



Maybank Kim Eng Securities Pte Ltd Terms and Conditions

for

Financial Advisory Services

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Part VI. TERMS AND CONDITIONS FOR FINANCIAL ADVISORY SERVICES

This Part VI of these T&C and the Application for Financial Advisory Services (together, the “**Agreement**”) shall, unless otherwise specified in writing by Maybank Kim Eng Securities Pte Ltd (hereinafter referred to as “**Maybank Kim Eng**”), apply to all financial advisory services (and in particular to the trading/investment recommendations/advice) provided by Maybank Kim Eng (having its principal place of business at 50 North Canal Road Singapore 059304 and telephone number 62315000) to the client (hereinafter referred to as the “**Client**”).

The Agreement (as such term is defined in Part I of these T&C) and any other specific terms applicable to the provision of financial advisory services (together, the “**Account Opening Documents**”) are incorporated into this Agreement by reference and will apply to the provision of financial advisory services under this Agreement. The Client acknowledges that it has been provided with a copy of the Account Opening Documents and agrees to the contents thereof. In the event of a conflict between the Account Opening Documents and this Agreement, the latter shall prevail.

1. Advisory Services

1.1 Scope of Service

1.1.1 Maybank Kim Eng will, in accordance with this Agreement, provide financial advisory services to the Client in relation to the Client’s designated account(s) maintained with Maybank Kim Eng and identified in the Application for Financial Advisory Services (as may be from time to time be amended in accordance with Clause 10.2) and will, in this connection, advise the Client on the suitability for the Client to effect purchase and sale of investment products as may be the subject of the Client’s enquiry or request for advice/recommendation from Maybank Kim Eng.

1.1.2 Maybank Kim Eng will only provide financial advisory services to the Client pursuant to this Agreement in respect of products for which Formal Advice is available from Maybank Kim Eng to the Client.

1.1.3 Maybank Kim Eng is authorised under the Financial Advisers Act (Chapter 110) to:

(a) provide its advice of suitability in respect of any investment product listed below (“**Recommendation**”):

(i) securities other than collective investment schemes;

(b) advise others by issuing or promulgating research analyses or research reports concerning:

(i) securities other than collective investment schemes; and

(ii) collective investment schemes; and

(c) market collective investment schemes.

1.1.4 The product providers whose products Maybank Kim Eng may procure on behalf of the Client, recommend or market to the Client, or market to the Client on behalf of the product providers are set out in Schedule 1 hereto.

1.1.5 **Maybank Kim Eng will not be obliged to and will not monitor any investments of the Client after the investments have been made. In other words, if Maybank Kim Eng makes a Recommendation which the Client implements, it will, unless the Client seeks specific advice on the issue subsequently from Maybank Kim Eng, be the responsibility of the Client to decide whether the investment should be maintained or changed in light of circumstances existing after the investment has been made. Where the Client seeks specific advice on the issue subsequently from Maybank Kim Eng, Maybank Kim Eng’s Recommendation shall be preconditioned on the Client first providing full and material disclosure of all relevant information as may be requested by Maybank Kim Eng and Maybank Kim Eng having reasonable time to review the same in coming up with its Recommendation.**

1.1.6 The Client will have no obligation to accept any Recommendation made by Maybank Kim Eng. The Client shall retain sole control and authority over the trading and investment decisions of the Client and shall be entitled to determine, in the sole discretion of the Client, whether to accept, reject or implement any Recommendation made by Maybank Kim Eng. Where a Client chooses not to accept in whole or part any Recommendation of Maybank Kim Eng, the Client is deemed not to accept the Recommendation.

Where the Client does not accept or is deemed not to accept any Recommendation but still proceeds to give instructions to buy or sell any relevant investment product otherwise than as Recommended, the Client acknowledges and agrees that Maybank Kim Eng cannot, in such circumstances, be held

responsible for the suitability of the investment product bought or sold by the Client and that it is the Client’s own responsibility to ensure the investment product recommended to the Client suits the Client’s needs.

1.1.7 The Client also acknowledges and agrees that either Maybank Kim Eng or its associated/related/affiliated entities/officers/ employees/ representatives/ agents or other person(s) connected with any of them (each an “**Associate**”) may have an investment position in the investment product(s), which are the subject of Recommendations by Maybank Kim Eng.

