



TERMS AND CONDITIONS GOVERNING FOREIGN EXCHANGE SPOT FACILITY

Definitions

- (1) In these terms and conditions:
- (i) "**Affiliate**" means, in relation to any Party, a subsidiary of that Party or a holding company of that Party or any other subsidiary of that holding company;
 - (ii) "**Bank**" means Cathay United Bank (including its head office or any branch thereof) and includes its successors or assigns;
 - (iii) "**Business Day**" means a day (other than a Saturday or Sunday) on which banks are generally open for general business in Singapore or, in relation to any date for payment or purchase of funds, the place where such funds are received in accordance with the agreement of the Parties and in the principal financial center for the relevant currency;
 - (iv) "**Circular Order**" means an order where Customer can select a designated cycle to effect the sale or purchase of FX;
 - (v) "**Customer**" means a person, corporation or entity approved by the Bank that has entered or is entering into a FX Spot Transaction with the Bank pursuant to a FX Spot Facility and includes its successors and permitted assigns;
 - (vi) "**Customer Order**" means an order placed with or instruction of the Customer to the Bank relating to the sale or purchase of FX, which includes an "**Execution Order**", "**Circular Order**" and "**Limit Order**";
 - (vii) "**Default Interest Rate**" means the rate of 3% per annum above the rate per annum equal to the cost (without proof or evidence of any actual cost) to the Bank if it were to fund the relevant amount for a certain period of time or such other rates determined by the Bank from time to time;
 - (viii) "**Execution Order**" means an order by the Customer for sale or purchase of FX at an agreed rate of exchange executed or to be executed by the Bank if such rate of exchange is within the effective period and at designated execution time set by the Bank;
 - (ix) "**Event of Default**" means an event whether or not described as such in any facility letter or facility document and includes any event, howsoever described, which may render any moneys and liabilities (or any part of it) owing by the



Customer to any person or entity (including the Bank) to become due and payable before its normal or intended maturity;

- (x) "**FX**" means those types of currencies (including Singapore dollar) as the Bank may from time to time designate as being available for the purpose of sale or purchase under a FX Spot Transaction;
- (xi) "**FX Spot Facility**" means any facility, service or accommodation to be provided or provided by the Bank to the Customer under which a FX Spot Transaction occurs or is to occur;
- (xii) "**FX Spot Transaction**" means any foreign exchange contracts or transactions where the Customer commits or intends to commit to either make a delivery of a certain amount of currency or to cash settle a transaction with the Bank, for a set amount of another currency at a certain rate of exchange, with settlement taking place within 2 Business Days of the trade date;
- (xiii) "**Limit Order**" means an order where Customer can select a target rate, and the system will effect the sale or purchase of FX when the spot rate of exchange meets the target rate specified by the Customer within the effective period and at designated execution time set by the Bank; and
- (xiv) "**Parties**" means the Bank and the Customer and "**Party**" means any one of them.

Request for FX Spot Facility

- (2) The Customer may request and the Parties may enter into FX Spot Transactions and FX Spot Facility in accordance with these terms and conditions. Notwithstanding this, the Bank may, in its absolute discretion decline to effect or enter into any FX Spot Transaction without giving any reason therefor. The Bank shall not, in any circumstances, be liable (including liability for negligence) in any way to the Customer for any loss, damages, expenses or loss of profit whatsoever suffered and/or incurred by the Customer arising out of (directly or indirectly) or in connection with its not effecting or entering into any FX Spot Transaction.
- (3) The Bank may from time to time prescribe the maximum and/or minimum amounts and/or the conditions for such Customer Orders. Unless otherwise agreed by the Bank, a Customer Order shall only be valid on the Business Day on which it is received and accepted by the Bank.



