

SUN HUNG KAI BULLION COMPANY LIMITED

新鴻基金業有限公司

CLIENT AGREEMENT AND SCHEDULES

客戶協議及附件

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SUN HUNG KAI BULLION COMPANY LIMITED

新鴻基金業有限公司

Member of The Chinese Gold & Silver Exchange Society in Hong Kong

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THIS IS AN IMPORTANT DOCUMENT. PLEASE READ IT CAREFULLY.

THE PRICE OF BULLION (AS DEFINED BELOW) FLUCTUATES, SOMETIMES, DRAMATICALLY. THE PRICE OF A BULLION MAY MOVE UP OR DOWN, AND MAY BECOME VALUELESS. IT IS AS LIKELY THAT LOSSES WILL BE INCURRED RATHER THAN PROFIT MADE AS A RESULT OF BUYING AND SELLING BULLION. THIS IS A RISK THAT YOU SHOULD BE PREPARED TO ACCEPT.

YOU UNDERSTAND THAT A BULLION TRADING ACCOUNT DOES NOT REPRESENT A DEPOSIT OF MONEY AND PROVIDES NO YIELD OR INTEREST.

BULLION TRADING IS SUITABLE FOR SOPHISTICATED INVESTORS ONLY. YOU UNDERSTAND AND ACKNOWLEDGE THAT YOU SHOULD UNDERTAKE YOUR OWN RESEARCH AND STUDY ON THE TRADING OF BULLION BEFORE COMMENCING ANY TRADING ACTIVITIES IN RELATION TO BULLION AND THAT YOU SHOULD SEEK INDEPENDENT LEGAL AND OTHER PROFESSIONAL ADVICE IF YOU ARE UNCERTAIN OF ANY PROVISION OF THIS AGREEMENT (DETAILED BELOW) AND/OR ANY ASPECT OF THE TRADING OF BULLION (INCLUDING, WITHOUT LIMITATION, THE RISKS INVOLVED).

此乃重要文件，懇請細閱。

貴/非貴金屬(釋議下詳)價格有時可能會非常波動。任何個別貴/非貴金屬之價格均可能出現起或跌，且在某些情況下，更可能變得毫無價值。因此，買賣貴/非貴金屬有時不但毫無利潤，更反而蒙受損失。閣下應準備承擔此風險。

閣下明白黃金交易帳戶不是作存款用途而且並無收益或利息。

貴/非貴金屬交易只適合經驗豐富之投資者。閣下明白並確認，在開始任何關於貴/非貴金屬之交易活動前，閣下必須就貴/非貴金屬交易自行進行研究及探討，倘若閣下對本協議(下詳)的任何條文及/或貴/非貴金屬交易的任何方面(包括但不限於所涉及的風險)有任何不清楚之處，閣下應尋求獨立法律及其他專業意見。

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1. INTERPRETATION

- 1.1 In this Agreement, unless the context otherwise specifies, the following words and expressions shall have the following meanings:
- 1.1.1 **"Account"** means the bullion trading account(s) opened and held by Client with SHKB pursuant to the Account Application and the terms of this Agreement;
 - 1.1.2 **"Account Application"** means the application submitted by Client to SHKB in such form as required by SHKB for the opening and maintaining of bullion trading account(s) under the terms of this Agreement;
 - 1.1.3 **"Advice"** means a written or typed record (including facsimile or other electronic means from which it is possible to produce a hard copy) (a) confirming and setting out the particulars of any transaction between Client and SHKB in respect of any Account, and/or (b) recording any other event (including without limitation receipts or withdrawals of assets) in relation to such Account, and/or containing such information as SHKB shall consider appropriate;
 - 1.1.4 **"this Agreement"** means this Client Agreement and Schedules and Appendix(ces) (if any) and Supplement(s) (if any), the Account Application and any applicable schedule, appendices and supplements and/or other documents as specified in the Schedules or as determined by SHKB from time to time;
 - 1.1.5 **"Authorised Person"** means each of those persons, if any, specified as such in the Account Application, or subsequently appointed as such where notice of such appointment has been given to SHKB pursuant to the terms of this Agreement provided that such notice shall not take effect until 5 days after the actual receipt by SHKB of it;
 - 1.1.6 **"Authorised Third Party"** means each of those persons, if any, specified as such in the Account Application, or subsequently appointed as such and notice of such appointment has been given to SHKB pursuant to the terms of this Agreement provided that such notice shall not take effect until 5 days after the actual receipt by SHKB of it;
 - 1.1.7 **"Bullion"** means precious and/or non-precious metal(s) in such form(s) as SHKB and Client may agree to enter into a contract or contracts contemplated hereunder;
 - 1.1.8 **"CGSE"** means The Chinese Gold & Silver Exchange Society in Hong Kong;
 - 1.1.9 **"CGSE Products"** means the product(s) from time to time traded in CGSE and/or other product(s) registered with or acknowledged or accepted by CGSE for trading from time to time;
 - 1.1.10 **"Client"** means the person in whose name SHKB has agreed to open and maintain the Account in accordance with the terms of this Agreement and shall in the case where Client: (i) is/are individual(s) include Client and Client's respective executors and administrators; (ii) is a sole proprietorship firm include the sole proprietor and Client's executors, administrators and successors in the business; (iii) is a partnership firm include the partners who are the partners of the firm at the time when the Account being maintained and any other person or persons who shall at any time hereafter be or have been a partner or partners of and in the firm and all the aforesaid partners' respective executors, administrators and the successors to such partnership business; and (iv) is a company include such company and its successors;
 - 1.1.11 **"Event of Default"** means each of the events set out in Clause 15;
 - 1.1.12 **"Group"** means SHKB, Sun Hung Kai Financial Limited ("SHKFL") and SHKFL's subsidiaries and associated companies, and a "member of the Group" shall be construed accordingly;
 - 1.1.13 **"Group's Website"** means the website at www.shkfg.com or such other website as specified by SHKB from time to time;
 - 1.1.14 **"Hong Kong"** means the Hong Kong Special Administrative Region of the People's Republic of China;
 - 1.1.15 **"Laws"** means all laws, rules, regulations and regulatory requirements applying to SHKB and/or this Agreement and/or transactions contemplated under this Agreement, including, where applicable, the rules of the CGSE and/or other relevant Bullion market and/or exchange and/or any relevant clearing house;
 - 1.1.16 **"Loco London Gold"** means the gold bar(s) physically held in London and acceptable for delivery in the London bullion market, unless otherwise agreed by SHKB in writing;
 - 1.1.17 **"Loco London Platinum"** means the platinum ingot(s) physically held in London and acceptable for delivery in the London bullion market, unless otherwise agreed by SHKB in writing;
 - 1.1.18 **"Loco London Silver"** means the silver bar(s) physically held in London and acceptable for delivery in the London bullion market, unless otherwise agreed by SHKB in writing;
 - 1.1.19 **"London Gold"** means the gold bar(s) acceptable for delivery in the London bullion market, unless otherwise agreed by SHKB in writing;
 - 1.1.20 **"London Silver"** means the silver bar(s) acceptable for delivery in the London bullion market, unless otherwise agreed by SHKB in writing;
 - 1.1.21 **"Matching Contract"** means a contract between SHKB and/or any member of the Group on the one part and the Client on the other part for the sale or purchase of a given amount of a metal which is due to be performed on the same date as another contract between the same parties relating to a purchase or sale respectively of the same metal;
 - 1.1.22 **"Initial Margin"** means any deposit provided with SHKB pursuant to Clauses 7.2 and 8.3;
 - 1.1.23 **"Regulators"** means the CGSE and/or other relevant regulator(s) whether in Hong Kong or elsewhere (including, without limitation, any relevant exchange, market or clearing house);
 - 1.1.24 **"Regulatory Rules"** means the rules of the Regulators and other laws, rules, codes, guidelines, circulars and regulatory directions issued by the Regulators from time to time (whether having legal force or not);
 - 1.1.25 **"SHKB"** means Sun Hung Kai Bullion Company Limited;
 - 1.1.26 **"subsidiary"** bears the same meaning given to it under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap.32, Laws of Hong Kong) (as amended from time to time);
 - 1.1.27 **"Variation Margin"** means any deposit provided with SHKB pursuant to Clauses 7.3 and 8.4;
 - 1.1.28 **"day"** and **"month"** mean calendar day and calendar month respectively.
- 1.1A For the purposes of this Agreement, two companies shall be taken to be associated companies if one is a subsidiary of the other, or both are subsidiaries of a third company, and "associated company" shall be construed accordingly.

- 1.2 In this Agreement:
- 1.2.1 the singular shall be deemed to include the plural and vice versa;
 - 1.2.2 words importing any gender include every gender and references to persons include individuals, bodies corporate or unincorporate;
 - 1.2.3 where SHKB or any member of the Group is given a discretion, such discretion shall be absolute and if exercised, to the fullest extent permitted by applicable laws, SHKB or such member of the Group shall not incur any liability of whatsoever nature to Client or any other person and, unless otherwise stated, SHKB or such member of the Group shall not be required to give reasons for its action, inaction or decision;
 - 1.2.4 where the Client consists of more than one individual or where the Client is a firm consisting of two or more individuals, such individuals shall be jointly and severally responsible for all the liabilities of the Client hereunder;
 - 1.2.5 the headings in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement;
 - 1.2.6 references to any statute, statutory provision, Law, Regulatory Rule or any term or condition shall include a reference to such statute, provision, Law, Regulatory Rule or term or condition as from time to time amended, replaced, modified, extended or re-enacted;
 - 1.2.7 references in this Agreement to Clauses and Schedules are to clauses in and schedules to this Agreement.
 - 1.2.8 if there is any inconsistency between the Chinese and English versions of this Agreement, the English version shall apply and prevail;
 - 1.2.9 in the event of any inconsistency between any provision of this Agreement and any Laws, the latter shall prevail and SHKB shall be entitled in its discretion to take or refuse to take any action or to demand that the Client shall take or refrain from taking any action to ensure compliance with such Laws. All actions taken by SHKB in accordance with the Laws shall be binding on the Client.
 - 1.2.10 the Schedules hereto are an integral part of this Agreement.
- 1.3 For the avoidance of doubt, an instruction given by or on behalf of Client under this Agreement shall not be construed as an instruction to request SHKB to enter into a Bullion transaction on behalf of Client unless SHKB expressly agrees in writing.
- 1.4 Unless otherwise specified in this Agreement or by SHKB in writing, any interest owed by Client to SHKB in connection with this Agreement shall be calculated on the basis of a 365-day year or 366-day year (if the year in question is a leap year). Such basis may be changed by SHKB in its absolute discretion, at any time and from time to time, without notice to or consent from Client unless such notice or consent is stated in this Agreement, or other written agreement by SHKB, to be necessary.

2. ACCOUNT OPENING

- 2.1 Client hereby instructs and authorises SHKB to open and maintain bullion trading account(s) in the name of Client for purchasing, investing in, selling, exchanging or otherwise dealing in Bullion in Hong Kong or elsewhere, on the terms set out in this Agreement.
- 2.2 All transactions shall be subject to the applicable Laws and Regulatory Rules, from time to time extant or in force.

3. TRANSACTIONS WITHOUT RELIANCE ON SHKB OR ANY OTHER MEMBER OF THE GROUP

Subject to SHKB's discretion to reject any offer made by Client or on its behalf, SHKB may, at Client's request, agree to contract with Client in respect of Bullion on a principal-to-principal basis. Client shall make its own judgments and decisions independently without reliance on SHKB or any other member of the Group in its decisions in relation to dealing in Bullion or any transaction in respect of Bullion.

4. CLIENT'S INSTRUCTIONS & OFFERS

- 4.1 Instructions and offers given by Client shall be irrevocable and may be given in writing, verbally, by facsimile or other electronic means, but in any case at Client's own risk.
- 4.2 Subject to SHKB's discretion to reject any offer or instruction, Client agrees and acknowledges that all instructions and offers made by Client or on its behalf are only valid and effective if they are actually received by SHKB within its trading hours on a day on which SHKB is open to the public for trading Bullion in Hong Kong. Client acknowledges and agrees that any instruction or offer once acted on or accepted by SHKB shall become binding on Client.
- 4.3 For any instruction or offer, the name of Client (or any of them in case where Client is more than one person unless otherwise stated in the Account Application), the name of Client's Authorised Person or Authorised Third Party (or the names of the Authorised Persons or Authorised Third Parties if the Account Application states that more than one Authorised Person or Authorised Third Party is required) where such instruction or offer is given by the Client's Authorised Person(s) or Authorised Third Party(ies) and the number of the relevant account opened with SHKB shall be quoted provided always that SHKB may but shall not be under any duty to verify or ensure as to the identity of the or any person giving such instruction or offer and SHKB shall be entitled (but not be obliged) to accept and/or act on the same and rely on its belief that such instruction or offer emanates from Client, Client's Authorised Person(s) or Authorised Third Party(ies) and such instruction or offer once acted on or accepted by SHKB shall become binding on Client.
- 4.4 Any instruction or offer given by Client's Authorised Person(s) or Authorised Third Party(ies), as the case may be, shall be deemed to be given by Client. Client hereby agrees to accept full responsibility and shall not later challenge the instructions and offers given by Client's Authorised Person(s) or Authorised Third Party(ies), as the case may be.

5. GENERAL

- 5.1 Unless otherwise agreed by SHKB, the Client shall buy or sell (as the case may be) as principal and not otherwise and each contract contemplated under this Agreement shall not be assignable without SHKB's expressed written consent, which SHKB shall have an absolute discretion to give, or withhold.
- 5.2 Client shall comply with all the terms contained in each contract contemplated under this Agreement.
- 5.3 Each contract shall be deemed to have been entered into by the Client in reliance only upon its own judgment and deliberations and SHKB and the Group do not hold out themselves as advising, or any of their employees or agents as having authority to advise, the Client on the terms and conditions thereof or on any other matters connected with metal transactions and SHKB and the Group shall be under no liability whatsoever in respect of any advice they have given or views they have expressed, whether or not such advice is given or such views are expressed at the request of the Client.

- 5.4 SHKB and the Group shall be under no liability whatsoever or howsoever arising in respect of any private dealing, contract, transaction or relationship between the Client and any of the Group's employees or agents.
- 5.5 Notwithstanding anything to the contrary which may be contained in this Agreement or any other document, SHKB and the Group shall be under no obligation to enter into any contract with the Client whether such contract is a Matching Contract or otherwise.

6. SHKB'S DISCRETION

- 6.1 SHKB shall be entitled to accept or rely on and to act as it thinks fit in accordance with any offer or instruction given by or on behalf of Client which SHKB believes in good faith to have been given by Client or its Authorised Person(s) or Authorised Third Party(ies). Notwithstanding the foregoing, SHKB shall have discretion to reject such offer or instruction. Without limiting SHKB's aforesaid discretion to reject any instruction or offer, SHKB shall be under no obligation to act for the Client or upon any instruction, or enter into any transaction with the Client if there are insufficient funds in the Account, or if SHKB believes that the acting for Client or upon any instruction or the entry into of any transaction might result in either SHKB, any member of the Group or the Client contravening any Laws or Regulatory Rules or for any other reason. If SHKB in its absolute discretion declines to act for the Client or act upon any instruction, or enter into any transaction with the Client, SHKB shall in its own discretion notify the Client accordingly, but SHKB shall not in any circumstances whatsoever be liable in any way for any loss, damages, liability, cost, expense or whatsoever suffered or incurred by the Client arising in or in connection with the exercise of the above discretion by SHKB.
- 6.2 It is expressly understood that notwithstanding anything to the contrary which may be contained in this Agreement, SHKB contracts as principal as to any Bullion transactions made with SHKB by Client. Client further acknowledges that neither SHKB nor any member of the Group shall have any obligation to provide Client with information with respect to any position of Client and none of them shall have any obligation to (but shall have the right at the discretion of SHKB or the relevant member of the Group to) close any position in any account of Client with SHKB or the relevant member of the Group.
- 6.3 Any conversion from one currency into another or any determination of the market value of metal required to be made pursuant hereto or for the purpose of performing or enforcing this Agreement shall be effected by SHKB in such manner as it may think fit and shall not be challenged by the Client.

