

# **DERIVATIVES CLEARING & EXECUTION ELECTRONIC TRADING TERMS AND CONDITIONS**

Subject to an agreement being formed in the manner described in **Clause 2.1**, in consideration of the agreement of **DBS Bank Ltd (“DBS”)** to provide the Services (as defined below) to you, through the Account (as defined below) opened and maintained by DBS (as defined below), you understand and agree to the following terms and conditions (as the same may be amended, modified or supplemented from time to time).

**It is agreed** as follows:

## **1. Definitions**

**1.1** In this Agreement, the following words and expressions have the following meanings:

“**Account**” means any of your accounts (whether individual, joint, corporate or other entity or otherwise) opened and maintained by DBS in connection with the Execution and Clearing Services.

“**Affiliate**” means, in relation to any person, a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such person.

“**Agreement**” is defined in **Clause 2.1**.

“**Application Form**” means any completed application on forms prescribed by DBS for any of the Services from time to time.

“**Business Associates**” includes the Services provider and such other Persons that are involved whether directly or indirectly in providing and/or facilitating the provision of the Services and/or act as franchisees or agents of DBS in relation to the provision of the Services.

“**DBS**”, “**we**”, “**our**”, “**us**” means DBS Bank Ltd and includes any of its successor corporations and assigns.

“**DBS Group**” means: (i) DBS and all its branches; (ii) all Affiliates; and (iii) all subsidiaries and related corporations of DBS.

“**DBS Group Member**” means any one of the corporations or entities that comprise the DBS Group.

“**Electronic Instructions**” means any communication, instruction, order, message, data, information or other materials received by DBS via the Services or relating to Transaction Payments, and which incorporates the Security Devices designated by DBS (whether or not authorised by you) and is transmitted in accordance with DBS prescribed procedures and requirements, from you or purporting to come from you.

“**Execution and Clearing Services**” means all services for the execution and clearing of futures and options, exchange-cleared over-the-counter (“**OTC**”) products, OTC lookalikes and any other products that may be made available by DBS and such other services provided or to be provided by DBS under the General Trading Agreement from time to time.

**“General Trading Agreement”** means the DBS Derivatives Clearing and Execution General Trading Agreement (as may be amended, supplemented, varied, modified or restated from time to time) which governs the relationship between DBS and the Customer in respect of the Execution and Clearing Services.

**“Intellectual Property Rights”** means all copyright, patents, trade marks, service marks, domain names, layout design rights, registered designs, design rights, database rights, trade or business names, rights protecting trade secrets and confidential information, rights protecting goodwill and reputation, and all other similar or corresponding proprietary rights and all applications for the same, whether presently existing or created in the future, anywhere in the world, whether registered or not, and all benefits, privileges, rights to sue, recover damages and obtain relief for any past, current or future infringement, misappropriation or violation of any of the foregoing rights.

**“Loss(es)”** means any and all losses, damages, costs (including legal costs and disbursements), charges and expenses of whatsoever nature or howsoever arising, including anticipated, direct, consequential, economic, indirect, incidental, punitive or special damages, loss or expenses.

**“Margin”** means any monies denominated in local or foreign currency and cash as may be accepted by DBS and at DBS’ sole discretion, securities, other properties or collateral deposited with or held by DBS or its nominees as security or credit support for any Transaction or the Customer’s obligations under this Agreement or the General Trading Agreement.

**“Market Data”** means any information relating to securities, markets, companies, industries, news and any data, analysis or research thereon, made available via the Services.

**“Materials”** means any text, images, links, sounds, graphics, video and other materials which may be displayed at the Website including the Market Data.

**“Person”** includes any government, statutory body, business, firm, partnership, corporation or unincorporated body.

**“Services”** means (i) the provision of Materials, (ii) the electronic automatic trading services or such other telecommunication, computer or electronic network, broking and information facilities and services, and software packages (if any) as may be offered by DBS from time to time to the customer and which may allow the customer to:

- (a) transmit electronic instructions to DBS, a third party network, a third party service provider, or to an exchange trading system or engine;
- (b) access market data, indicators, quotes and real times prices as well as information on the Customer’s Account(s) and other services; and
- (c) engage in any other activities and services as DBS may from time to time include as part of the Services,

and (iii) other services and information provided by or made available to you by DBS (whether directly or through any of its Affiliates) from time to time under this Agreement via the Website, or any other electronic link or device as may be designated by DBS, in each case in connection with the Execution and Clearing Services.

“**Security Code**” means any passwords, personal identification numbers (PINs), customer identification numbers (CINs) and other codes and access procedures for use in connection with access to and use of the Services.

“**Security Devices**” means any smartcards, iB Secure Device, electronic devices, hardware or any other equipment, digital certificates, digital signatures, electronic keys, logon identifiers or Security Code, issued by DBS or any other party designated by DBS, to you from time to time in order to enable you to access and/or use the Services.

“**System**” means any electronic trading system, hardware, software and telecommunication links or any part thereof used for the purpose of providing, supporting, accessing or otherwise referable to the Services.

“**Trade Marks**” is defined in **Clause 12.4**.

“**Transaction**” means an underlying transaction between you and DBS or a third party vendor or buyer, and to which a Transaction Payment relates.

“**Transaction Payment**” means a payment to be processed by DBS as part of the Services.

“**User Manual**” means the user manual relating to the electronic trading platform which we will provide in electronic form, and any other manuals, specifications or other documentation in any printed, machine readable or other form, required to be used in connection with the Services, as may be amended from time to time by DBS.

“**Website**” means the Internet website at such address or location as may be prescribed by DBS from time to time, including the Materials.

“**You**” or “**Customer**” refers to any party who is given access to or use of the Services, whose particulars are as set out in the Application Form. Where the Customer comprises more than one person, the undertakings and obligations of the Customer set out herein shall be construed as the joint and several undertakings and obligations of each such person, and all references to the Customer shall where the context so permits, be construed as a reference to any one or more of the persons constituting the Customer.