Settlement Mechanics

- (4) The Parties agree that unless otherwise provided in the confirmation for the FX Spot Transaction, the settlement date for the FX Spot Transaction shall be a date determined by the Bank which shall in any case occur within 2 Business Days of the trade date for the FX Spot Transaction. In respect of each FX Spot Transaction, unless otherwise agreed by the Bank or where the Bank is already holding cash on the Customer's behalf to settle the FX Spot Transaction, the Customer will, no later than the relevant settlement date, pay the Bank cleared funds to settle any FX Spot Transaction or deliver the Customer's currency for the FX Spot Transaction to the Bank in deliverable form.
- (5) Without prejudice to Clause (4) above:
- (i) for purchase of the FX by the Customer, upon fulfilment of all the conditions for the Customer Order, the Bank shall be authorized at any time as determined by the Bank:
 - (a) to debit the funds necessary to make the purchase from an account designated by the Customer ("**Payment Account**");
 - (b) to convert the funds so debited and denominated in the currency of the Payment Account into the alternate FX currency; and
 - (c) to credit the amount so purchased into an account specified by the Customer ("**Receiving Account**") denominated in the currency of the amount to be credited.
 - (ii) for sale of the FX by the Customer, upon fulfilment of all the conditions for the Customer Order, the Bank shall be authorized at any time as determined by the Bank:
 - (a) to debit the FX to be sold from the Payment Account, and
 - (b) to credit the funds representing the proceeds of sale into a Receiving Account by converting the FX to be sold into the currency of the Receiving Account.
- (6) The Customer agrees to accept that:
- (i) if the Customer places a Circular Order, the Bank is entitled to effect a currency transaction for the Customer at the rate of exchange as quoted by the Bank from time to time; or



- (ii) if the Customer places a Limit Order, the Bank is entitled to effect a currency transaction for the Customer at the rate of exchange specified by the Customer if such rate falls within the rate of exchange quoted by the Bank at the time.

The Bank is not under any obligation to check the rate of exchange specified by the Customer against the rate prevailing in the relevant foreign exchange market on a real time basis, nor to effect any currency transaction at such rate.

- (7) Without prejudice to the Bank's rights under these terms and conditions, if the Bank decides in its absolute discretion to credit any amount so purchased or representing the proceeds of sale into a Receiving Account before debiting funds for purchase or FX to be sold from the Payment Account, the Customer shall indemnify the Bank in full against all losses, costs, damages and all other liabilities which the Bank may incur or suffer in the event that the Bank is unable to debit or receive such debited funds or FX from the Payment Account in full, whether due to the action or omissions of the Customer or otherwise.
- (8) In case there are insufficient funds or prearranged credit available in the Payment Account at the time of making a purchase or sale pursuant to a Customer Order, the Bank shall be entitled to refuse to make the purchase or sale (notwithstanding that the trade terms have been agreed), in which event the Bank may levy the usual charge and may cancel the Customer Order. The Bank shall not howsoever be liable for any consequence arising out of the failure of the Bank to carry out the Customer Order in such circumstances.
- (9) Notwithstanding that there are insufficient funds or prearranged credit in the Payment Account, the Bank may, at its absolute discretion, but is not obliged to, carry out the Customer Order without prior written notice to or approval of the Customer. The Customer shall be liable for the resulting debit balance or overdraft, advance or credit (or any increase in the same) and all interest and standard charges of the Bank relating thereto. Such debt shall be repayable to the Bank on demand together with interest thereon, from the date of carrying out of the Customer Order to the date of actual repayment (whether before or after judgment), both days inclusive, at the Default Interest Rate for such periods as the Bank may from time to time select and compounded at such intervals as the Bank may determine from time to time.
- (10) If the Customer is buying or receiving FX from the Bank and fails to designate an account to which to deliver the FX, the Bank, at its discretion, may convert the FX into any currency and at an exchange rate, in each case, determined by the Bank and deposit such currency into the any account in the Customer's name at the Bank.



- (11) The Customer acknowledges that notwithstanding the Bank's acceptance of a Customer Order, such Customer Order may not eventually result in any sale or purchase of FX owing to market conditions and/or any restrictions (such as any limit for purchase or sale of any FX or exchange control) which may from time to time be imposed on the Bank under any laws, rules or regulations. Without prejudice to the foregoing, if for any reason the Bank is not able to deliver the relevant currency at the time when a FX Spot Transaction would otherwise be executed, the Bank shall have no obligation to execute any FX Spot Transaction pursuant to any Customer Order notwithstanding that the Customer Order has been accepted.
- (12) The Bank may from time to time determine whether an advice setting out the FX Spot Transaction effected by the Bank pursuant to Customer Order will be issued to the Customer.
- (13) Nothing herein shall oblige the Bank to provide any credit or prearranged credit to the Customer.
- (14) The availability of the FX Spot Transaction shall also be subject to the availability of the currency requested by the Customer, in each case as determined by the Bank in its absolute discretion.

