

# Cathay United Bank

## ELECTRONIC TRADING TERMS AND CONDITIONS

These Terms (as the same may be amended, modified or supplemented from time to time) govern the Electronic Trading Services that the Bank may make available to the Customer through an Electronic Trading Channel, and any resulting transaction.

The Customer agrees that access or usage by the Customer of any Electronic Trading Service would constitute the Customer's agreement to These Terms.

**It is agreed** as follows:

### 1. Definitions and Interpretations

1.1 In These Terms, the following expression (unless the context otherwise require) shall have the following meanings respectively: -

**"Account"** refers to each and every account which is or may be opened in the name of the Customer (whether singly or jointly with any other person) with the Bank.

**"Affiliate"** means a related corporation as defined in section 6 Companies Act 1967 and the Bank's head office and such head office's other branches.

**"API"** means an application programming interface.

**"Bank"** means Cathay United Bank (Singapore Branch), being a licensed bank under the Banking Act and includes its successors or assigns.

**"Banking Act"** means Banking Act 1970 of Singapore.

**"Cost of Funds"** means the rate as determined by the Bank from time to time to be the prevailing cost to the Bank for granting or funding any loan or advance from whatever source that the Bank may in its absolute discretion determine (including without limitation, the cost to the Bank occasioned by or attributable to complying with reserves, liquidity, deposit or other requirements imposed on the Bank by the relevant authority or authorities).

**"Customer"** refers to any customer of the Bank or any person or entity that has applied for and is provided with or availed any products, facilities, services or accommodation of the Bank, and who is or will be given access to or use of the Electronic Trading Channels and /or Electronic Trading Services.

**"Customer Information"** means customer information, as defined in the Banking Act.

**"Electronic Trading Channels"** means any software, electronic communications, internet website, network, application, System, API or platform provided or made available by the Customer to the Bank or to the Customer by the Bank, either directly or through an Affiliate or a Third Party Service Provider (as defined below) or provided or made available by a Third Party Service Providers to the Customer and the Bank, in each case, through which an Electronic Trading Service is made available.

**"Electronic Trading Service"** means any electronic trading service or such other telecommunication, computer or electronic network, broking and information facilities and services,

System, API and software packages (if any) as may be offered by the Customer, the Bank or any other Third Party Service Provider from time to time which allows the Customer to:

- (i) execute transactions in securities, commodities, currencies, derivatives, spot products, futures, options and other financial instruments and products (including but not limited to loans, repurchase agreement, placement of deposits, investment products) with or through the Bank;
- (ii) view Materials, transaction status and information, quotes, pricing, financial data and other market indicators, Customer Account information and other financial data from the Bank, its Affiliates or Third Party Service Providers, any exchange, and/or market;
- (iii) view and transmit electronic communications, instructions, indications of interest, orders and/or conditional offers to the Bank, third parties and/or to the market;
- (iv) use the Bank's or any Third Party Service Provider's algorithms; and/or
- (v) utilise any other product and service as may be offered by the Bank, its Affiliates and/or its Third Party Service Providers from time to time.

**"Materials"** means any text, images, links, sounds, graphics, video and other materials or data which may be displayed through the Electronic Trading Channels as part of any Electronic Trading Service, including the Market Data.

**"Market Data"** means any information relating to securities, commodities, currencies, derivatives, spot products, futures, options and other financial instruments and products (including but not limited to loans, repurchase agreement, placement of deposits, investment products), markets, companies, industries, news and any data, analysis or research thereon, made available via the Electronic Trading Services.

**"Personal Data"** means personal data, as defined in the Personal Data Protection Act 2012 of Singapore and the Personal Data Protection Act (個人資料保護法) of the Republic of China (Taiwan).

**"PINS"** means the unique personal identification numbers or codes that has been assigned or issued to a person or entity or each of such person's or entity's authorised representatives for purposes of security, identity validation and/or transaction authentication.

**"Privacy Policy"** means the Bank's personal data protection policy made available on the Bank's website accessible at <https://www.cathaybk.com.tw/sg/download/> (or such other URL as the Bank may from time to time provide to the Customer), as may be varied, amended and/or supplemented from time to time.

**"SWIFT"** means the Society for Worldwide Interbank Financial Telecommunication.

**"Security Mechanisms"** means any passwords, personal identification numbers, one-time PINS, digital certificates, digital signatures, electronic keys, logon identifiers codes, access methods, two-factor authentication, digital tokens, biometric credentials and such other security mechanisms required to access and use any Electronic Trading Channel and/or use any Electronic Trading Service.

