies, rating agencies, direct or indirect providers of credit protection, banks or financial institutions or debt collection agencies;
- (d) External products or service providers that are providing products or services through Maybank Kim Eng;
- (e) Auditors and professional advisers of Maybank Kim Eng;
- (f) Any person to whom Maybank Kim Eng or the Affiliated Companies need to disclose information under applicable law;
- (g) Assignees or successors in title of Maybank Kim Eng; and/or
- (h) Any local or foreign regulatory body, government agency, statutory board, ministry, departments or other government bodies and/or its officials.

Maybank Kim Eng will require the above third parties to keep the Personal Data disclosed to them confidential and secure when carrying out the purposes listed in Clause 1.27B.

1.27D The Client may consent to the collection, use, processing and disclosure of Personal Data in any of the following ways:

- (a) Signing a relevant form, including application form(s), account opening document(s) or personal data consent form;
- (b) Providing notice of consent; or
- (c) Be deemed to have consented in any other manner permitted by law.

For the avoidance of doubt, if any applicable data protection legislation permits Maybank Kim Eng to collect, use or disclose Personal Data without the Client's consent, such permission granted by the law shall continue to apply.

1.27E By providing Personal Data relating to a third person such as the Client's dependent, spouse or children to Maybank Kim Eng, the Client represents and warrants that the consent of that third person has been obtained for the collection, use, disclosure and processing of the Personal Data for the purposes listed in Clause 1.27B and in the manner provided in Clause 1.27C.

1.27F The Client may withdraw the Client's consent to use or disclose Personal Data by written notice to Maybank Kim Eng and the Client acknowledges that such withdrawal may adversely affect Maybank Kim Eng's relationship with the Client and may result in termination of the Account or other consequences to the relationship between Maybank Kim Eng and the Client.

1.27G Subject to the applicable law, the Client may request for access to and correction of Personal Data by giving notice to Maybank Kim Eng and the Client accepts that Maybank Kim Eng may charge a reasonable fee for dealing with the Client's request.

#### **Joint Accounts**

1.28 In the event that the Account is a joint account, the joint account holders agree as follows:

- (a) all duties obligations and liabilities owed by anyone of the joint account holders shall be owed by all the joint account holders jointly and severally;
- (b) all joint account holders agree to be bound by the instructions given to Maybank Kim Eng by any one of the joint account holders;

- (c) delivery of share certificates to any joint account holder shall be sufficient delivery to all joint account holders;
- (d) payment made to any joint account holder shall constitute good discharge for Maybank Kim Eng; and
- (e) in the event of the death of any joint account holder, the other joint account holder(s) will have the right of survivorship and Maybank Kim Eng is instructed to pay all monies or deliver Securities to any one of the survivor(s).

#### **Change of Particulars**

- 1.29 Without prejudice to Clause 1.21(b) above, the Client acknowledges and agrees that until notification in writing of any change to the personal information or circumstances or any other relevant information the Client provided or is required to provide to Maybank Kim Eng is received by Maybank Kim Eng, the Client shall absolve Maybank Kim Eng of any responsibility or liability resulting from Maybank Kim Eng's acting on the basis of the original particulars.

#### **Terms to Govern once Service or Facility is Used**

- 1.30 Regardless of whether the Client has signed the required documentation, the Client will be deemed to have agreed to these T&C if the Client commences to trade through Maybank Kim Eng or to use or continue to use any of the services or facilities provided by Maybank Kim Eng, and the Client confirms that all transactions executed on the Client's instructions will be governed by these T&C.

#### **Amendment of T&C**

- 1.31 Maybank Kim Eng may at any time give to the Client notice of any amendment, variation, revision, supplement or any other change to these T&C by post, e-mail or such other means as Maybank Kim Eng shall think fit. Changes shall take place on and from the date specified in the notice or if no such date is specified, on and from the date of such notice. Without prejudice to the foregoing, the entry into or continued entry into transactions by the Client after such change shall be deemed as its acceptance and agreement to the same. No trading representative or remisier may waive or vary any of Maybank Kim Eng's rights under these T&C nor may they accept any liability on Maybank Kim Eng's behalf.

#### **Termination by Notice**

- 1.32 The Account may be terminated by either party giving the other seven (7) business days' notice in writing (without having to give any reason). Upon termination, any and all indebtedness whatsoever owing to Maybank Kim Eng shall fall due and be immediately payable to Maybank Kim Eng by the Client, and Maybank Kim Eng shall be entitled to exercise all such rights and powers under these T&C including the liquidation and sale in such manner as Maybank Kim Eng deems fit all or any of the Client's Securities collateral or property (whether charged/secured to Maybank Kim Eng or otherwise in Maybank Kim Eng's custody and control) and to use the proceeds thereof to pay and satisfy the Client's indebtedness. Maybank Kim Eng is also authorised to deliver (as soon as is practicable thereafter) any Securities held by it to the Client or the Client's successors in title after repayment of any debt balance and after deduction of Maybank Kim Eng's outstanding fees and expenses, if any. Such notice to terminate shall not be a waiver of any obligations already accrued to each party and these obligations shall continue to be governed by these T&C until such obligations are fulfilled and concluded.

#### **Successors in Title and Assigns**

- 1.33 These T&C shall be binding on Maybank Kim Eng and the Client and their respective successors in title and assigns. These T&C shall also continue to be binding on the Client notwithstanding any change in the name or constitution of Maybank Kim Eng or the Client, or the consolidation or amalgamation of Maybank Kim Eng or the Client into or with any other entity (in which case these T&C shall be binding on the successor entity).

#### **Assignment by Client**

- 1.34 The Client shall not assign, transfer, charge, sub-contract or deal in any manner with all or any of its rights or liabilities under these T&C or purport to do any of the same without the express written consent of Maybank Kim Eng.

#### **Assignment by Maybank Kim Eng**

- 1.35 Maybank Kim Eng may assign any or all of its rights or liabilities under these T&C to any person Maybank Kim Eng deems fit, or change the office through which any transaction is booked, or through which it makes or receives payments or deliveries for the purpose of any transaction.

#### **Service of Writ**

1.36 In the event of any legal action being commenced against the Client, the writ may be served on the Client by sending a copy thereof by pre-paid registered post to the address of the Client stated in the Account Application Form or such other address as may be notified in writing by the Client to Maybank Kim Eng and shall be deemed to have been duly served and effective:

- (i) three (3) days after posting to an address within Singapore;
- (ii) seven (7) days after posting to an address outside Singapore.

#### **Invalidity of Any Provision**

1.37 If any of the provisions herein or any part thereof shall be adjudged invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions or any part thereof shall not in any way be affected.

#### **Laws and Jurisdiction**

1.38 The Client submits to the non-exclusive jurisdiction of the courts of Singapore, but Maybank Kim Eng will be at liberty to proceed against the Client in any court in any jurisdiction. All transactions and agreements between the Client and Maybank Kim Eng shall unless otherwise agreed be governed by and interpreted in accordance with laws of Singapore.

#### **Third party rights**

1.39 Any affiliate of Maybank Kim Eng may enforce all of these T&C. A person who is a permitted successor to or assignee of the rights of Maybank Kim Eng is deemed a party to these T&C and the rights of such successor or assignee shall, subject to and upon any succession or assignment permitted by these T&C, be regulated by these T&C.

1.40 Except as provided in this Clause, no provision of these T&C shall be enforceable under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore by a person who is not a party, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

#### **Waiver of rights**

1.41 Maybank Kim Eng is entitled to waive or relax any of these T&C from time to time with or without notice to the Client. In particular but without limitation, where these Terms specify certain limits or parameters to the Client's trading activities and margin requirements, Maybank Kim Eng shall be entitled from time to time and with or without notice to the Client to allow the Client to breach such limits.

1.42 No single or partial exercise of, or failure or delay in exercising any right, power or remedy (under these T&C or at law) by Maybank Kim Eng shall constitute a waiver by Maybank Kim Eng of, or impair or preclude any exercise or further exercise of, that or any other right, power or remedy arising under these T&C or at law.

1.43 Any liability of the Client to Maybank Kim Eng under these T&C may in whole or in part be released, compounded, compromised or postponed by Maybank Kim Eng in its sole and absolute discretion, without in any way prejudicing or affecting any rights in respect of that or any liability not so waived, released, compounded, compromised or postponed. A waiver by Maybank Kim Eng of a breach of any of these T&C or of a default under these T&C does not constitute a waiver of any other breach or default and shall not affect the other provisions of these T&C. A waiver by Maybank Kim Eng of a breach of any of these T&C or of a default under these T&C will not prevent Maybank Kim Eng from subsequently requiring compliance with the waived obligation.

#### **Operation of these T&C**

1.44 The rights and remedies provided to Maybank Kim Eng under these T&C are cumulative and are without prejudice to and not exclusive of any rights or remedies provided by law.

1.45 If any provision (or part of any provision) of these T&C shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these T&C (or the remaining part of the affected provision as the case may be) which shall remain in full force and effect. If any provision of these T&C is so found to be invalid or unenforceable but would be valid and enforceable if some part of the provision were deleted, the provision shall apply with such deletions as may be necessary to make it valid and enforceable. Each provision and part of a provision in these T&C is separate and severable and enforceable accordingly.

#### **Conflicts of Interest**

- 1.46 Maybank Kim Eng is part of an international group of businesses and acts simultaneously for a large number of clients, as well as for its own account. As such, conflicts of interest cannot be completely avoided, although Maybank Kim Eng shall ensure that its internal organisation is structured as to avoid conflicts of interest or to ensure that the Client's interests will be taken into account in an equitable manner when conflicts of interest do arise. The Client acknowledges that Maybank Kim Eng and/or any affiliate and/or their respective clients and agents may:
- (a) combine the Client's orders with its/their own orders or the orders of other clients;
  - (b) effect Transactions for the Client through the agency of and/or with a counterparty which is a related organisation or a person otherwise associated with it/them;
  - (c) have a position or a direct or indirect interest in any investments;
  - (d) have bought or sold any investments as principal or for its/their other clients;
  - (e) have other banking, advisory or any other business relationships with companies whose investments are held for the Client's Account or are purchased and sold for the Client and its/their officers and directors may be officers and directors of such companies;
  - (f) be the market maker of any investments; or
  - (g) be the issuer of any investments.