- 1.1.8 The Client acknowledges and agrees that Maybank Kim Eng and/or any Associate may have a material interest, relationship or arrangement of any description that could involve a potential conflict with Maybank Kim Eng's duties to the Client or with the Client's interests, and the Client further agrees that neither the relationship between the Client and Maybank Kim Eng as described herein nor any financial advisory service that Maybank Kim Eng may provide to the Client shall give rise to any fiduciary or equitable duties on Maybank Kim Eng's part or that of Maybank Kim Eng's Associates that would prevent Maybank Kim Eng or Maybank Kim Eng's Associates from having such an interest, relationship or arrangement. The Client agrees that neither Maybank Kim Eng nor any Associate shall be liable to account to the Client for any profit, commission, remuneration or benefit made or received from or by reason of such interest, relationship or arrangement and nor will such amounts be set off against fees payable to Maybank Kim Eng except where this is required by law.
- 1.1.9 The Client acknowledges that Maybank Kim Eng's financial advisory services pursuant to this Agreement are available, unless otherwise terminated pursuant to the terms of this Agreement, only so long as the Client is an individual who is:
- (a) not an "overseas investor" as defined in Schedule 2 to this Agreement; and
 - (b) not an "accredited investor", "institutional investor" or an "expert investor", each as defined in the Securities and Futures Act, Chapter 289 (as amended or revised from time to time).

The Client hereby declares, warrants and represents in favour of Maybank Kim Eng that the Client is neither an "overseas investor", "accredited investor", "institutional investor" or "expert investor", and shall not qualify as such at all times during the currency of this Agreement. In the event that the Client qualifies as an overseas investor, accredited investor, institutional investor or expert investor, the Client shall immediately notify Maybank Kim Eng of such change in its status, whereupon this Agreement shall automatically terminate with effect from the date of Maybank Kim Eng's receipt of such notice. For convenient reference, the current definitions of "accredited investor", "institutional investor" and "expert investor" are also set out in Schedule 2 to this Agreement.

- 1.1.10 The Client understands and acknowledges that Maybank Kim Eng relies on the Client's declaration, warranty and representation above in agreeing to enter into this Agreement with the Client and in the making of its Recommendations.

1.2 Recommendations

- 1.2.1 Maybank Kim Eng will carry out a review of the financial situation, investment objectives and other particular needs of the Client (the "Needs Analysis") and the Client shall provide all relevant information as required by Maybank Kim Eng for the purpose of the Needs Analysis, which, for the avoidance of doubt, shall include all such information pursuant to Paragraph 11 of the Notice on Recommendations on Investment Products (Notice No. FAA - N16) (as the same may be amended or revised from time to time) ("the Notice") issued by the Monetary Authority of Singapore (the "MAS") pursuant to the Financial Advisers Act (Chapter 110). As required pursuant to Paragraph 9 of the Notice, where the investment product recommended is a Specified Investment Product ("SIP"), Maybank Kim Eng will also give due consideration to the Client's knowledge or experience in the SIP. Accordingly, Client shall provide all relevant information as required by Maybank Kim Eng for the purposes of the Needs Analysis and, where applicable, for the assessment of the Client's knowledge or experience in the SIP ("Client's Information"). The Client hereby warrants and represents to Maybank Kim Eng, and shall be deemed to warrant and represent to Maybank Kim Eng on each occasion that any Client's Information is provided to Maybank Kim Eng, that all the Client's Information provided to Maybank Kim Eng is accurate, correct, complete and up-to-date, and agrees that Maybank Kim Eng shall be entitled to rely and act on such Client's Information without verifying the Client's Information, or any further inquiry or investigation.
- 1.2.2 The Client shall, at all times, be responsible and liable for the accuracy, correctness and completeness of the Client's Information and shall promptly update and inform Maybank Kim Eng of any change in the Client's Information. Notwithstanding the aforesaid, Maybank Kim Eng may, before or at the time of providing any Recommendation, confirm with the Client that there are no material changes to the Client's Information
- 1.2.3 The Client acknowledges and agrees that any Recommendation by Maybank Kim Eng will be based on the Needs Analysis or any other information provided to Maybank Kim Eng by the Client. The Client further acknowledges and agrees that any inaccurate, incorrect or incomplete information provided by the Client, whether during the Needs Analysis or otherwise, may adversely affect the Recommendation and hence, its suitability to the Client's particular circumstances.
- 1.2.4 Where a Client does not, for any reason whatsoever, provide all or any of the Client's Information, Maybank Kim Eng may, in its discretion, either refuse to provide advice, or make a Recommendation to the Client. In the event that Maybank Kim Eng makes a Recommendation, the Client acknowledges and agrees that Maybank Kim Eng cannot, in the circumstances, be held responsible for the suitability of any investment product recommended to the Client and that it is the Client's own responsibility to ensure the investment product recommended to it in fact suits its needs.
- 1.2.5 In any event, the Client acknowledges and agrees that Recommendations made by Maybank Kim Eng are as to the suitability of the investment product to the Client only and the final decision as to whether to accept and implement such Recommendations, whether in whole or in part, is based on the Client's own judgment and evaluation of the investment products, and of any investment and market risks such investment products may entail, including the loss of the entire principal amount invested, and other factors as the Client may deem fit.