## **2. Applicability & Amendment**

**2.1** The Customer acknowledges and agrees that the terms and conditions set out herein (“**Agreement**”) shall apply to the customer in addition to all other terms and conditions in the Application Form and governing the Account including but not limited to the General Trading Agreement. In the event of any conflict or inconsistency between the provisions of this Agreement and the terms and conditions in the Application Form and/or governing the Account, the provisions of this Agreement shall prevail over the terms and conditions in the Application Form and/or governing the Account, insofar as such conflict or inconsistency relates to the Services.

**2.2** We may at our discretion and at any time, amend any provision of this Agreement by giving notice to you through the Services or by such other method of notification as we may designate (which may include notification by way of e-mail). You agree that any notification of such amendments as aforementioned shall be sufficient notice for the purpose of this clause. If you do not accept any amendments, please cease all access and/or use of the Services.

If you continue to use and/or access the Services after notice of such amendments, such use and/or access shall constitute your affirmative acknowledgement and agreement to abide and be bound by such amendments.

### 3. Charges

3.1 In consideration of DBS' provision of the Services, you agree to pay all the relevant fees, charges and/or sums stipulated for each of the Services from time to time.

3.2 You agree that you shall pay any goods and services tax or any other taxes, levies or charges whatsoever (collectively "**Taxes**") now or hereafter imposed by law or required to be paid in respect of any monies payable on or in respect to the Services or pertaining to our Electronic Instructions carried out pursuant to this Agreement and you shall reimburse DBS for any such payment by DBS which reimbursement shall be made in the same manner and together with the fees or charges to which the Taxes relate.

3.3 You hereby acknowledge that DBS shall be entitled but not obliged to debit any amounts due under this Agreement to DBS, from any or all account(s) (whether single or joint) which you have or may have with the DBS Group.

3.4 You acknowledge that DBS may, in its sole discretion, vary the fees and charges payable for the use of the Services from time to time by prior notice to you.

### 4. Conditions of Use

4.1 DBS may at its sole and absolute discretion, provide Services to the Customer upon the application by the Customer on the Application Form for such Services for the purposes of the Customer trading in futures, options and leveraged foreign exchange Transactions and such other Transactions as DBS may from time to time permit to be traded via the use of the Services. In submitting to DBS the Application Form, you hereby represent that you have satisfied yourself and will continue to satisfy yourself at all time that the Services are adequate and capable of transacting in any of your transactions including the Transactions.

4.2 You shall use the Services solely for your own personal use and in conformity with the terms and conditions of this Agreement and the General Trading Agreement and strictly in accordance with the User Manual. In particular, you agree to comply with all the notices, guidelines, rules and instructions pertaining to the use of the Services and Security Devices as well as any amendments to this Agreement, as may be issued by DBS, including all operating rules or policies that DBS may publish or make available through the Services from time to time.

4.3 You agree and undertake **not** to:

4.3.1 use any software or material that contains a virus or damaging component which may corrupt the software or data on or provided through the Services or interfere with the operation of the Services or the System;

4.3.2 transmit any information through the Services which you know or have reason to suspect contains pornographic, obscene, abusive, profane, offensive, misleading, deceptive, disparaging or defamatory content;

- 4.3.3** transmit any information through the Services which you know or have reason to suspect contains any viruses or damaging components which may detrimentally interfere with the Services; or
- 4.3.4** use the Services other than in conformance with the acceptable use policies of any connected computer networks, service providers and any applicable Internet standards.
- 4.4** You acknowledge and agree that DBS may, in its sole and absolute discretion, without notice and from time to time add to, vary, alter, suspend or remove any part of or all of the Services, without giving any reason and without incurring any liability.
- 4.5** You acknowledge that the Services and Materials are provided on an “as is”, “as available” basis only and that the time periods during which the Services may be available are subject to change. You further agree that DBS shall be entitled at any time, at DBS’ sole discretion and without prior notice, to temporarily suspend the operation of any one or more of the Services for updating, maintenance and upgrading purposes, or any other purpose whatsoever that DBS deems fit, and in such event, DBS shall not be liable for any Losses or any liability which may be incurred as a result.
- 4.6** You hereby represent and declare that you understand and accept the following terms and conditions in relation to trading via the Services:
- 4.6.1** that electronic trading and order routing systems may differ from traditional open outcry pit trading, and that Transactions undertaken using an electronic system are subject to the rules and regulations of the relevant trading exchange(s) offering the system and/or listing the contract. In this connection, you hereby undertake, prior to engaging in such Transactions to familiarise yourself with, and from time to time to keep yourself updated on, the rules and regulations of the relevant trading exchange(s) offering the system and/or listing the relevant Transactions, and to understand, among other things, the system’s order matching procedure, opening and closing procedures and prices, error trade policies and trading limitations or requirements; and
- 4.6.2** that trading through an electronic trading or order routing system may expose you to risks associated with system or component failure. Such system or component failure may result in the inability to enter new orders, execute existing orders, or modify or cancel orders previously entered, as well as a loss of orders or order priority and in any of these events, DBS shall not be responsible for any Loss you may incur.
- 4.7** You represent, undertake and warrant that:
- 4.7.1** you have at all times the right, power and authority to use and/or access the Services to trade/communicate orders in the approved Transactions;
- 4.7.2** you are a market participant and are knowledgeable about Transactions and other interests traded or routed by use of the Services and appreciate and that you accept all risks related with trading via the Services;
- 4.7.3** you have received adequate instructions in respect of the operation and access of the Services;

- 4.7.4 you will comply with the applicable laws, rules and regulations of the relevant trading exchange(s) and applicable laws and regulations of any regulatory authorities;
- 4.7.5 the terms and conditions herein (including all attachments and appendices) are communicated and adhered to by all relevant parties and users of the Services;
- 4.7.6 you will provide all reasonable assistance to DBS and/or its suppliers in the event of an enquiry, audit or an investigation instigated by either any exchange, regulator and/or other supervisory or appropriate authority;
- 4.7.7 you will cooperate with and provide all reasonable assistance to any exchange, regulator and/or other appropriate authority for the purpose of conducting any audit, investigation and/or compliance review; and
- 4.7.8 you shall enter into such agreement(s) and/or execute such document(s) with or in favour of DBS, the Business Associates, or such other party or parties and upon such terms as DBS may require from time to time in respect of the Services and trading thereunder