#### Scope of Services By and From Maybank Kim Eng

- 1.47 **Execution only:** Unless otherwise agreed by Maybank Kim Eng in writing or otherwise stated in this Agreement, Maybank Kim Eng will deal with the Client as a client on an execution-only basis, and Maybank Kim Eng is not willing to and assumes no responsibility and shall have no liability whatsoever to the Client:
- (a) for advising or giving any recommendation to the Client as to whether or not to enter into any transaction regardless of whether information has been provided by Maybank Kim Eng; and
  - (b) for any loss suffered or incurred by the Client as a result of, or in connection with any transaction made or omitted to be made by the Client regardless of whether information has been provided by Maybank Kim Eng .

**Unless otherwise agreed by Maybank Kim Eng in writing or otherwise stated in this Agreement, Maybank Kim Eng does not and is not willing to assume any advisory, fiduciary or similar or other duties or act as investment adviser to the Client. Maybank Kim Eng assumes, and relies on the assumption, that the Client has taken and/or will take the necessary independent legal, tax, financial and other advice in relation to any Account or before entering into any transaction. Maybank Kim Eng will assume that the Client has read and is agreeable to the relationship disclosed as part of the risk disclosure to the Client.**

- 1.47A Without prejudice to the foregoing clause, the Client acknowledges that Maybank Kim Eng prohibits any of its officers and employees from giving any representations, trading suggestions, recommendation or information on its behalf that Maybank Kim Eng is not itself legally obliged to give. Any such representations, trading suggestions, recommendations or information if made must therefore be regarded as having been made in the personal capacity of such person giving the same. The Client cannot and will not hold Maybank Kim Eng liable for any losses which it suffers if it relies on such representations, trading suggestions, recommendations or information.
- 1.48 Unless otherwise agreed by Maybank Kim Eng in writing or otherwise stated in this Agreement, all decisions on whether to invest in, hold or dispose of any investment or to enter into any transaction are therefore solely the Client's. The Client does not rely on Maybank Kim Eng or any of its agents, nominees, directors, officers or employees, any information, representation (whether written or oral), advice, recommendation, view, opinion or other statement provided by Maybank Kim Eng, or any of its affiliates, agents and nominees and every director, officer, employee or agent of the foregoing or any research produced by Maybank Kim Eng or its affiliates, agents or nominees in making any investment decision, and in asking Maybank Kim Eng to enter into any transaction or execute any order for any transaction, the Client represents that the Client is solely responsible and accepts sole responsibility for making the Client's own independent appraisal and investigations into the risks of the transaction. Maybank Kim Eng will only enter into transactions as the Client instructs. Where this includes the entry into of transactions on a margined basis, Maybank Kim Eng will, upon request, provide the Client with product specifications and any prospectus or other offering document covering such products and a full explanation of the collateral requirements and the circumstances under which the Client's positions may be closed without the Client's consent. The Client has sources of research, information and recommendations other than those provided by Maybank Kim Eng and its employees that the Client uses in evaluating investments. The Client has made and will make the Client's own assessment of any investments.

1.49 Unless otherwise agreed by Maybank Kim Eng in writing or otherwise stated in this Agreement, without prejudice to the generality of Clause 1.47, if Maybank Kim Eng provides any information on investments, transactions or markets such as brochures, research, reports, market trends, investment analysis or commentary upon the performance of selected companies, the Client represents, warrants and fully understands and agrees that this should not be construed as:

- (a) any endorsement of the investment or transaction;
- (b) a representation that Maybank Kim Eng has performed any due diligence on the investment or transaction;
- (c) a recommendation or the provision of advice as a service;
- (d) Maybank Kim Eng's acting as the Client's adviser or fiduciary; or
- (e) information which the Client can or may rely on in connection with its investment decision,

and the Client should seek the Client's own advice as to the suitability of any investment or transaction mentioned. The use or reliance on any such information is at the Client's own risk and any losses which may be suffered as a result of the Client entering into any investment are for the Client's account and Maybank Kim Eng shall not be liable for any losses arising from or incurred by the Client in connection therewith. Maybank Kim Eng is not responsible or liable for the accuracy and completeness of any such information, the performance or outcome of any investment made by the Client after receipt of such information provided by Maybank Kim Eng irrespective of whether such information was provided at the Client's request.

1.50 Unless otherwise agreed by Maybank Kim Eng in writing or otherwise stated in this Agreement, without prejudice to any provision of Clauses 1.47 to 1.49, the Client acknowledges and agrees that the Client is deemed to have made an independent analysis and decision with respect to all transactions and dealings in any investment and every investment and transaction shall be deemed to be undertaken by the Client in reliance only upon the Client's own judgment and not in reliance upon any views, representations (whether written or oral), advice, recommendation, opinion, report, analysis, materials, information or other statement by Maybank Kim Eng or any of its agents, nominees, directors, officers or employees. The Client acknowledges and agrees that the Client is aware that Maybank Kim Eng does not hold out any of its agents, nominees, directors, officers or employees as having any authority to advise the Client and Maybank Kim Eng does not purport to advise the Client on the terms of, or any other matters connected with, any investment or transaction.

**Construction not against drafter**

1.51 No rule of law or interpretation to the effect that an ambiguity in a document is to be construed against the party drafting or preparing a document shall apply in respect of these T&C.

**2. TRADING**

**Rules Governing Transactions**

2.1 The Client agrees that all transactions instructed by the Client shall be governed by the rules bye-laws customs directives and practices of Singapore Exchange Securities Trading Limited ("SGX-ST") and/or such other exchange or market where the transactions are effected and/or any relevant regulatory authorities. Further, all such transactions shall be subject to these T&C (as amended or varied from time to time) and restrictions as Maybank Kim Eng shall determine at its sole discretion.

**Settlement**

- 2.2 (a) In respect of Securities not issued by Maybank Kim Eng, Maybank Kim Eng acts only as a seller of such Securities and shall only be responsible to the Client for due execution of the Client's order and delivery of such Securities in accordance with the terms of the transaction. Maybank Kim Eng shall not be responsible for the underlying obligations of such Securities and shall not be responsible for payment of any amounts due in respect of such Securities in the event of default by the relevant issuer of such Securities (the "Issuer"), or any calculations, determinations or adjustments made by the Issuer in respect of such Securities. The Client shall look solely to the Issuer of such Securities for settlement of the underlying obligations.
- (b) Maybank Kim Eng shall act as the Client's agent in respect of any settlement amounts due payable and received from an Issuer in respect of the relevant Securities, and shall pay such sums to the Client or any other person, or use such sums for further purchases or transactions, as instructed by the Client from time to time.

**Nature of Relationship**

2.3 The levels of service available from Maybank Kim Eng in relation to the relevant products, as set out below, are subject to change from time to time.

(a) **EIPs:**

Regardless of whether the Client is a Retail Singapore Client or not, Maybank Kim Eng and all its representatives will only provide execution only services in relation to transactions and intended transactions in EIPs.

(b) **SIPs:**

Where the Client is a Retail Singapore Client, the nature of the Client's relationship with Maybank Kim Eng will vary depending on the type of SIP.

- (i) For transactions in listed SIPs that are not collective investment schemes, or which are not Marginable Futures Contracts and Futures Contracts, the Client may at any time request for advice or recommendation. Where advice or recommendation is provided, then where it is not Formal Advice, it is ERA for the purposes of this Agreement. Except in the case of ERA and Formal Advice, Maybank Kim Eng and all its representatives will only provide execution only services.
- (ii) For transactions in contracts for differences, Maybank Kim Eng and all its representatives will only provide execution only services, except in the case of Formal Advice.
- (iii) For transactions in leveraged foreign exchange, Maybank Kim Eng and all its representatives will only provide execution only services.
- (iv) For collective investment schemes that are SIPs, Maybank Kim Eng and all its representatives will only provide execution only services.
- (v) For Marginable Futures Contracts and Futures Contracts, Maybank Kim Eng and all its representatives will only provide execution only services.

Where the Client is not a Retail Singapore Client, Maybank Kim Eng and all its representatives will only provide execution only services in relation to transactions and intended transactions in any type of SIP.

2.3A Where Maybank Kim Eng provides execution only services, the Client acknowledges and agrees that:

- (a) in no event is Maybank Kim Eng willing, and it is a condition of the Client being allowed to open and/or operate an Account with Maybank Kim Eng that the Client accept that Maybank Kim Eng is neither obliged nor will, provide the Client any advice or recommendation but will only provide the Client with execution only services;
- (b) for all the Client's transactions, the Client and only the Client is solely responsible for **determining the merits or suitability of any and all transactions that the Client may enter into** with or through Maybank Kim Eng;
- (c) it is also a material term of the Client's Account that for execution only services, while the Client is entitled to expect its trading representative to answer its queries honestly, the Client cannot and must not assume that such answers are in the nature of advice or recommendation, let alone that they are advice or recommendation that are specifically suitable for reliance by the Client. No statement made or provided to the Client (apart from generally circulating advice specifically identified as such) by Maybank Kim Eng or any trading representative is intended to be nor is to be regarded as amounting to any advice or recommendation of any nature to the Client. They are at best, and the Client must accept this as a condition for having and maintaining an Account with us, statements of either fact or (if not a fact) then of personal opinion not amounting and not intended to be advice or recommendation;
- (d) the Client therefore need not and should not complete the Client Investment Profile Questionnaire; and
- (e) if despite (a) to (d) above the Client purports to complete and return to Maybank Kim Eng the Client Investment Profile Questionnaire, Maybank Kim Eng will disregard such Client Investment Profile Questionnaire.