Form of Instructions and Right to Request for Collaterals

- (15) Subject as provided herein, all instructions, request or order ("Instructions") in relation to FX Spot Transactions shall be given by the Customer (or through a person authorised by the Customer and accepted by the Bank) directly to the Bank (whether orally (in person or by telephone), by facsimile transmission, electronic mail ("E-mail") transmission, electronic dealing channel or other means of communication accepted by the Bank from time to time) in such manner as may be prescribed by the Bank from time to time and shall be irrevocable. If such Instructions are given by telephone, facsimile transmission, E-mail transmission, or electronic dealing channel transmission, the Bank is entitled to rely upon and act in accordance with such Instructions without inquiry or verification by the Bank of the authority or identity of the person making or giving or purporting to make or give such Instructions and regardless of the circumstances prevailing at the time of the giving of such Instructions or the amount of money involved in the Instructions, and notwithstanding any error, misunderstanding, lack of clarity, fraud, forgery or lack of authority in relation thereto.
- (16) The Bank shall be entitled to treat an Instruction given as provided in Clause (15) as fully authorised by and binding upon the Customer. The Bank shall be entitled (but not bound) to act on or take such steps in connection with or in reliance upon such Instruction as the Bank may in good faith consider appropriate, whether it be an Instruction to acquire, purchase, sell, dispose of or otherwise deal with any currency or transfer any currency



from an account or withdraw monies or funds from account or purport to bind the Customer to any agreement or other arrangement with the Bank or with any other person or to commit the Customer to any other type of FX Spot Transaction or arrangement whatsoever, regardless of the nature of the FX Spot Transaction or arrangement or the value, type and quantity of currency involved or the amount of monies or funds involved and notwithstanding any error, misunderstanding or lack of clarity in the terms of such Instruction.

- (17) The Bank may also require the Customer to provide, from time to time, any monies (including deposit of fresh funds), security or collateral to the Bank in such amount and in such form as the Bank shall in its discretion require from time to time before agreeing to provide any FX Spot Transaction, FX Spot Facility or to carry out any Customer Order. Once the terms of the FX Spot Transactions have been agreed between the Parties, a binding contract comes into effect at that time. The Bank has no responsibility for any delay, failure, error, interruption or suspension in the transmission or communication of Instructions or information on prices or the mistaken receipt of any Instructions by any other party and shall not be required to check the accuracy or authenticity of such Instructions with the Customer, nor shall the Bank be liable for any losses or costs suffered or incurred by the Customer as a result of the Bank acting upon the same. The Bank shall be indemnified in full by the Customer against all losses, costs, damages and all other liabilities which it may incur or suffer in accepting and acting on such Instructions via such forms of communication and shall be entitled to record all conversations and instructions and use such recordings and transcripts thereof as evidence in any dispute.
- (18) Where any Customer Order is (in the view of the Bank) ambiguous or inconsistent with any other instruction, the Bank shall be entitled to rely and act upon any order in accordance with any reasonable interpretation thereof which any officer of the Bank believes in good faith to be the correct interpretation and the Bank shall not be liable for any losses, costs, damages or any liabilities which the Customer may suffer as a result of the Bank's interpretation.

Customer notification of discrepancy

- (19) The Customer is obliged to notify the Bank immediately if:
- (i) the Customer fails to receive an accurate confirmation of execution of a FX Spot Transaction;
 - (ii) the Customer receives a confirmation that is not consistent with customer's Instruction;
 - (iii) the Customer receives confirmation of execution of an Instruction that the Customer did not place; or



- (iv) the Customer receives an account statement, notice, confirmation, or other information reflecting inaccurate Instructions, orders or account balances regarding any FX Spot Transaction.