**"System"** means any electronic trading system, hardware, software, telecommunication links, communication interfaces, algorithm, data feed, web feed, website, webpage, or other mechanism to deliver data stream from server to client either automatically or via demand, file upload or similar mechanism to transmit data from a local device to a remote device or server, any part thereof used

for the purpose of providing, supporting, accessing or otherwise referable to the Electronic Trading Services.

"**Third Party Service Provider**" has the same meaning ascribed to it in Clause 2.1.

"**These Terms**" means these terms and conditions.

- 1.2 In These Terms, references to "Clauses", "Sub-Clauses" and "Schedules" are, unless otherwise stated, to clauses, sub-clauses of and schedules (if any) to These Terms.
- 1.3 Clause headings have been inserted for convenience of reference only and shall not affect the construction of These Terms.
- 1.4 Words and expressions importing the singular number only shall include the plural and vice versa and references to one gender shall include references to all other genders. Words importing or referring to person includes individual, association, company, bodies corporate, unincorporated entities and the partners of a named partnership.
- 1.5 Any reference to statutory provisions shall be construed as references to those provisions as the same may from time to time be replaced, amended, modified or re-enacted.
- 1.6 Any reference to These Terms and other documents referred to in These Terms shall be construed as references to These Terms or such other documents as the same may be amended or supplemented from time to time.
- 1.7 The expressions the "Bank" and the "Customer" shall, where the context permits, include their respective successors, personal representatives and assigns. Any reference to the "Customer" shall refer to an individual or where the context requires, an entity notwithstanding any reference to the Customer as "it", "its", "he", "she" or its equivalent.
- 1.8 These Terms shall be in addition to and shall not be in substitution of any other terms and conditions applicable to any products, facilities, services or accommodation provided by the Bank to the Customer. If there is any inconsistency between These Terms and such other terms and conditions, These Terms shall prevail in relation to the Electronic Trading Service and Electronic Trading Channels and such other terms and conditions shall prevail for other issues.

## **2. Access and Use**

- 2.1 When providing the Electronic Trading Services to the Customer, the Bank may:
  - (a) work with or use the services of any Affiliate or any service provider the Bank or the Customer (with the consent of the Bank) have appointed; and
  - (b) work with or use any system (including SWIFT), intermediary, correspondent bank, agent or other person or organisation (including any government agencies or bodies) for any purpose in connection with that Electronic Trading Service, including for authentication, verification, security, communication, clearing, settlement or payment.

Each such system and person above is referred to as a "**Third Party Service Provider**".

- 2.2 Access to and the use of certain Electronic Trading Channels may be mandatory for the provision of the Electronic Trading Services to the Customer. The provision of the Electronic Trading Services to the Customer may be conditional on the Customer's application or instructions to the Bank or a Third Party Service Provider being successfully processed and/or the Bank or such Third Party

Service Provider successfully completing certain processes. For purposes of the provision of the Electronic Trading Services to the Customer, the Customer agrees to provide the Bank with all information requested as the Bank determines to be necessary or desirable, and to update the Bank promptly when any previously supplied information becomes inaccurate or changes. In the event that the Customer (with the Bank's permission), authorises other individuals such as employees, officers and agents of the Customer to access and use the Electronic Trading Services, the Customer agrees to conduct any additional due diligence requests that the Bank determines to be necessary. The Customer further consents that such information and due diligence findings may be shared with regulatory authorities, any Third Party Service Provider or any other person as permitted by applicable law.