## 5. Security Devices & Electronic Instructions

- 5.1 Where you have been issued, by DBS (whether directly or through any of its Affiliates or service providers), with a Security Code for use in connection with access to and use of the Services, you hereby agree to keep the Security Code issued to you confidential and ensure that the integrity and the security of Security Code is preserved and maintained. You agree to notify the relevant DBS personnel **immediately** if you have knowledge that or have reason for suspecting that the confidentiality of the Security Code has been compromised or if there has been any unauthorised use of the Security Code.
- 5.2 Where you have been issued by DBS (whether directly or through any of its Affiliates or service providers) with a Security Device for use in connection with access to and use of the Services, you hereby agree not to decompile, disassemble or reverse engineer any Security Device and shall not cause any portion thereof to be copied, removed, adapted, modified or distributed in any form, in whole or in part.
- 5.3 Where applicable, you shall log off from the Services at any time that you are not accessing or using the Services and any Loss incurred by you as a consequence of you not logging off from the Services shall be borne solely by you. Without prejudice to the foregoing, DBS reserves the right to time out a Customer session and log off the Customer from the Services without any notice after a pre-determined time as DBS at its sole discretion sees fit.
- 5.4 You agree and acknowledge that any use of or access to the Services and any Electronic Instructions shall be deemed to be:
  - 5.4.1 use of or access to the Services by you; and/or
  - 5.4.2 Electronic Instructions transmitted or validly issued by you, and you agree to be bound by any access or use (whether such access or use are authorised by you or not) referable to your Security Code. You further agree that DBS shall be entitled (but not obliged) to act upon, rely on or hold you solely

responsible and liable in respect thereof as if the same were carried out or transmitted by you and you waive all rights and remedies against DBS and the DBS Group in respect of any Losses arising from unauthorised use of the Services.

- 5.5** You hereby acknowledge that it is your sole responsibility to ensure that information and/or Electronic Instructions transmitted using the Services are complete, accurate, current, true and correct.
- 5.6** Without prejudice to the generality of the foregoing, DBS shall be:
- 5.6.1** entitled to treat any Electronic Instructions as your authentic and duly authorised Electronic Instructions and we shall not be liable for any Loss to you by so doing; and
- 5.6.2** under no obligation to investigate the authenticity or authority of persons effecting the Electronic Instructions or to verify the accuracy and completeness of the Electronic Instructions. Accordingly, we may treat the Electronic Instructions as valid and binding on you notwithstanding any error, fraud, forgery, lack of clarity or misunderstanding in the terms of the Electronic Instructions. Any risk of misunderstanding, error or loss resulting from the use of the Services is entirely at your own risk and we shall not be liable therefor.
- 5.7** All Electronic Instructions will be deemed to be irrevocable and unconditional upon transmission through the Services and DBS shall be entitled (but not obliged) to effect, perform or process such Electronic Instruction(s) without your further consent and without any further reference or notice to you.
- 5.8** All orders duly received by DBS through the System or otherwise through any Services may be executed in good faith and shall be valid against the Customer until separately cancelled in accordance with the provisions of this Agreement.
- 5.9** The cancellation or modification of an order pursuant to the Customer's request is not guaranteed. The order will be cancelled or modified only if the Customer's request for cancellation or modification is duly received by DBS and the order is successfully cancelled or modified before it is executed. Market orders are subject to immediate execution whenever possible.
- 5.10** Unless you receive confirmation of receipt from DBS, Electronic Instructions sent through the Services may not have been received by DBS and accordingly, may not be carried out or processed. Due to technical or other fault or reason beyond the control of DBS, the confirmation of receipt may not be immediately transmitted to or received by the Customer, any such delay shall not entitle the Customer to presume that the order has not been executed, cancelled or modified, as the case may be, unless and until DBS has so confirmed the same in writing.
- 5.11** You understand that the relevant trading exchange(s) may annul or cancel a trade at its own discretion without giving any reason. In the event of such an annulment or cancellation, DBS shall be entitled to cancel the relevant Transaction(s) with the Customer. For the avoidance of doubt, such Transaction(s) shall be deemed to be cancelled.
- 5.12** You acknowledge that the placement of an order with DBS, including a market order, does not guarantee execution of the order.



- 5.13** You acknowledge that DBS shall not be bound by or obliged to effect or take any action on any Electronic Instructions that do not properly comply with DBS's prescribed procedures, requirements, instructions and conditions and that DBS may reject such non-compliant Electronic Instructions without notice to you.
- 5.14** DBS shall not be deemed to have received an order unless and until it has actually received the order in the order-receiving module of the Services concerned, and you have received notification of DBS's confirmation receipt of your order and informing you that the order has been either accepted or rejected for execution. Any such notification shall be deemed to have been received by you when the same is issued by DBS and you shall be bound thereby notwithstanding that such notification may not have actually been received by you for any reason whatsoever. The Customer shall bear the sole responsibility of keeping records of the same.
- 5.15** The Customer shall be allowed to place orders using the Services only during the applicable trading hours of the applicable trading exchange(s). However, DBS may at its sole and absolute discretion, agree to receive orders even outside such trading hours. DBS may accumulate such orders received outside such trading hours and route such orders for possible execution when the applicable trading exchange(s) next opens for trading
- 5.16** Notwithstanding **Clause 5.4 to Clause 5.15** above, you acknowledge and agree that we may at any time:
- 5.16.1** at our sole discretion and without stating reasons, require that you identify yourself by alternative means;
  - 5.16.2** refrain from acting promptly upon any Electronic Instructions in order to verify the authenticity thereof without incurring any responsibility for loss, liability or expense arising out of so refraining to act; or
  - 5.16.3** require any Electronic Instructions to be confirmed in writing and signed by you before acting on such Electronic Instruction.
- 5.17** You agree that DBS may, at its sole discretion, subject any order placed by a Customer to manual review and entry, which may cause delays in the processing of the Customer's order or may result in rejection of such an order.
- 5.18** You agree and acknowledge that the Electronic Instructions may not be processed immediately, around the clock or in a timely manner but the processing is dependent, among other things, on the time and day that such instructions are received by DBS or the business hours of an exchange, fund manager or any other party processing the Electronic Instructions.
- 5.19** You shall be responsible for ensuring that an instruction or order has been duly transmitted, received, processed and duly executed.
- 5.20** **Transaction limits and Account limits**
- You hereby agree that DBS may from time to time impose position or transaction limits (including minimum transaction sizes) on your Account and that DBS may decline to act on the Electronic Instruction at any time without prior notice or giving any reason therefor, including where:
- 5.20.1** the Electronic Instruction exceeds your applicable Account limits;