Confirmations and notices by the Bank shall be conclusive and deemed to be accepted if not objected to in writing by the Customer on the same day of such Confirmation or notice being given by the Bank to the Customer. The Customer shall be deemed to have absolutely waived its right regarding any such error in the absence of such objection. Any delay or failure by the Bank to issue a confirmation or notice shall not prejudice or invalidate the terms of any FX Spot Transaction. For the avoidance of doubt, the provision regarding objection by the Customer to any confirmation or notice is intended to facilitate the Customer's communication to the Bank of any correction that the Customer believes should be made to any term in a confirmation or notice and shall not be construed as any agreement or consent by the Bank to any change or rescission of the terms of any FX Spot Transaction.

Cancellation and Close out

- (20) If:
 - (i) there are insufficient funds or prearranged credit available in the Payment Account at the time of making a purchase or sale pursuant to a Customer Order; or
 - (ii) the Customer fails to:
 - (a) pay any amount due, perform any of its obligations pursuant to a FX Spot Transaction, Customer Order or these terms and conditions; or
 - (b) credit sale proceeds or FX (as the case may be) into the Receiving Account or repudiates the FX Spot Transaction,

and if the FX Spot Transaction has been entered into, the Bank reserves the right to close out the FX Spot Transaction at the prevailing spot price (or any other spot price determined by the Bank) on any day as the Bank may determine without any further obligation to notify the Customer of the same. The Customer shall indemnify the Bank in full against all losses, costs, damages and all other liabilities which the Bank may incur or suffer as a result of such closing out and the Bank shall not be responsible for any losses, costs, expenses or interest charges arising due to such closing out.

- (21) If the Bank determines (in its absolute discretion) such to be necessary or appropriate (whether due to an Event of Default, failure by the Customer to pay or perform obligations



or meet calls by the Bank for monies, security and/or collaterals to be provided at any time, contravention by the Customer with any law, rules and regulations relating to foreign exchange, unsatisfactory assessment of the Customer or otherwise), the Bank shall be entitled to (a) cancel the FX Spot Transaction, FX Spot Facility or any Customer Order (b) close out some or all FX Spot Transactions (whether immediately or with effect from a date specified by the Bank), (c) cover its exposure for the FX Spot Transaction by purchasing, selling or cash settling for the relevant currency as it deems appropriate and/or (d) call upon or enforce any security or collateral which may have been issued, made or created in favour of the Bank as security or collateral for the indebtedness, liabilities or obligations of the Customer under the FX Spot Transactions, FX Spot Facility and/or these terms and conditions. All outstanding balance and all amounts due to the Bank by the Customer under or in connection with the FX Spot Transaction, FX Spot Facility and/or these terms and conditions shall thereafter become due and payable by the Customer. The Customer shall also be liable on a full indemnity basis for any loss, cost or expense (including legal costs) incurred by the Bank arising from the cancellation or closing out any FX Spot Transaction, FX Spot Facility or any Customer Order. Default interest at the Default Interest Rate will be imposed on any outstanding balance and amounts due until the date of the Bank's receipt of full payment thereof.

- (22) Any amount payable by the Customer to the Bank in respect of the closed out FX Spot Transactions including any loss of bargain, cost of funding, marked to market losses or cost incurred as a result of its terminating, close out, liquidating, obtaining or re-establishing any hedge or related trading position shall be immediately payable by the Customer.

Right to debit account and reverse FX Spot Transaction

- (23) Without prejudice to the rights of the Bank under these terms and conditions, the Customer hereby irrevocably authorises the Bank to debit any account of the Customer with the Bank (whether such debit would result in an account being overdrawn or otherwise) to settle all monies, amounts or liabilities owing by the Customer under the FX Spot Transaction, FX Spot Facility and/or these terms and conditions. The Bank shall also have the right to earmark any such account and/or refuse any request for withdrawal from such account until all monies and amounts owing by the Customer under the FX Spot Transaction, FX Spot Facility and/or these terms and conditions have been irrevocably paid in full to the Bank.
- (24) Where the Bank agrees (at its absolute discretion) to reverse a FX Spot Transaction or is required to close out a FX Spot Transaction but it is not possible to do so using the same rate of exchange, the Bank shall be entitled to convert a currency into another using the Bank's then prevailing rate of exchange (or such other rate of exchange as determined by