2.3B Where Maybank Kim Eng provides advice or recommendation (including ERA), the Client acknowledges and agrees that:

- (a) it is a material part of the Client being allowed to open and maintain an Account with Maybank Kim Eng that the Client agree that in the event the Client, as a Retail Singapore Client, require Maybank Kim Eng in providing any advice or recommendation to ensure that such advice or recommendation is reasonably suitable for the Client bearing in mind the Client's investment objectives, financial situation, particular

needs, ability and willingness to bear relevant risks that the Client must first provide Maybank Kim Eng with full information for Maybank Kim Eng to know such specific investment objectives, financial situation and ability and willingness to bear relevant risks. If the Client does not, then the Client acknowledges and agrees that it must assume sole responsibility for determining the merits or suitability of any and all advice or recommendation received before the Client relies on the same to enter into any transaction;

- (b) providing Maybank Kim Eng full information means providing Maybank Kim Eng with the information and answers Maybank Kim Eng requests of the Client in the Client Investment Profile Questionnaire that has been provided to the Client (if the Client has not received the same the Client must ask for a copy as Maybank Kim Eng will assume for any and all the Client's transactions with and through Maybank Kim Eng that the Client has been provided a copy) and such supplemental information and answers as Maybank Kim Eng may ask the Client as are reasonably relevant in the circumstances and providing the same fully and not merely partially;
- (c) the Client has the right to choose to make its own suitability determination. However if the Client wishes Maybank Kim Eng to be able to make a suitability determination where relevant, the Client must first provide Maybank Kim Eng the required information;
- (d) if the Client fails to return the duly completed questionnaire or refuses to answer in full any questions required by Maybank Kim Eng or to provide in full the information sought by Maybank Kim Eng, the Client acknowledges and agrees that Maybank Kim Eng cannot, until the Client actually corrects that deficiency, align any advice or recommendation with the Client's investment objectives, ability and willingness to take relevant risks, financial circumstances and particular needs and therefore any advice or recommendation provided in respect of the Client's Account with Maybank Kim Eng by any of the Client's trading representative shall be treated at best as only general advice or recommendation that may not be specifically suitable for the Client.

In other words where the Client has failed or refused or deemed to have failed or refused to provide Maybank Kim Eng with any information or answers as requested then the Client acknowledges and agrees that it will also be taken as having acknowledged (and Maybank Kim Eng will be regarding and materially relying on the Client having acknowledged) that Maybank Kim Eng cannot identify with any certainty the Client's investment objectives, financial circumstances and particular needs and therefore the Client agrees that any advice or recommendation provided by Maybank Kim Eng, any of its duly authorized representatives or officers shall be treated at best only as general advice or recommendation and the Client acknowledges and agrees that such advice does not take into account and may not be suitable for the Client's investment objectives, financial situation and particular needs;

- (e) it is also the Client's responsibility to update Maybank Kim Eng should there be any changes to the Client's investment objectives, financial situation and particular needs after the return of the above duly completed Client Investment Profile Questionnaire, failing which Maybank Kim Eng is entitled to assume that the information and answers provided remain complete and accurate; and
- (f) the other qualifications and notice of disclaimers in the questionnaire are important and should be read, understood and accepted as a condition to the Client being allowed to open and/or maintain an Account with Maybank Kim Eng regardless of whether the Client intends or needs to fill up the questionnaire.

#### **Foreign Exchange Risks**

- 2.4 The Client hereby agrees and acknowledges that in the event the Client directs or instructs Maybank Kim Eng to carry out any transactions on the Client's behalf on an exchange or market on which such transactions are effected in a foreign currency, unless the Client indicates to the contrary at the time of the giving of instructions to carry out any such transactions, all such transactions shall as between Maybank Kim Eng and the Client be settled in Singapore Dollars at a rate of exchange determined by Maybank Kim Eng in its sole discretion on the basis of the then prevailing money market rates of exchange between such currencies. If Maybank Kim Eng agrees, transactions in the Account may be settled in any other currency requested by the Client, but at a rate of exchange decided by Maybank Kim Eng. The Client shall bear any losses damages costs or expenses that may result from any currency conversion effected as aforesaid.

#### **Margin Financing with Other Institution**

- 2.5 In the event that the Client concurrently maintains another trading account through a financial institution for the purpose of providing share margin financing to the Client, the Client authorises Maybank Kim Eng to transfer any transactions the Client may have effected as agent for the said financial institution in that account to this Account should the said financial institution so request. In the event that the Client obtains financing from a bank or other

institution on an ad-hoc basis, the Client authorises Maybank Kim Eng to deliver Securities to such financing bank or institution as the Client's trading representative may from time to time instruct.

#### **Delinquent/Disputed Account**

- 2.6 The Client understands that Maybank Kim Eng may report all delinquent and disputed accounts. The Client further consents to the reporting of the pertinent particulars relating to the Client's account, including but not limited to, the Client's name, address and NRIC/Passport number, unique entity number and claim amount and such other appropriate information, in the event that the Client's account is classified by Maybank Kim Eng at its sole discretion as delinquent or disputed.

#### **Events of Default**

- 2.7 A 'Default' shall be deemed to occur if:

- (a) the Client has failed to comply with any of its obligations hereunder or under any Account or transaction;
- (b) (in the event the Client is an individual) the Client shall die, become bankrupt or insane, commit an act of bankruptcy, or have action to place the Client in bankruptcy commenced against it;
- (c) (in the event the Client is a partnership) any of the partners thereof shall die, become bankrupt or insane, commit an act of bankruptcy, or have action to place him/her in bankruptcy commenced, or if action is commenced to dissolve and/or alter the partners or the constitution of the Client;
- (d) (in the event the Client is a corporation) the Client shall be unable to pay its debts as and when they are due, or action is commenced to place the Client in insolvency, judicial management, receivership, administrative management, or any similar or analogous proceedings;
- (e) any claim, action or proceeding of any nature is commenced against the Client, or steps are taken by any person to enforce any security against the Client;
- (f) the Client makes any compromise or arrangement with its creditors; or
- (g) Maybank Kim Eng forms the view, in good faith, that it should take action in order to preserve its rights or interests under any Account or under its relationship with the Client,

Provided that in the case of transactions effected otherwise than on an exchange, in the event of a Default under Clause 2.7(b), (c) or (d), all outstanding transactions (including any transaction which has not been performed and in respect of which the value date as determined by Maybank Kim Eng is on or precedes the date on which Maybank Kim Eng terminates such transaction) entered between the Client and Maybank Kim Eng shall be deemed immediately liquidated or at such other time as Maybank Kim Eng may determine at prevailing prices (or, if not available, at such prices Maybank Kim Eng deems fit) and the amounts resulting converted into Singapore dollars or such other currency as Maybank Kim Eng may from time to time use as the principal currency of its business (together with all margin duly converted into Singapore dollars or such other currency as Maybank Kim Eng may from time to time use as the principal currency of its business) at Maybank Kim Eng's prevailing rates and set-off against each other and the margin prior to Maybank Kim Eng resorting to its rights under Clause 2.8 and/or payment or repayment to the Client (if applicable).

#### **Rights on Occurrence of an Event of Default**

- 2.8 Without prejudice to any other right of Maybank Kim Eng hereunder or otherwise at law, in the event of Default, Maybank Kim Eng may (but is not obliged to) immediately or at any time thereafter, do any one or more of the following:
- (a) suspend (indefinitely or otherwise) or terminate any Account, or Maybank Kim Eng's relationship with the Client and accelerate any and all liabilities of the Client to Maybank Kim Eng so that they shall become immediately due and payable;
  - (b) hedge and/or close out any outstanding transaction (including any transaction which has yet to be settled on the date on which Maybank Kim Eng terminates such transaction) by determining its value in good faith as of the date of the close-out as soon as practicable after the close-out;
  - (c) liquidate the margin or part thereof at a price which Maybank Kim Eng deems appropriate in the circumstances;
  - (d) call upon any security including but not limited to any guarantees and letters of credit which may have been issued to or in favour of Maybank Kim Eng as security for the Account(s);

- (e) apply any amounts of whatsoever nature standing to the credit of the Client against any amounts which the Client owes to Maybank Kim Eng (of whatsoever nature and howsoever arising, including any contingent amounts), or generally to exercise Maybank Kim Eng's right of set-off against the Client;
- (f) demand any shortfall after (e) above from the Client, hold any excess pending full settlement of any other obligations of the Client, or pay any excess to the Client by way of cheque to the last known address of the Client; and
- (g) exercise such other authority and powers that may have been conferred upon Maybank Kim Eng by these T&C.

#### **Extraordinary Event**

- 2.9 If there occurs in relation to any transaction (otherwise than on an exchange) or otherwise in relation to an Account or Accounts an Extraordinary Event (as defined below), Maybank Kim Eng shall have the sole discretion to determine any adjustments or action necessary in relation to such transaction or any or all transactions or otherwise to an Account or Accounts in view of the Extraordinary Event. Such adjustments or actions may include altering or varying the quantities of currencies or financial instruments or the exchange rates or specifications of currencies or instruments bought or sold in respect of such transaction or some or all transactions, or terminating the transaction in question or some or all transactions, or an Account or Accounts or otherwise. Provided Maybank Kim Eng undertakes such action in good faith, any such adjustment or action shall be binding on the Client who shall be liable for any additional loss incurred by Maybank Kim Eng on the account of the Client or which the Client is consequently liable for as a result of such adjustment or action.

An 'Extraordinary Event' shall mean any event which Maybank Kim Eng in good faith believes to have a material adverse effect on any transaction and shall include without limitation any form of exchange control restriction or requirement of whatsoever nature affecting availability, convertibility, credit or transfers of currencies, financial instruments or funds, any form of debt or other moratorium on jurisdictions, individuals or entities, any devaluation, redenomination or demonetisation of the underlying currencies or financial instruments of any transaction and/or any form of restriction or requirement which in Maybank Kim Eng's good faith opinion adversely alters or changes the rights or obligations which Maybank Kim Eng in good faith undertook upon the establishment of such transaction.

#### **Right to Force Sell**

- 2.10 The Client understands that if he does not pay for any Securities purchased by the due date, Maybank Kim Eng shall have the right to force sell any or all of these Securities in such manner as it deems fit. Maybank Kim Eng may (but need not) exercise this right on any day after the day on which the right to force sell first arose. Maybank Kim Eng will not be liable to the Client for any losses suffered by the Client as a result of any fall in the market price of the security between the first day the right to force sell arose and the day it actually sells the Securities or as a result of any failure to force sell.

#### **Buying-In**

- 2.11 Before placing an order for the sale of shares, the Client shall ensure that the relevant shares are available for delivery and will constitute good delivery thereof on the settlement date of the transaction. If delivery of shares is not made on the settlement date, Maybank Kim Eng shall have the right to buy-in immediately and bill the Client for the difference. Maybank Kim Eng will not be liable to the Client for any loss suffered by the Client as a result of any rise in the market price of the Securities between the time the right to buy-in arose and the time it actually buys the Securities.