- 2.3 Where an Electronic Trading Service involves a Third Party Service Provider, the Customer authorises the Bank to:
- (a) send the Customer's instructions on its behalf to such Third Party Service Provider;
  - (b) receive instructions from such Third Party Service Provider on the Customer's behalf;
  - (c) use or work with such Third Party Service Provider to send or receive information or instructions between the Bank and the Customer;
  - (d) provide or receive information relating to the Customer to or from such Third Party Service Provider; and
  - (e) work with or use the services of such Third Party Service Provider in such manner as the Bank or such Third Party Service Provider thinks fit in connection with the provision of that Electronic Trading Service.
- 2.4 The Customer's access and use of the Electronic Trading Services (and of certain Electronic Trading Channels) may cease if the Customer's relationship with the Bank is terminated, including if the Customer's Accounts are closed. The Customer shall remain liable for any access or use of the Electronic Trading Services (and those specific Electronic Trading Channels) until such cessation.
- 2.5 The Customer agrees to take all reasonable steps and safeguards to ensure that the access and use of the Electronic Trading Channels and Electronic Trading Services is solely limited to persons who have been properly authorised by the Customer. Where the Customer is required to use the Security Mechanisms for purposes of identity verification and authentication, the Customer is solely responsible for ensuring that these Security Mechanisms are safeguarded confidentially, and only known and securely used by the Customer and those authorised by the Customer.
- 2.6 The Customer agrees that, save with the prior written consent of the Bank, it shall access and use the Electronic Trading Services for its own account and not for the account of any other party and shall not be acting as a trustee, nominee, agent, custodian or intermediary of any other party.
- 2.7 The Customer shall be solely responsible for the actions and omissions of any persons, authorised or unauthorised, who gain access and use the Electronic Trading Services through the Customer or the Customer's Security Mechanisms. It is solely the responsibility of the Customer to ensure that the persons authorised by the Customer to access and use the Electronic Trading Services are appropriately trained, experienced and informed, and understand the inherent risks of using the Electronic Trading Services, and any resulting transaction. The Customer must promptly notify the Bank of any suspected or known unauthorised use or access of the Electronic Trading Channels,

Electronic Trading Services and/or loss of control over the use of the Security Mechanisms. Until such notification and the Bank or (as the case may be) the Third Party Service Provider is able to terminate further access and use of the Electronic Trading Services, the Customer agrees that the Bank and such Third Party Service Provider may rely on any access or any use of, or instruction, communication or transaction relating to any Electronic Trading Service arising from the use of the Customer's Security Mechanism as having been authorised by the Customer without any need to enquire further, and the Customer shall be duly liable and be bound by all orders, instructions and transactions that are transmitted to the Bank through any Electronic Trading Channel and all consequences thereof.

- 2.8 The Bank or (as the case may be) the Third Party Service Provider may suspend, restrict or terminate the Customer's access and use of any Electronic Trading Channel provided or made available to the Customer by the Bank or (as the case may be) the Third Party Service Provider and/or any Electronic Trading Service without prior notice and for any reason, without assigning a reason to such suspension, restriction or termination. The Bank or (as the case may be) the Third Party Service Provider may also change the nature, features or availability of any Electronic Trading Channel provided or made available to the Customer by the Bank or such Third Party Service Provider and/or any Electronic Trading Service at any time and for any reason, without assigning a reason for such change. The Customer agrees that the Bank and a Third Party Service Provider have the sole and absolute discretion to accept or reject any transaction that the Customer seeks to execute through any Electronic Trading Channel and/or Electronic Trading Service.
- 2.9 The Customer agrees that access and use of any Electronic Trading Channel provided or made available to the Customer and the Electronic Trading Services is provided without any representations, warranties or conditions (whether express or implied) and on an "as-is" and "as-available" basis by the Bank. The Customer understands and assumes the risks of using the Electronic Trading Channels and Electronic Trading Services. The Bank disclaims any representation, warranty or condition (whether express or implied) that access and use of any Electronic Trading Channel provided or made available to the Customer and the Electronic Trading Services will be available at all times, secure, reliable, complete, uninterrupted, free from errors, viruses or attacks, or fit for any purpose. The Customer acknowledges and agrees that the Electronic Trading Channels and Electronic Trading Services may be affected by outages, faults or delays which may be caused by technical difficulties, a third party's software, equipment or systems, traffic, infrastructure failure or actions by third parties. The Customer accepts the risks of using Third Party Service Provider Security Mechanisms (including biometric authentication) to access the Electronic Trading Channel and the Electronic Trading Services. Such Third Party Service Provider Security Mechanisms may allow or not be able to prevent unauthorised third parties to gain access to any device or application secured using such Third Party Service Provider Security Mechanisms and transmit to the Bank or (as the case may be) a Third Party Service Provider instructions from that device or application without the Customer's knowledge or approval.
- 2.10 Any transaction the Customer executes through the access and use of the Electronic Trading Channels and/or Electronic Trading Services will be subject to any other relevant agreement between the Customer and the Bank that applies to the transaction.
- 2.11 Depending on the nature of the Electronic Trading Services offered to the Customer:
- (a) the Bank may refuse to accept any order or instruction in relation to a transaction. Even if such order or instruction has been accepted by the Bank, the Bank may be unable to execute, fill or complete such order or instruction for any reason (including as a result of the circumstances occurring in the relevant market) and the Bank shall not be liable to the

Customer as a result of such inability unless such inability arises from the fraud or wilful default of the Bank; and

- (b) any transactions conducted through an Electronic Trading Channel shall constitute a confirmation of such transactions and shall have the same force and effect as a physically executed confirmation between the Customer and the Bank. Notwithstanding the foregoing, the Customer may receive physically executed confirmations and to the extent there is a conflict between the electronic confirmation and the physical confirmation, the physical confirmation shall prevail.