7. TRADING IN CGSE PRODUCTS

- 7.1 All contracts in CGSE Products shall be settled by Client upon request by SHKB.
- 7.2 **Initial Margin**
Without prejudice to SHKB's right of requesting the Client to settle all contracts in CGSE Products upon request, it is hereby agreed that prior to any dealings in CGSE Products, the Client shall deposit with SHKB such sum or sums of money in such currency and/or provide SHKB with such security by way of Initial Margin as may be determined by SHKB.
- 7.3 **Variation Margin**
Without prejudice to SHKB's right of requesting the Client to settle all contracts in CGSE Products upon request, SHKB shall be entitled to call for additional margin deposits and/or security in either of the following events:
 - 7.3.1 The current market value of the Client's net outstanding long position with SHKB or with respect to the Account in any of the CGSE Products is below that of the aggregate contract value of the Bullion in question.
 - 7.3.2 The current market value of the Client's net outstanding short position with SHKB or with respect to the Account in any of the CGSE Products is above that of the aggregate contract value of the Bullion in question.Client shall, immediately upon SHKB's call for additional margin deposits and/or security, provide SHKB with such amount of cash in such currency and/or other property as specified by SHKB.
- 7.4 **Commission, etc.**
In respect of transactions relating to CGSE Products, the Client shall pay to SHKB such applicable commissions and/or other applicable amounts as notified to Client by SHKB in writing from time to time.
- 7.5 **Daily Fee**
The Client shall pay to SHKB a daily fee at such rate or rates as SHKB may from time to time charge for the CGSE Products outstanding in the Client's account with SHKB at the close of business for that day.
- 7.6 **Trading Limit**
Client shall comply with the following limits:
 - 7.6.1 **Quantity Limit:** SHKB may, from time to time, set quantity limit(s) on the Client's overall net position(s), and/or the Client's aggregate long and short positions, in respect of any or more or all of the Products (being, for the purposes of this Clause 7.6 and Clause 8.5 only, CGSE Products, Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and London Silver); and
 - 7.6.2 **Dollar Limit:** SHKB may limit the aggregate contract value(s) of the Client's overall net position(s) in respect of any or more or all of the Products to such amount(s) in US Dollars as may be determined by SHKB from time to time. The said aggregate contract value(s) shall be calculated on the basis that where the contract in question was originally denominated in US Dollars, the US Dollar value of such contract shall be the basis of valuation and where the contract in question was originally denominated in currencies other than US Dollars, the contract value shall be converted into US Dollars at such rate as SHKB shall, in its absolute discretion, determine with reference to the prevailing money market rate of exchange for selling US Dollars on the date of contract.PROVIDED ALWAYS that SHKB may at any time and from time to time without prior notice to the Client vary or limit or restrict or enlarge or extend any or more or all of such limits and neither SHKB nor any member of the Group shall be under any obligation to give notice to the Client in case his positions are nearing or beyond the trading limits or otherwise provide the Client with information with respect to his positions.

8. TRADING IN LOCO LONDON GOLD, LOCO LONDON SILVER, LOCO LONDON PLATINUM, LONDON GOLD AND LONDON SILVER

- 8.1 All contracts in Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and/or London Silver shall be settled on the value date, being two business days after the contract date. Saturdays, Sundays and public holidays in London and/or New York and/or days on which SHKB does not open to the public for trading Bullion in Hong Kong shall not be counted as business days.

- 8.2 Settlement of contracts for Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and/or London Silver may be deferred and in such event SHKB may at its discretion grant to the Client credit facilities, in which event the following provisions will apply:
- 8.2.1 SHKB shall have the sole discretion to decide whether or not to grant the credit facilities and notwithstanding anything to the contrary which may be contained in this Agreement or any other document, any such facilities granted shall be repayable on demand.
- 8.2.2 On a deferred settlement basis SHKB will pay the Client a premium or Client will pay SHKB a charge (as the case may be) on the Client's net outstanding short position (if any) of Bullion in the Client's account with SHKB; and the Client will pay SHKB a charge or SHKB will pay Client a premium (as the case may be) on the Client's net outstanding long position (if any) of Bullion in or with respect to the Client's account with SHKB. The aforesaid charges and premiums will be calculated at a rate of certain per cent per annum to be advised to the Client in writing and such rate or rates will be subject to change at any time and from time to time at SHKB's discretion without prior notice to Client. SHKB shall conclusively determine the amount of any charge or premium to be payable under this Clause 8.2.2 and the party who should pay such amount and such determination shall be binding on Client.
- 8.3 **Initial Margin**
- Without prejudice to SHKB's right of cancelling the credit facilities granted and requiring the Client to settle all unperformed contracts for Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and/or London Silver, it is hereby agreed that prior to any dealings in Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and/or London Silver, the Client shall deposit with SHKB such sum or sums of money in such currency and/or provide SHKB with such security by way of Initial Margin as may be determined by SHKB.
- 8.4 **Variation Margin**
- Without prejudice to SHKB's rights as aforesaid in Clause 8.3, SHKB shall be entitled to call for additional margin deposits and/or security in either of the following events:
- 8.4.1 The current market value of the Client's net outstanding long position with SHKB or with respect to the Account in Loco London Gold, Loco London Silver, Loco London Platinum, London Gold or London Silver is below that of the aggregate contract value of the Bullion in question.
- 8.4.2 The current market value of the Client's net outstanding short position with SHKB or with respect to the Account in Loco London Gold, Loco London Silver, Loco London Platinum, London Gold or London Silver is above that of the aggregate contract value of the Bullion in question.
- Client shall, immediately upon SHKB's call for additional margin deposits and/or security, provide SHKB with such amount of cash in such currency and/or other property as specified by SHKB.
- 8.5 **Trading Limit**
- The provisions of the above Clause 7.6 shall have equal application to trading in Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and London Silver.
- 8.6 **Commission, etc.**
- In respect of transactions relating to Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and London Silver, the Client shall pay to SHKB such applicable commissions and/or other applicable amounts as notified to Client by SHKB in writing from time to time.

9. FURTHER AND BETTER SECURITY FOR MARGIN ACCOUNTS

- 9.1 SHKB shall be entitled to call for additional security if the current market value of any security provided by the Client by way of Initial Margin or Variation Margin shall fall and the Client shall pay SHKB such sums of money and/or provide SHKB with such further security as is equal to the said fall in value, or as SHKB shall, in its absolute discretion, otherwise require.
- 9.2 The Client shall at the request of SHKB and/or any member of the Group execute and do all such deeds, documents, acts and things as SHKB and/or any member of the Group may require in order to perfect the rights of SHKB and/or any member of the Group in respect of any security provided by the Client by way of Initial Margin or Variation Margin and/or the rights of SHKB and/or any member of the Group under or in connection with this Agreement and the Client shall bear the cost thereof.
- 9.3 Upon due performance by the Client of all its obligations under a contract with SHKB and/or any member of the Group, any monies, metal or other collateral held by SHKB and/or any member of the Group in respect of that contract, subject to the rights of SHKB and/or any member of the Group under this Agreement and/or other document(s), shall be repaid, returned or released (as the case may be) to the Client provided that SHKB and/or any member of the Group shall not be obliged to deliver or return: (i) the identical metal (if any) which was originally deposited but shall be obliged only to deliver or return the same amount of the same type of metal as that deposited; or (ii) the identical collateral (if any) which was originally deposited (where SHKB and/or such member of the Group reasonably and in its/their good faith consider(s) it impracticable to deliver or return the same) but shall be obliged only to deliver or return collateral of the same amount, type, class, denomination and/or nominal amount and/or with the same rights (subject to such adjustments as SHKB and/or such member of the Group reasonably and in its/their good faith consider(s) necessary).

10. PROFIT OR LOSS FOR THE ACCOUNT AND DELIVERY

- 10.1 In the event of a profit for the Account resulting from Bullion transactions carried out by SHKB with Client, SHKB shall credit such amount of profit in the Account.
- 10.2 In the event of a loss for the Account resulting from Bullion transactions carried out by SHKB with Client, SHKB shall debit the Account with such amount of loss and shall be entitled to set off such loss against the sums available in the manner as set out in Clause 14 herein.
- 10.3 Client may close out any outstanding position (notwithstanding that the value date of the relevant Bullion transaction has passed) at any time. The net balance representing the profit or loss derived from the aforesaid closing out as referred to in Clauses 10.1 and 10.2 shall be credited or charged to the Account on the value date of the transaction which closes out the relevant Bullion transaction.
- 10.4 Client agrees and acknowledges that notwithstanding anything to the contrary which may be contained in this Agreement or any other document, in respect of the relevant Bullion transactions, Client shall not have the right to require SHKB or any member of the Group, and SHKB or any member of the Group shall not have the obligation, to make or receive physical delivery of the Bullion concerned or to deliver or receive any certificate or document of title in respect of the Bullion concerned or to procure the transfer or receipt of the Bullion concerned or of any certificate or document of title in respect of the Bullion concerned.

11. ADVICE

- 11.1 SHKB may, and, if required by the Laws, shall, send to the address(es) (email address or otherwise) and/or other contact number(s) of Client on SHKB's records an Advice after SHKB has entered into a transaction with Client, or upon the occurrence of certain events or movements in Client's Account, in accordance with the Laws in relation to the Advice:
- 11.1.1 Client agrees that it is its responsibility to ensure that it receives Advice in due time and to make enquiries with and obtain the same from SHKB immediately if not duly received;
- 11.1.2 any purported discrepancy between the contents of any Advice and Client's instruction and/ or offer must be notified to SHKB in writing in accordance with the notice provisions of this Agreement, within two (2) days following the date of issue or re-issue of the Advice to Client; and
- 11.1.3 at the end of the period of two (2) days, the contents of the Advice shall be conclusive evidence of the particulars set out therein without any further proof that the Advice and/or the transaction or event to which it relates are correct (subject to the right of SHKB, which may be exercised by it at any time and from time to time, to adjust any entries in the Account and/or details in the Advice where they have been wrongly or mistakenly made by it), except for:
- 11.1.3.1 any alleged errors notified by Client to SHKB in accordance with this Agreement;
- 11.1.3.2 any payments made on forged or unauthorised endorsement;
- 11.1.3.3 any unauthorised transactions arising from forgery or fraud by any third party (including Client's employee, agent or servant) in relation to which SHKB has failed to exercise reasonable care and skill;
- 11.1.3.4 any unauthorised transactions arising from forgery or fraud by any employee, agent or servant of SHKB; and/or
- 11.1.3.5 any other unauthorised transaction arising from the default or gross negligence on the part of SHKB or any of its employees, agents or servants.
- 11.1.4 SHKB shall not be responsible for failures or delays in the transmission of offers or instructions due to a breakdown or failure of transmission of communication facilities, or to any other cause or causes beyond the reasonable control or anticipation of SHKB.

12. PAYMENT

- 12.1 Any payment due from the Client in respect of a contract shall be made in immediately available funds.
- 12.2 Without prejudice to the rights of SHKB and/or the relevant member(s) of the Group to insist on immediate payment of any overdue sum including any overdue margin deposit which may be called by SHKB or the relevant member of the Group, the Client shall pay SHKB and/or the relevant member(s) of the Group interest thereon at such rate(s) from day to day as SHKB and/or the relevant member(s) of the Group shall, in its/their absolute discretion, determine with reference to the prevailing market rate(s), from the date(s) of default up to the date(s) of actual payment (as well after as before any judgment), such interest to be payable on the last day of each calendar month or such other date(s) as determined by SHKB and/or the relevant member(s) of the Group or upon any demand being made by SHKB and/or the relevant member(s) of the Group. The aforesaid interest rate(s) may be changed by SHKB and/or the relevant member(s) of the Group in its/their absolute discretion, at any time and from time to time and without notice to and without consent from Client or any third party. If any interest rate calculated under this Clause would exceed the maximum lawful rate under the Money Lenders Ordinance (Cap. 163 of Laws of Hong Kong), then the maximum lawful interest rate under that Ordinance shall be applied instead.

13. FOREIGN CURRENCY TRANSACTIONS

For any transaction under this Agreement effected in a foreign currency "(i.e. not in the currency in which the Account is denominated):

- 13.1 any profit or loss arising as a result of a fluctuation in the exchange rate affecting such currency will be entirely for the account and risk of Client;
- 13.2 all initial and subsequent deposits for margin purposes shall be made in such currency in such amounts as SHKB may, at the sole discretion of SHKB, require from time to time; and
- 13.3 when the relevant contract is liquidated SHKB shall debit or credit the Account of Client in the currency in which the Account is denominated, at a rate of exchange determined conclusively by SHKB on the basis of the then prevailing money market rates of exchange between such currencies.
- 13.4 In the event that SHKB exercises any of its rights under this Agreement, including without limitation the combination or consolidation of the Accounts or the set-off or transfer of Client's money and such combination, consolidation, set-off or transfer or exercise of any other right requiring the conversion of one currency into another, the conversion shall be calculated at the spot rate of exchange (as conclusively determined by SHKB) prevailing in such foreign exchange market as determined by SHKB to be relevant on the date of such combination, consolidation, set-off, transfer or exercise of that right.

14. COMMISSIONS, FEES AND CHARGES, LIENS, SET-OFF AND CONSOLIDATION

- 14.1 In respect of every transaction or Account, Client shall pay to SHKB forthwith on demand the applicable interest, levy, charge, premium, brokerage, commission, fee (including, without limitation, dormant/inactive account fee), cost and expense for the Account under this Agreement as advised to Client from time to time. The most up to date information and notice about interest, levy, charge, premium, brokerage, commission, fee, cost and expense in connection with the purchasing, investing in, selling, exchanging or otherwise dealing in any Bullion in the Account can be found on the website of SHKB. Subject to applicable Laws, SHKB may, at any time and from time to time, in its absolute discretion, change any commission, fee and/or charge by notice to Client. Client acknowledges that he/she is expected to check the website of SHKB or request updated information from SHKB from time to time before dealing in any Bullion and Client agrees that any information or notice posted on the website of SHKB from time to time shall be binding on Client and be sufficient advice for all purposes and intents. Subject to the applicable Laws, the new commission, fee and/or charge shall be immediately effective on the date of such notice.
- 14.2 Client shall pay or reimburse SHKB forthwith on demand an amount equal to all commissions, brokerages, levies, fees, duties and taxes and all other charges and expenses incurred by SHKB arising out of or in connection with any transaction effected with Client or otherwise arising out of or in connection with SHKB's performance of the provisions contained in this Agreement.
- 14.3 The Client shall reimburse SHKB and/or the Group for all taxes imposts and levies whatsoever charged in connection with a sale or purchase transaction or in connection with the deposit and holding of metal and hereby undertakes with SHKB (for itself and for the purpose of this indemnity, as trustee for the Group) to indemnify and hold harmless SHKB and the Group from and against all such taxes imposts and levies.