**5.20.2** the Electronic Instructions are ambiguous, incomplete or inconsistent with your other Electronic Instructions or instructions, information and/or data; or

**5.20.3** the Electronic Instructions may have lapsed, been rendered invalid due to failure to comply with applicable conditions or are cancelled by the relevant regulatory or governmental body.

## **5.21 Access Levels**

You hereby agree that DBS shall be entitled to designate different access levels to its customers at its sole and absolute discretion. Depending on the level of access assigned to you by DBS, you acknowledge and agree that some or all of the Services may not be made available to you.

## **6. Technical and Security Obligations**

**6.1** You shall be responsible for obtaining and using the necessary web browser and/or other software and/or hardware and/or equipment necessary to obtain access to the Services in accordance with all requirements set out in the User Manual or as may be specified by DBS, at your own risk and expense. If new or different versions of the web browser and/or other software and/or hardware and/or equipment necessary for the access to the Services becomes available or is required, we reserve the right not to support any prior version of the web browser or other software or hardware equipment. If you and/or any authorised signatory fail to upgrade the relevant software and/or web browser or to use the enhanced version of the same as required by us, we may reject the Electronic Instructions or communications, or may not receive the Electronic Instructions or communications or process the Electronic Instructions correctly, or you may not be able to obtain access to all features and/or services available and we shall not be held liable as a result thereof.

**6.2** You hereby acknowledge that you are fully aware of and understand that there are certain risks associated with placing orders through the use of the Services. Such risks may include without limitation the misuse and unauthorised use of your Security Code and/or Security Device by a third party and the risk of a person hacking into the Account on the System and unauthorised routing orders on behalf of you through the System. You have the sole responsibility and shall be liable for the security and safekeeping of any trading facilities. Accordingly, you shall be fully responsible and liable for any orders placed with DBS, and Transactions entered into, through the use of the Services accessed using your Security Code, User ID, Password and/or Security Device.

**6.3** You acknowledge the following risks:

**6.3.1** Insufficient technical knowledge and lack of safety precautions can make it easier for unauthorised persons to access the system (e.g. insufficiently protected storage of data on the hard disk, file transfers, monitor emissions, etc.). It is your responsibility to be familiar with the User Manual and to take the necessary security precautions.

**6.3.2** There is latent danger that third parties could gain unnoticed access to your computer system during an Internet session. There is also the possibility that third parties could detect your access to the Services and your communication with DBS.

**6.3.3** There is also the danger of intrusion or attack by any person, hardware, software, virus, Trojan horse, worm, bot and/or macro or other harmful components that may interfere with the Services, the web browser or the computer system of DBS, the Customer or the network provider.

**6.3.4** It is important that you download and use only software from reliable sources.

**6.3.5** Your Security Code and any other form of Security Devices may be dispatched by us by registered mail to your last known address or in such manner as you may advise, at your risk.

**6.4** The use and storage of any information relating to the Services and/or Account(s) including, without limitation, the Security Code and/or Security Device, portfolio information, trade/transaction activity, account balances and any other information or orders on your personal computer is at your own risk and is your sole responsibility.

## **6.5 Event of Compromised Security**

**6.5.1** You undertake to notify and/or contact DBS immediately ("**Security Notification**") if you have reason to believe, suspect or have knowledge of any one or more of the following:

- a. the security of any Security Device may have been compromised;
- b. the Security Code has become known or been revealed to any other person;
- c. there has been unauthorised use of any Security Device;
- d. there has been unauthorised access through your Security Code and/or Security Device;
- e. there are discrepancies that might be attributable to unauthorised access;
- f. the Security Device is lost or stolen;
- g. there is or reasonable suspicion of a security flaw in the System; any failure on your part to receive an appropriate notification that your instructions or orders have been received and/or executed, or if you receive notification in respect of an order and/or the execution of an order which you did not place; and
- h. the information in relation to your Account balances, open positions, Collaterals/Margins or trade/Transaction history is inaccurate,

("Compromised Security Device"), and you shall immediately cease to use such Compromised Security Device until further notice from DBS. Any Security Notification given verbally or electronically shall be confirmed in writing by you and actually received by DBS within 24 hours of the verbal notification, failing which DBS shall not be obliged to act upon the Security Notification. In the event a Security Notification has been given by you, you understand that it is your responsibility to ascertain which of the Electronic Instructions that have not been processed are actually valid and if you wish such valid

Electronic Instructions to be carried out, you shall re-instruct DBS, by notice in writing faxed or sent by post to DBS, to carry out those Electronic Instructions.

- 6.5.2** You acknowledge and confirm that you shall be bound by all Electronic Instructions and Transactions resulting from any Electronic Instructions made which are referable to any Compromised Security Device until such time as DBS has received the Security Notification from you and has effected cancellation of the Compromised Security Device, and accordingly, you agree that you will be liable for all such transactions which were processed by DBS prior to or at the time of such cancellation, or which DBS, notwithstanding its reasonable endeavours, was unable to stop the processing of.
- 6.5.3** You hereby agree that DBS shall not be liable in contract, tort (including negligence or breach of statutory duty) or otherwise, for any Losses (whether foreseeable or not) suffered or incurred by you as a result of:
- a. any Transaction resulting from any Electronic Instruction made by you or purportedly made by you and referable to such Compromised Security Device and which was processed by DBS prior to or at the time of such cancellation, or which DBS, was unable to stop the processing of; or
  - b. any failure by DBS to carry out any Electronic Instruction referable to a Compromised Security Device which was outstanding as at the time DBS cancels such Compromised Security Device and which DBS had stopped the processing of.
- 6.5.4** For the purposes of this **Clause 6.5**, an Electronic Instruction shall have been "**processed**" where DBS had commenced carrying out the Electronic Instruction or it is no longer reasonably able to cancel or revoke the Transaction without causing prejudice to DBS as determined by DBS in its sole discretion, and an Electronic Instruction is "**outstanding**" where it is at any stage prior to being processed.