### **3. CUSTODIAL SERVICE**

#### **General**

- 3.1 The Client hereby requests Maybank Kim Eng to provide custodial services (the "Custodial Services") in respect of such Securities of the Client as Maybank Kim Eng may in its sole discretion accept and receive (the "Custody Securities"), in accordance with the terms and conditions set out in this Clause 3. In doing so, the Client acknowledges and accepts that nothing in this Clause 3 shall have the effect of constituting Maybank Kim Eng as a fiduciary of the Client or otherwise with respect to the Custody Securities, any relationship of trustee and beneficiary between Maybank Kim Eng and the Client, or any further relationship other than as expressly contemplated in this Clause 3.

#### **Bare Custodial Services**

3.2 Unless otherwise agreed, Maybank Kim Eng shall receive and hold in custody the Custody Securities. Subject to the Client's acknowledgement in any event that Maybank Kim Eng as custodian is not a fiduciary to the Client or otherwise with respect to the Custody Securities but shall be regarded generally only as a bare custodian and not trustee of the Custody Securities, the duties of Maybank Kim Eng hereunder shall be:

- (a) to hold or procure to be held to its order all documents evidencing ownership of the Custody Securities and identify in its books that all Custody Securities belong to the Client;
- (b) to procure that all Custody Securities other than bearer Securities are registered in the name of Maybank Kim Eng, or such other nominee or nominees as Maybank Kim Eng or any sub-custodian (as the case may be) may appoint in accordance with Clause 3.4 or, where due to the nature of the law or market practice of any relevant jurisdiction, it is in the Client's best interests or it is not feasible to do otherwise, any sub-custodian. In these circumstances, the Custody Securities will still be held in such a way that it is readily apparent that the Custody Securities are not the property of Maybank Kim Eng, any sub-custodian or any nominee appointed by Maybank Kim Eng or any sub-custodian (as the case may be). The Custody Securities may be registered collectively with other Securities both of Maybank Kim Eng and/or other clients of Maybank Kim Eng in the same name and where so registered, the Client's entitlements under the Custody Securities may not be identifiable by separate certificates or other physical documents of title or equivalent electronic records (although Maybank Kim Eng and/or its delegate(s) will maintain records such that it will be readily apparent the degree of the Client's interest in the commingled Securities so collectively held but on the express understanding and agreement of the Client that where such commingling and aggregation of the Custody Securities of the Client and the Securities of other persons result in entitlements to any dividends, interest and other monies payable in respect of the Custody Securities and all other rights, benefits and proceeds in respect of or derived from the same (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise) (the "**Related Assets**") which otherwise without such commingling or aggregation would not have accrued to the Custody Securities (the "**Bonus Related Assets**"), Maybank Kim Eng has full discretion as to the allotment of such Bonus Related Assets as amongst its clients, including the Client as it deems fit). Should Maybank Kim Eng, any sub-custodian or, as the case may be, its nominee default, any shortfall in the Securities registered in that name may be shared pro rata among all clients of Maybank Kim Eng or sub-custodian whose Securities are so registered;
- (c) to hold or procure that there are held in safe custody all Custody Securities that are bearer Securities and ensure that such Custody Securities are held in such a manner that it is readily apparent that they are not the property of Maybank Kim Eng or any sub-custodian. Such Custody Securities shall be segregated by Maybank Kim Eng or any sub-custodian (as the case may be) from all property of Maybank Kim Eng or sub-custodian and shall be identified as held by Maybank Kim Eng or sub-custodian for the account of the Client. Where any Custody Securities are in uncertificated form, or otherwise transferable by book-entry transfer, Maybank Kim Eng may use the services of any securities depository, on such terms as it may think fit, for the purpose of the holding and transfer of such Custody Securities (or entitlements thereto);
- (d) except to the extent permitted or not prohibited by the Securities and Futures Act, Chapter 289 of Singapore or its regulations (including but not limited to Regulation 26 of the Securities and Futures (Licensing and Conduct of Business) Regulations), to hold and/or procure that any sub-custodian holds Securities, if registered in the same name as investments of Maybank Kim Eng or the sub-custodian, in an account designated separately from that used for investments of Maybank Kim Eng or sub-custodian (as the case may be);
- (e) on receipt of the Client's instructions or with the Client's authority to make or accept delivery of the Custody Securities which have been sold, purchased, transferred or otherwise acquired or lent or disposed of by the Client or its agent, such acceptance or delivery to be made in accordance with the normal practice for transactions of the type concerned;
- (f) to use its reasonable endeavours to collect and receive Related Assets including income and other payments due with respect to the Custody Securities provided that the Client acknowledges and accepts that Maybank Kim Eng (whether directly or through any delegate or agent) shall have no duty or responsibility but is entitled, if so chooses to:
  - (i) exercise or discharge any obligations conferred or imposed by reason of Maybank Kim Eng's holding of the Custody Securities or to investigate, participate or take any affirmative action in connection therewith or otherwise;
  - (ii) send or give notice of any proxy form or other document which Maybank Kim Eng may receive in respect of the Custody Securities;

- (iii) recognise any claim in the nature of a trust or equitable claim by anyone other than the Client in respect of the Custody Securities or any part thereof; or
- (iv) otherwise make any notification to the Client in respect of the Custody Securities, or take any other action in relation to the Custody Securities;
- (g) to credit, in such manner as the Client shall instruct, all income and other payments received by Maybank Kim Eng under paragraph (f) of this Clause 3.2;
- (h) to sign, execute and/or complete such documents, certificates or forms from time to time required for fiscal and taxation purposes in connection with the collection of income from the Custody Securities including bonds and note coupons; and
- (i) to keep or (to the extent reasonably practicable) procure there to be kept by any sub-custodian, or any nominee appointed by Maybank Kim Eng or any sub-custodian (as the case may be), such books, records and statements, in retrievable form, as may be necessary to provide an adequate record of all Custody Securities held and transactions carried out by or on behalf of the Client.

3.3 Maybank Kim Eng may refuse to act as custodian in relation to any Securities it deems unsuitable to be held hereunder without giving any reason or being liable for any loss thereby occasioned.

#### **Nominees/Delegates**

- 3.4
- (a) Maybank Kim Eng is authorised to utilise one or more nominee(s) or sub-custodians for the purpose of providing the Custodial Services. In the event that a nominee is being used, the Client is deemed to have contracted as principal with such nominee. Maybank Kim Eng may utilise the services of a foreign custodian as nominee or sub-custodian where it deems this to be necessary, and the Client hereby expressly consents to such utilisation. The Client further acknowledges that there is a risk of insolvency, acts or omissions, of any third party whom we allow to hold or control monies or Securities received on account of the Client which may in some instances result in prejudice to the Client and the Client accepts and consents to this.
  - (b) Where the Custody Securities are held by a nominee or sub-custodian, the Client agrees that it shall consent to and separately agree in writing the requirements in Regulation 32 of the Securities and Futures (Licensing and Conduct of Business) Regulations. The Client further agrees that by accepting these Terms and Conditions he is deemed to have (separately) agreed to and given his consent in writing or otherwise as regards any consent required by law or any regulatory authority in connection with the Custodian Securities.
  - (c) The Client acknowledges and accepts that different settlement, legal and regulatory requirements and different practices relating to the segregation of those Custody Securities may apply. In addition, Maybank Kim Eng and any nominee, sub-custodian, agent or delegate may deposit the Custody Securities with, and hold the Custody Securities in, any centralised securities depository, clearing house or securities depository agencies on such terms as such systems customarily operate. The Client agrees that where the context permits, any reference to Maybank Kim Eng herein shall also include a reference to its nominee, sub-custodian and/or any other person appointed by Maybank Kim Eng in accordance with this Clause.

#### **Fees and Charges**

- 3.5
- (a) In consideration of Maybank Kim Eng's provision of the Custodial Services, the Client hereby agrees to pay to Maybank Kim Eng such fees (exclusive of any goods and services tax or other relevant tax) as may be determined by Maybank Kim Eng and notified by Maybank Kim Eng to the Client.
  - (b) The Client shall, on demand, pay to or reimburse (or shall procure payment to or reimbursement of) Maybank Kim Eng for all expenses (including without limitation, management or supervisory fees, agents' and other adviser's fees, disbursements and operating expenses) incurred by Maybank Kim Eng, its nominees, sub-custodians or agents in connection with:
    - (i) the performance by Maybank Kim Eng of its obligations hereunder; and
    - (ii) the enforcement or preservation by Maybank Kim Eng of its rights hereunder,
 together with any applicable goods and services tax or other relevant tax.
  - (c) The Client hereby authorises Maybank Kim Eng with a pre-advice of 10 calendar days to debit any of the Client's Account(s) with, and/or (without prejudice to the generality of Clause 3.17) to set-off against

any Related Assets, all amounts due or which may become owing by the Client to Maybank Kim Eng hereunder, together with any applicable goods and services tax or other relevant tax.

#### **Delivery of Custody Securities**

- 3.6 All Custody Securities delivered or to be delivered to Maybank Kim Eng from time to time for the purposes of this Clause 3 must be in the required or regular form in board lots and in good delivery order, or must be transferred and deposited into such account as Maybank Kim Eng shall direct. Where applicable, all non-matured coupons and duly executed transfers must be attached thereto.

#### **Representations and Warranties**

- 3.7 The Client hereby warrants and undertakes to Maybank Kim Eng that:
- (a) the Client is the beneficial owner of the Custody Securities or has authority from the true owner to deal with such Custody Securities;
  - (b) the Custody Securities are fully paid for, in the required or regular form and in good delivery order; and
  - (c) there is no defect in title, security interest or encumbrance affecting the Custody Securities.

#### **Custodial Duties and Powers**

- 3.8 Maybank Kim Eng shall in addition to the powers set out in Clause 3.2(f) be entitled to do, subject and on receipt of the Client's instructions to the contrary, any other act or refrain from doing any other act unless (as the case may be) prohibited or required by law or regulation, in relation to any Custody Securities, which under the terms of the Client's agreement with Maybank Kim Eng, Maybank Kim Eng is not specifically (as the case may be) either prohibited or required to do. Without prejudice to the foregoing the Client hereby specifically instructs Maybank Kim Eng that, until it receives written instructions to the contrary, whenever the Client purchases Securities through it, and the sums standing to the credit of the Account in which the Custody Securities are held are sufficient to satisfy the purchase price of the Custody Securities purchased, Maybank Kim Eng is to withdraw from such Account such sum as is equal to the purchase price and appropriate such sum to Maybank Kim Eng in satisfaction of the Client's obligation to pay the purchase price, or where the shares are contra sold, to use such sums for any contra losses incurred (if any). Also without prejudice to any of the foregoing, any amount payable by the Client in respect of the Custodial Services shall be payable to Maybank Kim Eng or its nominees, sub-custodians or agents (as the case may be) on demand and may be deducted from the Custody Securities or the said Account.