- 14.4 Without prejudice to other provisions of this Clause 14, SHKB and/or the relevant member of the Group may, at any time and from time to time, without prior notice, debit any Account and/or any other account(s) of Client with other member(s) of the Group with any amount (including, without limitation, any interest) payable by Client under or in connection with this Agreement and Client undertakes to, immediately upon demand by SHKB, do such act(s) and/or execute such document(s) as may be required by SHKB at any time and from time to time in order to give full effect to each such debit.
- 14.5 Client shall be responsible to SHKB for all losses and expenses resulting from Client's settlement failure, and shall be subject to such additional charges and interest therefor as SHKB may determine.
- 14.6 Subject to applicable Laws, without limitation to and in addition to other rights and remedies of SHKB and other members of the Group, Client agrees that:
- 14.6.1 SHKB and the Group shall have a general lien over all or any part of all money and/or other properties held by, or in the possession or safe-keeping of SHKB for the discharge of Client's obligations to SHKB, any member of the Group and/or a third person;
- 14.6.2 SHKB may at any time and from time to time without prior notice combine or consolidate all or any of Client's accounts with, and/or apply Client's money and/or other properties in or towards satisfaction of any liabilities to, SHKB and/or other member(s) of the Group;
- 14.6.3 SHKB may at any time and from time to time, without prior notice, set-off or transfer any sum in whatever currency standing to the credit of any of Client's accounts with SHKB or other member of the Group in or towards satisfaction of any of Client's liabilities of whatever nature (including liabilities incurred as principal or surety and whether such liabilities be actual or contingent, primary or collateral, several or joint) to SHKB and/or other member(s) of the Group.
- 14.7 Without prejudice to and in addition to other rights and remedies of SHKB and other members of the Group, SHKB shall be entitled but not be obliged (and is hereby authorised by Client), at its discretion and without notice to Client, at any time and from time to time, to dispose of Client's properties for the purpose of settling any liability owed by Client to SHKB for or in relation to:
- 14.7.1 any Bullion transaction which remains after SHKB has disposed of all other assets designated as collateral for securing settlement of that liability,
- 14.7.2 financial accommodation provided by SHKB to Client which remains after SHKB has disposed of all other assets designated as collateral for securing settlement of that liability; or
- 14.7.3 maintaining the Account(s) which has/have been designated by SHKB as inactive or dormant account(s).
- 14.8 Without prejudice to and in addition to any general lien and other rights and remedies entitled by SHKB and/or other member(s) of the Group, at any time when Client is indebted to SHKB or any member of the Group in any respect, SHKB or any member of the Group shall be entitled but not be obliged (and Client irrevocably and unconditionally authorises SHKB or any member of the Group), at its discretion and without prior notice to Client, at any time and from time to time:
- 14.8.1 to combine or consolidate all or any of Client's accounts with SHKB or any member of the Group regardless of whether notice is required and the nature of the account (i.e. whether deposit, loan or any other nature); and
- 14.8.2 to set-off or transfer any sum standing to the credit of any one or more of such accounts wherever they are situated, in order to satisfy Client's liabilities to SHKB and/or any member of the Group on any other account or other respect whatsoever.
- 14.9 SHKB or any member of the Group is authorised to do the above without notice and notwithstanding any settlement of account or other matter whatsoever. The liabilities referred to above include present or future, actual or contingent, primary or collateral, and several or joint.
- In addition, SHKB shall have the right, at any time and from time to time, to sell Client's investments and/or other properties and utilise the proceeds to offset and discharge all the obligations of Client without any prior notice to Client, whether as principal or as surety, to SHKB and/or any member of the Group and/or any third party regardless of:
- 14.9.1 whether any other person is interested in, or whether SHKB has made advances in connection with, such investments or properties; and
- 14.9.2 the number of accounts Client may carry with SHKB or any member of the Group.
- SHKB is authorised to do all things as necessary in connection with such sale without any liability for any resulting loss. Without prejudice to the foregoing, Client shall not make any claim against SHKB concerning the manner or timing of such sale.
- 14.10 Client agrees to pay interest on all overdue balances owing by Client to SHKB and/or the relevant member(s) of the Group at such rate(s) from day to day as SHKB and/or the relevant member(s) of the Group shall in its/their absolute discretion determine with reference to the prevailing market rate(s) from the date(s) of default up to the date(s) of actual payment (after as well as before any judgment), such interest to be payable on the last day of each calendar month or such other date(s) as determined by SHKB and/or the relevant member(s) of the Group. The aforesaid interest rate(s) may be changed by SHKB and/or the relevant member(s) of the Group in its/their absolute discretion, at any time and from time to time and without notice to and without consent from Client or any third party. If any interest rate calculated under this Clause would exceed the maximum lawful rate under the Money Lenders Ordinance (Cap. 163 of Laws of Hong Kong), then the maximum lawful interest rate under that Ordinance shall be applied instead.
- 14.11 Client shall pay or reimburse to SHKB and/or any member(s) of the Group immediately upon demand all costs, charges and expenses incurred by SHKB and/or such member(s) of the Group in connection with the enforcement or preservation of its/their respective rights under, or any provisions of, this Agreement and/or other document(s) including, without limitation, the fees and expenses of the respective legal advisers of SHKB and/or such member(s) of the Group (on a solicitor and own client basis).
- 14.12 SHKB may:
- 14.12.1 without further disclosure to Client, receive, accept and retain for SHKB's own account(s) and benefit absolutely from any broker or underwriter or issuer or any other third parties (who may or may not act as an agent of Client in any respect), any profit, rebate, reallowance, brokerage, commission, fee, benefit, profit, discount and/or other advantage arising out of or in connection with the provision of services to or handling of transactions for our Client. Client agrees that the consent given hereunder shall constitute a permission or lawful authority for the purpose of Section 9 of the Prevention of Bribery Ordinance (Cap.201 of the Laws of Hong Kong); and
- 14.12.2 without further disclosure to Client, pay to any broker or underwriter or issuer or any other third parties (who may or may not act as an agent of Client in any respect), any profit, rebate, reallowance, brokerage, commission, fee, benefit, profit, discount and/or other advantage arising out of or in connection with the provision of services to or handling of transactions for Client. Client agrees that the consent given hereunder shall constitute a permission or lawful authority for the purpose of Section 9 of the Prevention of Bribery Ordinance (Cap.201 of the Laws of Hong Kong).

15. DEFAULT

- 15.1 SHKB shall be entitled to exercise its powers under Clause 15.2 upon or at any time after the occurrence of any of the following Events of Default:
- 15.1.1 **Non-payment:** Client defaults in paying, further securing or satisfying on demand any monies or liabilities under this Agreement or any agreement between Client and any member of the Group;
 - 15.1.2 **Breach of representation:** any statement, representation, warranty or undertaking made, repeated or deemed to have been repeated by Client in this Agreement or in any notice or other document delivered to SHKB or any member of the Group in connection with this Agreement that is or proves to have been incorrect or misleading when made, repeated or deemed to have been repeated;
 - 15.1.3 **Breach of other obligations:** Client fails to perform or comply with any of its other obligations under this Agreement or any agreement between Client and any member of the Group and, if that failure is capable of remedy, does not remedy such failure to the satisfaction of SHKB immediately following the giving of notice by SHKB (or any member of the Group) requiring it to do so;
 - 15.1.4 **Winding-up, etc.:** where Client is a corporation:
 - 15.1.4.1 a petition is presented or an order is made or any effective resolution is passed or analogous proceedings are taken for the winding up of Client save for the purposes of an amalgamation, merger or reconstruction the terms whereof have previously been approved in writing by SHKB; or
 - 15.1.4.2 Client convenes a meeting for the purpose of making, or proposes and/or enters into, any arrangement or composition for the benefit of its creditors; or
 - 15.1.4.3 an encumbrancer takes possession or a receiver or other similar officer is appointed of the whole or any part of the assets or the undertaking of Client, or any security created by any mortgage or charge executed by or on behalf of Client becomes enforceable and the mortgagee or chargee takes steps to enforce the same, or a distress or execution is levied or enforced upon or sued out against any of the chattels or property of Client and is not discharged within thirty days of being levied; or
 - 15.1.4.4 Client, without the consent in writing of SHKB, stops payment to creditors generally or (if applicable) Client (otherwise than for the purpose of such an amalgamation, merger or reconstruction as is referred to in Clause 15.1.4.1 above) ceases or threatens to cease to carry on its business or any substantial part thereof or be deemed, for the purposes of Section 178 of the Companies Ordinance (Cap. 32 of the Laws of Hong Kong), to be unable to pay its debts or disposes or threatens to dispose of the whole or a substantial part of its undertaking or assets;
 - 15.1.5 **Bankruptcy, etc.:** Bankruptcy proceedings are commenced in respect of Client where Client is an individual, or a bankruptcy order is made against Client or Client makes any composition or arrangement with Client's creditors, dies, becomes of unsound mind and/or insane;
 - 15.1.6 **Material adverse change in Client's financial condition, etc.:** there occurs a material adverse change in Client's business, assets or financial condition which would, in the opinion of SHKB, prevent or hinder or tend to prevent or hinder Client from performing in any material respect its obligations;
 - 15.1.7 **Judgment or court order:** where Client is a partnership or a sole proprietorship, any of its partners or the sole proprietor shall have any judgment or order of Court made or any execution levied against his goods, chattels or property, dies, becomes of unsound mind and/or insane;
 - 15.1.8 **Incompetence, etc.:** where the Client is an individual, a sole proprietor or a partnership, a judicial declaration of incompetence or mental incapacity is made in respect of the Client or any of the partners, or the Client or any of the partners dies;
 - 15.1.9 **Unlawfulness:** where SHKB in its sole opinion believes there may be a basis for suspicion that the Client has engaged or may be engaging in any market malpractice or any other activity which is prohibited by any Laws or Regulatory Rules or applicable terms and conditions of whatsoever nature; or it shall become unlawful for the Client to maintain the Account or to perform any of the Client's obligations under this Agreement; or any authorisation, consent, approval or licence necessary for the Client to continue the Account or to perform any of its obligations under this Agreement is withdrawn, restricted, revoked or otherwise ceases to be in full force and effect;
 - 15.1.10 **Fraud, etc:** Client is convicted of an offence involving fraud, deception or dishonesty or any other serious criminal offence (other than a road traffic offence where a non-custodial sentence is imposed);
 - 15.1.11 **Regulatory requirements:** in the discretion of SHKB, the exercise by SHKB of any powers conferred by Clause 15.2 is necessary for compliance with any Regulatory Rules;
 - 15.1.12 **Suspension of the Account:** the Account or the trading of any Bullion or instruments in the Account is for whatsoever reason suspended;
 - 15.1.13 **Illiquidity:** in the absolute opinion of SHKB, there occurs market conditions (for example, illiquidity) or a situation that may make it difficult or impossible to effect the relevant transactions or liquidate or offset the relevant positions; and
 - 15.1.14 **Others:** in the sole discretion of SHKB, when it regards it to be otherwise necessary or appropriate (e.g. due to margin requirements or otherwise) or there arises or continues circumstances which in SHKB's opinion place or may be liable to place SHKB's position in jeopardy, or if at any time SHKB otherwise consider in SHKB's absolute discretion that the continued existence and/or operation of the Account or of any transactions or contracts would not be consistent with the prudent practice of financial institutions in general.
- 15.2 Upon or at any time following the occurrence of any of the Events of Default, all amounts owing by the Client to SHKB shall become immediately payable on demand and SHKB, without notice to the Client, may, in its discretion:
- 15.2.1 terminate all or any part of this Agreement and close the Account, or otherwise suspend operation of the Account; and/or
 - 15.2.2 immediately require Client to repay or discharge any facility, if any; and/or
 - 15.2.3 cancel any or all outstanding instructions or any other commitments with the Client; and/or
 - 15.2.4 close any or all contracts between SHKB and the Client, and/or cover any short position of Client, and/or liquidate any long position of the Client and SHKB shall, in its absolute discretion, determine the manner of any such closing, covering or liquidation; and/or
 - 15.2.5 sell or otherwise dispose of the properties held for the Client to settle any liability owed by the Client to SHKB which remains after SHKB has disposed of all client collateral for securing the settlement of that liability; and/or

- 15.2.6 combine or consolidate any or all accounts of Client and exercise right of set-off in accordance with this Agreement; and/or
 - 15.2.7 refuse and shall be entitled to refuse to: (i) release any metal security, cash or other property standing to the credit of any of Client's accounts or otherwise held for Client; and/or (ii) pay over any sum to Client.
- 15.3 In the event of any sale pursuant to Clause 15.2:
- 15.3.1 SHKB shall not be responsible for any loss occasioned thereby howsoever arising if SHKB has already used reasonable endeavours to sell or dispose of the property in question ("Property") or any part thereof at the then available market price;
 - 15.3.2 SHKB shall be entitled to appropriate to itself and/or sell or dispose of the Property or any part thereof at the current price to SHKB and/or any member of the Group and SHKB and/or such member of the Group shall not in any way be responsible for loss occasioned thereby howsoever arising and shall not be accountable for any profit made by SHKB and/or such member of the Group; and
 - 15.3.3 any debit balance(s) or margin deficiency in the Account resulting from such sale shall be charged with (and Client shall pay) interest thereon (after as well as before any demand or judgment) at such rate as SHKB shall in its absolute discretion determine with reference to the prevailing market rate, the aforesaid interest rate may be changed by SHKB in its absolute discretion, at any time and from time to time and without notice to and without consent from Client or any third party, the Client undertakes to pay to SHKB any deficiency if the net proceeds of sale shall be insufficient to cover all the outstanding balances owing by Client to SHKB and if any interest rate calculated under this Clause would exceed the maximum lawful rate under the Money Lenders Ordinance (Cap. 163 of Laws of Hong Kong), then the maximum lawful interest rate under that Ordinance shall be applied instead.

16. CLOSING OUT OF UNPERFORMED CONTRACTS, ETC.

- 16.1 Without prejudice to and in addition to any other rights or remedies of SHKB and/or any member of the Group, SHKB and/or any member of the Group shall be entitled (but not be obliged), upon or at any time following the occurrence of any of the Events of Default, without notice to Client and without incurring any liability of whatsoever nature to Client or any third party:
 - 16.1.1 In accordance with Clauses 16.4 to 16.7 hereof, to close out all or any outstanding long and/or short positions of metal in the Account and/or any unperformed contracts with SHKB and/or any member of the Group notwithstanding that the dates fixed for performance of all or any of the contracts so closed out may not have arrived; and/or
 - 16.1.2 In accordance with Clause 16.8 hereof, to sell to any third party (whether or not a member of the Group) or purchase itself, all or part of any metal (whether allocated or unallocated) standing to the credit of any of the Client's accounts with, and/or any Client's security held by, SHKB and/or any member of the Group.
- 16.2 When SHKB and/or any member of the Group exercise(s) its/their rights under Clause 16.1 hereof by entering into Matching Contracts or otherwise, the Client agrees that SHKB and/or such member of the Group shall not be in any way responsible for any loss occasioned thereby howsoever arising and without being accountable for any profit charges or commission made by or paid to SHKB and/or such member of the Group or its/their respective nominees or agents.
- 16.3 The rights and powers conferred to SHKB and/or any member of the Group hereunder are in addition to and without prejudice to any other rights powers and remedies given to SHKB and/or any member of the Group by virtue of any other document or security or rule of law or equity. The Client further agrees that SHKB and/or any member of the Group shall be endowed with a right of lien equivalent to a banker's lien and that SHKB and/or any member of the Group may exercise such lien or right of lien on all of the Client's property or securities which may now or hereafter be in the possession or custody of SHKB and/or any member of the Group, whether for safekeeping or otherwise.
- 16.4 Where SHKB and/or any member of the Group exercise(s) its/their rights under this Clause 16 to close out all or any outstanding long and/or short positions in the Account and/or any unperformed contracts with SHKB and/or such member of the Group, the closing out may be effected by SHKB and/or such member of the Group (in its/their absolute discretion) making a Matching Contract with the Client for an amount of metal sufficient to close out the said outstanding long and/or short positions and/or unperformed contracts (and for this purpose the Client irrevocably appoints SHKB and/or any member of the Group as its agent(s)).
- 16.5 The amounts payable under the closed out contract and the Matching Contract shall be expressed in or (where appropriate) converted to Hong Kong Dollars where the contracts are in respect of CGSE Products and expressed-in or converted to US Dollars where the contracts are in respect of Loco London Gold, Loco London Silver, Loco London Platinum, London Gold and/or London Silver, and the only obligation thereafter of either SHKB (and/or any member of the Group) or the Client in respect of the closed out contract and the Matching Contract shall be the obligation of SHKB (and/or any member of the Group) (subject to the rights of SHKB and/or any member of the Group under or in connection with this Agreement) or the Client, as the case may be, forthwith to pay the difference between the said amounts, expressed in Hong Kong Dollars or US Dollars as aforesaid.
- 16.6 The price at which the Matching Contract is made shall be at such price as SHKB and/or the relevant member of the Group shall in its/their own judgement and at its/their discretion decide and expressed in the same currency as the closed out contract.
- 16.7 SHKB and/or any member of the Group may in its/their entire discretion close out contracts either on a single or a collective basis.
- 16.8 Where SHKB and/or any member of the Group exercise(s) its/their rights under this Clause 16 to sell or to purchase metal (whether allocated or unallocated) standing to the credit of any of Client's accounts or any security held by SHKB and/or any member of the Group as Initial Margin or Variation Margin in connection with any contract, SHKB and/or such member of the Group shall be entitled to sell or purchase the said metal or security at such price as SHKB and/or such member of the Group shall in its/their own judgment and at its/their discretion decide, to convert any currency realised on such a sale or purchase into Dollars (Hong Kong Dollar or US Dollar, as appropriate) at such exchange rate as conclusively determined by SHKB and/or such member of the Group in its/their absolute discretion, and to use the proceeds in accordance with this Agreement.