- 1.2.6 Unless otherwise disclosed by Maybank Kim Eng to the Client, the Client understands that Maybank Kim Eng does not receive any remuneration (other than the fees received pursuant to this Agreement (if any)), including commission, fee or other benefit, for making any Recommendation in respect of an investment product. For the avoidance of doubt, Maybank Kim Eng may, notwithstanding any commission, fee or benefit it may receive from the provider of the investment product, charge a fee to the Client for the services provided under this Agreement.
- 1.2.7 When Maybank Kim Eng makes any Recommendation to the Client, Maybank Kim Eng or its Associate(s) may have an interest, relationship or arrangement that is material in relation to any investment product in such Recommendation. Maybank Kim Eng will on a best efforts basis, in such event, disclose such fact to the Client while making that Recommendation.
- 1.2.8 Maybank Kim Eng may provide advice or other services to others whose interests may be in conflict or competition with that of the Client, or who may take positions opposite to the Client's, based on Maybank Kim Eng's advice.
- 1.2.9 The Client acknowledges and agrees that even pursuant to a Recommendation of Maybank Kim Eng, the Client will make its own assessment in relation to any and all investment or trading decisions, including but not limited to, securities, futures, options, foreign currency, derivatives and structured products, and the Client accepts any and all risks associated with, and any losses suffered as a result of entering into, any investment pursuant to any Recommendation.

2. Communications / Statements

- 2.1 The Client hereby authorizes Maybank Kim Eng to contact the Client in relation to this Agreement via facsimile, phone, post or email, including without limitation for the purpose of providing the Client with any Recommendation. All communications sent by Maybank Kim Eng to the Client by facsimile, post or e-mail to the address or number last notified to and received by Maybank Kim Eng or by any other form of communication, electronic or otherwise, shall be conclusively deemed to have been duly received by the Client:-
- 2.1.1 in the case of e-mail, telex, facsimile or other forms of instantaneous electronic communications, immediately upon transmission by Maybank Kim Eng;
- 2.1.2 in the case of posted communications in Singapore, one (1) day after dispatch by Maybank Kim Eng to the Client;
- 2.1.3 in the case of posted communications outside of Singapore, five (5) days after dispatch by Maybank Kim Eng to the Client; and
- 2.1.4 when served or delivered personally, upon service or delivery.
- 2.2 Maybank Kim Eng shall not be obliged to, and will not, provide any execution instructions in relation to any Recommendation. If the Client deems it fit to accept and act upon any Recommendation, it will be the responsibility of the Client to issue instructions to execute transactions thereon as the Client deems fit.
- 2.3 The Client acknowledges and agrees that Recommendations to the Client will only be provided through licensed representatives of Maybank Kim Eng who in turn will, on a best efforts basis, endeavour to make themselves available for consultation by the Client in face-to-face meetings (in Singapore) on all business days in Singapore.
- 2.4 Maybank Kim Eng may provide various analyses, comments, advice, information and/or statements to the Client, as it sees fit or necessary from time to time, as part of making Recommendations, including analyses, comments, advice, information or statements relating to any investment product, markets (including sectors of any markets), companies, news or other data ("Information"). Unless expressly stated otherwise in writing:
- 2.4.1 no Information made available to the Client is a Recommendation or advice but only (as the case may be) statements of fact, or merely an expression of honest views or opinions;
- 2.4.2 where the Information is prepared or derived from a third party source, Maybank Kim Eng does not warrant the accuracy, suitability, currency, availability, reliability or completeness of any Information;
- 2.4.3 Maybank Kim Eng is not obliged to update or correct any Information; and
- 2.4.4 all intellectual property rights of whatever nature in the Information (and in any enhancements or modifications to, adaptations or translations of, or derivative works based on, the Information) will remain vested in Maybank Kim Eng or the relevant provider of Information.
- 2.5 The Client will inform Maybank Kim Eng promptly if the Client becomes aware of any improper or unlawful use of the Information or any infringement of the intellectual property rights in the Information.
- 2.6 The Client shall not disclose or make available any Information to any other person or use or otherwise deal with any Information except for the Client's own personal use and for such purposes as permitted by Maybank Kim Eng (or the relevant provider of Information).