#### **Exclusion of Liability**

- 3.9 (a) Maybank Kim Eng shall not be liable for any loss, claim, damage, expense or liability suffered or incurred by the Client, or profit or advantage of which the Client may be deprived, which arises from or in connection with:
- (i) the manner in which Maybank Kim Eng holds the Custody Securities hereunder or deals with monies received or intended to be received in connection herewith;
  - (ii) the loss, theft or destruction of, or any damage to, any of the Custody Securities or certificates relating thereto; or
  - (iii) the performance or non-performance of Maybank Kim Eng's duties hereunder,
- except insofar as the same arises as a result of the negligence, fraud and/or willful default of Maybank Kim Eng.
- (b) While Maybank Kim Eng will use reasonable care in the selection of any nominee, sub-custodian, agent or delegate, Maybank Kim Eng shall not be liable for any loss, claim, damage, expense or liability suffered or incurred by the Client or profit or advantage of which the Client may be deprived, which arises from or in connection with:
- (i) the insolvency of any sub-custodian or nominee; or
  - (ii) any act or omission of any sub-custodian or nominee,
- unless in the case of (i), the relevant sub-custodian or nominee is a branch or subsidiary of Maybank Kim Eng and, in the case of (ii) above, only to the extent that the same arises as a result of the negligence, fraud or willful default of the relevant sub-custodian or nominee.

- (c) Maybank Kim Eng shall not be liable for any act, omission or insolvency of any entity providing central depository, clearing and/or settlement facilities.
- (d) The Client acknowledges and agrees that Maybank Kim Eng shall be under no duty to supervise compliance by the Client with any restrictions on the investment powers of the Client.
- (e) Maybank Kim Eng shall not be liable or have any responsibility to the Client for any loss or damage incurred or suffered by the Client if the performance of Maybank Kim Eng' obligations is interrupted, delayed or prevented by circumstances, acts or events beyond its control. These shall include but not be limited to industrial disputes, acts or regulations or any governmental or supranational bodies or authorities and breakdown, failure or malfunction of telecommunications or computer service or systems.

#### **Statements and Information**

- 3.10 (a) Maybank Kim Eng shall provide or procure the provision to the Client of such reports and statements concerning the Custody Securities and at such intervals as agreed between them from time to time.
- (b) Maybank Kim Eng may, on the request of the Client and subject to payment by the Client of such fee as may be determined by Maybank Kim Eng and notified by Maybank Kim Eng to the Client, furnish to the Client such information in respect of the Custody Securities as the Client may reasonably request.

#### **Return of Custody Securities**

- 3.11 The Client shall not have any right to specific Securities custodised with or through Maybank Kim Eng, but will be entitled, subject to these T&C, to delivery by Maybank Kim Eng of Securities of the same class, denomination and nominal amount, and which rank pari passu with those accepted by Maybank Kim Eng as being the Custody Securities, subject always to any capital reorganisation or share exchange which may have occurred. Such delivery may be to the Client or any specified third party.

#### **Authorisations**

- 3.12 In addition and without prejudice to the foregoing, Maybank Kim Eng is authorised (but not obliged), either by itself, through a nominee (if so, subject to Clause 3.4 above) or otherwise, and whether in Singapore or elsewhere to do any lawful act or thing which in the discretion of Maybank Kim Eng is necessary to preserve the integrity of the Custody Securities and/or any Account and/or to protect the reasonable interests of the Client and/or Maybank Kim Eng.

#### **Client Primarily Liable**

- 3.13 Notwithstanding that the Client may as between the Client and a third party be effecting transactions on and/or in respect of any part or all of the Custody Securities for and on behalf of such third party, as between the Client and Maybank Kim Eng, the Client shall be deemed to be, and is, transacting as sole principal. The Client acknowledges, undertakes and agrees to be always primarily liable for such transactions in all or part of the Custody Securities.

#### **Orders/Instructions**

- 3.14 (a) Maybank Kim Eng need only act on instructions (oral or otherwise) from the Client in respect of any Account or any part or all of the Custody Securities. Maybank Kim Eng shall not be required to act in accordance with any instruction from the Client which purports to dispose of or deal with any Securities or other property which are in fact not held in any Account and/or which are not in fact the Custody Securities.
- (b) Maybank Kim Eng shall only be required to act on or effect any instruction from the Client within a reasonable time. For the avoidance of doubt, in the event that the Client wishes to withdraw any part or all of the Custody Securities, the Client shall give at least seven (7) days' notice to Maybank Kim Eng prior to such withdrawal.
- (c) Any instructions (oral or otherwise) purported to be given by any person other than the Client, need not be acted on by Maybank Kim Eng but Maybank Kim Eng is authorised to act on any and all such instructions which Maybank Kim Eng in good faith has reason to believe is from the Client as soon as such instructions have been received by Maybank Kim Eng without requiring written confirmation thereof. Maybank Kim Eng shall not be liable for any loss, damage, cost, charge and expense incurred by the Client as a result of Maybank Kim Eng so acting.

#### **Security**

- 3.15 In addition and without prejudice to the foregoing, all Custody Securities are hereby charged by way of first fixed charge to Maybank Kim Eng as continuing security for all of the Client's liabilities to Maybank Kim Eng whether the

same accrue under or pursuant to any Account or otherwise. Clause 1.17 will apply *mutatis mutandis* to the security created under this Clause. Save for the charge mentioned in this Clause, the Client will not create nor will he allow to be created any security interest of whatsoever nature over any part or all of the Custody Securities without the prior consent in writing of Maybank Kim Eng.

#### Creation of Further Security and Use Rights

- 3.16 (a) Notwithstanding any provision to the contrary in any terms governing the Account(s) or the Custodial Services or Custody Securities, the Client agrees that with respect to all the Client's Securities and other property that now or in the future is in Maybank Kim Eng' possession and/or control (whether posted as collateral to Maybank Kim Eng or otherwise), Maybank Kim Eng may:
- (i) create over the said Securities and other property any encumbrance in favour of a third party by way of security, re-security, charge, re-charge, pledge, re-pledge, hypothecation, re-hypothecation or otherwise to secure Maybank Kim Eng' obligations to a third party account (if mortgaged, pledged or hypothecated otherwise than on a pool basis and otherwise for an amount that does not exceed the aggregate amounts owed by all clients collectively in the pool to Maybank Kim Eng); and/or
  - (ii) assign, invest, use or otherwise dispose of the said Securities and other property for Maybank Kim Eng' own benefit either separately or together with identical property provided by other clients/parties.
- (b) The Client also agrees in connection with the foregoing that no compensation will be payable to the Client in connection with the exercise of Maybank Kim Eng' rights under this Clause 3.16 and that Maybank Kim Eng is the sole beneficiary of any fee or commission that Maybank Kim Eng may earn from any exercise of Maybank Kim Eng' rights under this Clause 3.16.
- (c) For the avoidance of doubt, Maybank Kim Eng reiterates that Maybank Kim Eng shall not be obliged with respect to any of the Client's Securities or other property to retain the same in its possession or control (being entitled to treat all of the same as fungibles) or to retain for the duration of the Client's account with Maybank Kim Eng like Securities or other property of equivalent amount.
- (d) Maybank Kim Eng' only obligation is, subject to the Client having discharged all the Client's existing obligations and properly terminated the Account(s) with Maybank Kim Eng and subject otherwise to Maybank Kim Eng' rights under these T&C (including any right of interim liquidation or sale of the Client's Securities and other property) as the Client may be entitled to demand of Maybank Kim Eng, to return to the Client like Securities and other property (as relevant) of equivalent amount.
- (e) The Client also agrees that notwithstanding any contrary provision elsewhere in these T&C that in the event of the Client's insolvency:
- (i) Maybank Kim Eng has the right at Maybank Kim Eng' option to convert any obligation Maybank Kim Eng may otherwise have to return the Client Securities and/or other property (other than cash) into an obligation instead to pay the aggregate market value for the same;
  - (ii) subject such converted payment obligation to Maybank Kim Eng' general right of set-off (in addition to any other rights of set-off and/or consolidation of accounts or obligations Maybank Kim Eng may have at law or in contract); and/or
  - (iii) Maybank Kim Eng shall be further entitled to immediately enforce the security created pursuant to this Clause 3.16 by way of disposing or otherwise dealing with any part or all of the Custody Securities using or employing any and all powers granted hereunder or otherwise to a mortgagee or chargee under the laws of Singapore.

#### Set-Off Rights

- 3.17 Without prejudice to any other right which Maybank Kim Eng may have whether under law by these T&C or otherwise, Maybank Kim Eng is expressly conferred by the Client a right to effect a set-off against the Client's obligations to Maybank Kim Eng whether referable to the Client's Account(s), any money or credit balance in any Account(s) or any other account(s) maintained by Maybank Kim Eng for the Client's benefit (including the trust account Maybank Kim Eng is obliged to maintain for the Client pursuant to Maybank Kim Eng' obligations under the Securities and Futures Act, Chapter 289 of Singapore and including such sum as Maybank Kim Eng may otherwise be obliged to pay to the Client as a consequence of exercising Maybank Kim Eng' right of conversion under Clause 3.16 above effecting, as Maybank Kim Eng deems necessary or appropriate any currency conversion.

### **Contra Losses**

- 3.18 The Client agrees that:
- (a) no Custody Securities may be withdrawn if there are any contra losses outstanding; and
  - (b) if any contra loss is not paid within such time as Maybank Kim Eng may specify, Maybank Kim Eng is entitled to sell such of the Custody Securities as may be necessary to reimburse Maybank Kim Eng of such contra loss.