17. DEBIT BALANCE AND CERTAIN RIGHTS OF SHKB AND MEMBERS OF THE GROUP

- 17.1 Client shall at all times be liable for the immediately payment of any debit balance owing in the Account howsoever caused and whether or not an Event of Default with respect to the Account has occurred and that Client shall be liable for the immediately payment of any deficiency remaining in the Account in the event the liquidation thereof in whole or in part by SHKB or by Client. Any debit balance or deficiency in the Account shall be charged with (and Client shall pay) interest thereon (after as well as before any demand or judgment) at such rate as SHKB shall in its absolute discretion determine with reference to the prevailing market rate. The aforesaid interest rate may be changed by SHKB in its absolute discretion, at any time and from time to time and without notice to and without consent from Client or any third party. If any interest rate calculated under this Clause would exceed the maximum lawful rate under the Money Lenders Ordinance (Cap. 163 of Laws of Hong Kong), then the maximum lawful interest rate under that Ordinance shall be applied instead. Client shall immediately settle upon demand all liabilities outstanding to SHKB together with all costs of collection (including, without limitation, reasonable legal fees) on a full indemnity basis.

- 17.2 Any proceeds of sale or other amount obtained as a result of the exercise of any right by SHKB and/or any member of the Group under Clauses 15.2 or 16 shall be applied in the following order of priority:
- 17.2.1 in satisfaction of all costs, taxes, levies, charges, fees, expenses and payments (including, without limitation, legal or other professional fees, stamp duty, commission and brokerage) incurred by SHKB and/or the relevant member(s) of the Group and Client undertakes with SHKB (for itself and for the purpose of this indemnity, as trustee for such member(s) of the Group) to indemnify and hold harmless SHKB and such member(s) of the Group from and against all such costs, taxes, levies, charges, fees, expenses and payments;
 - 17.2.2 in or towards the satisfaction of the amounts owing to SHKB and/or the relevant member(s) of the Group under or in connection with this Agreement whether principal or interest or otherwise in such order as SHKB may in its discretion decide;
 - 17.2.3 in or towards the satisfaction of any other amount owing to SHKB or any member of the Group;
- and the surplus if any shall be paid to Client or to its order. If there is any deficiency after the exercise of such right, Client shall pay such deficiency to SHKB and/or the relevant member(s) of the Group without the need for any demand.
- 17.3 A declaration, determination or decision by an officer of SHKB and/or of the relevant member(s) of the Group that the power of sale and/or other right(s) has/have become exercisable under Clause 15 and/or Clause 16 shall be conclusive evidence of that fact in favour of any purchaser or other person deriving title under the sale and/or the said right(s).
- 17.4 Without prejudice to and in addition to any other rights and remedies of SHKB and/or any member of the Group, when SHKB and/or any member of the Group exercise(s) its/their rights:
- 17.4.1 by closing or giving-up all or any positions in the Account; or
 - 17.4.2 by closing-out all or any positions in any accounts held by Client with SHKB or such member of the Group,
- and each such closing or giving-up or closing out (in this Clause 17.4 referred to as “**transaction**” and collectively, “**transactions**”) may be made on any exchange or market where the transactions are usually transacted or in such manner as shall be decided by SHKB or such member of the Group.
- Client agrees that in respect of the transactions, SHKB and the relevant member(s) of the Group shall not be liable for any resulting loss. Without prejudice to the foregoing, Client shall not make any claim against SHKB and/or the relevant member(s) of the Group concerning the manner or timing of any transaction. Client understands that in all cases, SHKB and the relevant member(s) of the Group have the right to exercise closing or giving up without demand or notice. A prior demand or call or notice of such closing or giving up shall not be considered as a waiver of the above-mentioned rights of SHKB and the relevant member(s) of the Group.

18. LIABILITY AND INDEMNITY

- 18.1 Client agrees that SHKB or any member of the Group or any of their respective officers, employees or agents shall not have any liability whatsoever (other than those resulting from fraud or wilful default on the part of SHKB or such member of the Group) for any loss, expense or damage which Client may incur as a result of the performance or failure to perform this Agreement or as a result of any act or omission of any third party (whether or not appointed by SHKB or any member of the Group) or howsoever arising out of any cause beyond the control of SHKB or any member of the Group. Further, SHKB or any member of the Group or any of their respective officers, employees or agents shall accept no liability as a result of compliance with any applicable Regulatory Rules. This Clause 18.1, however, shall not be construed as in any way binding any member of the Group to comply with any provision of this Agreement unless otherwise explicitly agreed by such member of the Group.
- 18.2 Client undertakes with SHKB (for itself and for the purpose of this indemnity, as trustee for each Indemnified Person (defined below)) to indemnify and to keep indemnified SHKB, other members of the Group and their respective officers, employees and agents (each an “**Indemnified Person**”) on a full indemnity basis from and against all losses, damages, interest costs, actions, demands, claims, proceedings, expenses, costs and liabilities of whatsoever nature (other than those resulting from fraud or wilful default on the part of SHKB or any member of the Group) incurred, suffered or sustained by or made or brought against or threatened to be made or brought against each Indemnified Person directly or indirectly arising out of or in connection with the performance of any act or exercise of any right or discretion or any inaction taken or chosen by or for SHKB and/or any member of the Group pursuant to this Agreement, or arising directly or indirectly from an Event of Default, or any act or omission by Client whether or not constituting a breach of any of its obligations under this Agreement or directly or indirectly as a consequence of reliance on any representation stated in this Agreement or the Account Application or any information provided by or for Client or directly or indirectly as a result of acting on any instruction, signature, instrument, notice, resolution, request, certificate, report or other document believed to be signed or given by the proper party(ies), whether the same is given verbally or in written form and whether the same is an original, facsimiled or electronic copy.
- 18.3 If any claim is made against SHKB, any member of the Group and/or Client in connection with this Agreement, SHKB may, without prejudice to Clause 18.1 above, take any such steps at its sole discretion, including, without limitation, the withholding of payment or delivery to Client of any money and/or other property.
- 18.4 Client acknowledges that handling of Client's Account(s) by any person or party other than the Client must be properly documented as prescribed by SHKB from time to time (for example, in relation to giving of trading instructions, by completion of the relevant prescribed form applicable to Authorized Person or Authorized Third Party, as the case may be). Discretionary handling of clients' accounts by SHKB's representatives is generally not permitted by SHKB policy (and that if exception is granted it must be properly documented in a further SHKB discretionary account agreement with a power of attorney). Client covenants not to hold SHKB responsible in any way, and shall indemnify SHKB, for all and any loss, damage, interest, cost, action, demand, claim, liability, expense or proceeding of any nature whatsoever relating to or resulting from the Client's instruction, permission, acquiescence or approval to, or arrangement or understanding with, any SHKB representative or any person or party other than the Client (whether explicit or tacit) to conduct discretionary trading on the Account or other handling in respect of the Client's Account(s) or Client's money.

19. DISCLOSURE OF INFORMATION

- 19.1 Client warrants and undertakes to SHKB that all information provided by Client from time to time in, under or pursuant to this Agreement is and will be accurate, complete and up-to-date. Client shall notify SHKB forthwith of any change to such information. SHKB shall be entitled to rely fully on all such information for all purposes until SHKB is notified to the contrary in writing and any such written notification shall be duly signed by Client. Client understands and accepts that notwithstanding anything to the contrary which may be contained in this Agreement, any change to any such information shall not take effect until five (5) days after the actual receipt by SHKB of the relevant written notification or until such shorter period of time as may be agreed by SHKB in writing.
- 19.2 Client shall immediately on demand by SHKB at any time and from time to time supply to SHKB such financial and/or other information in connection with the subject matter of this Agreement, Client and/or the compliance of any Laws or Regulatory Rules as SHKB may reasonably require. Client agrees that SHKB may conduct a credit enquiry or check on Client for the purpose of ascertaining the financial situation of Client.

- 19.3 SHKB may provide any information supplied by or relating to Client and/or any transaction or contract and/or the Account to any Regulator to comply with the lawful requirements or requests for information (whether such requirements and requests are mandatory or otherwise) or otherwise where in SHKB's sole discretion, it deems appropriate in the circumstances. Without limiting the foregoing, relevant information may be disclosed if there is reasonable ground for SHKB to suspect that any Client may have committed a material breach or infringement of, or may not have complied with, any market misconduct provisions in Part XIII or XIV of the Securities and Futures Ordinance.
- 19.4 SHKB is subject to the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong) which regulates the use of personal data concerning individuals. SHKB's policies and practices relating to the use of personal data are set out in the Second Schedule to this Agreement.
- 19.5 Client represents and warrants to SHKB that Client has taken all action necessary to authorise the disclosure to SHKB and other persons permitted hereunder of all information (including, without limitation, personal data as defined in the Personal Data (Privacy) Ordinance, Cap.486) from time to time provided to SHKB by or for Client in, under or pursuant to this Agreement and the use of such information for the purpose of this Agreement and/or any Bullion transaction(s) and/or the Account. This representation and warranty are taken to be also made by Client on each date that any information is provided to SHKB.
- 19.6 Notwithstanding other provisions in relation to the disclosure of information and tax-related arrangement under this Agreement, the Client hereby agrees to comply with the provisions contained in the Fourth Schedule. The powers, rights, discretions of SHKB under the Fourth Schedule shall be without prejudice and in addition to the provisions in this Clause 19.

20. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

- 20.1 Client represents, warrants and undertakes to SHKB (in this Clause 20, referred to as the "**Warranties**") that:
- 20.1.1 where Client is a corporation, it has been duly incorporated or established in accordance with all applicable laws and regulations and has the corporate power to enter into and perform this Agreement and has taken all necessary corporate and other action to authorise this Agreement upon these terms and conditions;
- 20.1.2 no consent or authority of any person (except, in the case of a corporate client, as already obtained as contemplated in Clause 20.1.1) is required for Client to enter into this Agreement including without limitation the power of borrowing and giving security over its assets, or as the case may be, Client has obtained all such necessary consent or authority (including without limitation, consent from its employer where applicable);
- 20.1.3 the entering into by Client of this Agreement or any trading or borrowing activity in connection with this Agreement will not place Client in breach of the terms of any other arrangement or document (including any constitutional documents such as Client's memorandum and articles of association if Client is a corporation and/or deed of trust if Client is a trustee or trust corporation), any staff dealing policies or rules of its employer (if any) or of any obligations under general law or imposed by Regulatory Rules; and Client undertakes to fully comply all relevant Laws, Regulatory Rules, terms, policies and rules;
- 20.1.4 Client has not taken any action nor has any step been taken or legal proceeding been started or threatened for the bankruptcy or liquidation of the Client. Nor has the Client entered into a compromise or scheme of arrangement with its creditors;
- 20.1.5 Client acknowledges that it is Client's duty to ascertain Client's nationality, citizenship, domicile or similar status; Client undertakes not to deal in, purchase, subscribe for or enter into any Bullion transactions or other investments which by virtue of the Client's status or other characteristics Client is prohibited to deal in, purchase subscribe or enter into; Client has taken all necessary professional advice including legal, accounting, estate planning or tax advice relating to its tax or other liability under any relevant jurisdiction and Client has not relied in any way on SHKB or any member of the Group relating to any of Client's decisions in respect of dealing in, purchase of subscription for or entry into of any Bullion transactions or other investments;
- 20.1.6 no other person has any interest in the margins and other property (if any) given as security by or for Client pursuant to this Agreement and Client further undertakes not to sell, grant an option over or otherwise deal in any way with or create or allow to subsist a charge, pledge or other encumbrance over such margins and property other than pursuant to the terms of this Agreement.
- 20.2 Client further warrants and represents to SHKB that each of the Warranties is true, accurate and not misleading.
- 20.3 Client acknowledges that SHKB has entered into this Agreement on the basis of, and in reliance on, the Warranties. The Warranties are deemed to be repeated on each day up to and including the termination of this Agreement.

21. MISCELLANEOUS

- 21.1 **Time**
Time shall, in all respects, be of the essence of the performance of all the obligations of Client under this Agreement and all contracts and transactions contemplated hereunder.
- 21.2 **Enforceability**
If any provision of this Agreement shall be void or unenforceable by reason of any provision of applicable Laws, the remaining provisions shall continue in full force and effect and if necessary, be so amended as shall be necessary to give effect to the spirit of this Agreement so far as possible.
- 21.3 **SHKB's right to report**
Without prejudice to any right or obligation that SHKB may have under the Laws, Client acknowledges that SHKB may report any activity, suspected trading misconduct, other malpractice or irregularity and to disclose relevant information (without prejudice to Clause 19.3) to Regulator(s), authority(ies) and/or the issuer of the financial product concerned. Client shall not challenge any decision to make such report, or attempt to hold SHKB responsible for resulting action against or loss incurred by Client. Client undertakes to provide SHKB with such information as lawfully requested by SHKB within (1) business day of such request. In the foregoing, "business day" means a day on which SHKB is open for business in Hong Kong. Further, SHKB may in its sole discretion suspend the operation of the Account or decline to act in accordance with any instruction or commitment without incurring any liability whatsoever to Client or any other person for any claim, loss, proceeding or expense howsoever related to SHKB's suspension of the Account or its delay or refusal to act in accordance with any instruction or commitment relating to the Account or this Agreement.
- 21.4 **Client's obligation**
21.4.1 Client undertakes to do and/or execute, at its own cost, any act, deed, document and/or thing which SHKB and/or any member of the Group may require in connection with the implementation, execution and/or enforcement of, and/or giving full effect to, this Agreement (or any terms of it). Client hereby irrevocably and by way of security for its obligations under or in connection with this Agreement appoints SHKB and SHKB's officers as its attorney to do and/or execute any act, deed, document and/or

thing which it undertakes to do and/or execute under this Agreement but fails to do and/or execute upon the request of SHKB or any member of the Group. Client hereby ratifies and confirms and agrees to ratify and confirm any instrument, act or thing which any such attorney may execute or do.

- 21.4.2 If Client suspects that a fraud or an irregularity may have occurred with respect to the Account, it shall notify SHKB of the same immediately by calling SHKB's **Anti-Fraud Helpline** at (852) 3920 2980 or such other telephone number as subsequently notified to Client by SHKB in writing from time to time.

21.5 Joint account

- 21.5.1 Where the Account is a joint account, unless otherwise stated in the Account Application, SHKB may accept instructions and offers from any of the joint account holders, and each joint account holder agrees with the others to be jointly and severally liable for all obligations in connection with this Agreement. SHKB has no obligation to inquire into the purpose or propriety of any instruction given or to see to the application of any funds delivered by Client or any or more of the joint account holders in respect of the Account. SHKB shall be at liberty to release or discharge any of the joint account holders from his/her liability hereunder or to accept any proposition from or make other arrangements with any of the joint account holders without releasing or discharging the obligations of the other or others or otherwise prejudicing or affecting the rights and remedies of SHKB against the other or others and none of the joint account holders nor shall this Agreement be released or discharged by the death of any one of them.
- 21.5.2 Any Advice, report, notice or communication given to any joint account holder in accordance with this Agreement shall be deemed to have been duly given to all joint account holders unless: (i) Client's correspondence address has been provided in the Account Application, in which case, any such Advice, report, notice or communication shall be sent to that correspondence address or such other correspondence address as subsequently notified to SHKB in accordance with this Agreement; or (ii) Client has requested and SHKB has accepted that all Advice shall be sent to the email addresses of all joint account holders, being the last notified email addresses on SHKB's records and in such case, all Advice shall be so given. Any Advice, report, notice or communication given by SHKB pursuant to the foregoing shall be deemed to have been received by all joint account holders and shall be binding on all of them.
- 21.5.3 The joint account holders each acknowledge and agree that if any one of them should die,
- 21.5.3.1 the surviving joint account holder(s) should immediately notify SHKB in writing of the death;
- 21.5.3.2 SHKB is to pay or deliver to or to the order of the surviving joint account holder(s) any moneys, investments, property, instruments and/or documents standing to the credit of or held for the Account, without prejudice to any right SHKB may have in respect of the same arising out of any set-off, counterclaim, lien, charge, pledge or otherwise whatsoever or to any step which SHKB may deem it desirable to take in view of any third party claims thereto and/or for protecting the interest of SHKB and/or other member(s) of the Group and SHKB shall be entitled to require the surviving joint account holder(s) to give and/or sign such document(s) as prescribed by SHKB before releasing any money, investment, property, instrument or document to or to the order of such survivor(s); and
- 21.5.3.3 SHKB shall not in any circumstances be liable in any way for any claim, loss, damages, liability, cost, expenses or whatsoever suffered or incurred by any person or entity (including, without limitation, the surviving joint account holder(s)), directly or indirectly, arising from or in connection with any action or inaction taken or chosen by SHKB pursuant to Clause 21.5.3.2 or any breach of this Clause 21.5.3 by any of the joint account holders; and the joint account holders each agree to indemnify SHKB against all claims, losses, damages, liabilities, costs, expenses and whatsoever suffered or incurred by SHKB, directly or indirectly, arising from or in connection with any action or inaction taken or chosen by SHKB pursuant to Clause 21.5.3.2 or any breach of this Clause 21.5.3 by any of the joint account holders.