3. Fees

- 3.1 The Client agrees to pay all fees, goods and services tax and other charges which may be payable in relation to the financial advisory services (including Recommendations) provided by Maybank Kim Eng and at such rate(s) as may be determined by Maybank Kim Eng. For the avoidance of doubt, Maybank Kim Eng may, in its sole and absolute

discretion, decide not to impose any fees or charges on the Client in relation to the provision of financial advisory services hereunder. 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.

3.2 Payment of Fees (if applicable)

3.2.1 The Client agrees to, and shall ensure that all fees are remitted on time and accurately to Maybank Kim Eng, by way of transfer into Maybank Kim Eng's bank account as notified to the Client, or in such other manner as may be instructed by Maybank Kim Eng from time to time. All fees are payable within 14 days from the date of invoice for the fees.

3.2.2 In the event of the Client's failure or delay in making any payment due to Maybank Kim Eng, Maybank Kim Eng may choose to terminate the provision of its services under this Agreement without further notice, without prejudice to any other rights Maybank Kim Eng may have against the Client, including its rights against the Client for non-payment of fees (along with any interests and costs) payable under this Agreement.

4. **Limitation of Liability**

4.1 Neither Maybank Kim Eng nor any of their officers, employees, agents or representatives shall be liable for any loss, liability, cost or damage including in any way arising in relation to any Recommendation made under this Agreement, howsoever caused, or resulting from matters beyond their reasonable control, save where it has been established that Maybank Kim Eng is grossly negligent and has acted in bad faith.

5. **Confidentiality**

5.1 Maybank Kim Eng shall take all reasonably necessary steps to preserve and protect the confidentiality of all information relating to the Client made available to Maybank Kim Eng, including the Client's Information, (all such information, collectively, the "Confidential Information"), subject to such disclosure as is required to ensure compliance with any applicable laws, or for the purposes of this Agreement or otherwise as permitted herein. For the purposes of this Clause, Confidential Information shall not include information that (a) is or becomes generally known to the public other than as a result of unauthorized disclosure by Maybank Kim Eng; (b) is known by Maybank Kim Eng prior to the time of disclosure by the Client; (c) is received by Maybank Kim Eng from a third party having the right to disclose such information without an obligation of confidence or nondisclosure, whether contractual, legal or fiduciary in nature; or (d) is independently developed by Maybank Kim Eng without the use of Confidential Information.

5.2 Without prejudice to any disclosure as may be permitted above or by the relevant laws, the Client hereby consents to and irrevocably authorises Maybank Kim Eng (including Maybank Kim Eng's officers, employees, agents and representatives) to disclose any and all Confidential Information to any officer, employee, agent, director or partner of the Client for the purpose of carrying out its services under this Agreement.