### **Unclaimed Property**

- 3.19 In the event there remain any monies and/or property of the Client in the Account or otherwise held by Maybank Kim Eng or its nominee sub-custodian or agent for and on behalf of the Client (hereafter referred to in this Clause as “Property”) which is unclaimed by the Client six (6) years after Maybank Kim Eng received such Property and Maybank Kim Eng determines in good faith that it is not able to trace the Client, the Client agrees that all Property then standing to the credit of the said Account or otherwise held by Maybank Kim Eng, its nominee, sub-custodian or agent (as the case may be) together with any property as may from time to time continue to accrue to that Property (whether by way of dividends, interest or otherwise) may forthwith be appropriated by Maybank Kim Eng to itself to utilise in any manner Maybank Kim Eng so wishes for its own benefit. The Client thereafter shall have no right whatsoever to claim such Property (or any other property as may accrue to it), the Client being deemed to have waived and abandoned all its rights to such Property (and any other property as may accrued to it) in favour of Maybank Kim Eng.

### **Applicable Laws**

- 3.20 Maybank Kim Eng’s provision of the Custodial Services shall be subject at all times to all relevant or applicable statutes, laws, rules, regulations, directives and circulars (whether of governmental bodies or authorities or self-regulatory organisations in relation to which Maybank Kim Eng or any person or entity related to or associated with it is a member of) or otherwise and, to the furthest extent permitted by applicable laws, to this Agreement. Maybank Kim Eng may take or refrain from taking any action whatsoever, and the Client shall do all things required by Maybank Kim Eng, in order to procure or ensure compliance with the applicable laws.

## **4. SECURITIES LENDING**

- 4.1 Notwithstanding any provision to the contrary in these T&C as may be revised from time to time or the terms of any collateral or charge documentation with respect to the Client’s Securities and other property, including Custody Securities, the Client agrees that with respect to all the Client’s Securities and other property (including Custody Securities) that now or in the future is in Maybank Kim Eng’ possession and/or control (whether posted as collateral to Maybank Kim Eng or otherwise) Maybank Kim Eng may:
- (a) on a title transfer basis borrow for itself or to on-lend and/or directly on-lend the said Securities and other property as principal as if it were the owner thereof to third parties in return (where Regulation 45 of the Securities and Futures (Licensing and Conduct of Business) Regulations so obliges Maybank Kim Eng) for Maybank Kim Eng holding (as between the Client and Maybank Kim Eng) for the duration of such on-lending any collateral Maybank Kim Eng may receive from Maybank Kim Eng’ borrower(s) (and which Maybank Kim Eng will ensure will be of such amount as is required of Maybank Kim Eng to provide under the said Regulation) for the Client’s benefit as security (whether singly or collectively with other clients of Maybank Kim Eng) for the return of the borrowed Securities;
  - (b) create over the said Securities and other property any encumbrance in favour of a third party by way of security, re-security, charge, re-charge, pledge, re-pledge hypothecation, re-hypothecation or otherwise to secure Maybank Kim Eng’ obligations to a third party account (if mortgaged, pledged or hypothecated otherwise than on a pool basis and otherwise for an amount that does not exceed the aggregate amounts owed by all clients collectively in the pool to Maybank Kim Eng); and/or
  - (c) assign, invest, use and otherwise dispose of the said Securities and other property for Maybank Kim Eng’ own benefit either separately or together with identical property provided by other clients/parties.
- 4.2 The Client also agrees in connection with the foregoing that no compensation will be payable to the Client in connection with the exercise of Maybank Kim Eng’ rights hereunder and that Maybank Kim Eng is the sole beneficiary of any fee or commission that Maybank Kim Eng may earn from any exercise of Maybank Kim Eng’ rights under Clauses 4.1(a) and 4.1(c) above.
- 4.3 For the avoidance of doubt, Maybank Kim Eng reiterates that Maybank Kim Eng shall not be obliged with respect to any of the Client’s Securities or other property to retain the same in its possession or control (being entitled to treat all of the same as fungibles) or to retain for the duration of the Client’s account with Maybank Kim Eng like

Securities or other property of equivalent amount. Maybank Kim Eng' only obligation is, subject to the Client having discharged all the Client's existing obligations and properly terminated the Client's margin account with Maybank Kim Eng and subject otherwise to Maybank Kim Eng' rights under these T&C (including any right of interim liquidation or sale of the Client's Securities and other property) as the Client may be entitled to demand of Maybank Kim Eng to return to the Client like Securities and other property (as relevant) of equivalent amount.

4.4 The Client agrees that notwithstanding any contrary provision elsewhere in these T&C that in the event of the Client's insolvency:

- (a) Maybank Kim Eng has the right at Maybank Kim Eng' option to convert any obligation Maybank Kim Eng may otherwise have to return the Client Securities and/or other property (other than cash) into an obligation instead to pay the aggregate market value for the same; and
- (b) subject such converted payment obligation to Maybank Kim Eng' general right of set-off (in addition to any other rights of set-off and/or consolidation of accounts or obligations Maybank Kim Eng may have at law or in contract).

4.5 The Client acknowledges and confirms that it has read and understood the terms set out in this Clause 4 and also that the risks involved in agreeing to this Clause 4 had first been explained to the Client which risks include but is not limited to:

- (a) that borrowing and on-lending of the Client's Securities will necessarily mean that the Client loses ownership rights to the said Securities. In its place the Client has a right to claim for equivalent Securities from Maybank Kim Eng; and
- (b) that in so far as the Client will receive manufactured dividends the Client may be required to treat the entire amount as income for tax purposes.

4.6 The Client confirms and consents that Maybank Kim Eng's right to lend or on-lend the Client's Securities include also the right on identical terms to arrange for a custodian to effect such lending or on-lending for the benefit of Maybank Kim Eng as if Maybank Kim Eng had effected such lending or on-lending.

## 5. ELECTRONIC PAYMENT FOR SHARES ("EPS") SERVICE

5.1 Maybank Kim Eng shall be entitled, but not bound, from time to time to pay the sales proceeds and contra gains (the "sales proceeds") arising from the transactions effected through the Account to the bank account designated in the Account Application Form (the "designated Bank Account"). Maybank Kim Eng may, at its discretion, elect to pay the Client the sale proceeds by cheque and such election shall be binding on the Client.

5.2 No payments shall be made by Maybank Kim Eng to the designated Bank Account through the EPS service (the "service") on non-business days or half business days of the bank operating the designated Bank Account (the "Participating Bank") or Maybank Kim Eng.

5.3 Maybank Kim Eng shall be entitled, but not bound, from time to time to:

- (a) deem and treat any payments made by the Client from time to time through the service (the "electronic payment") as being paid on the market day following the date of the electronic payment;
- (b) apply all or any amounts received pursuant to the electronic payment in payment of the outstanding purchases or contra losses (the "outstanding contracts") made through the Account in chronological order so that the outstanding contract for which payment is due first will be settled first, notwithstanding any instructions from the Client as to how the electronic payment is to be applied; and
- (c) set-off all or any amounts received pursuant to the electronic payment against all or any amounts due by the Client to Maybank Kim Eng before applying the said electronic payment to settle any outstanding contracts, notwithstanding any instructions from the Client as to which outstanding contract the electronic payment is to be applied.

5.4 Maybank Kim Eng and the Participating Bank are not responsible for any errors, inaccuracies or omissions (the "omissions") in the information that may be displayed or transmitted by the Participating Bank to the Client for the purpose of making electronic payments through the service such as the contract or contra statement numbers and the amounts due thereunder. The Client's liability to Maybank Kim Eng for all and any amounts owing to Maybank Kim Eng shall be unaffected by the omissions.

5.5 (a) The Client shall remain liable to Maybank Kim Eng for all and any amounts owing to Maybank Kim Eng howsoever arising from transactions effected through the Account until full payment is received by Maybank Kim Eng.

- (b) An electronic payment shall be deemed to be received by Maybank Kim Eng if Maybank Kim Eng' bank account is credited with the electronic payment. An instruction to the Participating Bank to debit the designated Bank Account and/or to transfer any amount from the designated Bank Account to Maybank Kim Eng shall not constitute payment to Maybank Kim Eng.
  - (c) Nothing herein shall prejudice or preclude Maybank Kim Eng from exercising its rights to recover any amounts due and owing to Maybank Kim Eng howsoever arising from transactions effected through the Account, including the right to force-sell Securities purchased under outstanding contracts, until Maybank Kim Eng has received full payment thereof.
  - (d) Where Maybank Kim Eng has exercised its rights to force-sell any Securities, Maybank Kim Eng shall be entitled to apply all or any amounts received pursuant to the electronic payment in accordance with Clause 5.3(c) above.
- 5.6 Neither Maybank Kim Eng, the Participating Bank nor their respective agents shall be liable for any loss, consequential loss, damages, costs and charges suffered by the Client or any other party as a result of any failure by the Participating Bank to credit payment of the sales proceeds into the designated Bank Account or as a result of any failure by the Participating Bank to transfer any electronic payment from the designated Bank Account to Maybank Kim Eng or as a result of any malfunction, partial or total failure of any machine, data processing system, electronic transmission or communications system or arising from causes or circumstances beyond the control of Maybank Kim Eng, the Participating Bank or their respective agents.
- 5.7 Maybank Kim Eng and/or its agent's records of the instructions, operations or transactions made or performed, processed or effected through the service of Maybank Kim Eng and/or its agent or by or purported to be by the Client or by the Participating Bank shall be binding and conclusive on the Client for all purposes whatsoever and shall be conclusive evidence of the instructions, operations or transactions.

## 6. INTERNET TRADING

This Clause 6 shall govern all trades in Securities or other products entered into between Maybank Kim Eng and the Client through KE Trade (as hereinafter defined).

### Internet trading system

- 6.1 The Client agrees that for trading in Securities or other products through the Internet, the Client shall access and use the system provided by Maybank Kim Eng and/or any other relevant party, at the website designated by Maybank Kim Eng (hereinafter called "**KE Trade**"). The Client shall be issued a unique User Name and unique Password by Maybank Kim Eng or such other form of approved user identification (the "**ID**") to provide access and use by the Client to KE Trade for the purpose of trading in Securities. The Client shall be the sole authorised and exclusive person using the ID and shall be **fully responsible for the use protection and confidentiality of the ID as well as all transactions executed through the ID**. Maybank Kim Eng shall not be responsible for any loss, damage, cost and expense in respect of or in connection with the Client's failure to maintain the confidentiality of the ID or arising from any unauthorised access of KE Trade. Any use of KE Trade by the Client shall be in accordance with and subject to these T&C. Maybank Kim Eng reserves the right to amend, modify, suspend or terminate the operation of KE Trade at any time for any reason whatsoever and in any manner it deems fit, without giving any prior notice thereof to the Client and without being responsible in any way for any loss or damage whatsoever resulting therefrom.

