



## SmartTone Smart Credit Card Cardholder Agreement

IMPORTANT: Before you start to use your SmartTone Smart Classic VISA / VISA Gold / Mastercard / Gold Mastercard / Titanium Mastercard, please read carefully the terms and conditions of the Cardholder Agreement printed below and make sure that you understand them thoroughly. By using your Card you will be deemed to have accepted these terms and conditions and will be bound by them.

### 1. Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:-

- "Account Holder"** means a Person in whose name the Bank opens a Card Account.
- "Associate"** in relation to any company or corporation means any subsidiary or holding company of the company or corporation, or any subsidiary of such holding company, or any related company (being a company in which an equity interest is held by any of the foregoing), and for this purpose "subsidiary" and "holding company" shall have the meanings ascribed to them in section 2 of the Companies Ordinance (Cap. 32 of the laws of Hong Kong).
- "Bank"** means Standard Chartered Bank (Hong Kong) Limited, its successors and assigns.
- "Bank Account"** means in relation to a Cardholder any account maintained in the name of the Cardholder with the Bank or a Bank Group Company and in respect of which the Cardholder has requested that he be able to give Transaction Instructions.
- "Bank Group Company"** means any other company of the Standard Chartered Group being any Associate of the Bank, and includes each such company's successors and assigns.
- "Bonus Point"** means a bonus or reward point awarded to a Cardholder under and subject to the terms and conditions of any Bonus Point Scheme and/or any Designated Scheme applicable.
- "Bonus Points Purchase"** means any purchase or that part of any purchase of goods and/or services the payment for which is effected by the redemption of Bonus Points.
- "Bonus Points Scheme"** means any scheme from time to time established by the Bank whereby (i) Bonus Points may be awarded to a Cardholder upon the use of his Card to pay for goods and/or services; and (ii) Bonus Points so awarded may subsequently be redeemed or used for exchanging and/or making payment for such goods and/or services at such outlets as may from time to time be specified by the Bank.
- "Card"** means a Credit Card, being also a Smart Card, designated by the Bank as a "SmartTone Smart Credit Card", and includes a principal Card and any supplementary Card.
- "Card Account"** means the account opened and maintained by the Bank in the name of the Account Holder for the purpose of this Agreement.
- "Cardholder"** means an individual (whether or not also an Account Holder) in whose name a Card is issued by the Bank and who is deemed to have accepted the Card and this Agreement in accordance with Clause 2, and includes both a principal Cardholder and any supplementary Cardholder.

### 8. Data Privacy

- Each Cardholder agrees that all personal data relating to the Cardholder collected by the Bank from time to time may be used and disclosed for such purposes and to such persons (whether in or outside Hong Kong) as may be in accordance with the Bank's policies on use and disclosure of personal data set out in statements, circulars, terms and conditions and notices made available by the Bank to its customers from time to time. Such data may also be used in connection with matching procedures (as defined in the Personal Data (Privacy) Ordinance), and disclosed (by way of bank references or otherwise) to any financial institution with which the Cardholder has or proposes to have dealings to enable such financial institution to conduct credit checks on the Cardholder.
- In addition to sub-clause (a), the Bank is authorised to disclose:
  - to SmartTone the messages transmitted by the Bank pursuant to the Message Services and such data regarding the Card Account and/or a Cardholder as may enable SmartTone to provide the Message Services;
  - to SmartTone and/or any of its Associates such data regarding the Card Account and/or a Cardholder as may enable SmartTone and/or such Associates to promote goods and/or services offered by it or them and for all purposes ancillary to such promotions;
  - to any merchant from time to time participating in any Bonus Points Scheme such data regarding the Cardholder as may enable the merchant to process the Cardholder's requests for the redemption or exchange of Bonus Points;
  - to a principal Cardholder any data relating to the Card Account as such principal Cardholder may from time to time request; and
  - to a supplementary Cardholder the amounts respectively described in a Statement as "New Balance" and "Minimum Payment Due" in respect of the Card Account and the "Payment Due Date" specified in a Statement.
- Each Cardholder will promptly notify the Bank of any change in the data provided by him when applying for a Card Account or a Card.