21.6 Client's authorisation

Where Client has an account with another member of the Group and instructs SHKB to obtain cash and/or other property from such account, Client authorises SHKB, on behalf of Client, to request such member of the Group to release such cash and/or other property to SHKB.

21.7 Telephone recording

All telephone conversations between SHKB and Client made in the course of business may be recorded on a centralised tape recording system operated by SHKB and the contents of any such recording shall be final and conclusive evidence of the conversation concerned and its content.

21.8 Client's representation

Client acknowledges that SHKB has offered to explain to Client the terms of this Agreement, and either Client has received such explanation or that Client fully understands the terms of this Agreement without the need for such explanation. Client acknowledges that Client has been advised, and has had the opportunity, to consult Client's own independent legal and other professional advisers.

21.9 Waiver

Save as expressly provided in this Agreement, no failure to exercise, or delay in exercising, on the part of any party hereto any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. No waiver by SHKB shall be effective unless it is in writing. The rights and remedies of SHKB are cumulative and not exclusive of its rights and remedies provided by the Laws.

21.10 Assignment

- 21.10.1 Client shall not assign, delegate, sub-contract, transfer or otherwise dispose of any right or obligation under this Agreement or any transaction contemplated hereunder to any person without SHKB's previous written consent. Subject to the Laws, SHKB may assign, sub-contract, delegate, transfer or otherwise dispose of any of its rights and obligations under this Agreement and/or any transaction(s) contemplated hereunder as SHKB may see fit.
- 21.10.2 In the event that SHKB consolidates, amalgamates, reorganises or transfers its business to another entity (including within the Group), SHKB may assign any of the rights and obligations under this Agreement and/or any transaction(s) contemplated hereunder to such entity. SHKB shall give Client notice which will specify a date upon which the assignment will become effective. This date will be at least ten (10) days after the date of the notice. Such assignment will have the effect of creating a novated agreement between Client and the entity to which such rights or obligations are assigned. Therefore, in such event, Client hereby consents for any such assignment by SHKB in the future and undertakes to execute such document(s) as reasonably required by SHKB for or in connection with any such assignment.

21.11 Force majeure

In the event of war, terrorism, revolution, insurrection, restraint of rulers, military disturbances, riot, civil commotion, civil disobedience or other similar action involving any country, strike or lockout or stoppage or restraint of labour, seizure or confiscation of assets or other governmental action having a similar effect, any imposition of currency exchange control or restraint of capital movement or transmission by any government, any "Act of God", epidemic, pandemic, vandalism, disruption of the operation of the CGSE or other relevant Bullion market or exchange, breakdown of computer systems and/or communication facilities, or any other similar event outside the control of SHKB which hinders or prevents the performance by SHKB of its obligations under this Agreement (an "**event of force majeure**"), then SHKB may, as an alternative to any performance otherwise required, at its absolute discretion either (a) postpone its performance until the event of force majeure no longer has such effect or (b) where any settlement is required, provide or require cash based upon the prevailing price of the Bullion or instrument relevant to such settlement on the second business day prior to the occurrence of the event of force majeure; such prevailing price being conclusively determined by SHKB. SHKB shall not be responsible or held liable for any loss suffered by Client arising out of or in connection with an event of force majeure. Client agrees to bear solely the risk of such event of force majeure. In the foregoing, "business day" means a day on which SHKB is open to the public for trading Bullion in Hong Kong.

21.12 No Partnership

No contract or series of contracts between SHKB and the Client nor transactions contemplated hereunder shall constitute or be deemed to constitute a partnership or joint venture between them.

21.13 Trading by SHKB

21.13.1 The Client acknowledges that SHKB and/or any member of the Group and/or its/their respective directors and/or employees may trade on its/their own account, on the account of any members of the Group and/or on the account of its/their respective clients subject to any applicable Laws and Regulatory Rules notwithstanding that any such trade may be related to any transaction with Client contemplated under this Agreement.

21.13.2 The Client consents that, without notice from SHKB, when SHKB enters into transactions with the Client on the CGSE or other relevant Bullion market or exchange or otherwise or when SHKB exercises its rights or performs its obligations under this Agreement, SHKB and/or any member of the Group and/or its/their respective directors, officers, employees, agents, and/or any floor broker may buy or sell for an account in which any such person has a direct or indirect interest, subject to any applicable Laws and Regulatory Rules.

21.13.3 Notwithstanding anything to the contrary which may be contained in this Agreement or any other document but to the extent permitted by applicable laws, SHKB and the relevant member(s) of the Group shall be entitled to, without notice to or consent from Client, retain all benefits of whatsoever nature (including, without limitation, brokerages, commissions and rebates) to themselves which may arise in relation to any Bullion transaction with Client and whether in the course of dealing with or through any broker or otherwise and without being liable to disclose the same to Client and in particular (but without limitation) SHKB shall be entitled at its absolute discretion to enter into any transaction (whether or not related to any aforesaid Bullion transaction and whether or not contemplated hereunder) with any other member of the Group, upon such terms as SHKB may in good faith deem appropriate, and without being liable to account for any profit derived by SHKB or such member of the Group.

21.13.4 Client acknowledges that:

- (a) SHKB, other members of the Group and/or their respective directors, representatives, employees and associates and/or the families of the foregoing may, from time to time, have, direct and/or indirect, interests (whether by way of security interest or otherwise) and/or positions (long or short) in respect of, and/or sell, purchase or otherwise deal in, as principal or agent, in the open market or in any other way, any companies, investments, instruments and/or other arrangements to which any Bullion transactions with Client may be related;
- (b) SHKB and other members of the Group are actively engaged in financial-services businesses and may in the course of such businesses have or develop business relationships with third parties (including, without limitation, lending, depositary, risk management, advisory and banking relationships) and SHKB and other members of the Group may also, amongst other things, be members of and/or have an ownership interest in, an exchange or other venue on which Bullion or other instruments (to which any aforesaid Bullion transactions may be related) are traded and/or make markets which may affect or relate to any aforesaid Bullion transaction; and
- (c) as a result of Clause 21.13.4 (a) and (b), SHKB, other members of the Group and/or their respective directors, representatives, employees and/or associates and/or the families of the foregoing may have or acquire non-public information with respect to the Bullion, investments and/or instruments to which any aforesaid Bullion transactions may be related and such information shall not be provided to Client or its principal(s) (if applicable). In addition, the interests of SHKB, other members of the Group and/or their respective directors, representatives, employees and/or associates and/or the families of the foregoing may conflict with the interests of Client or its principal(s) (if applicable) and, subject to applicable laws and regulations, SHKB, other members of the Group and their respective directors, representatives, employees and associates and the families of the foregoing each reserves the right to take such actions as they each consider necessary or appropriate (including, without limitation, any sale, disposal or enforcement in relation to any Bullions, securities, investments and/or instruments) to protect his/her/its interest.

21.14 Notice

21.14.1 Any Advice, report, notice or communication to be made or given to Client shall be in writing and may be sent by ordinary post to its address stated in the Account Application, or by facsimile transmission or electronic means (including through the E-Service, as defined in Third Schedule) to the fax number or e-mail address stated in the Account Application (or to such other address, fax number, or e-mail address as subsequently notified by Client in writing in accordance with this Clause 21.14). Any Advice, report, notice or communication so given shall be deemed to have been received by Client forty-eight (48) hours after dispatch when deposited in the mail if sent by post or at the time of transmission if given by facsimile or electronic means.

21.14.2 SHKB may also give notice to Client by telephone on the telephone number given in the Account Application or on such other number as Client shall notify SHKB in writing. All notifications so given to Client shall be deemed to have been received instantaneously if given by telephone.

21.14.3 In all cases if any notice or communication of whatsoever nature is given or delivered to SHKB, it shall only be deemed to have been given or delivered to SHKB on the day of actual receipt by it.

21.15 Amendment and termination

21.15.1 SHKB may, at its absolute discretion and without giving reasons, suspend or terminate the Account. Upon suspension or termination of the Account, all monies owing from Client to SHKB shall immediately become due and payable and Client shall immediately repay such monies to SHKB.

21.15.2 Client agrees that the terms of this Agreement may be amended by SHKB from time to time, at its discretion, by notice in writing

from SHKB to Client, in which event such terms and conditions as so amended shall apply with effect from the effective date specified in such notice, whether the specified effective date is before or after the date of such notice. Such amendments shall be deemed incorporated into and form part of this Agreement.

- 21.15.3 Client agrees that this Agreement may be amended by SHKB from time to time without prior notice to Client in order to comply with the Laws and/or Regulatory Rules then in force which are applicable to SHKB, this Agreement and/or the transactions contemplated under it. Such amendments shall be deemed incorporated into and form part of this Agreement.
- 21.15.4 Either party may terminate this Agreement at any time by notice to the other provided that such termination shall not affect:
- 21.15.4.1 the rights or liabilities of either party arising prior to such termination;
- 21.15.4.2 the warranties, representations, undertakings and indemnities given by Client under this Agreement, all of which shall survive termination; and
- 21.15.4.3 any of the Client's obligations to SHKB pursuant to this Agreement.
- 21.15.5 Termination of this Agreement shall not affect any action by SHKB, or any of its agents or any third party permitted under this Agreement initiated prior to the date of termination.
- 21.15.6 Subject to applicable laws, any offer or instruction given or purportedly given by Client, its Authorised Person(s) or Authorised Third Party(ies) after:
- 21.15.6.1 the revocation by Client of its Authorised Person(s)' or Authorised Third Party(ies)' authority; or
- 21.15.6.2 the commencement of liquidation or bankruptcy (as the case may be) in respect of Client or the occurrence of any analogous event;
- shall continue to be valid and effective in SHKB's favour until 5 days after the actual receipt by SHKB of a written notice informing SHKB of the occurrence of the relevant event from Client (in case of the said revocation) or in case of the said liquidation or bankruptcy, the liquidator, the trustee in bankruptcy or similar officer.

21.16 Indemnity as continuing and independent obligation

Any indemnity given pursuant to this Agreement shall be a continuing obligation independent of Client's other obligations under this Agreement and shall continue after this Agreement ends. It is not necessary for SHKB to incur expense or make payment before enforcing a right of indemnity under this Agreement.

21.17 Governing law and jurisdiction

This Agreement and all transactions and contracts contemplated hereunder shall be, in all respects, governed by and construed in accordance with the laws of Hong Kong, and for the avoidance of doubt, unless expressly stated in this Agreement or any aforesaid contract or any relevant document, the Uniform Law on the International Sale of Goods shall not apply to this Agreement or any aforesaid contract or transaction. Any dispute arising under or in connection with this Agreement and/or any aforesaid contract or transaction shall be subject to, and Client hereby irrevocably submits to, the non-exclusive jurisdiction of the courts of Hong Kong save that SHKB shall have the right in its absolute discretion to initiate proceedings of whatsoever nature against Client in whatsoever jurisdiction(s) (whether concurrently or not) as it shall deem fit. This Agreement and all transactions and contracts contemplated hereunder shall enure to the benefit of, and bind SHKB, SHKB's successors and assigns, whether by merger, consolidation or otherwise, as well as Client and the heirs, executors, administrators, legatees, successors, personal representatives and permitted assigns of Client.

21.18 Custodian and Nominee

- 21.18.1 Subject to applicable Laws, SHKB shall be entitled (and is hereby authorised), at any time and from time to time, to deposit or transfer any property of Client with or to or interchangeably between any banker(s), institution(s), custodian(s), clearing house(s), intermediary(ies) and/or other person(s) (whether any such banker, institution, custodian, clearing house, intermediary or other person is in Hong Kong or elsewhere) and/or register or re-register any property of Client in the name of SHKB, any member of the Group or any nominee appointed or agreed by SHKB (whether such nominee is a person in Hong Kong or elsewhere) and/or cancel any such registration.
- 21.18.2 If any of Client's property is registered in the name of a nominee for Client ("**Nominee**"), whether or not such Nominee is a member of the Group, Client agrees as follows:
- 21.18.2.1 the Nominee shall have no liability (in negligence or otherwise howsoever) for failure to forward to Client any notice, information or other communication in respect of such property;
- 21.18.2.2 the Nominee shall have full liberty to exercise or refrain from exercising any rights or to satisfy or refrain from satisfying any liabilities arising from or in connection with the holding of such property without the need to consult or notify Client beforehand and without being in any way liable therefor and Client shall indemnify the Nominee for all losses, costs, claims, liabilities and expenses incurred by the Nominee and arising directly or indirectly from any action taken or not taken by the Nominee in good faith;
- 21.18.2.3 to pay such fees, expenses and charges as the Nominee may from time to time prescribe in consideration of the nominee services, such fees, expenses and charges to be deducted as SHKB sees fit from any monies standing to Client's credit in any account with SHKB and/or any member of the Group and until payment the property held by the Nominee is subject to a lien in favour of the Nominee for the amount(s) concerned and such lien shall be in addition and without prejudice to other rights of the Nominee; and
- 21.18.2.4 the Nominee may act on the instructions of any one Authorised Person or Authorised Third Party.