### Access and use

- 6.2 The Client agrees that for the purpose of trading in Securities through KE Trade, the Client (if so required by Maybank Kim Eng) shall **maintain at all times a deposit** (which shall not bear interest) with Maybank Kim Eng, the quantum of which shall be determined by Maybank Kim Eng from time to time at Maybank Kim Eng' discretion. Without prejudice to Maybank Kim Eng' other rights and powers, Maybank Kim Eng shall be entitled to apply the said deposit or any part thereof towards payment of any indebtedness owing by the Client to Maybank Kim Eng. The trading in Securities through KE Trade shall be subject to:
- (a) such conditions requirements trading limits or other restrictions as may be imposed by Maybank Kim Eng from time to time and whether or not prior notification thereof has been given to the Client;
  - (b) rules and regulations of the Singapore Exchange Securities Trading Ltd ("**SGX-ST**") or any other relevant securities exchange in Singapore or elsewhere for the time being in force and as may be modified or amended from time to time (including but not limited to the Rules and Bye-laws of the SGX-ST); and
  - (c) these T&C (as may be modified or amended from time to time).

- 6.3 Maybank Kim Eng reserves the right to suspend or terminate the Client's access and use of KE Trade and/or

impose such conditions or directions in relation thereto from time to time as it deems fit without giving any reasons or prior notice to the Client and without being responsible in any way for any loss or damage whatsoever resulting therefrom. The Client accepts that access and use of KE Trade will not necessarily be free from faults, errors, delays or defects in KE Trade's applications systems design and engineering.

6.4 The Client shall use KE Trade strictly in accordance with these T&C, and **shall not in any way permit, enable or cause any person (including the Client) to:-**

- (a) gain unauthorised access or use of KE Trade;
- (b) make any modifications, adjustments or alterations to any information or services available on KE Trade;
- (c) tamper, restrict or otherwise interfere with any part, function or operation of KE Trade;
- (d) use the ID or any equipment/software in a manner inconsistent with these T&C or detrimental to the functions of KE Trade;
- (e) access, use, store, modify or redistribute in any manner any information material or data obtained from KE Trade whether through any other system equipment or software linked to the Client's computer or otherwise; or
- (f) cause any failure, interruption, error, defect in, misuse of, impairment or corruption any part of KE Trade or any information or services provided therein;

and the Client shall be liable for and fully indemnify Maybank Kim Eng from and against any and all actions, charges, losses, damages, demands, liability, claims, costs (including legal costs on a full indemnity basis), expenses and/or consequences in respect of or in connection with any breach of the foregoing.

6.5 If in the sole opinion of Maybank Kim Eng, any failure, interruption, error, defect in, misuse of, impairment or corruption of KE Trade is or has been or is likely to be caused by any equipment or software of the Client, Maybank Kim Eng may:

- (a) check and inspect the Client's equipment and software, and
- (b) require the Client to disconnect, cease the use of, upgrade and/or modify the same at the Client's own cost.

6.6 The Client recognises that the use of KE Trade may involve the electronic transmission of information that may be considered personal financial information, including but not limited to the identity, the number of shares traded and the net price for such shares. The Client hereby consents to the transmission by electronic means of such information through KE Trade; such consent shall be effective at all times that the Client accesses and/or uses KE Trade.

#### **Instructions and verification**

6.7 The Client is fully responsible for any **instructions received through KE Trade by Maybank Kim Eng under the Client's ID and the instructions shall be deemed to have been given by the Client** notwithstanding that it may have been given by a third party with or without the Client's authority. Maybank Kim Eng shall be under no obligation to effect any such instructions and is entitled to refuse to carry out the same without giving a reason for such refusal. Maybank Kim Eng shall not be responsible for any order not being executed through KE Trade for whatever reason. The Client accepts that quoted prices may change prior to the trade's execution and **not all orders will be executed in chronological sequence with the orders being placed**. Any instructions or orders given by the Client shall be deemed to be given or made at the time and in the format received by Maybank Kim Eng (regardless of the circumstances prevailing at the relevant time and without further enquiry by KE Trade as to the genuity of instructions and/or the authority or identity of the person giving the same), and may be carried out by Maybank Kim Eng without further verification from the Client. **Any acknowledgment or notification given by Maybank Kim Eng on KE Trade shall be deemed to have been received by the Client and the Client shall be bound thereby notwithstanding that such acknowledgment or notification may not have actually been received by the Client for any reason whatsoever.** If any instruction received by Maybank Kim Eng is, or is regarded by Maybank Kim Eng in good faith to be, ambiguous, contradictory or conflicting, Maybank Kim Eng may either disregard such instruction (in whole or in part) or carry out or execute such instruction (in whole or in part) in accordance to Maybank Kim Eng's interpretation of such instruction in good faith without further reference or consultation with the Client.

#### **Order routing and execution**

6.8 The Client may transmit orders to Maybank Kim Eng through the use of KE Trade and in accordance with all relevant procedures.

- 6.9 Without prejudice to Clause 6.7, the Client shall be fully responsible and liable for any orders placed with Maybank Kim Eng, and transactions entered into, through the use of KE Trade accessed using the ID. In particular (but without limitation) the Client shall be bound by such orders notwithstanding any typographical or keystroke errors made when such orders are placed, any corruption or distortion of orders which may occur when such orders are transmitted through KE Trade, or that such orders may exceed any position or transaction limits or restrictions (whether imposed by the relevant exchange, Maybank Kim Eng or otherwise). Maybank Kim Eng shall, notwithstanding that any of such orders may be deemed as being that of Maybank Kim Eng vis-à-vis any relevant exchange, not be obliged to review, detect, correct or stop any of such orders in any way.
- 6.10 The Client acknowledges that the placement of an order through KE Trade, including a market order, does not guarantee receipt, acceptance or execution of the order.
- 6.11 Without prejudice to Clause 6.7, the cancellation or modification of an order pursuant to the Client's request is not guaranteed. The order will be cancelled or modified only if the Client's request for cancellation or modification is duly received and the order is successfully cancelled or modified before it is executed.
- 6.12 The Client accepts that quoted prices may change prior to the trade's execution and not all orders will be executed in chronological sequence with the orders being placed. Any instructions or orders given by the Client shall be deemed to be given or made at the time and in the format received by Maybank Kim Eng. The Client shall not be entitled to presume an order as having been executed, cancelled or modified until it has received a notification from Maybank Kim Eng confirming the same. Any such notification shall be deemed to have been received by the Client when the same is issued by Maybank Kim Eng and the Client shall be bound thereby.

#### Information providers and intellectual property

- 6.13 The Client shall on demand pay such fees and other costs as may be prescribed by Maybank Kim Eng or the Information Provider ("IP") for subscribing to or use of any information data or other services provided on any IP's website through KE Trade. Maybank Kim Eng shall not be responsible in any way for any act omission default breach or neglect of the IP, nor for the content accuracy timeliness or completeness of any information data or other services provided by the IP through KE Trade.
- 6.14 Maybank Kim Eng shall not be responsible in the event the Client is unable to access or use any information data or other services of the IP on KE Trade, or if the same is in any manner delayed suspended terminated corrupted or faulty.
- 6.15 The Client may only download and print the information or data or other services provided by Maybank Kim Eng or the IP (the "Content") for the Client's personal use provided that the Client also retains unaltered all copyright and other proprietary notices contained in the Content. The Client shall not reproduce, retransmit, disseminate, sell distribute publish broadcast circulate or commercially exploit the Content in any manner without the consent of Maybank Kim Eng or the IP as the case may be, or use the same for any unlawful or unauthorised purpose. The Client shall fully indemnify Maybank Kim Eng against all loss, damage, cost and expense in respect of or in connection with any breach of the foregoing. The Client agrees to comply with any request by Maybank Kim Eng or the IP to protect their respective copyrights, other intellectual property rights or moral rights, whether statutory or otherwise howsoever arising in the Content.
- 6.16 The trade and service marks of Maybank Kim Eng displayed on KE Trade are the sole and exclusive property of Maybank Kim Eng and/or other relevant parties, including any IP. No right or licence is given for any reproduction or use of any such trade and service marks.
- 6.17 The information provided on KE Trade shall not constitute professional advice from Maybank Kim Eng nor should it be relied upon as such in relation to any investment decision trading activities of or orders placed by the Client who shall at all times rely on his own assessment and judgment in respect of any investment decision or proposed transaction. Maybank Kim Eng makes no warranty or representation, express or implied, as to the information on KE Trade, or as to its content accuracy completeness timeliness or otherwise. The availability of information on KE Trade should not be taken in any way as an inducement to trade or a solicitation for orders.

#### Indemnity

- 6.18 For the avoidance of doubt, Maybank Kim Eng shall not be liable in any way, and the Client agrees to indemnify and hold harmless Maybank Kim Eng from and against any and all claims, demands, actions, losses, damages, liability, or costs, charges, counsel fees, and expenses of any nature ("Losses") arising from or occasioned by or in relation to (a) any inaccuracy, error, or delay in, or omission of, (i) any such data, information, or message or (ii) the transmission or delivery of any such data, information, or message, or (b) any Losses arising from or occasioned by or in relation to (i) any such inaccuracy, error, delay, or omission, (ii) the non-performance of, or (iii) interruption of any such data, information, or message, due either to any negligent act or omission by any disseminating party or to any "force majeure" event (i.e. events beyond the reasonable control of any

disseminating party including but not limited to floods, extraordinary weather conditions, earthquakes, or other acts of God, fire, war, acts of terrorism, insurrections, riots, labor disputes, accidents, actions of government, communications, power failures, the malfunction of any equipment or software) or any other cause beyond the reasonable control of any disseminating party.