the Bank) and all administrative costs and exchange rate losses incurred or suffered by the Bank shall be borne and be payable by the Customer on demand made by the Bank. For the purpose of determining the percentage of unrealised losses or the prevailing prices of any or all FX Spot Transactions, the Bank may convert any or all FX Spot Transactions into such currency as the Bank may in its absolute discretion deem appropriate at the Bank's prevailing rate of exchange (or such other rate of exchange as determined by the Bank).

- (25) If, on any settlement date, more than one delivery of a particular currency is to be made between the Customer and the Bank under two or more FX Spot Transactions, the Bank may, in its absolute discretion, notify the Customer orally or in writing that the Bank will be aggregating the amount of such currency deliverable by each party so that only the difference between these aggregate amounts shall be delivered by the party owing the larger aggregate amount to the other party, and if the aggregate amount payable by each party is the same, both parties' obligations to deliver the aggregate amount are discharged on the settlement date and no delivery of the currency shall be made by either party.

Amendments

- (26) The Bank may at its discretion amend, delete or substitute any of these terms and conditions and may notify the Customer of such amendment, deletion or substitution as soon as reasonably practicable (such notification to be in any manner as the Bank deems fit, including posting on the internet or on the Bank's website).

Acknowledgement of Customer

- (27) The Customer confirms and acknowledges that: (i) it is acting as principal for its own account and understands and accepts the terms, conditions and risks of FX Spot Transactions and FX Spot Facility in reliance of its own judgment and independent evaluation, (ii) the FX Spot Transaction is to either hedge against foreign exchange exposures in respect of its underlying transactions/trades or for investment purposes and not for speculative purpose. The Customer shall, if requested by the Bank, supply all documents/evidence of the underlying transactions/trades (where applicable), (iii) the Bank is not and none of its employees or agent is acting as a fiduciary for or an adviser to the Customer and does not hold itself out to do so or as having its authority to advise the Customer to enter into any FX Spot Transaction or FX Spot Facility and none of its recommendations or advice will be taken as an assurance or guarantee as to the expected results of any FX Spot Transaction, (iv) the Bank shall have no responsibility or liability whatsoever in respect of any advice given or view expressed, by it or its employees or agents to Customer, whether or not such advice is given or such views are expressed at Customer's request, (v) the Bank may play a variety of roles in connection with any FX



Spot Transaction to be undertaken and may hedge its obligations under the transactions and (vi) the Bank is under no obligation to warn the Customer if any of its instructions to effect FX Spot Transaction is ill-timed or inappropriate for any reason, or if any instruction is likely to result in loss to the Customer. The Bank and/or any of its Affiliates, in the ordinary course of their business, may also effect transactions for their own account or for the account of their customers. In conducting such business, neither the Bank nor any of its Affiliates is obliged to take into account the Customer's circumstances or act in a manner which is favourable to the Customer. The Customer should be aware that such activity may, or may not affect the value of the transaction and that a conflict may arise.

Joint and Several Liability

- (28) Where the Customer consists of more than one person (whether a partnership or otherwise):
- (i) the expression "Customer" shall include each such person (a "Joint Customer") and the liability of the Joint Customers under these terms and conditions shall be joint and several;
 - (ii) any demand for payment on any one or more of the Joint Customers shall be treated as a valid demand on all Joint Customers;
 - (iii) the Bank shall be entitled to deal separately with any of the Joint Customers on any matter including the release or discharge of any one or more of the Joint Customers from liability under these terms and conditions or compound with, accept compositions from, or make any other arrangement with, any of such persons without, in consequence, releasing or discharging or otherwise prejudicing or affecting its rights and remedies against any other Joint Customers;
 - (iv) each of the Joint Customers severally shall have the authority to give Instructions to the Bank, exercise all rights, powers and discretion pursuant to these terms and conditions on behalf of the other Joint Customers as if each of them alone was the holder of the account; and
 - (v) each of the Joint Customers shall be bound by these terms and conditions regardless of the arrangement or agreement among the Joint Customers and notwithstanding these terms and conditions may be invalid or unenforceable against any one or more of the Joint Customers (whether or not the deficiency is known to the Bank).