2.12 The Customer agrees that the Bank, may in its absolute discretion, establish conditions, limits and parameters in connection with the Electronic Trading Services offered to the Customer, within which the Customer shall conduct transactions with the Bank and the Customer agrees to be bound by the same.

2.13 Any transactions conducted through an Electronic Trading Channel shall be final and irrevocable. Any request by the Customer to cancel or correct any order or instruction may be considered by the Bank on a reasonable endeavour basis (if agreed to by the Bank) but the Bank would not be able to ensure that such request can be processed in time or successfully and shall not be liable if such request is not in fact processed in time or successfully. The Bank shall also not be required to correct or cancel such order or instruction, even if it is of the view that such order or instruction has been transmitted by the Customer to the Bank erroneously.

### **3. Equipment, Systems and APIs**

3.1 The Customer is solely responsible, at the Customer's own cost, for the Systems, APIs and equipment that the Customer uses to access and use the Electronic Trading Channels and the Electronic Trading Services, and keeping them secure, safe and free from phishing, malware, worms, trojan horses, viruses and other similar harmful content, malicious attacks or destructive elements. For avoidance of doubt, the Customer agrees to take all reasonable security precautions to (a) safeguard and secure access to the Electronic Trading Services, and (b) ensure that any location, internet connection or browser used to access the Electronic Trading Services will not be subject to phishing, virus, worms, malware, trojan horses, harmful content, dangerous files, or other malicious attacks aimed at obtaining access to the same. This includes the Customer clearing their Internet browser cookies and cache before and after accessing and using any Electronic Trading Channels and the Electronic Trading Services.

3.2 The Customer is required to comply with all System, API, equipment, security, connectivity and technical requirements as may be recommended or required for the optimal and safe access and use of the Electronic Trading Channels and Electronic Trading Services including installing new patches, updates, upgrades or versions for the Systems, APIs and equipment that the Customer relies upon for the access and use of the Electronic Trading Channels and Electronic Trading Services.

3.3 The access and use of the Electronic Trading Channels and Electronic Trading Services may be adversely affected if the Customer does not comply with these requirements, and the Bank shall not be liable to the Customer or any third party for any cost, loss (direct, indirect or consequential) or damages arising from such non-compliance by the Customer.

3.4 In the event that the Customer intends to connect their Systems, APIs and/or equipment with the Systems, APIs, or equipment of the Bank, the prior approval of the Bank is required and such approval may be withdrawn at any time without prior notice or for any reason, including but not

limited to the event where the Bank determines at its absolute discretion that such connection may adversely affect the stability, operation, integrity, security, effectiveness, efficiency, access and/or use of the Bank's Systems, APIs, equipment, and/or the Electronic Trading Channels and/or Electronic Trading Services provided or made available to the Customer.