21.19 Undertakings by Intermediary

If Client is an intermediary specified in section 18(3) (excluding section 18(3)(b)) under Part 2, Division 4 of Schedule 2 of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance ("**Specified Intermediary**") and operates and manages the Account for its own client(s) (whether on a discretionary or non-discretionary basis) or otherwise for the transaction(s) with its own client(s), Client agrees to the following terms:

- 21.19.1 Client confirms that it is a Specified Intermediary;
- 21.19.2 In respect of each of its own client(s) for whom or for whose transaction(s) the Account is operated and managed, Client consents to be SHKB's intermediary to carry out for SHKB the customer due diligence ("**CDD**") measure(s) as stated in the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance ("**AMLO**") and applicable regulatory requirements issued by the SFC from time to time and unless otherwise agreed by SHKB in writing, Client shall carry out all the aforesaid CDD measures for SHKB;

- 21.19.3 Client shall on request provide to SHKB a copy of any document, or a record of any data or information, obtained by Client in the course of carrying out the aforesaid CDD measure(s) for SHKB without delay;
- 21.19.4 In relation to each transaction it carries out for the Account, Client shall, if requested by SHKB within a period of 6 years (beginning on the date on which the transaction is completed, regardless of whether any relevant Business Relationship (defined in section 1(1) under Part 1 of Schedule 2 of the AMLO) ends during that period) or such longer period of time as imposed by the SFC and notified by SHKB to Client from time to time, provide to SHKB a copy of any document, or a record of any data or information obtained by Client in the course of carrying out the aforesaid CDD measure(s) for SHKB as soon as reasonably practicable after receiving the request;
- 21.19.5 In relation to each of its own client(s) for whom or for whose transaction(s) the Account is operated and managed by Client, Client shall, if requested by SHKB (i) during the continuance of the Business Relationship with the client or within a period of 6 years beginning on the date on which the relevant Business Relationship ends; or (ii) within such longer period of time as imposed by the SFC and notified by SHKB to Client from time to time, provide to SHKB a copy of any document, or a record of any data or information, obtained by Client in the course of carrying out the aforesaid CDD measure(s) for SHKB as soon as reasonably practicable after receiving the request;
- 21.19.6 In relation to each transaction it carries out for the Account or in relation to each of its own client(s) for whom or for whose transaction(s) the Account is operated and managed by Client, Client shall keep all the documents, records, data and information referred to in the above paragraphs of this Clause 21.19 for so long as the Business Relationship(s) with any relevant client(s) remain(s) subsisting (regardless of whether the Business Relationship(s) with any other relevant client(s) has/have already ended) and for a period of 6 years beginning on the date on which the relevant Business Relationship or the last relevant Business Relationship (if more than one client) ends. If a longer period of time is imposed by the SFC, all such documents, records, data and information shall be kept by Client for such longer period of time as notified by SHKB to Client from time to time and Client must keep all such documents, records, data and information in accordance with the AMLO;
- 21.19.7 If Client is about to cease trading or does not wish to continue to act as SHKB's intermediary to carry out the aforesaid CDD measure(s) for SHKB, Client shall give SHKB 60 days' written notice in advance and shall provide to SHKB all the documents, records, data and information referred to in the above paragraphs of this Clause 21.19 without delay;
- 21.19.8 If SHKB terminates its appointment of Client as its intermediary to carry out the aforesaid CDD measures(s) for SHKB in respect of any client(s) of Client, Client shall immediately provide to SHKB all the documents, records, data and information referred to in the above paragraphs of this Clause 21.19 and in respect of such client(s);
- 21.19.9 If there is any legal or regulatory requirement (other than those stated in the AMLO or issued by the SFC) in respect of the aforesaid CDD measure(s) carried out by Client for SHKB and/or any documents, records, data and/or information referred to in the above paragraphs of this Clause 21.19 and/or the keeping of the same, Client shall also comply with such legal or regulatory requirement;
- 21.19.10 To the extent that any provisions of the AMLO, or of the regulatory requirements issued by the SFC from time to time, in respect of the aforesaid CDD measure(s) carried out by Client for SHKB and/or any documents, records, data and/or information referred to in the above paragraphs of this Clause 21.19 and/or the keeping of any such documents, records, data and/or information are not expressly incorporated in this Agreement, the same shall be incorporated by reference in this Agreement. The provisions of the AMLO, and of the regulatory requirements issued by the SFC from time to time, in respect of the aforesaid CDD measure(s) carried out by Client for SHKB and/or any documents, records, data and/or information referred to in the above paragraphs of this Clause 21.19 and/or the keeping of any such documents, records, data and/or information shall prevail over the provisions of this Clause 21.19. Notwithstanding anything in this Agreement or any other document, Client shall comply with all legal and regulatory requirements (as amended from time to time) in respect of the aforesaid CDD measure(s) carried out for SHKB (including, without limitation, the relevant record-keeping requirements); however, nothing in the foregoing shall, in any way, affect any obligation of SHKB stated in section 18(2) under Part 2, Division 4 of Schedule 2 of the AMLO; and
- 21.19.11 In this Clause 21.19, (i) words not defined shall have the meanings ascribed to them in the AMLO or applicable regulatory requirements issued by the SFC from time to time unless the context requires otherwise; and (ii) regulatory requirements issued by the SFC from time to time include, without limitation, the requirements contained in the Guideline on Anti-Money Laundering and Counter-Terrorist Financing.

21.20 Additional undertakings

Without prejudice to Clause 21.19 above, SHKB may take or omit to take any action which it, in its sole and absolute discretion, considers appropriate to take (a "**Compliance Action**") for the purpose of complying with the Applicable Laws and Compliance Rules, including preventing money laundering, terrorist financing or other crimes or the provision of financial and other services to any persons or entities which may be subject to sanctions (each such person or entity is referred to as a "**Sanctioned Party**"). Such Compliance Action may include without limitation:

- (a) declining the application or refusing to handle or process, or refusing to effect payment in connection with, any transaction contemplated in this Agreement on the ground of, or as a result of, a Compliance Action or if any person or entity relating to any related underlying transaction is a Sanctioned Party;
- (b) (if SHKB becomes aware that any payment made to or at the request of Client contravenes the Compliance Rules) immediately recouping such payment from Client, irrespective of any other contrary agreement with Client;
- (c) the interception and investigation of any payment messages and other information or communications sent to or by the Client or on Client's behalf via the systems of SHKB; and
- (d) making further enquiries as to whether a name which might refer to a Sanctioned Party actually refers to that party.

SHKB will not be liable for any loss (whether direct, indirect or consequential loss, including without limitation loss of profit or interest) or any damage suffered by Client or any party arising out of:

- (i) any delay or failure by SHKB in processing any payment messages or other information or communication or any request from Client, or in performing any of its duties or other obligations in connection with any transaction, caused in whole or in part by any Compliance Action; or
- (ii) the exercise of any of SHKB's rights under or any action taken or omission made by SHKB pursuant to this section.

In this section:

"**Applicable Law**" means the legal requirements of any place or any jurisdiction that SHKB operates in or such legal requirements are otherwise applicable on SHKB; and

"**Compliance Rules**" means all regulations, sanction regimes, international guidance or procedures or rules of relevant regulatory or industry body that may be applicable to SHKB.

FIRST SCHEDULE

CLIENT IDENTIFICATION

1. Interpretation

- 1.1 Terms and expressions defined in this Agreement shall have the same meaning in this First Schedule unless the context otherwise requires. References to clauses in this First Schedule shall refer to clauses contained in this First Schedule, unless the context otherwise requires.
 - 1.2 In the event of any inconsistency between the provisions of this Agreement and this First Schedule, the provisions of this First Schedule shall prevail.
2. Client shall immediately upon SHKB's request and within two (2) days (or such other time period as may be specified by SHKB) provide to SHKB and/or a Regulator information (including, without limitation, details of identity, address, occupation, contact details and/or in the case of a corporate entity, nature and scope of business activities, source of funds, business structure, shareholdings and other information) relating to the ultimate beneficial owner(s) of the Account and/or the person(s) ultimately responsible for the giving of instructions in relation to any transaction or the Account or in relation to any dealings with investments in the Account.
3. Where Client is not trading on Client's own account in any transaction, it shall prior to the giving of any offer to SHKB inform SHKB of the same and provide SHKB with such information regarding the ultimate beneficiary(ies) as SHKB may request within 2 days (or such other time period as may be specified by SHKB) of such request. Client hereby acknowledges and agrees that such information may be supplied by SHKB to the Regulators in compliance with the applicable Regulatory Rules.
4. If Client operates the Account or effects any transaction for a collective investment scheme, discretionary account or trust, Client shall:
 - 4.1 immediately upon SHKB's request and within two (2) days (or such other time period as may be specified by SHKB) provide to SHKB and/or a Regulator the name, address and contact details of such scheme, account or trust and, if applicable, the identity, address, occupation or business structure and contact details of the person who, on behalf of such scheme, account or trust, ultimately originated the instruction to Client to operate the Account and/or effect the transaction; and
 - 4.2 as soon as practicable, inform SHKB when Client's discretion or power to operate the Account and/or to invest on behalf of such scheme, account or trust has been overridden, revoked or terminated. In such case, Client shall, immediately upon SHKB's request and within the time specified by SHKB, provide to SHKB and/or a Regulator the identity, address, occupation and contact details of the person who has given such overriding instruction or notice of revocation or termination.
5. If Client does not know the information referred to in clauses 2, 3 and 4 above, Client must confirm that:
 - 5.1 Client has arrangements in place which would entitle Client to obtain and provide to SHKB and/or a Regulator upon its/their request(s) all such information or to procure that such information be so obtained and provided within two (2) days;
 - 5.2 Client shall, upon SHKB's request, immediately obtain all such information from any relevant third party, and provide that information to SHKB and/or a Regulator within two (2) days or such other time period as may be specified by SHKB and/or the Regulator; and
 - 5.3 SHKB may, pending receipt by it and/or by a Regulator of such information, or if such information is not received within two (2) days or such other time period as may be specified by SHKB and/or the Regulator, decide in its absolute discretion and at any time, not to act in accordance with any instruction of or commitment with Client and/or to suspend or terminate the operation of the Account and Client agrees that SHKB shall not be liable for any damages, loss, cost or expenses suffered or incurred by Client or any other person, directly or indirectly, as a result of any such decision of SHKB.
6. Client confirms that Client is not subject to any Regulatory Rules, or any law of any relevant jurisdiction, which prohibits Client's performance of the obligations under this First Schedule or, if Client is subject to such Regulatory Rules and/or such law, that Client or Client's own clients, as the case may be, has or have waived the benefit of such Regulatory Rules and/or such law or consented in writing to the performance by Client of the obligations under this First Schedule. Client confirms that such waivers are valid and binding under the laws of all relevant jurisdictions.
7. The Client's obligation to provide information under this First Schedule shall continue in full force and effect notwithstanding the termination of this Agreement.

SECOND SCHEDULE

PERSONAL DATA

1. Interpretation

- 1.1 Terms and expressions defined in this Agreement shall have the same meaning in this Second Schedule unless the context otherwise requires. References to clauses in this Second Schedule shall refer to clauses contained in this Second Schedule, unless the context otherwise requires.
- 1.2 In the event of any inconsistency between the provisions of this Agreement and this Second Schedule, the provisions of this Second Schedule shall prevail.

2. From time to time, it shall be necessary for Client to supply SHKB with data (including "personal data" as defined in the Personal Data (Privacy) Ordinance (Cap.486 of the Laws of Hong Kong) as amended from time to time) in connection with the establishment or continuation of accounts or the provision of services by SHKB and generally Client's relationship with SHKB in Hong Kong. This may include but will not be limited to information obtained in relation to Client's identity (name, date of birth, passport/identity card number, address(es), marital status, education level and employment information), as well as information collected for the purposes of ascertaining Client's financial profile, risk appetite, income (including sources of income) and net worth. Failure to supply, or to allow SHKB to use or disclose, such data may result in SHKB being unable to provide, or continue to provide any of the above facilities or services to or for Client in Hong Kong or elsewhere.

3. The purposes for which data may be collected, used and/or disclosed by SHKB (whether before or after the termination of Client's relationship with SHKB) are set out as follows:

- 3.1 the processing of applications for, and daily operation of services provided to Client or to other persons for whom Client acts as guarantor or for whom Client provides third-party security;
- 3.2 customer relationship management (including but not limited to loyalty programs or privileges and rewards schemes);
- 3.3 conducting, seeking or obtaining credit checks, matching procedures, data verification, due diligence and risk management;
- 3.4 assisting other financial institutions to conduct credit checks and collect debts;
- 3.5 ensuring Client's or any surety's ongoing creditworthiness;
- 3.6 maintaining Client's or any surety's credit history for present and future reference;
- 3.7 improving, enhancing, designing or launching existing or new financial services or related products for Client's use (including, where appropriate, providing Client with financial advice);
- 3.8 if Client has consented (including an indication of no objection) to the use of Client's personal data for direct marketing purposes by members of the Group and/or entities outside the Group in the Account Application, or otherwise marketing the following goods, products, services and facilities:
 - 3.8.1 Financial services;
 - 3.8.2 Related investment products;
 - 3.8.3 Financial and investment advice;
 - 3.8.4 Client relationship management services;
 - 3.8.5 Client credit protection and maintenance services; or
 - 3.8.6 Any other related goods, products or servicesthat SHKB or a member of the Group may develop under paragraph 3.7 of this Second Schedule, unless Client instructs SHKB otherwise, and seeking or obtaining the same;
- 3.9 determining the amount of indebtedness owed to or by Client or any surety;
- 3.10 collecting of amounts outstanding from Client or any surety;
- 3.11 meeting any requests or requirements to make disclosure under the Laws;
- 3.12 enabling an actual or proposed assignee of SHKB in connection with merger, amalgamation, reconstruction or otherwise to evaluate the transaction intended to be the subject of the assignment;
- 3.13 any other purpose disclosed in the website(s) of SHKB or a member of the Group from time to time;
- 3.14 commencing, defending or otherwise participating in any legal or administrative proceedings or inquiry before any court or competent authority;
- 3.15 satisfying any requirements under the codes on takeovers and mergers and share repurchases issued by the SFC (as amended from time to time) and/or any other applicable Laws and/or Regulatory Rules in relation to takeovers in Hong Kong and/or any part of the world;
- 3.16 seeking or obtaining administrative, telecommunications, computer, payment, debt collection or securities clearing, custodian, market data provision, audit, banking, financing, insurance, business consulting, outsourcing, or other services to SHKB in connection with the operation of its business; and
- 3.17 any other lawful purpose directly or indirectly relating or incidental to any of the above.

4. Data held by SHKB relating to Client, any surety and/or the Account shall be kept confidential but SHKB may, at its sole discretion, provide such information to the following persons for direct marketing purposes (where consented (including an indication of no objection) by Client) or any other purposes permitted by this Second Schedule:

- 4.1 any agent, contractor or third party service provider (whether in Hong Kong or elsewhere) who provides administrative, telecommunications, computer, payment, debt collection or securities clearing, custodian, market data provision, audit, banking, financing, insurance, risk management, business consulting, outsourcing, customer relationship management, marketing or other services to SHKB in connection with the operation of its business;
- 4.2 any branch or office of SHKB or any member of the Group, whether in Hong Kong or elsewhere;
- 4.3 any person acting or proposing to act as surety;
- 4.4 any person under a duty of confidentiality to SHKB (or any member of the Group) or who has undertaken to keep such information confidential;

- 4.5 any financial institution with which Client has or proposes to have dealings;
 - 4.6 credit reference agencies and, in the event of default, to debt collection agencies;
 - 4.7 the drawee bank providing a copy of a paid cheque (which may contain information about the payee) to the drawer;
 - 4.8 any actual or proposed assignee or transferee of SHKB;
 - 4.9 any person or entity who has established or proposes to establish any business relationship with SHKB or the recipient of the data; and
 - 4.10 any person in accordance with the Laws or Regulatory Rules including through or pursuant to any rules, judgment, decision or ruling of the courts, arbitral tribunals, Financial Dispute Resolution Centre Limited, governmental, regulatory or other bodies or institutions, whether as required by the Laws and Regulatory Rules that are applicable to any member of the Group, or otherwise, or any company issuing a notice under section 329 of the Securities and Futures Ordinance.
5. Client agrees that data may be transferred overseas pursuant to the provisions of this Second Schedule.
 6. Client acknowledges and accepts the risks that the information disclosed pursuant to this Second Schedule may be subject to further disclosure by the recipient to other parties in accordance with the laws of the country in which the recipient is located. Such laws may be wider in scope and implemented under less restrictive terms than would otherwise be the case in Hong Kong due to difference in applicable laws and regulations.
 7. Client agrees to allow SHKB to disclose Client's data for the purposes and to those persons as set out in this Second Schedule and to use such data pursuant to this Second Schedule.
 8. Where Client supplies SHKB with any data (including personal data), Client represents and warrants to SHKB that Client has taken all action necessary to authorise the disclosure of such data to SHKB and the use by SHKB of such data pursuant to this Agreement.
 9. Client may request to ascertain whether SHKB holds Client's personal data and SHKB's policies and practices in relation to personal data. Further, Client may request access to and correction of Client's personal data. Client also has the right to be informed about the kind of personal data held by SHKB and which items of data SHKB routinely discloses to credit reference agencies, and to be provided with further information to enable the making of a data access and correction request to the relevant credit reference agency. Any requests should be made in writing with fourteen (14)-day advance notice to the Data Privacy Officer, Sun Hung Kai Bullion Company Limited, 28/F, Lee Garden One, 33 Hysan Avenue, Causeway Bay, Hong Kong or such other address as SHKB may subsequently notify from time to time. SHKB may charge a reasonable fee for processing any data access request.
 10. Where SHKB grants any credit facilities to Client or to another person for whom Client acts as guarantor, in the event that Client or the borrower defaults in repayment for a period exceeding sixty (60) days or such other period as prescribed by the laws or the relevant Regulators from time to time, data (which has been provided by SHKB to the relevant credit reference agency) may be retained by that credit reference agency until the earlier of the expiry of five (5) years from the date of final settlement of the amount in default and five (5) years from the date of Client's discharge from bankruptcy as notified to that credit reference agency. In the event of termination of the relevant account by full repayment and on condition that there has not been, within five (5) years immediately before account termination, any material default on that account, Client may instruct SHKB to make a request to the relevant credit reference agency to delete from its database any account data relating to the terminated account but such instruction should be given within five (5) years after account termination.
 11. Without limiting the other provisions of this Second Schedule where Client applies for credit (including any loan, overdraft facility or any other kind of credit) to be granted to Client or to another person for whom Client acts as guarantor, the data which Client provides to SHKB may be passed on to a credit reference agency or, in the event of a default, to a debt collection agency in accordance with the provisions of the code of practice on consumer credit data approved and issued under the Personal Data (Privacy) Ordinance as amended from time to time.
 12. For the purposes of this Second Schedule, if applicable, account data may include account general data (i.e. general particulars of the relevant account such as account opening date, repayment terms, whether Client as a borrower or guarantor, approved loan amount, repayment terms) and account repayment data (such as the amount repaid, outstanding balance of the loan, default data including the amount and number of days overdue).
 13. Without prejudice to the right of SHKB to rely on grandfathering provision(s) or exemption(s) under the Personal Data (Privacy) Ordinance as amended from time to time or other applicable law, by consenting (including an indication of no objection) to the use of Client's personal data for direct marketing purposes by members of the Group in the Account Application, or otherwise Client agrees and consents that SHKB may send by telephone, mail, email or other electronic means to Client from time to time direct marketing materials or messages relating to services or products which, in the opinion of SHKB, Client may be interested in. Client agrees that to the extent permitted by Laws and the Regulatory Rules the consent herein shall constitute specific opt-in for the purpose of any applicable privacy rules or regulations. Notwithstanding this, Client may at any time request not to receive such direct marketing materials or messages from SHKB if Client so requests in writing to SHKB at this address: Data Privacy Officer, Sun Hung Kai Bullion Company Limited, 28/F, Lee Garden One, 33 Hysan Avenue, Causeway Bay, Hong Kong or such other address as SHKB may subsequently notify from time to time. Unless and until Client has so requested in writing, Client shall be deemed to be willing to receive any such information.
 14. The contents of this Schedule may be updated by SHKB by giving written notice to Client at any time.