Miscellaneous

- (29) A statement, certificate or confirmation of the Bank as to the amount at any time due from the Customer, including the Bank's calculation of mark-to-market losses on FX Spot



Transactions (if applicable) shall, save for manifest error, be final, conclusive and binding for all purposes against the Customer. In addition, the Customer understands and agrees that the Bank may adjust the account of the Customer to correct any error in relation to any FX Spot Transaction. The Customer agrees to promptly return to the Bank any monies distributed to the Customer to which the Customer was not entitled.

- (30) The Customer understands that the Bank is unable to know whether someone other than the Customer has given or entered, or is giving or entering, instructions using the Customer's name. The Customer shall not permit or allow any other person to have access to its account with the Bank in connection with the FX Spot Facility or FX Spot Transaction for any purpose. The Customer shall be responsible for the confidentiality and use of, and any order given or entered with, the Customer's name and remain responsible for all instructions using the Customer's name.
- (31) The Customer agrees to provide the Bank with such documentation, financial statements, credit reports, guarantees, security agreements, or other information, agreements, and instruments as the Bank deems necessary from time to time or prior to giving any Instruction for a FX Spot Transaction.
- (32) The Customer shall pay the Bank such commissions, charges, mark-ups, service fees or other remuneration as determined by the Bank in its absolute discretion on all FX Spot Transactions or FX Spot Facility from time to time. All such commissions, charges, mark-ups, service fees may be deducted by the Bank from any account maintained by the Customer with the Bank.
- (33) Time shall in every respect be of the essence in relation to all liabilities and obligations of the Customer under these terms and conditions.
- (34) Any provision in these terms and conditions which is illegal, invalid or unenforceable for any reason in any jurisdiction shall be ineffective only to the extent of such illegality, invalidity or unenforceability and shall not affect the legality, validity or enforceability of the remaining provisions hereof or the legality, validity or enforceability of such provision in any other jurisdiction. Where, however, the provisions of any applicable law may be waived. They are waived by the Parties hereto to the full extent permitted by such law to the end that these terms and conditions shall be a valid and binding agreement enforceable in accordance with its terms and conditions.
- (35) The rights, powers, remedies and privileges in these terms and conditions are cumulative and not exclusive of any right, powers, remedies and privileges provided by law.
- (36) No failure or delay on the Bank's part to exercise any power, right or remedy which the Bank may have shall operate as a waiver thereof.



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Single Agreement

- (37) All FX Spot Transactions are entered into by the Bank in reliance of the terms and conditions stated herein and all confirmations, along with these terms and conditions and all other agreements in relation to such FX Spot Transactions form a single agreement between the Customer and the Bank.

Force Majeure

- (38) Neither of the Parties shall be liable for any loss sustained by the other, directly or indirectly, if either Party is prevented from acting as a direct or indirect result of local or foreign restrictions or regulations imposed by authorities or governments, the imposition of emergency procedures or suspension of dealing by any relevant market, Acts of God, civil disorder, acts or threatened acts of terrorism, natural disasters, war, strikes, lockouts, irregularities or break down of public communication or other circumstances beyond either Party's control.
- (39) The Bank shall not be liable or responsible for any inaccuracy, interruption, delay or default in the transmission of a FX Spot Transaction occasioned by circumstances beyond the Bank's reasonable control.

Governing Law

- (40) These terms and conditions and all rights, obligations and liabilities hereunder shall be governed by and construed in all respects in accordance with the laws of Singapore and the Parties agree to submit to the exclusive jurisdiction of the Singapore courts. This Clause is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to these terms and conditions in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

Applicability of Terms and Conditions

- (41) The above terms and conditions in the Clauses (1) to (40) shall apply to all FX Spot Transactions and FX Spot Facility.



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I/We, the Customer, hereby agree to the above Terms and Conditions Governing Foreign Exchange Spot Facility (as amended, varied or supplemented by the Bank from time to time).