#### **4. Intellectual Property**

- 4.1 The Bank grants the Customer a limited non-exclusive, non-sub licensable, and non-transferable licence to access and use the Electronic Trading Channels provided or made available by the Bank and the Electronic Trading Services, in connection with the Customer's continued relationship with the Bank. The Customer grants the Bank a limited non-exclusive, non-sub licensable, and non-transferable licence to access and use the Electronic Trading Channels provided or made available by the Customer in connection with the Bank's provision of the Electronic Trading Services. The Customer agrees that all title, ownership and intellectual property rights in the Electronic Trading Channels provided or made available by the Bank, the Electronic Trading Services, and information and Materials transmitted in relation to the Electronic Trading Channels and Electronic Trading Services, shall belong exclusively to the Bank save for any which are proprietary to the Customer or any third party. The Customer agrees to comply with any additional licensing or other restrictions on the Customer's access and usage of the Electronic Trading Channels and Electronic Trading Service that are communicated to the Customer from time to time, or that are otherwise the subject of an agreement between the Customer and the Bank or any third party licensors.
- 4.2 Except as permitted by applicable law, the Customer agrees that the Customer shall not and will not permit a third party to copy, distribute, modify, commercially exploit, decode, alter, disassemble or reverse engineer the Electronic Trading Channels provided or made available by the Bank or any Third Party Service Provider and the Electronic Trading Services.
- 4.3 The Bank may suspend or revoke any licence granted by the Bank, including such licence for the Customer's use of any Bank APIs or Systems, to connect, access and use the Electronic Trading Channels and Electronic Trading Services without prior notice and for any reason, without assigning a reason for such suspension or revocation.
- 4.4 In the event that the Customer provides the Bank with the Customer's own APIs or Systems so that the Bank can provide and make available the Electronic Trading Services to the Customer, the Customer agrees to grant the Bank and any other relevant third parties a non-transferable, non-exclusive, worldwide, royalty-free and irrevocable licence for the duration of the Customer's use of the Electronic Trading Channels and Electronic Trading Services, as well as any human-readable instructions for accessing, using and integrating with the APIs, that the Bank or relevant third parties may require.
- 4.5 In the event that the APIs or Systems the Customer provides to the Bank incorporate or use any open source software, the Customer agrees to:
- (a) provide the Bank with all details of such open source software;
  - (b) ensure that the open source software is used in accordance with the applicable intellectual property rights;
  - (c) ensure that the use or incorporation of the open source software will not result in any obligation to disclose, license or otherwise make available any part of the Electronic Trading Channels and Electronic Trading Services;

- (d) ensure that the use or incorporation of the open source software does not result in the confidential information of the Bank being divulged to any third parties; and
- (e) ensure that the use of the open source software will not diminish the Customer's obligations under any written agreement with the Bank.

4.6 Notwithstanding anything in These Terms, the Customer agrees to use best efforts to protect the Bank's proprietary rights in the Electronic Trading Channels provided or made available by the Bank and Electronic Trading Services and to comply with the Bank's requests to protect the Bank's contractual and legal rights in the Electronic Trading Channels and Electronic Trading Services.

## **5. No Liability**

5.1 The Customer agrees that the Bank shall not be liable for any cost, loss (direct, indirect or consequential) or damages arising from any delay, interruption, non-performance, or suspension of any Electronic Trading Channel or Electronic Trading Service or any act or omission of any Third Party Service Provider. For avoidance of any doubt, the Customer agrees that the Bank shall not be liable for any cost, loss (direct, indirect or consequential) or damages that the Customer or a third party may suffer or incur:

- (a) if any Materials, order, instruction, transmission provided through or in connection with any Electronic Trading Channel or Electronic Trading Service or any Third Party Service Provider is delayed, intercepted, lost or otherwise fails to be communicated to the Customer or by the Customer;
- (b) as a result of the Customer's failure to meet any software, hardware, System, API, equipment, security, connectivity and technical requirement that has been communicated to the Customer or is known to the Customer;
- (c) as a result of the actions, omissions, fraud or negligence of the Customer or any Third Party Service Provider;
- (d) as a result of any order, instruction, transmission or transaction having been transmitted to, provided through or executed through the Electronic Trading Channel or Electronic Trading Service by any persons, authorised or unauthorised, who gain access and use the Electronic Trading Services through the Customer or the Customer's Security Mechanisms, notwithstanding that such order, instruction, transmission or transaction may not have been authorised by the Customer;
- (e) as a result of any transaction having been executed by the Third Party Service Provider through any Electronic Trading Channel offered by such Third Party Service Provider that has not been authorised by the Customer or has not been accepted by the Bank;
- (f) for any failure to fulfil any request, order or instruction with respect to a transaction due to any virus, cybersecurity incident resulting in the loss or unauthorised destruction, alteration, disclosure of, access to, or control of the Electronic Trading Channel or Electronic Trading Service, any other malicious attack, or any technical fault or failure of the Electronic Trading Channel or Electronic Trading Service.

5.2 The Customer agrees and understands that the Bank or a Third Party Service Provider may cancel or rescind or modify the price of any transactions executed erroneously as a result of unusual market circumstances, market instability, or any faults, malfunctions or manipulations of the Systems of the Electronic Trading Channels or Electronic Trading Services, or in the circumstances



set out in any other terms and conditions applicable to any products, facilities, services or accommodation provided by the Bank to the Customer.