THIRD SCHEDULE

The E-SERVICE

1. Interpretation

- 1.1 In this Third Schedule, unless the context otherwise requires, the following words and expressions have the meanings set out below:
- 1.1.1 **"Access Codes"** means together any Key File (if applicable), Password and the Login ID;
- 1.1.2 **"E-Service"** means the Internet or other facility provided by, and/or on behalf of, SHKB which enables Client to give electronic Instructions in accordance with the terms of this Agreement, whether in Hong Kong or elsewhere, and to receive information and related services;
- 1.1.3 **"Instruction"** means any offer or acceptance in relation to any Bullion or, where applicable, any instruction in relation to the Account and "Instruct" shall be construed accordingly;
- 1.1.4 **"Internet Trading Policy"** means the policy relating to the operation of the E-Service as amended from time to time;
- 1.1.5 **"Key File"** means a computer file, disk or other device which contains a file code which may be used in conjunction with the Login ID and the Password to gain access to the E-Service;
- 1.1.6 **"Login ID"** means personal identification used in conjunction with other Access Codes to gain access to the E-Service; and
- 1.1.7 **"Password"** means Client's personal password, used in conjunction with other Access Codes to gain access to the E-Service.
- 1.2 Terms and expressions defined in this Agreement shall have the same meaning in this Third Schedule unless the context otherwise requires. References to clauses in this Third Schedule shall refer to clauses contained in this Third Schedule, unless the context otherwise requires.
- 1.3 In the event of any inconsistency between the provisions of this Agreement and this Third Schedule, the provisions of this Third Schedule shall prevail.

2. SHKB may at its discretion provide Client with the E-Service on the terms of this Agreement, and the provisions of this Third Schedule apply if SHKB provides Client with the E-Service. Client agrees to use the E-Service in accordance with the terms of this Agreement.

3. Client understands that the E-Service is a semi-automated facility which enables it to send electronic Instructions and receive information services. Client acknowledges that notwithstanding anything to the contrary contained herein or in any other document (written form or otherwise), SHKB shall have the absolute discretion to determine the functions of E-Services available to Client and such functions may be changed by SHKB at any time and from time to time without notice to or consent from Client and without assigning any reason therefor. Client further acknowledges receipt of the Access Codes and agrees to be the sole user of the Access Codes and not to disclose the Access Codes to any other person; and to be solely responsible for the confidentiality, use and protection of the Access Codes and all Instructions entered through the E-Service using the Access Codes. Client agrees that neither SHKB nor SHKB's directors, officers or employees shall have any liability to Client, or to any other person whose claim may or may not arise through Client, for any claims with respect to the handling, mishandling or loss of, or loss of confidentiality of, any Instruction.

4. SHKB may, at any time and from time to time, block Client's access to and/or use of the E-Service (or any part thereof) without prior notice to or any consent from Client and without assigning any reason therefor.

5. Client shall forthwith notify SHKB if:

- 5.1 An Instruction has been placed through the E-Service and Client has not received an accurate acknowledgment receipt of the Instruction (whether by hard copy, electronic or verbal means) within one working day of the Instruction and the aforesaid "working day" means a day when SHKB opens for business in Hong Kong;
- 5.2 Client has received notification (whether by hard copy, electronic or verbal means) of a transaction which Client did not Instruct;
- 5.3 Client becomes aware of any apparent unauthorised use of any of Client's Access Codes;
- 5.4 Client experiences any problems in accessing its Account through the E-Service; or
- 5.5 Client loses, fails or is otherwise unable to adequately protect confidentiality of the Access Codes.

6. Any risk, including (without limitation) the risk of transmission error, transmission failure, delay, unauthorised access and unauthorised use, arising from or related to the access to and/or use of the E-Service by Client and/or any software or equipment for accessing and/or using the E-Service (whether provided by SHKB or otherwise), is at the risk of Client. Client shall provide and maintain, at Client's own risk and cost, the connection equipment (including personal computers, mobile trading devices and modems) and services for accessing and using the E-Service. Client shall be solely responsible for preventing anything which may be harmful to any such equipment (including, without limitation, computer virus, malicious program or harmful component) from entering into any such equipment, whether or not it is originated from SHKB's websites (including, without limitation, the Group's Website and the website comprising E-Service), whether maintained or provided by or on behalf of SHKB, (together, the **"Websites"**) and, if applicable, whether or not originated from anything provided by SHKB. Further, Client acknowledges that the Internet or other electronic medium (including E-Service or any part of the Websites) is an inherently unreliable medium of communication and that such unreliability is beyond SHKB's control. Client further acknowledges that such unreliability may give rise to various consequences e.g. it may result in failure or delay in transmission of any Instruction or information or affect any function of E-Service or the timeliness, sequence, accuracy, adequacy or completeness of any Instruction or information transmitted or cause loss, or loss of confidentiality, of any Instruction or information transmitted or any transaction made on terms different from the relevant Instruction. Client understands that the aforesaid is not an exhaustive list of all consequences resulted from such unreliability. Client agrees that without limiting the generality of Clause 18.1 of this Agreement above, SHKB shall not be responsible for any loss, damage, cost, expenses, claim or liability of whatsoever nature, directly or indirectly, arising out of or in connection with such unreliability or the public nature of the Internet or other electronic medium (including E-Service or any part of the Websites).

7. Client shall use information and materials available through the E-Service for its own needs and shall not resell to any third party or otherwise allow or permit any third party's access to or use of any such information or materials or otherwise deal with it/them in any way.

8. Client acknowledges that the E-Service, the Websites, information available via or on the E-Service and/or any part of the Websites and the software comprised in the E-Service and/or any part of the Websites are proprietary to SHKB and/or its agents, partners or contractors. Client warrants and undertakes that it shall not, and shall not attempt to,

- (i) tamper with, modify, de-compile, reverse-engineer or otherwise alter in any way, or
- (ii) gain unauthorised access to or make unauthorised use of,

any part of the E-Service or any part of the Websites or any information available via or on the E-Service or any part of the Websites or any of the software comprised in the E-Service or any part of the Websites. Client acknowledges that SHKB may take legal action against it, if Client at any time breaches this warranty and undertaking or if SHKB at any time reasonably suspects that Client has breached the same. Client undertakes to notify SHKB immediately if Client becomes aware that any action described in this clause 8 is being perpetrated or attempted by another person.

9. Client acknowledges that in providing the E-Service, SHKB may use such authentication technologies as it deems appropriate. Client acknowledges that no authentication, verification or computer security technology is completely secure or safe and Client agrees to bear all risks of unauthorised access/use, hacking or identity theft.
10. Client understands that SHKB shall be entitled to prepare the Internet Trading Policy (as amended from time to time) setting out the operation policy and procedures of the E-Service which shall be available on the Websites (or such part thereof as designated by SHKB from time to time) and the terms of which shall be binding on Client in respect of its use of the E-Service. The Internet Trading Policy may be amended by SHKB at any time and from time to time and each amended version shall be applicable on the effective date as specified in the relevant notice available on the Websites (or such part thereof as designated by SHKB from time to time). In the event of inconsistencies between the terms of this Agreement and the Internet Trading Policy, the terms of this Agreement shall prevail.
11. Client acknowledges that the price quotation service (if any) available on any part of the Websites may be provided by a third party provider appointed by SHKB from time to time. Client acknowledges and agrees that SHKB shall not be responsible to Client or any other person for any losses, costs, expenses, damages, claims or liabilities of whatsoever nature which Client or such other person may suffer, directly or indirectly, as a result of or in connection with any aspect of such service including, without limitation, Client's or such other person's reliance on such service. Client shall use price quotation (if any) for its individual use only and shall not furnish such data to any other person or entity for any reason.
12. Client understands that any part of the Websites may provide, for informational purpose only, data regarding Bullion and/or other investments published by third parties. Owing to market volatility and possible delay in the data-transmission process, the data may not be real-time market quotes for the relevant Bullion or investment. Client understands that whilst SHKB believes such data to be reliable, there is no independent basis for SHKB to verify or contradict the accuracy or completeness of such data. Client understands that no recommendation or endorsement from SHKB shall be inferred from such data.
13. Client acknowledges and agrees that SHKB does not guarantee the timeliness, sequence, accuracy, adequacy or completeness of any information provided by or via the E-Service or on or via the Websites (or any part thereof) and any such information is provided on an "as is", "as available" basis. SHKB gives no express or implied warranties (including but not limited to warranties of merchantability or fitness for a particular use) with respect to such information. Further, Client acknowledges that SHKB gives no express or implied warranties, representations or undertakings with respect to the prices available from or via E-Service at which Client may make offers in respect of Bullion (including, without limitation, any warranty, representation or undertaking that such prices are real-time market quotes or best available market prices).
14. Client accepts the risks of receiving or gaining access to services and communication and conducting transactions via the E-Service or over the Internet or by other electronic means or facilities.
15. Client shall, forthwith upon SHKB's demand from time to time, pay to SHKB such applicable costs, charges, expenses, fees, taxes, levies, duties, brokerages, commissions and other applicable remuneration and payments in respect of any transaction via the E-Service and/or the provision to Client of the E-Service (or any part thereof) as notified in writing by SHKB to Client from time to time.
16. Client consents that any document (including, without limitation, any Advice), information, notice or communication may be given or presented to or exchanged with Client electronically on, via or over the Internet, the E-Service and/or any part of the Websites. Any document (including, without limitation, any Advice), information, notice or communication so given or presented to or exchanged with Client as aforesaid shall be deemed to have received by it immediately upon despatch. However, all notices and communications given or delivered to SHKB electronically on, via or over the Internet, the E-Service and/or any part of the Websites shall be deemed to have been given or delivered to SHKB on the day of actual receipt by it.
17. Client agrees that should it experience any problems in accessing to and/or using the E-Service, it shall attempt to use the alternative method to communicate with SHKB (whether or not for the purpose of any transaction) and inform SHKB of the difficulty it is experiencing.
18. Client understands that each association/entity asserts a proprietary interest in all of the market data it furnishes to the parties who disseminate such data. Client also understands that no party guarantees the timeliness, sequence, adequacy, accuracy or completeness of market data or any other market information. Client agrees that neither SHKB nor any disseminating party shall be liable in any way for any loss or damage arising from or caused by any inaccuracy, error or delay in or omission from any such data, information or related message, or the transmission or delivery of the same, or non-performance or interruption of any such data, message or information due to any negligent act of SHKB or any disseminating party, or to any force majeure event, or any other cause beyond SHKB's control or the reasonable control of any disseminating party.
19. Client acknowledges and agrees that there are risks of misunderstanding or errors in any communication (including any communication or Instruction via the E-Service) and that such risks shall be absolutely and solely borne by Client.
20. Client acknowledges and agrees that each Instruction once given cannot be revoked and if acted on by SHKB, such Instruction shall be binding on Client. For the avoidance of doubt, any Instruction in relation to any Bullion given via E-Service shall constitute an irrevocable offer which, if accepted by SHKB, shall become a binding contract between SHKB and Client. Notwithstanding anything to the contrary which may be contained in this Agreement or any other document, SHKB may, at any time and from time to time, in its absolute discretion without notice and without giving any reason therefor, decline to accept any Instruction. Client acknowledges that without prejudice to the foregoing in this clause 20, any trade confirmation issued from or via E-Service shall be merely an acknowledgement of the receipt of the relevant Instruction.
21. Client understands that the order management engine used in processing Client's Instructions is, generally speaking, handled on a "First-In-First-Out" order and accordingly, SHKB does not guarantee that any of Client's Instructions will be processed even though it may have been received.
22. If Client gives any Instruction to SHKB outside Hong Kong, Client agrees to ensure and represent that such Instruction will have been given in compliance with any applicable law of the relevant jurisdiction from which such Instruction is given, and Client further agrees that it shall, when in doubt, consult legal advisers and other professionals of the relevant jurisdiction. Client accepts that there may be taxes and/or charges payable to relevant authorities in respect of any Instruction given outside Hong Kong, and Client agrees to pay such taxes and/or charges as applicable.
23. Without limiting the generality of Clause 18.1 of this Agreement above, Client agrees that SHKB shall not be responsible for any loss, damage, cost, expenses, claim or liability of whatsoever nature, directly or indirectly, arising out of or in connection with:
 - 23.1 Client's access to and/or use of the Internet or other electronic medium (including E-Service or any part of the Websites) notwithstanding that such access and/or use is for accessing any website operated by SHKB and/or on SHKB's behalf and/or using any service provided by SHKB and/or on SHKB's behalf;
 - 23.2 any reliance on any information obtained via Client's use of the Internet or other electronic medium (including E-Service or any part of the Websites) notwithstanding that such information is obtained from any website operated by SHKB and/or on SHKB's behalf; and
 - 23.3 any other cause beyond SHKB's control or anticipation including, without limitation, any delay in the transmission, receipt or execution of any Instruction due to a breakdown or failure of transmission of communication facilities.
24. Client agrees that notwithstanding anything to the contrary contained herein or in any other document, should there be any inconsistency between the information (including any document but not any Advice) available from or via the E-Service, the Websites, the Internet or other electronic medium (whether or not the same being available in accordance with this Agreement) and the information on SHKB's records, the information on SHKB's records shall prevail save for any manifest error and that SHKB shall accept no liability as a result of the unreliable nature of the Internet or other electronic medium (including E-Service or any part of the Websites) or other reason beyond the control of SHKB.

25. Client understands and accepts the following risks in using the E-Service:

25.1 Risk in relation to the use of the Internet or other electronic medium

- (a) The Internet or other electronic media (including without limitation, where applicable, electronic devices, services of third party telecom service providers such as mobile phones or other handheld trading devices) is/are an inherently unreliable form(s) of communication, and that such unreliability is beyond SHKB's control.
- (b) Transactions over the Internet or through other electronic media (including without limitation, where applicable, electronic devices, services of third party telecom service providers such as mobile phones or other handheld trading devices) may be subject to interruption (including, without limitation, stoppage of price data feed), transmission blackout, delayed transmission due to data volume, incorrect data transmission due to the public nature of the Internet or other electronic media or loss of information or loss of confidentiality.
- (c) As a result of such unreliability, there may be time-lags or delays in the transmission of data and receipt of Instructions and Client has to solely bear any loss resulting from any such time-lag or delay.