6. **Indemnities**

6.1 The Client will indemnify Maybank Kim Eng and its Associates for any cost, charges, loss, expense, taxes, duties and penalties, claims, actions and proceedings (including all legal costs on a full indemnity basis and any and all goods and services, value added and other duties and taxes payable on such costs, charges and expenses) which Maybank Kim Eng and its Associates may suffer in acting in accordance with this Agreement, or in reliance or in accordance with any instruction of the Client, or in connection with any breach of this Agreement by the Client, unless solely caused by Maybank Kim Eng's or the Associate's (as the case may be) gross negligence or acting in bad faith.

7. **Termination**

7.1 The Client understands that it may terminate this Agreement upon giving no less than thirty (30) days' notice to Maybank Kim Eng provided that it has settled all its outstanding debts with Maybank Kim Eng. No fees paid under this Agreement shall be refundable to the Client in the event of any termination by the Client.

7.2 Without prejudice to any other provision in this Agreement, Maybank Kim Eng may terminate this Agreement at any time without rendering any reasons whatsoever and without notice in writing, including without limitation in the event that the Client dies or becomes insane, mentally disordered, incompetent or, in Maybank Kim Eng's opinion, is otherwise incapable of managing himself or his own affairs.

7.3 The termination of this Agreement shall not affect any liability of the Client or obligation incurred by the Client prior to such termination, and shall not prejudice any rights Maybank Kim Eng may have against the Client.

8. **Governing Law and Jurisdiction**

8.1 This Agreement and all relations between the Client and Maybank Kim Eng shall be governed by and construed in accordance with Singapore law and the Client hereby irrevocably submits to the non-exclusive jurisdiction of the courts of Singapore. Nothing in this Clause shall limit the right of Maybank Kim Eng to bring any proceedings arising out of or in connection with this Agreement and the relations between the Client and Maybank Kim Eng in any court elsewhere, nor shall the bringing of any proceedings in any jurisdiction preclude Maybank Kim Eng from bringing any such proceedings in any other jurisdiction.

8.2 The Client further irrevocably consents to the service of process out of the Singapore courts in any proceedings by the mailing of copies thereof by registered or certified prepaid airmail post to the Client, to the address specified herein (or its last known address in Maybank Kim Eng's records), such service to become effective upon receipt or deemed receipt in accordance with Clause 2.1 above. Nothing herein shall affect Maybank Kim Eng's right to serve process in any other manner permitted by law.

9. General

9.1 Amendments

This Agreement may be amended or varied by Maybank Kim Eng at any time and such amendments or variations shall become effective upon service of notice thereof to the Client.

9.2 Headings

Headings in this Agreement are for convenient reference only, and shall not affect the interpretation of this Agreement.

9.3 No Waiver

The Client acknowledges that a waiver of any provision herein shall be made only in writing. No waiver or forbearance by Maybank Kim Eng of any breach herein shall prejudice Maybank Kim Eng's rights in respect of any other or subsequent or continuing breach of any provision herein.

9.4 Rights and Remedies

Maybank Kim Eng's rights and remedies under this Agreement are cumulative and not exclusive of any rights or remedies provided by law or by any other agreement.

9.5 Severability

If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity and enforceability of such provision under the law of any other jurisdiction, and of the remaining provisions of this Agreement, shall not be affected or impaired thereby.

9.6 Third Party Rights

Save for the Associates, nothing in this Agreement shall confer on any third party a right to enforce any provision herein and the provisions of the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore) which might otherwise be interpreted to confer such rights shall not apply and are expressly excluded from applying herein and no consent of any third party is required for any variation (including any release or compromise of any liability) or termination of this Agreement.

10. Designation of Accounts / Assets

10.1 By signing the Application for Financial Advisory Services, the Client appoints Maybank Kim Eng to provide Recommendations to the Client for the list of accounts set out therein, as may be from time to time amended pursuant to Clause 10.2 below.

10.2 Notwithstanding anything in this Agreement, the Client may from time to time instruct Maybank Kim Eng in writing to additionally designate, or remove from designation, any one or more accounts opened and maintained with Maybank Kim Eng for the benefit of the Client for the purposes of this Agreement, provided always that the Client shall give not less than 3 days' notice in writing to Maybank Kim Eng in respect of any account to be removed from the list of designated accounts.