- 5.3 The Customer acknowledges and understands that any linked third party application, network, platform or website may contain terms and conditions and privacy policies that are different from those of the Bank. The Bank is not responsible for such provisions and expressly disclaims any liability for them. The Customer acknowledges that the Customer has been provided access to the terms and conditions and privacy policies of these third parties, and has understood and agreed to the same. The Customer further acknowledges and agrees that any Materials provided by a third party in relation to the Electronic Trading Channels and Electronic Trading Services do not constitute any endorsement or verification of such third party content or service by the Bank, and the Customer's use of or reliance on such third party content or service is entirely at the Customer's own risk.
- 5.4 The Bank makes no warranty or representation as to the results that may be obtained from using the Electronic Trading Channels and Electronic Trading Services. The Customer shall exercise independent judgement and make its own independent evaluation of any Materials provided through or in connection with the Electronic Trading Channels and Electronic Trading Services. The Customer further agrees and understands that, unless the Bank expressly provides otherwise, the provision of such Materials to the Customer by the Bank does not constitute and is not to be treated as an offer, invitation or recommendation by the Bank to enter into a transaction with the Customer. The Customer shall conduct due diligence and such other investigations as the Customer deems necessary, including obtaining independent advice from legal, accounting, tax or other professional advisors, before executing any transaction in connection with the use of any Electronic Trading Channel or Electronic Trading Service. Except in circumstances where the Bank expressly states and agrees otherwise, the Customer acknowledges that the Bank is not providing the Customer with any financial or investment advice in connection with the Customer's use of any Electronic Trading Service.

## **6. Other Customer Obligations**

- 6.1 Unless expressly permitted by the Bank in writing, the Customer agrees that the Customer must not sell, lease, or provide, directly or indirectly, the access and/or use of any Electronic Trading Channels provided or made available by the Bank and/or the Electronic Trading Services (in whole or in part) to any third party.
- 6.2 The Customer agrees to inform the Bank immediately if the Customer become aware or suspects that the Customer has breached These Terms or the terms and conditions of any Third Party Service Provider (as made known to the Customer). The Customer must pay any fees, commissions, charges imposed by any such Third Party Service Provider.
- 6.3 The Customer undertakes that it is and will remain in full compliance with all applicable laws and regulations in connection with the access and utilisation of the Electronic Trading Channels and Electronic Trading Services.
- 6.4 The Customer agrees to comply and be bound by all requirements, limits, guidelines, instructions, documentation, user guides, manuals, frequently asked questions, disclaimers or requests that have been provided or communicated to the Customer in respect of the Customer's access and use of the Electronic Trading Channels and Electronic Trading Services, and shall not deviate from the same.

6.5 In accessing and utilising the Electronic Trading Channels and Electronic Trading Services, the Customer undertakes that it shall not perform any act which, if performed, or omit to perform any act which, if omitted to be performed, would obstruct, prevent or hinder the integrity, smooth or intended functioning, stability, operation, effectiveness, efficiency of the Electronic Trading Channels and Electronic Trading Services or the Security Mechanisms, and the safety or protection relating to the same.

## **7. Indemnification**

7.1 The Customer agrees to promptly and fully indemnify the Bank, its directors, officers, employees, and agents against all claims, demands, actions, proceedings, damages, losses, costs, liabilities, payments, charges and expenses (including, without limitation, legal fees and expenses on full indemnity basis) inclusive of all duties and tax (including without limitation any goods and services tax and all other liabilities of whatsoever nature or description) which the Bank may suffer or incur, directly or indirectly, under, arising out of or in connection with (i) the use or purported use by the Customer (or by any person (whether authorised or unauthorised) on behalf of the Customer) of the Electronic Trading Channels and Electronic Trading Services or the Security Mechanisms (including but not limited to the use or incorporation by the Customer or such person on behalf of the Customer of any open source software (whether as part of APIs, Systems or otherwise)), (ii) any action or omission by the Bank in relation to the same unless such liability is directly caused by the Bank's wilful misconduct or fraud (iii) any breach by the Customer of These Terms or the terms and conditions of any Third Party Service Provider, (iv) any loss which the Bank suffers or incurs in connection with any Electronic Trading Service due to the Bank engaging or dealing with any Third Party Service Provider or the Customer engaging or dealing with any Third Party Service Provider directly, and (v) any collection, usage, disclosure and/or transfer of Customer's Personal Data by the Bank pursuant to These Terms and the Bank's Privacy Policy.

## **8. Data & Confidentiality**

8.1 The Customer acknowledges that the Customer has reviewed and understood the Bank's Privacy Policy made available to them on the Bank's website accessible at <https://www.cathaybk.com.tw/sg/download/> (or such other URL as the Bank may from time to time provide to the Customer), and hereby consents to the terms and conditions set out therein, as amended, modified or supplemented by the Bank from time to time, and represents and warrants that where the Customer provides Personal Data of a third party to the Bank, consent from that third party has been obtained for the collection, use and disclosure of that Personal Data by the Bank for the purposes stated in the Bank's Privacy Policy.