### 9. Message Services

- The Bank may at the request of the Account Holder provide the Message Services whereby the Account Holder may access information relating to the Card Account through the use of the designated mobile telephone and number provided by SmartTone to the Account Holder (details of which have been provided to the Bank upon the Account Holder's application for the Card Account) and the Message Service Code. The Account Holder acknowledges and agrees that information provided to him through the Message Services shall be transmitted through the mobile telephone network of SmartTone.
- The Message Services comprise principally an information enquiry service relating to the Card Account, details of which shall be notified to the Account Holder, and such

- "Charge", "Voluntary Charge" and "Involuntary Charge" have the meanings ascribed to those words in Clause 5.

- "Credit Card"** means a Classic VISA Card, VISA Gold Card, Mastercard, Gold Mastercard or Titanium Mastercard.
- "Designated Scheme"** means any Bonus Points Scheme, any reward scheme or any other similar schemes from time to time designated by the Bank for the purposes of this Agreement.
- "Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China.
- "Message Services"** means the Message Notification Services provided by the bank pursuant to Clause 9.
- "Message Service Code"** means the user identification code agreed between the Bank and the Account Holder for authentication of the Account Holder when he uses the Message Services.
- "Person"** includes any individual, corporation, firm, company, partnership, association or other organisation.
- "PIN"** means, in relation to a Cardholder, the personal identification number provided by the Bank to a Cardholder (as from time to time varied by the Cardholder in manner stipulated by the Bank or varied by the Bank in accordance with Clause 3(c)) to enable the Cardholder to gain access to certain Terminals to give Transaction Instructions.
- "Retail Merchant"** means any retail merchant which accepts one or more Credit Card(s).
- "Smart Card"** means a card containing a computer device (commonly known as a computer microchip) which is designed to be capable of storing and processing data.
- "SmartTone"** means SmartTone Mobile Communications Limited, its successors and assigns.
- "Statement"** means a monthly statement of account sent by the Bank to an Account Holder, setting out the Charges and other financial liabilities owed on that date by the Account Holder and any other Cardholder to the Bank in respect of the Card Account, and such other information as the Bank considers appropriate.
- "System"** means the Bank's 24-hour Automated Tele-electronic Enquiries System, being any device for the time being employed by the Bank for the purpose of providing responses to a Cardholder's request by telephone for services.
- "Terminal"** means any automated teller machine, dial terminal, electronic data capture terminal, smart card terminal or other point-of-sale terminal, as may from time to time be made available by the Bank to the Cardholder, through which Transaction Instructions may be given.
- "TIN"** means the tele-electronic identification number provided by the Bank to a Cardholder (as from time to time varied by the Cardholder in manner stipulated by the Bank or varied by the Bank in accordance with Clause 3(d)) to enable the Cardholder to use the System to request for services or give Transaction Instructions.
- "Transaction Instruction"** means any instruction given directly or indirectly by the use of a Card or through the System (whether or not through another Person) to the Bank to effect a transaction.

- other message notification services relating to the Card Account as may from time to time be made available by the Bank. The Bank may at any time in its discretion vary or suspend the whole or any part of the Message Services.
- The Account Holder undertakes to inform the Bank promptly in the event of loss of the mobile telephone through which the Message Services are provided, any change in such mobile telephone number or termination of his use of the mobile telephone service. The Bank reserves the right to terminate the Message Services at any time upon the request of the registered user of such mobile telephone services.
- The Account Holder shall at all times comply with all instructions from time to time provided by the Bank in relation to the operation of the Message Services, including the manner in which such Services may be accessed and operated and measures designed to protect the security of the use of such Services.
- The Account Holder shall take all reasonable steps to keep the Message Service Code secure and confidential at all times so as to prevent any unauthorised use of the Message Services or unauthorised access to confidential information provided through such Services.
- If the Message Service Code is disclosed or suspected to have been disclosed to any unauthorised Person, the Account Holder shall immediately notify the Bank, whereupon the Message Services will be suspended until the new Message Service Code is established.
- Neither the Bank nor SmartTone nor any of their respective agents, contractors or third party service providers ("Relevant Parties") engaged in the provision of the Message Services:-
  - make any warranty or give any undertaking that information requested pursuant to the Message Services will be delivered to or received by the Account Holder completely, accurately, on time or at all;
  - will be liable for any direct loss or damage incurred as a result of making available the Message Services, or as a result of the Account Holder using such Services or not receiving any information through the Message Services, unless (in the case of the Bank) the loss or damage is directly caused by the negligence or willful default of the Bank. Without limiting the generality of the foregoing, circumstances in which the Relevant Parties will not be liable for such direct loss or damage include:
    - any information transmitted through the Message Services not having been received completely, accurately, on time or at all, whether due to:-
      - routine maintenance requirements or excess demand on the systems or network used in the provision of the Message Services;
      - the designated mobile telephone having been turned off or not being in the Account Holder's possession at the time of transmission;
      - any delay or failure in transmission, whether due to the SmartTone mobile telephone network coverage not extending to the Account Holder's