## **7. Transactions and Transaction Payments**

- 7.1** You hereby agree and accept the following conditions in respect of all Transactions made via the Services:
- 7.1.1** DBS is appointed by you and not by any other party to the Transaction, and DBS is not a party to the Transaction unless you are otherwise informed by DBS;
  - 7.1.2** DBS shall not be a trustee or bailee of any Transaction Payments;
  - 7.1.3** DBS' role in each Transaction shall not be an agent of yours or of any other party to a Transaction;
  - 7.1.4** DBS is not and shall not be construed to be in any fiduciary relationship with you or any party to a Transaction; and
  - 7.1.5** DBS shall not be liable to you or any other party to a Transaction for any Loss or other liability arising from any act or omission in relation to the services performed by DBS under this Agreement or in respect of any Transaction.
- 7.2** DBS shall be entitled to act in compliance with any order of court, judgement or arbitral award served upon DBS in relation to any Transaction or Transaction Payment, without the approval of you or any party to the Transaction.

DBS may act pursuant to the advice of counsel with respect to any matter relating to this Agreement and shall not be liable for any action taken or omitted in accordance with such advice.

**7.3** Without prejudice to **Clause 7.2**, in the event of any disagreement between you, any party to a Transaction or other person, or any two or more of them results in adverse claims or demands being made against DBS in connection with any Transaction Payment, or in the event that DBS in good faith is in doubt as to what action it should take hereunder, DBS shall be entitled to retain such Transaction Payment until DBS shall have received:

**7.3.1** a final non-appealable order of a Court of competent jurisdiction directing delivery of such Transaction Payment; or

**7.3.2** a written agreement executed by the person(s) in dispute and you directing delivery of such Transaction Payment, in which event DBS shall disburse in accordance with such order or agreement. Any court order shall be accompanied by a legal opinion by counsel for the presenting party satisfactory to DBS to the effect that such court order is final and non-appealable. DBS shall be entitled to act on such court order and legal opinion without further question.

**7.4** DBS may, through the Services, provide quotes on prices at which DBS may be prepared to transact with the Customer. You acknowledge that it is possible that errors may occur in any such prices so quoted by DBS. In such circumstances, without prejudice to any rights a party may have under statute or common law, neither party will be bound by any Transaction purported to have been entered into (whether or not confirmed by DBS) at a price which was, or ought reasonably to have been known to either party to be materially incorrect at the time of Transaction. The party asserting that such Transaction is avoided under this **Clause 7.4** shall give notice to the other within 7 days of the Transaction. If the Customer gives notice to DBS under this clause, DBS shall determine, acting reasonably, whether the price quoted was materially incorrect. Except in the case of fraud, DBS does not accept any liability for any loss or damage suffered by the Customer as a result of the Customer's reliance on a price which the Customer knew, or ought reasonably to have known, to be materially incorrect.

## **8. Account Balance, Margin Requirements and Transaction History**

**8.1** The data or information relating to the Accounts provided by DBS via the Services may not be conclusive as to the latest current balance as deposits, withdrawals, buy/sell orders may be made without the relevant entry being made in time when the data or information is provided. The data or information provided is therefore not binding unless it is explicitly declared as such.

**8.2** Unless required by applicable law or regulation, DBS shall not be under any obligation to review the status of your Account for compliance with any applicable Margin requirements. Notwithstanding this, DBS may, in its sole and absolute discretion, review the status of a Customer's Account for the purposes of ensuring compliance with any applicable Margin requirements provided that DBS shall bear no liability whatsoever for any such review.

## **9. Hyperlinks**

**9.1** For your convenience, the Services may include, refer to or make available hyperlinks to other websites or content on the Internet that are owned or operated by third parties. Such linked websites or content are not under the

control of DBS or any DBS Group Member, and no DBS Group Member is responsible for the contents of or the consequences of accessing any such linked website.

- 9.2** Any hyperlinks to any other websites or content are not an endorsement or verification of such websites or content and you agree that your access to or use of such linked websites or content is entirely at your own risk.

## **10. Market Data**

- 10.1** DBS and/or its agents, Affiliates, third party providers or licensors do not warrant the accuracy, suitability, adequacy, currency, availability, reliability or completeness of any Market Data and shall not be liable to you or anyone else for any decision made or action taken by you in reliance on any Market Data or for direct, indirect, incidental, special, consequential, punitive or any other damages whatsoever even if we have been advised of the possibility of such damages.

- 10.2** All Market Data is for general information purposes only and have not taken into account your investment objectives, financial situation or particular needs. Specifically, such Market Data is not intended nor shall they be construed as financial, tax or other advice or as an offer, solicitation or recommendation of securities or other financial products.

- 10.3** You agree that you shall not rely on any Market Data to make any specific investment, business, financial or commercial decision, unless you independently confirm or verify the Market Data before relying on such information.

- 10.4** You acknowledge and agree that the Market Data is provided for your personal use and you undertake not to redistribute or transmit all or any of the market data to any third party (whether free of charge or for consideration, in any manner or form whatsoever), without DBS' prior written consent.

- 10.5** You are aware that all Market Data is subject to change at any time without prior notice, and that neither we nor any third party provider or licensor is obliged to update or correct any Market Data.

## **11. Limits of Responsibility and Liability**

- 11.1** Provided that you have notified us in reasonable detail and in a timely manner of any problems experienced in the use of the Services and/or the Materials, we will use commercially reasonable efforts to correct such problems within a reasonable period of time (but without further liability if we are unable to do so).