8.2 Without prejudice to the Bank's Privacy Policy, the Customer agrees that the Bank or the Third Party Service Provider may collect, use, disclose and/or transfer the Customer's Personal Data and/or Customer Information (within or outside Singapore) for purposes of providing the Electronic Trading Services to the Customer.

8.3 The Customer agrees that:

- (a) the Customer's access and use of the Electronic Trading Channels and Electronic Trading Services, including the access and use by persons authorised by the Customer, may be monitored by the Bank, and if permitted by applicable law, the details and results of such monitoring may be disclosed by the Bank to the relevant authorities and regulators;
- (b) any Materials provided to the Customer by the Bank through the use of the Electronic Trading Channels and Electronic Trading Services are confidential and proprietary to the

Bank or other third parties. The Customer agrees not to redistribute or otherwise communicate or disclose such Materials to any other party without the prior written approval of the Bank and those third parties;

- (c) the Electronic Trading Services offered to the Customer constitutes a "Product & Service" as defined in the Bank's Privacy Policy; and
- (d) the Bank and any Third Party Service Provider may enter into any sub-contracting arrangement with any party for the purposes stated in the Bank's Privacy Policy and agrees to such Personal Data and/or Customer Information to be collected, used, disclosed or transferred to such other party.

## **9. Return of Security Mechanisms**

- 9.1 Customer agrees to return to the Bank any Security Mechanisms that may have been provided to the Customer or permanently delete or remove the same from the Customer's possession, in each case, in connection with the provision of the Electronic Trading Channels and Electronic Trading Services, on or after the cessation of provision of all Electronic Trading Services to the Customer, such date of cessation to be determined by the Bank.

## **10. Fees & Payment**

- 10.1 The Customer agrees to pay the Bank, on a due date to be determined by the Bank and communicated in writing by the Bank to the Customer, any fees or charges imposed by the Bank at the Bank's sole discretion in connection with the provision of any Electronic Trading Channel and/or Electronic Trading Service to the Customer. The Bank agrees to provide or make available a schedule of such fees and charges to the Customer on request.
- 10.2 The Customer agrees that the Bank has the right to vary the fees or charges levied according to market conditions and shall notify the Customer in writing of any such variation. The Customer agrees to be bound by such revised fees and charges as may be notified by the Bank from time to time.
- 10.3 The Customer agrees that all payments of any such fees and charges must be made free and clear of and without deduction of any tax or levy. The Customer agrees that if a deduction or withholding for or on account of tax or levy is required by law or regulation to be made by the Customer, the amount of the payment due from the Customer shall be increased to an amount which (after making any such deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required. Further, the Customer agrees that if the Bank is at any time required to pay any goods and services tax or other tax or amount on, or calculated by reference to, any sum received or receivable from the Customer (except for a payment by the Bank on its overall net income), the Customer shall pay the Bank on demand an amount equal to the amount paid or payable by the Bank.
- 10.4 The Customer agrees that the Bank reserves the right to employ collection agents and third parties to collect any outstanding or overdue amount owed to the Bank by the Customer. The Customer undertakes to keep the Bank indemnified for all costs and expenses (including but not limited to legal fees on a full indemnity basis and costs of engaging collection agents/third parties) which are of reasonable amount and which are reasonably incurred by the Bank in connection with such collection.

10.5 The Customer agrees that if the Customer fails to make payment of any fees or charges or any other amount owing by the Customer to the Bank by the due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which is 3% per cent. per annum (or such other rate from time to time determined by the Bank at its sole discretion) higher than the Bank's Cost of Funds if the Bank were to fund such overdue amount as a loan or advance in the currency of the overdue amount for successive interest periods, in each case, each of a duration selected by the Bank (acting reasonably). Any interest accruing under this paragraph shall be immediately payable by the Customer on demand by the Bank. Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each interest period applicable to that overdue amount but will remain immediately due and payable. All overdue sum will be calculated for the actual number of days elapsed on a 365-day or 360-day year basis or such other period as may be appropriate or customary, in each case, determined in accordance with the market practice in the relevant market of the concerned currency.

## 11. Miscellaneous

11.1 Save as otherwise provided in These Terms, a person who is not a party to an agreement governed by These Terms has no right under the Contracts (Rights of Third Parties) Act 2001 of Singapore to enforce or enjoy the benefit of any provision of These Terms.