25.2 Risk of Electronic Trading System

Trading on one electronic trading system may differ from trading on other electronic trading systems. If Client undertakes transactions on an electronic system, Client shall be exposed to risks associated with the system including the failure of hardware and software. The result of any system failure may be that in respect of Client's Instructions, there may be transmission error, failure or delay.

25.3 Risk of Trading Facilities

Electronic trading facilities are supported by computer-based component systems. As with all facilities and systems, they are vulnerable to temporary disruption or failure. Client's ability to recover certain losses may be subject to limits on liability imposed by the system provider, the market, the clearing house and/or participant firms. Such limits may vary: Client should ask the firm with which Client deals for details in this respect.

Client understands and acknowledges that the risks above disclosed do not purport to disclose or discuss all of the risks associated with using E-Service and that Client should consult Client's own independent legal and other advisors prior to entering into any transaction via E-Service.

26. Client consents and authorizes SHKB to deliver the Password to Client by email ("**Authorization**") to the email address specified in the Account Application and agrees to bear all risks associated with such email delivery, including but not limited to the risks of transmission error, delay, unauthorized disclosure and unauthorized use. Client agrees that the Password will be deemed to have been received by Client immediately upon despatch. Client acknowledges that once the Password is deemed to be received by Client, Client shall be the sole user of the Password and be solely responsible for the confidentiality, protection and use of the Password as well as all instructions/offers placed by using the Password. SHKB shall not have any liability to Client or any third party for any loss, damages, expense, cost, claim or liability of whatsoever nature, directly or indirectly, arising out of or in connection with any such instruction/offer and/or the handling, inaccurate or incomplete transmission, delay in transmission, loss or loss of confidentiality, or the same. Client agrees at all times on demand to indemnify and keep indemnified SHKB from and against all liabilities, costs and expenses of any nature whatsoever reasonably incurred by it arising from or in any way related to its reliance and/or acting on this Authorization (including any email address provided by Client). Client acknowledges that this Authorization will become effective on the date of SHKB's approval of sending the Password in accordance with the terms hereof, which approval may or may not be given by SHKB in its absolute discretion.

27. Client acknowledges and agrees that the fees set forth in the Websites (or any part thereof) appropriately reflect the allocation of risks set forth in this Agreement. Accordingly, based on the foregoing, Client acknowledges as reasonable the exclusions of warranties and limitations on liability set forth in this Agreement. As such, Client acknowledges and agrees that if any of the exclusions or limitation of warranties or liabilities set forth in this Agreement should be deemed to be invalid, ineffective or unenforceable, or in the event SHKB is found liable for any claim arising out of or in connection with this Agreement or this Sixth Schedule, then, the entire collective liability of SHKB and/or any member of the Group shall in no circumstance exceed two (2) times the amount of fees paid by Client to SHKB in the month immediately preceding the act or omission or circumstance giving rise to a claim.

FOURTH SCHEDULE

FOREIGN LAW REQUIREMENTS

1. Interpretation

1.1 Definitions

In this Fourth Schedule, unless the context otherwise requires, the following words and expressions have the meanings set out below:

"Close-Out Amount" means, unless otherwise specifically provided for in the transaction documentation applicable to a particular transaction or group of transactions, with respect to each terminated transaction, the amount of the losses or costs of SHKB that are or would be incurred under then prevailing circumstances (expressed as a positive number) or gains of SHKB that are or would be realized under then prevailing circumstances (expressed as a negative number) in replacing, or in providing for SHKB the economic equivalent of the material terms of that terminated transaction. Any Close-out Amount will be determined by SHKB (or its agent), which will act in good faith and use commercially reasonable procedures in order to produce a commercially reasonable result. Unpaid Amounts in respect of a terminated transaction and legal fees and out-of-pocket expenses are to be excluded in all determinations of Close-out Amounts. In determining a Close-out Amount, SHKB may consider any relevant information, including, without limitation, quotations (either firm or indicative) for replacement transactions supplied by one or more third parties and market data in the relevant market. When it is commercially reasonable to do so, SHKB may in addition consider in calculating a Close-out Amount any loss or cost (or gain) incurred in connection with its terminating, liquidating or re-establishing any hedge related to a terminated transaction. Commercially reasonable procedures used in determining a Close-out Amount may include the application of pricing or other valuation models that are, at the time of the determination of the Close-out Amount, used by SHKB in the regular course of its business in pricing or valuing transactions.

"FATCA" means

- (a) sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (as amended) or any amended or successor version thereof;
- (b) any intergovernmental agreement, memorandum of understanding, undertaking and other arrangement between governments and regulators in connection with item (a) including as entered into by the government of Hong Kong;
- (c) agreements between SHKB and the IRS or other regulator or government agency pursuant to or in connection with item (a); and
- (d) any laws, rules, regulations, interpretations or practices adopted in the U.S., Hong Kong or elsewhere pursuant to any of the foregoing.

"Foreign Law Requirement" means any obligation imposed on SHKB pursuant to any future or present:

- (a) foreign laws (including foreign laws in respect of which SHKB considers itself bound);
- (b) Hong Kong laws that implement Hong Kong's obligations under an agreement with a foreign government (including the government of the PRC) or regulator;
- (c) agreements entered into between SHKB and a foreign government (including the government of the PRC) or regulator;
- (d) agreements entered into between SHKB and any counterparty or between SHKB and any issuer of securities or other investment products under or pursuant to or in connection with which SHKB is required to comply with any foreign laws or any guidelines or guidance mentioned in item (e) below; or
- (e) guidelines or guidance issued by any legal, regulatory, government, tax or law enforcement body within or outside of Hong Kong in respect of items (a) to (c).

For the avoidance of doubt, this definition includes any obligation or requirement applying to SHKB as amended or introduced from time to time, including pursuant to FATCA.

"Government Authority" means any government, government body, government agency or regulator, in or outside of Hong Kong, including the Inland Revenue Department of Hong Kong and the IRS.

"Hong Kong" means the Hong Kong Special Administrative Region of the PRC.

"IRS" means the U.S. Internal Revenue Services.

"PRC" means the People's Republic of China (excluding Hong Kong, Macau and Taiwan).

"Relevant Information" means any information, document or certification given by or relating to Client, any Ultimate Owner, any authorized representatives of the Client, any Account with SHKB or any transaction and shall include where the context permits identity information and personal data including Client's name, address, tax payer identification number, Account numbers, Account balances or value and any payments made in respect to the Accounts.

"Ultimate Owner" means any ultimate beneficial owner of any Account with SHKB, the person ultimately responsible for giving of instructions of any transaction, any person who act on Client's behalf in receiving payment or any other person identified by SHKB in its sole and absolute discretion as being connected with Client.

"Unpaid Amounts" mean any unpaid amounts and the value of unsettled transactions together with interest thereon as determined by SHKB in good faith and a commercially reasonable manner.

"U.S." means the United States of America.

1.2 Terms and expressions defined in this Agreement shall have the same meaning in this Fourth Schedule unless the context otherwise requires. References to clauses in this Fourth Schedule shall refer to clauses contained in this Fourth Schedule, unless the context otherwise requires.

1.3 In the event of any inconsistency between the provisions of this Agreement and this Fourth Schedule, the provisions of this Fourth Schedule shall prevail; provided, however, that this Fourth Schedule in no way seeks to limit any of SHKB's rights under this Agreement and should be interpreted accordingly.

2. UNDERTAKING TO PROVIDE INFORMATION

2.1 Client agrees that SHKB may disclose Relevant Information to any person or Government Authority, whether or not established under Hong Kong law, as required under any Foreign Law Requirement (including but not limited to FATCA) as determined by SHKB.

- 2.2 Client undertakes to provide SHKB with information, documents and certifications as reasonably required by SHKB in order to meet SHKB's obligations under any Foreign Law Requirement (including but not limited to FATCA). Client acknowledges and agrees that this may include information, documents or certifications in connection with Client, its authorized representatives, or the Ultimate Owner.
- 2.3 Client will, promptly and from time to time, supply SHKB with identity information and personal data in connection with the establishment or continuation of any Account with SHKB or provision of services. Client further acknowledges that failure to supply Relevant Information may result in SHKB being unable to effect a transaction, provide the services under this Agreement or operate or maintain any Account with SHKB; or may result in SHKB terminating the Account. It may also result in SHKB having to withhold or deduct amounts as required under any Foreign Law Requirement (including but not limited to FATCA).
- 2.4 Client shall notify SHKB forthwith of any change to the Relevant Information. SHKB shall be entitled to rely fully on all such Relevant Information for all purposes until SHKB is notified to the contrary in writing and any such written notification shall be duly signed by Client. Client understands and accepts that notwithstanding anything to the contrary which may be contained in this Agreement including this Fourth Schedule, any change to any such information shall not take effect until five (5) days after the actual receipt by SHKB of the relevant written notification or until such shorter period of time as may be agreed by SHKB in writing.
- 2.5 For the avoidance of doubt, to the extent that applicable non-disclosure, confidentiality, bank secrecy, data privacy or other law imposes non-disclosure requirements on transaction and similar information required or permitted to be disclosed as contemplated herein but permits a party to waive such requirements by consent, the consent and acknowledgements provided herein shall be a consent by Client for purposes of such law.

3. INDEMNITY

Without limiting any other indemnity provided by Client, Client will indemnify SHKB and its directors, employees and representatives against any liability, reasonable loss or expense (including tax or levy) arising from Client's instructions, Account or the provision of a service to Client, including as a result of any failure by Client to comply with this Agreement, including this Fourth Schedule, Client or other agent of Client providing misleading or false information in respect of Client or any other person or matter in connection with this Agreement, unless SHKB is guilty of wilful misconduct.

4. CONSENT TO DEDUCT, WITHHOLD AND BLOCK

- 4.1 Client acknowledges and agrees that notwithstanding any other provisions of this Agreement:
 - (a) any payments by SHKB under this Agreement will be subject to taxes, levies, imposts, duties or other charges, withholding and/or deduction of a similar nature, at present or in the future, as required under any Foreign Law Requirement (including but not limited to FATCA), including but not limited to value added taxes, stamp duties, fines, penalties or interest payable in connection with any failure to pay or any delay in paying any of the above;
 - (b) any amount withheld under paragraph (a) above may be held in whatever Account or in whatever manner determined by SHKB; and
 - (c) SHKB is not liable for any gross up, loss or damage suffered as a result of the exercising of our rights under this Clause 4.1.
- 4.2 Client further acknowledges and agrees that
 - (a) SHKB has the right to refuse to carry out any instruction or perform any service under this Agreement if such instruction or service, in SHKB's opinion, is in contradiction with or constitutes a breach of any Foreign Law Requirement (including but not limited to FATCA) and/or SHKB's policies in relation thereof;
 - (b) any transaction, payment or instruction under this Agreement may be delayed, blocked, transferred or terminated as required for SHKB to meet its obligations including those under any Foreign Law Requirement (including but not limited to FATCA) as determined by SHKB; and
 - (c) Client waives any rights to claim for any loss, damage, cost or expenses suffered as a result SHKB exercising its rights under the Fourth Schedule.

5. TERMINATION

- 5.1 SHKB may take such action that it deems in its sole discretion as appropriate, in respect of the Account, including without limitation suspending or closing the Account if Client fails to comply with any requirement of this Fourth Schedule in respect of any Foreign Law Requirement (including but not limited to FATCA), including failing to provide information, documents and supporting materials as required by SHKB or closure is otherwise necessary or convenient for compliance with any Foreign Law Requirement (including but not limited to FATCA).
- 5.2 If SHKB terminates the services under this Agreement and close the Account(s) of Client, then SHKB shall have the right, by termination notice to Client, to designate a day not earlier than the day such termination notice is effective as a close-out date (the "**Close-Out Date**") and close out some or all of the outstanding transaction(s) in relation to the terminated Account(s) of Client at SHKB's sole and absolute discretion. For the avoidance of doubt, when exercising its right to close out the transactions pursuant to this Clause 5, SHKB is not liable for any losses or damages arising therefrom.
- 5.3 SHKB shall calculate in good faith, with respect to such terminated transaction(s) as of the Close-Out Date or as soon thereafter as reasonably practicable, the early termination amount (the "**Early Termination Amount**") as follows:
 - (a) for each such terminated transaction or each group of such terminated transactions, calculate a Close-Out Amount;
 - (b) calculate the Early Termination Amount being an amount equal to (1) the sum of (A) the aggregate sum of the Close-Out Amount (whether positive or negative) for each terminated transaction, (B) the Unpaid Amounts owing to SHKB and (C) any legal cost and out-of-pocket expenses incurred by SHKB in good faith less (2) the Unpaid Amounts owing to Client; and
 - (c) if the Early Termination Amount is a positive number, Client will pay it to SHKB; if the Early Termination Amount is a negative number, SHKB will pay the absolute value of the Early Termination Amount to Client.

RISK DISCLOSURE STATEMENTS

This risk disclosure statement does not purport to disclose or discuss all of the risks, or other significant aspects, of conducting transactions or of the transactions conducted. In light of the risks involved, you (i.e. Client) should undertake a transaction only if you understand its nature, the contractual relationship into which you are entering, and the nature and extent of your exposure to risk. You should also consider whether a transaction is appropriate for you in light of your experience, objectives, financial resources and other relevant circumstances. While Sun Hung Kai Bullion Company Limited ("SHKB") proposes to give this general risk warning, it is not acting as your financial advisor and you must not regard SHKB as so acting. You should consult your own independent legal, tax or financial advisors prior to entering into any transaction.

RISK IN RELATION TO THE USE OF THE INTERNET OR OTHER ELECTRONIC MEDIUM

If you are provided with the E-Service, you understand and accept the following risks in using the E-Service:

- (a) The internet or other electronic media (including without limitation electronic devices, services of third party telecom service providers such as mobile phones or other handheld trading devices) are an inherently unreliable form of communication, and that such unreliability is beyond SHKB's control.
- (b) Transactions over the internet or through other electronic media (including without limitation electronic devices, services of third party telecom service providers such as mobile phones or other handheld trading devices) may be subject to interruption, transmission blackout, delayed transmission due to data volume, incorrect data transmission (including without limitation incorrect price quotation) or stoppage of price data feed due to the public nature of the Internet or other electronic media.
- (c) As a result of such unreliability, there may be time-lags or delays in the transmission of data and receipt of instructions and the execution of instructions at prices different from those prevailing at the time the instructions were given.

RISK OF MARGIN TRADING

The risk of loss in financing a transaction by deposit of collateral is significant. You may sustain losses in excess of your cash and any other assets deposited as collateral with SHKB. Market conditions may make it impossible to execute contingent orders, such as "stop-loss" or "stop-limit" orders. You may be called upon at short notice to make additional margin deposits or interest payments. If the required margin deposits or interest payments are not made within the prescribed time, your collateral may be liquidated without your consent. Moreover, you will remain liable for any resulting deficit in your account and interest charged on your account. You should therefore carefully consider whether such a financing arrangement is suitable in light of your own financial position and investment objectives.

RISK IN RELATION TO AUTHORISED THIRD PARTY

There are substantial risks in allowing an Authorised Third Party to trade or operate your account, and it is possible that instructions could be given by persons not properly authorised. You accept all of the risks of such an operation and irrevocably releases SHKB from all liabilities arising out of or in connection with such instructions, whether taken by SHKB or otherwise.

RISK OF PROVIDING AN AUTHORITY TO HOLD MAIL OR TO DIRECT MAIL TO THIRD PARTIES

If you provide SHKB with an authority to hold mail or to direct mail to third parties, it is important for you to promptly collect in person all contract notes and statements of your account and review them in detail to ensure that any anomalies or mistakes can be detected in a timely fashion.

RISKS OF CLIENT ASSETS RECEIVED OR HELD OUTSIDE HONG KONG

Client assets received or held by SHKB or SHKB's nominee outside Hong Kong are subject to the applicable laws and regulations of the relevant overseas jurisdiction which may be different from the Securities and Futures Ordinance (Cap.571) and the rules made thereunder. Consequently, such client assets may not enjoy the same protection as that conferred on client assets received or held in Hong Kong.

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