Unless the context requires otherwise:-

- words denoting one gender shall include all other genders; and
- words denoting the singular shall include the plural and vice versa.

Headings in this Agreement are for convenience only and shall be ignored in construing this Agreement.

Save as otherwise provided, references to clauses and sub-clauses refer to the clauses and sub-clauses of this Agreement.

### 2. Applicability of this Agreement

All facilities made available by the Bank to any Person in respect of a Card or Card Account are subject to the terms and conditions of this Agreement from time to time in force. The Cardholder should not activate the Card issued to him or carry out any transaction if he does not agree with such terms and conditions. The Cardholder accepts the Card and such terms and conditions when he first uses the Card.

### 3. The Card, PIN and TIN

- Each Cardholder shall sign the Card immediately upon receipt from the Bank.
- Every Card is the property of the Bank and must be surrendered to the Bank upon demand at any time, notwithstanding that the expiry date embossed on the face of the Card may not have expired.
- The Bank will issue a new PIN to a Cardholder on each report of malfunction or loss of the Card or disclosure of the PIN, or at the request in writing of a Cardholder.
- The Bank will issue a new TIN to the Cardholder on each report of disclosure of the TIN or at the request in writing of the Cardholder.
- Each Cardholder shall at all times take reasonable care of the Card, the PIN and the TIN and keep the Card safely under his personal control and the PIN and TIN secure and confidential. In particular:-
  - Transaction Instructions must be given in such a way that any confidential information (including without limitation a PIN or a TIN) which is displayed, or dispensed by or input into a Terminal or the System is not disclosed to any third party. **The Bank shall not be liable in any way for any disclosure (whether or not authorised or intended) of confidential information to any third party arising out of or in the course of the giving of a Transaction Instruction.**
  - The Cardholder shall under no circumstances disclose his PIN or TIN to any Person, or allow the Card, the PIN and/or the TIN to be used by any other Person.
  - The Cardholder shall destroy the original printed copies of the PIN and the TIN.
  - The Cardholder shall in no circumstances write down the PIN or the TIN on the Card or on anything usually kept with or near the Card.
  - The PIN and the TIN shall always be disguised if written down or recorded in any form.

### 4. Use of the Card

- Subject to the provisions of this Agreement, a Card may be used:-
  - within the credit limit (if any) from time to time determined by the Bank at its discretion and notified by the Bank to the Account Holder, and
  - before the expiry date embossed on its face.The Account Holder may at any time apply to the Bank for a review of the credit limit on the Card Account, and the determination of which shall be at the sole and absolute discretion of the Bank.
- A Cardholder's right to use the Card shall cease immediately:-
  - in case of termination pursuant to Clause 15; or
  - in case of loss or theft of the Card.
- If a Cardholder loses or damages his Card, or requires a renewal or replacement Card before expiry of the existing Card, the Bank may at its discretion and on such terms and conditions as it may specify (including without limitation charging a handling fee on the Card Account) issue to the Cardholder the Card or Cards requested.
- Each Cardholder undertakes to act in good faith at all times in relation to all dealings with the Card and the Bank.
- A Cardholder shall not use the Card or the Card Account for any illegal purposes. The Bank is entitled, at its sole and absolute discretion, to refuse to act on or give effect to any Transaction Instruction if the Bank has reason to believe that such instruction is given in connection with any illegal transaction.
- It is the Cardholder's responsibility to ensure that the credit limit as determined by the Bank at its discretion and notified to the Cardholder is not exceeded. If the Cardholder does not wish to have temporary credit limit extension (the scope of which are to be designated by us and communicated to the Cardholder), the Cardholder should indicate his/her choice explicitly and opt out from such service through the channel the Bank provides from time to time.