- 11.2** You acknowledge that in performing the Services, DBS will be dependent on the use of software licensed from third parties, including without any limitation, the use of such software to process the Electronic Instructions and the Transactions. You acknowledge that notwithstanding any other provision of this Agreement, DBS does not make any warranty of any kind, implied, express or statutory regarding the Services, the Security Devices, the User Manual, and the systems, software and hardware used in connection with the provision of the Services, including but not limited to warranties of accuracy, adequacy, completeness, timeliness, quality, currentness, reliability, performance, or continued availability of the Services, User Manual or the Materials and DBS expressly disclaims liability for errors or omissions or any delays in the delivery of the Materials, or for any actions taken in reliance on the Materials. No warranty of any kind, implied, express or statutory, including but not limited to the

warranties of non-infringement of third party rights, title, merchantability, satisfactory quality or fitness for a particular purpose, is given in conjunction with the Services, User Manual or the Materials.

- 11.3** DBS may from time to time without giving any reason or prior notice, upgrade, modify, alter, suspend, discontinue the provision of or remove, whether in whole or in part, the Services or any information, services or products provided therein and shall not be liable if any such upgrade, modification, suspension or alteration prevents you from accessing the Services. The Materials and other information provided through the Services may be modified, deleted, or replaced from time to time and at any time in the absolute discretion of DBS.
- 11.4** DBS does not warrant that the Services or any of the Materials will be provided uninterrupted or free from errors or that any identified defect will be corrected; further, no such warranty is given that the Services and the Materials are free from any computer virus or other malicious, destructive or corrupting code, agent, program or macros. The Customer's use of Services is at the Customer's sole risk. DBS and the Business Associates do not make, and expressly and specifically disclaim, any representations or warranties of any kind, express or implied, regarding the Services or the System, including without limitation, those of uninterrupted availability, merchantability or fitness for a particular purpose of the Services.
- 11.5** Without prejudice to the generality of the foregoing, DBS and the Business Associates specifically disclaim any guarantee or warranty that (a) the Services will be secure, uninterrupted or error free; (b) that defects in Services will be corrected; and (c) that there are no viruses or harmful content on or in the Services
- 11.6** DBS and the Business Associates do not warrant the security of any information transmitted by you or to you through the Services and you acknowledge, and accept the risk, that any information transmitted or received through the Services may be accessed by unauthorised third parties.
- 11.7** DBS and the Business Associates do not represent, warrant or guarantee that the Customer will be able to access or use the Services at any time or location of the Customer's choosing, or that DBS has adequate capacity for the Services and System as a whole or in any geographic location.
- 11.8** DBS, the Business Associates, or any party or person involved in creating, producing, delivering or managing the Services or System shall in no event be liable to you or any other person for any Loss arising from or in connection with any negligence, access, use or the inability to access or use the Services, or the Materials, or reliance on the Materials, howsoever caused (even if DBS or any DBS Group Member or its agents or employees are advised of, or otherwise might have anticipated, the possibility of such Loss), including but not limited to Losses arising:
- 11.8.1** in relation to lost profits, trading losses, loss of opportunity or damages that result from interruption, delay or loss of the use of Services;
  - 11.8.2** from or referable to the Electronic Instructions given by the Customer being incorrect or inaccurate in any manner whatsoever;
  - 11.8.3** as a result of use of the Compromised Security Device by any party;
  - 11.8.4** as a result of any prohibition, restriction, delay in use or access of the Services caused by any laws and/or regulations of Singapore or any other country;

- 11.8.5** as a result of any errors, omissions, or other inaccuracies in the content or data on the Services and Materials;
  - 11.8.6** under any service agreements entered into by you with any telecommunications carriers and/or Internet service providers;
  - 11.8.7** from any act or omission of telecommunications, carriers Internet service providers or any other third party sub-contractor of DBS;
  - 11.8.8** from any system, hardware, software, telecommunications, server or connection failure, error, defect, malfunction, omission, interruption, delay in transmission, or computer virus;
  - 11.8.9** from any damage, destruction, breakdown, mechanical or other defect howsoever caused, to the Services (or part thereof);
  - 11.8.10** from any corruption or damage to the Services (or part thereof);
  - 11.8.11** from any information or data transmitted through the System being incomplete, inaccurate or corrupted;
  - 11.8.12** from any failure by DBS, its officers, agents or servants to receive the Customer's instructions or orders notwithstanding that the instruction or order has been received by the Services or to execute an invalid, incomplete or inaccurate order, or any cause whatsoever;
  - 11.8.13** as a result of any unauthorised or illegal access to the systems or server used in conjunction with the provision of the Services; and/or
  - 11.8.14** from any other wrongful act on the part of the customer.
- 11.9** You acknowledge and agree that the Services are being provided by DBS with the assistance and technology of the Business Associates. You agree and accept that DBS and/or the Business Associates shall not be liable or responsible for and in relation to any and all Loss incurred or suffered by the Customer or any Person as a result of any action, advice, failure or default attributable to any Business Associate.
- 11.10** Neither DBS nor the Business Associates shall bear any liability and shall not be responsible for any Loss or inconvenience that may be suffered by the Customer as a result of any action by any regulatory body in the exercise of its regulatory or supervisory functions over DBS. You shall permit DBS and/or any supervisory or regulatory body to have access to such terminals as DBS and/or the supervisory or regulatory body may request, and you shall co-operate in answering any of their queries in relation to any aspect of the Services.
- 11.11** Notwithstanding anything to the contrary in this Agreement or otherwise, and without prejudice to the provisions of any other part of this Agreement, any proceeding that the Customer may at any time seek to bring in respect of the provision of the Services, or in respect of any other part of this Agreement, may only ever be brought against DBS and may not ever be brought against the Business Associates.
- 11.12** YOU HEREBY ACKNOWLEDGE AND AGREE THAT USE OF THE SERVICES IS AT YOUR OWN RISK. EXCEPT TO THE EXTENT THAT LIABILITY UNDER ANY APPLICABLE LAW OR REGULATION CANNOT BE