#### **Exclusion of liability**

- 6.19 Without prejudice to the generality of the other Clauses in these T&C and in addition to the same, **Maybank Kim Eng shall not be liable to the Client or to any third party for any loss damage liability claim cost or expense whatsoever and howsoever caused or arising from the following (including any act default or omission of any of Maybank Kim Eng's or IP's servants, agents or independent contractors):-**
- (a) **the reliance or use of the information** or trading and other services provided through KE Trade;
  - (b) any **interruption, interference**, delay, suspension, malfunction, breakdown, operator error, bugs, virus or loss of use of any of the services provided through KE Trade;
  - (c) **any failure of any computer hardware, application software** or other software utilized in relation to the provision of the services on KE Trade whether of Maybank Kim Eng, SGX-ST, the Central Depository (Pte) Limited, or any IP;
  - (d) **any cause over which Maybank Kim Eng does not have control including** but not limited to any government restriction, exchange ruling, suspension of trading, war, strike, industrial action, civil commotion, the failure of any electronic or mechanical equipment, Internet service provider, telephone or other communication systems lines or devices, public utility systems, unauthorised access or theft (including theft of passwords, codes or log-in sequences);
  - (e) **any direct indirect consequential or incidental loss or damage** of whatever nature and howsoever arising from or in connection with any delay failure neglect or omission to carry out or execute any orders or instructions given by the Client through KE Trade notwithstanding that the orders or instructions were received by KE Trade;
  - (f) any inaccuracy, error, delay in or omission of any information or transmission or delivery of information;
  - (g) any delay, failure, error, omission which may ensue from the maintenance of the KE Trade system infrastructure from time to time; and
  - (h) the failure of any electronic protective measures, including filters and anti-virus software, whether for the protection of the integrity of the KE Trade system or the filtering out of inappropriate orders for execution or howsoever otherwise.

#### **Services provided by third parties**

- 6.20 Maybank Kim Eng may from time to time provide Internet hyperlinks in KE Trade to Internet webpages or services provided by third parties. Maybank Kim Eng may also from time to time permit third parties to make available their services to the Client through KE Trade. The Client hereby acknowledges that such webpages or services provided by third parties are beyond the control of Maybank Kim Eng and that Maybank Kim Eng neither endorses nor recommends to the Client any such webpages or services and accordingly, the Client agrees that any access or use of such websites or services by the Client shall be wholly at the Client's own risk.

#### **Equipment requirements**

- 6.21 If new or different versions of the web browser or other software necessary for the operation of KE Trade are available, Maybank Kim Eng reserves the right not to support any prior version of the web browser or other software. If the Client fails to upgrade the web browser, obtain a supported web browser or to use a supported version of any other software as required by the Maybank Kim Eng, Maybank Kim Eng may reject instructions sent by the Client.
- 6.22 Maybank Kim Eng reserves the right to change the type or versions or specifications of any hardware or equipment that the Client may be required to use for the use of KE Trade, and in the event the Client fails to obtain the necessary hardware or equipment to use KE Trade, Maybank Kim Eng may reject instructions sent by the Client.

#### **Termination**

- 6.23 The provision of KE Trade to the Client may be terminated by Maybank Kim Eng in its sole and absolute discretion without giving any reason at any time and without giving prior notice to the Client and without incurring any liability whatsoever. Without prejudice to the generality of the foregoing, Maybank Kim Eng shall be entitled (but

shall not be obliged) to terminate the provision of KE Trade based on any grounds or reasons which will justify the termination or closing of any of the Client's accounts with Maybank Kim Eng.

- 6.24 For the avoidance of doubt, the Client's obligation to pay all fees, costs, charges, expenses and amounts accrued up to (and including) the date of termination shall survive the termination of the use of KE Trade.

**Disclosure of information**

- 6.25 The Client agrees that Maybank Kim Eng may without incurring any liability whatsoever, divulge or reveal to third parties any information whatsoever regarding the Client or any of the Client's account(s) maintained with Maybank Kim Eng for such purposes as Maybank Kim Eng may deem fit, including:

- (a) in order to link any of the Client's accounts maintained with Maybank Kim Eng;
- (b) where Maybank Kim Eng has entered into an agreement with another party, whether in Singapore or otherwise, to provide any service (including services available via KE Trade). In this case, Maybank Kim Eng will provide that party with information about the Client's accounts, transactions, transfers or bill payments, and the Client's communications with Maybank Kim Eng in order to carry out instructions;
- (c) where it is necessary for completing transactions, transfers or bill payments or otherwise carrying out instructions;
- (d) in order to market or promote any services or products of Maybank Kim Eng and/or Affiliated Companies;
- (e) in order to verify the existence and conditions of an account for a third party, such as a credit bureau, a payee, or any holder of a check issued by the Client or on the Client's behalf through KE Trade; or
- (f) in order to comply with laws, government agency rules or orders, court orders, subpoenas or other legal process or in order to give information to any government agency or official having legal authority to request such information.

- 6.26 For the avoidance of doubt, the Client agrees that Maybank Kim Eng shall not be liable for any loss or damage that the Client may incur as a result of the negligence, act or omission of any third party referred to in Clause 6.25 above.

**Notification by Client**

- 6.27 The Client shall promptly notify Maybank Kim Eng and in any event within forty-eight (48) hours:-

- (a) of any failure to receive an appropriate response that an instruction initiated by the Client through KE Trade has been received and/or executed;
- (b) of any receipt of a confirmation of an instruction that the Client did not place or an inaccurate or conflicting report, account statement or information relating to the Client's account;
- (c) of any discrepancy between any information or report produced or made available to the Client by KE Trade on any medium (including but not limited to electronic means), or in the Client's portfolio, or an information source, and any other such report or confirmation of a trade or order;
- (d) if there is a discrepancy in the account balance, security positions or order status reported to the Client through KE Trade;
- (e) if there is any other type of discrepancy or suspicious or unexplained occurrence relating to the Client's KE Trade account.

**Fees and expenses**

- 6.28 Without prejudice to Clause 6.13 above, the Client shall pay Maybank Kim Eng such subscription fees and other costs, charges, expenses and interest for the use of KE Trade at such rate as may be determined by Maybank Kim Eng from time to time and notified to the Client. Maybank Kim Eng further reserves the right to recover from the Client any additional, special or out-of-pocket expenses incurred on the Client's behalf pursuant to any instructions.

- 6.29 All other agreements between the Client and Maybank Kim Eng for the payment of fees, costs, charges, expenses and interest shall continue to be in force and shall be in addition to and shall not be affected by this Clause 6 of these T&C for the payment of fees, costs, charges, expenses and interest in connection with the use of KE Trade.

#### Appendix. Terms & Conditions for Maybank Kim Eng Electronic Statements

1. The Client hereby agrees and consents to Maybank Kim Eng's account(s) opening forms, daily and/or monthly statements, tax invoices, contract notes and/or other correspondence or communications from Maybank Kim Eng (the "Statements") being provided and notified to the Client via electronic means only (where applicable) in substitution of Maybank Kim Eng sending hard copies of such Statements to the Client by mail or fax (the "Consent").
2. For the avoidance of doubt and without prejudice to the generality of the preceding paragraph, the Client specifically agrees, consents to, and authorises the Statements to be made and notified by Maybank Kim Eng to the Client in the form of electronic records, statements and messages delivered to the Client's electronic mail address as the Client may notify Maybank Kim Eng or Maybank Kim Eng may have on record the Client's electronic mail address. The Client agrees that the Client will immediately advise Maybank Kim Eng of any changes to the Client's email address.
3. The delivery and retrieval manner of CFD, LFX, Futures statements shall be set forth in the respective product terms and conditions. Statements of other accounts available to the Client in electronic format/media shall be notified to the Client through email or retrievable from online electronic platforms. The Client acknowledges and confirms that he/she/it agrees and consents to delivery and retrieval of account statements in electronic format/media.
4. In the case of electronic records of Statements being delivered to the Client via electronic mail, the Client agrees that the availability of the electronic form of Statements shall be deemed immediately after delivery of such Statements from Maybank Kim Eng's electronic mail server. In the case of electronic records of Statements posted online through electronic platforms, the Client agrees that the availability of the electronic form of Statements shall be deemed immediately after Statements have been posted online for the Client to retrieve. The Client further agrees that the Client shall accept and/or retrieve and view the electronic form of Statements in a timely manner.
5. It is the Client's responsibility to ensure that all relevant electronic format of Statements are received and undertakes to make enquiries with Maybank Kim Eng and obtain such Statements if the Client has not received the same following (i) in the case of a daily statement/contract note, 7 days after the date, and (ii) in the case of a monthly statement, 7 days after the end of the statement cycle as applicable to the Client.
6. The Client further acknowledges and agrees that:-
  - (a) Statements and other communications sent though in electronic form, are original, valid and legally binding written documents. The Client shall not dispute or challenge the validity, enforceability or admissibility of any such Statement on the grounds that it is not a written document or not an original or valid document and the Client hereby waives any such right the Client may have at law in relation thereto;
  - (b) the Client may only effectively revoke this Consent by giving Maybank Kim Eng 7 Business Days' prior notice (the "Notice") of such intended revocation; and upon the expiration of such period of Notice, the Consent will no longer have legal effect and Maybank Kim Eng will cease to send electronic copies of the Statements; and
  - (c) notwithstanding the provisions in (c), Maybank Kim Eng reserves the right to close the Client's Maybank Kim Eng Account(s) upon the Client's revocation of his/its Consent to receive Statements electronically only.
7. The Client also understands and agrees that:-
  - (a) Maybank Kim Eng shall have no responsibility or liability for the non-performance of Maybank Kim Eng's obligations hereunder by reason of any cause beyond Maybank Kim Eng's control, including, without limitation, any breakdown or failure in transmission or communication or computer facilities, postal or other strikes or similar industrial action and the failure of any agent to perform its obligations or in relation to any transaction or any default by any such person;
  - (b) the Client shall comply with and observe all other provisions in the Maybank Kim Eng T&C
  - (c) Maybank Kim Eng may in its sole and absolute discretion impose any additional terms and conditions, including requiring the Client to give instructions in a form acceptable to Maybank Kim Eng, as a condition precedent to Maybank Kim Eng acting on the Client's instructions, whether written or oral and Maybank Kim Eng shall not be liable to the Client in any way by reason of its acting or omitting to act on any such instructions; and

- (d) the Client shall fully indemnify and at all times keep Maybank Kim Eng fully indemnified on demand from and against all claims and demands, actions and proceedings, loss, expenses, and costs (including legal costs on a full indemnity basis) and all other liabilities of whatsoever nature of description resulting directly or indirectly from Maybank Kim Eng's reliance on any of the above instructions or communications.