### 5. Charges

- Charges comprise all or any of the following:-
  - Voluntary Charges, namely:-
    - the amount of any purchase (including a Bonus Points Purchase) of goods and/or services made by a Transaction Instruction;
    - the amount of any cash advance provided pursuant to a Transaction Instruction;
    - any amount which the Bank debits to the Card Account on request;
    - any other amount chargeable to the Card Account by virtue of a Transaction Instruction.
  - Involuntary Charges, comprising the following, at the rates published by the Bank which may from time to time be varied by notice to the Account Holder in a Statement or by notice given in accordance with Clause 16(b):-**
    - Annual fee:** Payable on issue of each Card and on each renewal following the expiry of a Card.

Reduced Annual Fee: If at the time the Bank issues a Card on application by the Account Holder, the Account Holder is already the principal Cardholder of at least one other Card issued by the Bank, and the Account Holder has paid in full all fees (including annual fees) payable in respect of each such other Card, then the annual fee for the newly issued Card may be reduced by up to 50% (or such other percentage as the Bank from time to time determines in its absolute discretion). Such reduction shall not apply if:-

- the date of relevant Transaction Instruction, or
  - the statement cycle immediately after the relevant Transaction Instruction, if the Bank has received full payment of the New Balance as specified in the Statement that covers such statement cycle immediately before the relevant Transaction Instruction on or before the Payment Due Date as specified in that Statement
- until the Bank receives full repayment of the then New Balance in a Statement the Bank issues.
- Default rate:** Applicable if the Minimum Payment Due is not paid on or before the Payment Due Date as specified in a Statement:-
- If the Bank's record shows that the failure happened in the past 1 month, a high rate will apply starting from the next statement cycle as specified in a Statement, until the failure no longer happens as such as at the date of a Statement the Bank issues.
  - If the Bank's record shows that the failure happened 2 times or more in the past 12 months, a higher rate will apply starting from the next statement cycle as specified in a Statement, until the failure no longer happens as such as at the date of a Statement the Bank issues.

- Cash advance fee:** Payable on each cash advance.
- Cash withdrawal fee:** Payable on the issuance of a cheque/cashier's order by the Bank at a Cardholder's request for any cash withdrawal from the Card Account.
- Charge for foreign currency cheque repayment:** Payable whenever a foreign currency cheque is presented for repayment of any Charge.
- Charge for sales draft copies.**
- Finance charge for cash advance:** Calculated on a daily basis accrues on the outstanding balance from time to time of each cash advance with effect from the date of the relevant Transaction Instruction to the date of repayment in full.

- Default rate:** Applicable if the Minimum Payment Due is not paid on or before the Payment Due Date as specified in a Statement:-
- If the Bank's record shows that the failure happened in the past 1 month, a high rate will apply starting from the next statement cycle as specified in a Statement, until the failure no longer happens as such as at the date of a Statement the Bank issues.
  - If the Bank's record shows that the failure happened 2 times or more in the past 12 months, a higher rate will apply starting from the next statement cycle as specified in a Statement, until the failure no longer happens as such as at the date of a Statement the Bank issues.
- Returned item fee:** Payable whenever the Bank seeks payment pursuant to direct debit or autopay instructions but such payment is not received by the Bank.
  - Statement retrieval fee.**

(G) **Finance charge for purchase:** Payable if payment of the amount shown in any Statement as the New Balance is not received in full by the Bank on or before the Payment Due Date specified in the Statement. This is calculated on a daily basis on the outstanding balance of Charges (excluding the amount of any finance charge incurred, Bonus Points Purchase, cash advance, and any transaction under designated additional services, if applicable) from time to time.