Schedule 1

List of product providers

None as of 25th March 2012

Schedule 2

Definition of “overseas investor”

(a) “overseas investor” means an individual who is:

- (i) outside Singapore;
- (ii) not a citizen of Singapore;
- (iii) not a permanent resident of Singapore; and
- (iv) not wholly or partly dependent on a citizen or permanent resident of Singapore.

Definitions of “accredited investor”, “expert investor” and “institutional investor” under the Securities and Futures Act (Cap. 289).

(a) “accredited investor” means –

- (i) an individual –
 - (A) whose net personal assets exceed in value \$2 million (or its equivalent in a foreign currency) or such other amount as the Monetary Authority of Singapore (“MAS”) may prescribe in place of the first amount; or
 - (B) whose income in the preceding 12 months is not less than \$300,000 (or its equivalent in a foreign currency) or such other amount as the MAS may prescribe in place of the first amount;
- (ii) a corporation with net assets exceeding \$10 million in value (or its equivalent in a foreign currency) or such other amount as the MAS may prescribe, in place of the first amount, as determined by –
 - (A) the most recent audited balance-sheet of the corporation; or
 - (B) where the corporation is not required to prepare audited accounts regularly, a balance-sheet of the corporation certified by the corporation as giving a true and fair view of the state of affairs of the corporation as of the date of the balance-sheet, which date shall be within the preceding 12 months;
- (iii) the trustee of such trust as the MAS may prescribe, when acting in that capacity; or
- (iv) such other person as the MAS may prescribe, who are at present (by virtue of the Securities And Futures (Prescribed Specific Classes of Investors) Regulations 2005):
 - (A) the trustee of a trust of which all property and rights of any kind whatsoever held on trust for the beneficiaries of the trust exceed \$10 million in value (or its equivalent in a foreign currency);
 - (B) an entity (other than a corporation) with net assets exceeding \$10 million in value (or its equivalent in a foreign currency);
 - (C) a partnership (other than a limited liability partnership within the meaning of the Limited Liability Partnerships Act 2005 (Act 5 of 2005)) in which each partner is an accredited investor;
 - (D) a corporation, the sole business of which is to hold investments and the entire share capital of which is owned by one or more persons, each of whom is an accredited investor.

(b) “expert investor” means –

- (i) a person whose business involves the acquisition and disposal, or the holding, of capital markets products, whether as principal or agent;
- (ii) the trustee of such trust as the Authority may prescribe, when acting in that capacity; or
- (iii) such other person as the Authority may prescribe;

(c) “institutional investor” means –

- (i) a bank licensed under the Banking Act, Chapter 19 of Singapore;
- (ii) a merchant bank approved as a financial institution under section 28 of the Monetary Authority of Singapore Act, Chapter 186 of Singapore;
- (iii) a finance company licensed under the Finance Companies Act, Chapter 108 of Singapore;
- (iv) a company or society registered under the Insurance Act, Chapter 142 of Singapore as an insurer;

- (v) a trust company licensed under the Trust Companies Act, Chapter 336 of Singapore;
- (vi) the Singapore government or any statutory body established under any Act;
- (vii) the holder of a capital markets services licence under the Securities and Futures Act, Chapter 289 of Singapore for:
 - (A) dealing in securities;
 - (B) fund management;
 - (C) providing custodial services for securities;
 - (D) real estate investment trust management;
 - (E) securities financing; or
 - (F) trading in futures contracts;
- (viii) a person (other than an individual) who carries on the business of dealing in bonds with:
 - (A) accredited investors; or
 - (B) expert investors;
- (ix) a pension fund or collective investment scheme;
- (x) the trustee of such trust as the MAS may prescribe, when acting in that capacity; or
- (xi) such other person as the MAS may prescribe, who are at present (by virtue of the Securities And Futures (Prescribed Specific Classes of Investors) Regulations 2005):
 - (A) a designated market-maker;
 - (B) a headquarters company or finance and treasury centre which carries on a class of business involving fund management (where such business has been approved as a qualifying service in relation to that headquarters company or finance and treasury centre under the Income Tax Act, Chapter 134 of Singapore),
 - (C) a person resident in Singapore who undertakes fund management activity in Singapore on behalf of not more than 30 qualified investors; and
 - (D) a service company which carries on business as an agent of a member of Lloyd's.