11.2 Notwithstanding the above, the consent of any person who is not a party to an agreement governed by These Terms is not required to rescind or vary These Terms at any time.

11.3 The Bank may, at its discretion, amend, vary, delete or substitute any of These Terms or include new terms to These Terms (collectively "**Amendment**");

(a) where the Bank implements or intends to implement any changes to the features of the Electronic Trading Channels or Electronic Trading Services;

(b) where there are any changes to the operational procedures or internal policies of the Bank;

(c) where there are any changes to the terms and conditions, operational procedures or internal policies of any Third Party Service Providers;

(d) where the Bank deems the Amendment necessary or desirable for the efficiency or continuity of the Electronic Trading Channels or Electronic Trading Services;

(e) where the Bank deems it necessary or desirable to make such Amendments to comply with applicable laws or its internal policies;

(f) where the Bank introduces any new product or service to which These Terms apply and the Bank deems the Amendment necessary or desirable; and

(g) for any other reasons as the Bank deems fit.

11.4 Any Amendments will be made by the Bank by sending to the Customer a notice setting out (a) These Terms as amended or (b) the manner in which the Customer can get access to These Terms as amended (whether online or otherwise). These Terms as amended shall be effective on and from the date specified by the Bank in its notice sent to the Customer (which shall be binding upon receipt, or deemed receipt, by the Customer) or, if no such date is specified, on and from the date of such notice. Such amendment shall (upon taking effect) be deemed incorporated in and shall

form part of These Terms. By continuing to use the Electronic Trading Services, the Customer agrees to be bound by such Amendments. If the Customer does not wish to be bound by such Amendments, it should immediately cease to use the any Electronic Trading Services and notify the Bank accordingly. The Customer acknowledges that the Customer's election not to be bound by such Amendments may result in the Bank being unable to continue to offer the Electronic Trading Services to the Customer and that the Bank will not be liable to the Customer in any way as a result of such election by the Customer.

11.5 For purposes of Clause 11.4, the Bank shall be deemed to have notified the Customer in writing if the Bank:

- (a) publishes the Amendments or These Terms as amended:
  - (i) in the statements or notices to be sent to the Customer;
  - (ii) on the Bank's website (or any other electronic systems designated by the Bank) or in an electronic mail or letter to the Customer; or
  - (iii) via such other means of communication as the Bank may determine in its absolute discretion; or
- (b) notifies the Customer via electronic mail (or any other electronic systems designated by the Bank) that there has been Amendments to These Terms and makes available in such notice the URL or other means of access where such changes or These Terms as amended can be reviewed by the Customer.

11.6 If at any time any provision of These Terms is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby.

11.7 No failure or delay on the part of the Bank to enforce or exercise any right or power under These Terms shall operate as a waiver thereof nor shall any waiver by the Bank of any particular default by the Customer affect or prejudice any right or power of the Bank in respect of any other default or any subsequent default of the same or different kind nor shall any single or partial enforcement or exercise by Bank of any right or power under These Terms preclude any other or further enforcement or exercise thereof or the enforcement or exercise of any other right or power. No waiver by the Bank of any default by the Customer shall be effective unless it is in writing and expressly stated to that effect and signed by the Bank.

11.8 The Customer agrees that the Bank may at any time assign or transfer any or all of the Bank's rights and obligations under These Terms to any Affiliate without the Customer's consent or notice.

## **12. Governing Law and Jurisdiction**

12.1 These Terms shall be governed by and construed in accordance with the laws of Singapore.

12.2 The Customer hereby irrevocably submits to the exclusive jurisdiction of the courts of Singapore. This paragraph is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to These Terms in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

- 12.3 The Customer hereby irrevocably waives any objections on the grounds of venue, forum non convenient or similar grounds and consents to service of process including any writ, judgment or other notice by mail to the Customer's address on the Bank's records or to such other address as may subsequently be notified in writing to, and received by, the Bank.
- 12.4 The Customer further undertakes that where the Customer does not have an address in Singapore, the Customer shall, if required by the Bank, nominate a process agent, at the Customer's expense, with an address in Singapore to accept service of any legal process in Singapore on the Customer's behalf. The process agent shall acknowledge its appointment as such agent to the Customer and service of legal process on such process agent shall be deemed to constitute good and effectual service of legal process on the Customer.
- 12.5 To the extent that the Customer may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), the Customer hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the fullest extent permitted by the laws of such jurisdiction.