(H) **Late charge:** Payable if the Minimum Payment Due specified in any Statement is not paid before the Payment Due Date as specified in a Statement. A charge will be levied, subject to a minimum and/or maximum cap, as we may specify.

(I) **Over-the-counter payment handling fee:** Payable each time on transactional basis when payment for any Charge is made over the counter at any branches of the Bank.

(J) **Overlimit charge:** If the outstanding debit balance under the Card Account exceeds the credit limit assigned to it at any point of time during a statement cycle, a charge is payable and shall be posted to the Statement the Bank issues for that relevant statement cycle.

(K) **Replacement fee:** Payable on issue of a replacement Card before expiry of the existing Card.

(L) **Returned item fee:** Payable whenever the Bank seeks payment pursuant to direct debit or autopay instructions but such payment is not received by the Bank.

(M) **Statement retrieval fee.**

Each Cardholder shall be liable to the Bank for all Charges arising from or in respect of any Transaction Instruction given by such Cardholder, notwithstanding the absence of any sales draft or cash advance voucher signed by the Cardholder, and whether or not such document was required to be issued in order to issue the Transaction Instruction. The Account Holder shall be liable for all Charges arising from or in respect of any Transaction Instruction given in respect of the Card Account.

Involuntary Charges are subject to change by the Bank at any time in its discretion by notice given in a Statement or in accordance with Clause 16(b). Each Cardholder is referred to the Statement for information current as of the date of each Statement.

Subject to Clause 12(a), the Bank's record of the amount of any Charge shall, in the absence of manifest error, be final and binding on each Cardholder, and shall be conclusive in any case where the Bank has made any payment pursuant to a Voluntary Charge.

All Charges incurred in a currency other than Hong Kong Dollars will be debited to the Card Account after conversion into Hong Kong Dollars at such rate as the Bank may from time to time designate.

Any sometimes be offered the option to settle foreign currency transactions in Hong Kong Dollars at the point of sale overseas. Such option is a direct arrangement offered by the overseas merchants and not the card issuer. In such cases, you are reminded to ask the merchant for the foreign currency exchange rates and the percentage of handling fees to be applied before the transactions are entered into since settling foreign currency transactions in Hong Kong Dollars may involve a cost higher than the foreign currency transaction handling fee.

### 6. Transaction Instructions including ATM Facilities and Tele-electronic Enquiries System

- Transaction Instructions comprise each of the following:-
  - in the case of any purchase of goods and/or services (including a Bonus Points Purchase), instructions to pay the amount of such purchase in accordance with the record prepared by the Person supplying the same and submitted to the Bank;
  - instructions input to the Bank's computer through an automated teller machine with the use of a Card or through the System, or given or purportedly given by the Cardholder by fax, including without limitation the following Transaction Instructions:-
    - to effect a debit or credit on any Bank Account;
    - to display the current balance on any Bank Account upon a Terminal;
    - to post a Statement to the Account Holder;
    - to post a cheque book relating to any Bank Account to a current account to a Cardholder by ordinary mail;
    - to effect transfers of funds to bank accounts in the names of third parties;
  - such other Transaction Instructions given through the use of automated teller machine facilities or telephone enquiries systems from time to time made available by the Bank;

- any request for a cash advance;
  - any other instruction given through the use of other card facilities from time to time made available by the Bank.
- The Cardholder shall strictly follow operating instructions from time to time issued by the Bank for the use of Terminals and the System.

In the absence of any notice given by a Cardholder pursuant to Clause 10(a), the Bank is authorised (but not bound) to give effect to any Transaction Instruction which the Bank in good faith believes to have emanated from a Cardholder without requiring further confirmation in any form and as though the same were submitted by the Cardholder to the Bank in writing and signed.

The Bank may (but shall not be obliged to) record, and each Cardholder hereby consents to the Bank recording, Transaction Instructions in writing and/or by tape recording, and/or any other method as the Bank may determine. Subject to Clause 12(a), the Bank's record of Transaction Instructions shall, in the absence of manifest error, be conclusive and binding on the Cardholder and may be retained by the Bank for such period as it deems appropriate.