EXCLUDED, UNDER NO CIRCUMSTANCES SHALL DBS BANK LTD, OR ITS SUPPLIERS BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUES OR OTHER ECONOMIC LOSS OR CUSTOMER OR ANY THIRD PARTY, LOSS OF DATA, LOSS OF USE OR CLAIMS OF THIRD PARTIES) ARISING OUT OF OR IN ANY MANNER IN CONNECTION WITH THIS AGREEMENT, THE PERFORMANCE OR BREACH HEREOF, THE SUBJECT MATTER HEREOF OR THAT ARE RELATED TO THE USE OF, OR THE INABILITY TO USE THE SERVICES AND/OR MATERIALS EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES WERE FORESEEABLE. IN ANY EVENT, THE MAXIMUM DAMAGES CUSTOMER MAY RECOVER AGAINST DBS BANK LTD OR ITS SUPPLIERS IN AGGREGATE AS A RESULT OF ANY CLAIM RELATED DIRECTLY OR INDIRECTLY TO THE CUSTOMER'S USE OF THE SERVICES OR MATERIALS OR ANY CLAIM ARISING FROM THIS AGREEMENT SHALL AT ALL TIMES BE LIMITED TO SGD 500.

## 12. Intellectual Property

- 12.1 You hereby acknowledge and agree that all Intellectual Property Rights in or to the Services, User Manual and the Materials are owned by the DBS Group, its third party licensors or service providers. You thereby agree not to do anything that will violate or infringe DBS' Intellectual Property Rights and that you shall not use such rights and any information and/or records for any wrongful or illegal purpose.
- 12.2 No part or parts of the Website, Materials or User Manual may be reproduced, distributed, republished, displayed, broadcast, hyperlinked, transmitted, adapted, modified to create derivative works or commercially exploited in any manner or by any means or stored in an information retrieval system, without the prior written permission of DBS or the relevant owner, provided that if any permission is granted, you shall not modify the Website, Materials or User Manual or any part thereof in any manner whatsoever and you shall retain all copyright and other proprietary notices as contained in the Website, Materials or User Manual. You shall also not use such information and/or records for any wrongful or illegal purpose.
- 12.3 You also may not, without our permission, insert a hyperlink to the Website on any other website or webpage or "*mirror*" the Materials on any other server.
- 12.4 The trade marks, service marks, and logo (the "**Trade Marks**") used and displayed on the Website, User Manual or through the Services are registered and unregistered Trade Marks of the DBS Group, its third party licensors or service providers or other third parties.
- 12.5 Nothing on the Services should be construed as granting, by implication, estoppel, or otherwise, any licence or right to use any Trade Marks displayed on or through the Services, without the written permission of DBS or other applicable trade mark owner.
- 12.6 DBS expressly prohibits the use of the Trade Marks, the name of any DBS Group Member, or any other trade mark owned by the DBS Group as a metatag or as a "*hot*" link to the Website or any other site unless establishment of such a link is approved in advance by DBS in writing.

### **13. Disclosure**

**13.1** Without prejudice to any provision in the General Trading Agreement, you hereby authorise DBS and its officers, employees and agents to provide or disclose any information whatsoever relating to you or to the Account(s) for the purposes of establishing, maintaining and/or operating the Account(s), providing the Execution and Clearing Services, managing your relationship with DBS or any entity in the DBS Group and/or any purpose connected to or relevant the business of the DBS Group, and in particular, to:

**13.1.1** any of the branches of the DBS Group either within Singapore or outside Singapore for risk management purposes, for monitoring credit exposures across the DBS Group, for purposes of centralization of operations within the DBS Group, for purposes in connection with business planning, restructuring and strategy and for the purpose of promoting financial products and services to you;

**13.1.2** any digital certification authority, regulatory authority, electronic, computer, telecommunication service provider and/or network provider involved in the provision of the Services and/or any third party agent or sub-contractor engaged by DBS for the provision of any aspect of the Services from time to time;

**13.1.3** any third party as DBS considers necessary in order to give effect to any Electronic Instruction given using the Services or to comply with the order of any court or government or regulatory authority in any jurisdiction; or

**13.1.4** any other third party as DBS may, in its discretion, consider to be appropriate for the proper administration and operation of your Account(s) or the execution of any Transaction or the provision of any aspect of the Services from time to time.

### **14. Other Applicable Terms**

**14.1** In addition to this Agreement, the use of any part of the Services, may be subject to additional terms and conditions (“**Additional Terms**”) that we may notify you from time to time by such notification method as we may choose, which may include notification by e-mail or by posting such changes on the Website. If you do not agree to be bound by the Additional Terms, you shall forthwith cease all access and/or use of the Services and shall terminate this Agreement immediately by giving written notice to DBS. You further agree that if you continue to use and/or access the Services after being notified of Additional Terms, such use and/or access shall constitute an affirmative acknowledgement of the Additional Terms and agreement to abide and be bound by such Additional Terms.

### **15. Discontinuation of access and use of Services**

**15.1** You agree that DBS may, at its sole and absolute discretion, deny you access to the Services and disable the Security Device associated with you for any reason, including without limitation, if DBS believes that you have violated or acted inconsistently with any terms or conditions set out herein

### **16. Foreign Legal Restrictions**

**16.1** You acknowledge and accept that due to restrictions under the laws of some countries, you:

- 16.1.1** may not be able to access or use the Services from these countries;
- 16.1.2** may be infringing the laws of these countries (including any import or export restrictions governing encryption algorithms) when accessing Services from these countries; or
- 16.1.3** may be prevented by us from accessing or using some or all of the Services in such countries as we may determine from time to time.

**16.2** You acknowledge that it is your duty to ascertain whether any laws will be infringed and will not hold us liable for any infringement or inability to access or use some or all of the Services.

## **17. Term and Termination**

**17.1** This Agreement shall commence on the date on which the Application Form is accepted by DBS.

**17.2** You acknowledge that DBS shall be entitled:

**17.2.1** in its absolute discretion to forthwith terminate this Agreement or to forthwith deactivate or revoke any one or more of the Services without any reasons at any time by giving notice in writing;

**17.2.2** to terminate this Agreement immediately if you are in default of this or any other agreement with DBS and to suspend your use of the Service while DBS is investigating whether such default may have occurred, without prejudice to any other rights or remedies which DBS may be entitled to under this Agreement or at law.

**17.3** Either Party may terminate this Agreement by giving thirty (30) days' prior written notice to the other Party.

**17.4** Immediately upon the termination of this Agreement by either party for whatever reason, you agree that:

**17.4.1** all outstanding sums payable by you whether or not invoiced by DBS shall become immediately payable by you;

**17.4.2** you shall forthwith cease to use any Security Device and/or the Services; and

**17.4.3** upon the request of DBS, you shall forthwith return to DBS any Security Device, User Manual, and any other documents, materials or equipment that may have been provided to you pursuant to this Agreement.

**17.5** Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

## 18. Notice

- 18.1** Save as otherwise set out in this Agreement, any notices, demands or other communications may be delivered by hand, by registered mail, by facsimile or email to the addresses and numbers, in the case of the Customer, specified in the Application Form, and in the case of DBS, specified as follows:

DBS Bank Ltd

Address: 12 Marina Boulevard, Level 42  
Marina Bay Financial Centre Tower 3  
Singapore 018982

Fax : (65) 6538 6298

General Enquiry: (65) 6398 6033

Technical Support : (65) 6682 3690  
clearingsupport@dbs.com

- 18.2** Notice shall be deemed given:

- 18.2.1** in the case of hand delivery or registered mail, upon written acknowledgement of receipt by an officer or other duly authorised employee agent or representative of the receiving party;
- 18.2.2** in the case of facsimile, upon completion of transmission as long as the sender's facsimile machine creates and the sender retains a transmission report showing successful transmission; or
- 18.2.3** in the case of email, on the date and time of transmission by the mail server operated by the sender and/or its service provider directed to the email address notified by the recipient, unless the sender receives a non-delivery or "*returned mail*" reply message or any error message indicating that the email was not successfully sent to the recipient's mailbox or the mail server operated by the recipient or the recipient's service provider.

## 19. No Assignment

- 19.1** You hereby agree and undertake not to assign, charge or otherwise deal with this Agreement or any part thereof in any way.
- 19.2** DBS may, without notice to you or your consent, delegate or sub-contract any rights or obligations under this Agreement to any third party, and appoint third party agents or sub-contractors to provide the whole or part of the Services.

## 20. Indemnity

- 20.1** You hereby agree to indemnify DBS and keep DBS at all times fully indemnified from and against all Losses, actions, awards, proceedings, claims, liabilities (including statutory liability), to which DBS may be subject to for whatever reason in relation to your use or purported use of the Services including but not limited to:
- 20.1.1** any unauthorised use by any party of the Security Code or other form of Security Devices;

**20.1.2** any breach by you of the terms and conditions of this Agreement;

**20.1.3** any:

- a. failure or malfunction in the your hardware and/or software used in connection with the Service;  
or
- b. any viruses and other malicious, destructive or corrupting code, program or macros, Trojan Horses, worms, logic bombs or other software routine or hardware components designed to permit unauthorised access which have been introduced by you, which affects or causes the Services and/or DBS hardware, software and/or other automated systems to fail or malfunction;  
and

**20.1.4** any claim by any other party against DBS arising from:

- a. DBS compliance with any Electronic Instruction or provision of the Services to you in accordance with the terms herein;
- b. any claim by any party to a Transaction or any other third party which is inconsistent with the provisions of **Clause 7.1**; and/or
- c. **Clauses 20.1.1, 20.1.2 or 20.1.3** above.

## **21. Evidence**

**21.1** You agree that the Electronic Instructions transmitted via the Services though in electronic form, are original and written documents. You will not dispute or challenge the validity, enforceability or admissibility of any such Electronic Instructions on the grounds that such instructions are not a written document or not an original document and you hereby waive any such right you may have at law.

**21.2** You further acknowledge and agree that DBS records and any records of the Electronic Instructions, communications, operations or transactions made or performed, processed or effected through the Services by you or any person purporting to be you, acting on your behalf or purportedly acting on your behalf, with or without your consent, or any record of transactions relating to the operation of the Service and any record of any transactions maintained or by any relevant person authorised by DBS relating to or connected with the Service, whether stored in electronic or printed form, shall be binding and conclusive on you for all purposes whatsoever and shall be conclusive evidence of the transaction and your liability to DBS. You hereby agree that all such records are admissible in evidence and that you shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records merely on the basis that such records were incorporated and/or set out in electronic form or were produced by or are the output of a computer system, and hereby waive any of your rights (if any) to so object.

## 22. **Governing Law**

The construction, validity and performance of this Agreement shall be governed in all respects by the laws of Singapore including without limitation the provisions of the Singapore Evidence Act (Cap 97) and the Electronic Transactions Act (Cap 88). You hereby submit to the non-exclusive jurisdiction of the Singapore courts.

## 23. **Rights Of Third Parties**

**23.1** Each DBS Group Member shall have the right under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore to enforce any term of this Agreement.

**23.2** Other than as provided in **Clause 23.1** above, no person or entity who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore to enforce any term of this Agreement, regardless of whether such person or entity has been identified by name, as a member of a class or as answering a particular description. For the avoidance of doubt, this shall not affect the rights of any permitted assignee or transferee of this Agreement.

## 24. **Delegation**

DBS (i) may delegate the performance of any function in connection with the Services and (ii) reserves the right to use any agents or service providers on such terms as it thinks appropriate.

## 25. **Severability**

If any provision of this Agreement is agreed by DBS and the Customer to be illegal, void or unenforceable under any law that is applicable hereto or if any court of competent jurisdiction in a final decision so determines, the Agreement shall continue in force save that such provision shall be deemed to be excised herefrom with effect from the date of such agreement or decision or such earlier date as the Customer and DBS may agree.

## 26. **Waiver**

No forbearance, delay or indulgence by DBS in enforcing any provision of this Agreement shall prejudice or restrict the rights of DBS nor shall any waiver of DBS' rights operate as a waiver of any subsequent breach, and no right, power or remedy herein conferred upon or reserved for DBS is exclusive of any other right, power or remedy available to DBS and each such right, power or remedy shall be cumulative, unless where otherwise expressly stipulated in this Agreement.