It is the responsibility of the Cardholder to notify any beneficiary of a transfer of funds in his favour. The Bank will not give advice to such beneficiary and accepts no liability for not doing so.

Save as otherwise expressly provided in or required by these terms and conditions, they shall not affect any other terms and conditions, express or implied, governing any Bank Account.

The Bank may decline to comply with any Transaction Instruction if there are insufficient funds available in or facilities have not been arranged in respect of the relevant account(s). Without prejudice to the generality of the foregoing, no Bank Account may be overdrawn by the giving of a Transaction Instruction without the prior written agreement of the Bank. Furthermore, any withdrawal may also be subject to cap(s) as may be designated by the Bank from time to time.

Cash deposited in an automated teller machine for credit to a Bank Account is subject to verification by the Bank and may not be credited to the designated Bank Account on the day of deposit.

Cheques or other instruments deposited in an automated teller machine for credit to a Bank Account will be collected by the Bank and the proceeds will not be available until the relevant funds have been received for value by the Bank.

Any information given by the System or a Terminal is for reference only. The Bank shall not be liable for the sufficiency or accuracy of any information so given and reserves the right to update and vary such information from time to time.

In relation to any renewal or replacement Card issued to a Cardholder, without prejudice to any other valid mode of activation of the Card by the Cardholder, the Bank shall be entitled (but not bound) to treat any Transaction Instruction (including but without limitation to any Transaction Instruction effected by way of any direct debit authorization

Cardholder may require the Bank to terminate the use of his Card, in each case by notice in writing to the Bank accompanied by the return of the Card(s) being terminated, destroyed by having been cut in two such that both the hologram and magnetic strip are cut into two halves.

**The Account Holder shall be fully liable for all losses arising from any Transaction Instruction given by the use of any Card under the Card Account (whether or not authorised or intended) as a result of the failure of the Cardholder to return or destroy the Card upon termination in accordance with the provisions of this sub-clause, except where any such loss arose from the default or negligence of the Bank.**

The Bank may at any time terminate the Card Account by notice to the Account Holder. Upon such termination, each Cardholder shall immediately cease to be entitled to the use of the Card Account and each Card and any benefits related thereto, including without limitation the use of any Bonus Points awarded under any Designated Scheme.

The Bank may at any time terminate the use of any Card by notice to the Account Holder where reasonably practicable, and the consequences of termination described in sub-clause (i) above shall apply in relation to the Card being terminated to the relevant Cardholder.

In the event of breach of this Agreement by any Cardholder, or on termination of the Card Account or demand made by the Bank at any time at its sole and absolute discretion, then notwithstanding any prior agreement or arrangement between the Bank and the Account Holder to the contrary (subject to any applicable law), the following Charges shall become immediately due and payable in full by the Account Holder, and each other Cardholder shall be liable to pay in full immediately that part of the following Charges which is attributable to Transaction Instructions given by him:-

- subject to Clause 14(c), the total of all Charges (excluding the amount of any Bonus Points Purchase) then outstanding on the Card Account, whether or not already reflected in the New Balance of a Statement and whether or not already charged to the Card Account or due and payable at the date of the breach, termination or demand (as the case may be); and
- the amount of any Voluntary Charges (excluding the amount of any Bonus Points Purchase) incurred after the breach, termination or demand.

**Interest will accrue on the above sums on a daily basis from the due date to the date of repayment at the applicable rate for interest calculation mentioned in Clause 5(a)(i).**

- Without prejudice to the other provisions of this Agreement, if the Account Holder or any other Cardholder intends to be absent from Hong Kong for a period exceeding one month, he shall make arrangements for settlement of sums owing from him in respect of the Card Account prior to his departure.

previously given by the Cardholder pursuant to a previous Card) received by the Bank as sufficient act of validation of the Card emanated from the Cardholder without requiring further confirmation in any form and as though the activation were effected by the Cardholder to the Bank.

### 7. Exclusion or Limitation of Liability

- The Bank shall not be concerned with, or be liable to any Cardholder for any loss or damage directly or indirectly arising from except where the same has been caused directly by the Bank's negligence or willful default:-**
  - any defect in or damage to any goods or services paid for by use of a Card, or any claim or complaint by a Cardholder against the supplier of such goods or services, or any other dispute between a Cardholder and any other party or supplier for the avoidance of doubt, the Cardholder shall remain fully liable for any Charges incurred in respect of the relevant goods or services;
  - the refusal of any Person or Terminal to honour or accept a Card;
  - the loss of or inaccuracy in any information or data stored in a Card containing a device capable of storing data or information;
  - the exercise by the Bank of its right to demand and procure surrender of the Card prior to the expiry date embossed on its face, whether such demand and surrender are made and/or procured by the Bank or by any other Person or by any Terminal;
  - termination by the Bank of any Card or the Card Account pursuant to Clause 15;
  - the repossession of the Card, any request for its return, or any statement made or act performed by any Person requesting its return, and in no circumstance shall the same be or constitute any reflection on or injury to the creditworthiness, character or reputation of any Cardholder;
  - any misstatement, misrepresentation or omission in any details disclosed by the Bank pursuant to Clause 8; or
  - any act of fraud, forgery or gross negligence of the Cardholder, including (without limitation) the Cardholder's failure to observe Clause 3(e) or 10(a) or follow any other recommendation of the Bank from time to time regarding the safety and secrecy of the Card, the PIN and/or the TIN.
- Provided the Cardholder has not acted fraudulently or with gross negligence, the Cardholder shall not be liable for losses incurred:-
  - where a Transaction Instruction effected by the Bank and received by use of a Card before the Account Holder received the Card, or given through the use of a counterfeited card; or
  - directly as a result of a fault in any Terminal which was not obvious or was not advised by a message or notice on display or otherwise drawn to the Cardholder's attention.

**The Bank's liability for such losses shall in any event not exceed the amount of any Charges incurred on the Card Account as a result together with interest thereon.**

### 16. Communication

- Each Cardholder who is not an Account Holder hereby irrevocably appoints the Account Holder as the Cardholder's agent for the purposes of service by the Bank upon the Cardholder of:-
  - any Statement, including service of the demand for payment constituted by a Statement and of any notice contained in the Statement for which provision is made in this Agreement;
  - any other demand, communication or notice made or given by the Bank pursuant to or for the purpose of this Agreement; and
  - legal process, in the event of any legal proceedings in respect of this Agreement having been instituted.
- Any of the aforesaid documents may be served by sending the same by ordinary post to the usual or last known address of the Account Holder, and such document shall be deemed to have been duly served two days after the date of posting if mailed to an address in Hong Kong or seven days after posting if mailed to an address outside Hong Kong, save that in the case of legal process these periods shall be increased to seven and twenty-one days respectively, or any other period as required by the applicable law.

### 17. Expenses of Enforcement

- The Bank may in its discretion employ any agent or third party service provider to collect any sum owing to the Bank under this Agreement or otherwise payable in respect of the Card Account.
- Each Cardholder shall be liable to indemnify the Bank in respect of, and reimburse the Bank on demand, all costs and expenses (including without limitation the charges of any agent or service provider employed pursuant to (a) above, and legal costs and any expenses on an indemnity basis) which are of reasonable amount and were reasonably incurred (whether directly or indirectly) by the Bank in demanding, collecting or attempting to collect, or suing to recover, any sum payable to the Bank by such Cardholder under this Agreement, or in seeking any remedy for any breach of this Agreement, or otherwise in enforcing or attempting to enforce this Agreement.

### 18. Law and Language

- This Agreement shall be governed by and construed in accordance with the laws of Hong Kong.
- If at any time any of these terms and conditions is or becomes illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the remaining terms and conditions shall not be affected thereby.
- Nothing in this Agreement shall operate so as to exclude or restrict any liability, the exclusion or restriction of which is prohibited by the laws of Hong Kong.
- If there is any inconsistency or conflict between the English version of this Agreement and the Chinese version, the English version shall prevail.