

## Terms and Conditions of the Cardholder Agreement ICBC UnionPay Debit Card

**(From Industrial and Commercial Bank of China (New Zealand) Limited)**

**IMPORTANT:**

THIS AGREEMENT CONTAINS THE TERMS AND CONDITIONS APPLICABLE TO YOUR DEBIT CARD(S), YOUR DEBIT CARD ACCOUNT(S) AND DEBIT CARD TRANSACTIONS. PLEASE READ THIS AGREEMENT THOROUGHLY BEFORE USING OR SIGNING A DEBIT CARD OR USING ANY OF THE SERVICES. BY USING OR SIGNING OR RETAINING A DEBIT CARD OR USING ANY OF OUR SERVICES, YOU WILL BE DEEMED TO HAVE ACCEPTED ALL THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT AND WILL BE BOUND BY THEM. YOUR USE OF THE DEBIT CARD WILL BE GOVERNED BY THIS AGREEMENT. IF YOU DO NOT WISH TO BE BOUND BY THIS AGREEMENT, CUT YOUR CARD IN HALF AND RETURN THE PIECES TO US. USING YOUR DEBIT CARD IS DEEMED TO BE ACCEPTANCE OF THIS AGREEMENT. YOU SHOULD NOT USE THE DEBIT CARD BEFORE OR AFTER THE PERIOD OF VALIDITY PRINTED ON THE FACE OF THE DEBIT CARD.

### 1. Definitions

In this Agreement, the following words shall have the following meanings, unless the context otherwise requires:

- (a) "Account Holder" means the principal account holder in whose name the Card Account is opened and maintained and includes the Account Holder's successor, personal representative and Person lawfully acting on behalf of the Account Holder (as the context requires);
- (b) "AML/CFT and KYC Requirements" means the Financial Transactions Reporting Act 1996, the Terrorism Suppression Act 2002, the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and any other anti-money laundering, counter-terrorism financing, economic or trade sanctions laws or regulations including without limitation, any laws or regulations imposing "know your customer" or other identification checks or procedures, that apply in any jurisdiction;
- (c) "ATM" means an automated teller machine;
- (d) "Bank" means Industrial and Commercial Bank of China (New Zealand) Limited ("ICBC (New Zealand)"), its successors and assignees and authorized agents. "Our" or "Us" have corresponding meanings;
- (e) "Card" means a debit card linked to a Card Account which is used to debit funds from a nominated Card Account at a point of sale to pay for goods and services, or to access ATM machines or other electronic banking services issued by the Bank pursuant to this Agreement. It includes a renewal and replacement of that Card;
- (f) "Card Account" means either the New Zealand Dollar Card Account or the Renminbi Card Account as the context may require;
- (g) "Card Transaction" means any purchase of goods and/or services and includes any transfer, balance enquiry, online deposits of cash or cash withdrawals effected by the use of a Card at an ATM or EFTPOS terminal (as the case may be);
- (h) "Charge" means any amount debited to a Card Account as shown on the Statement and as further contemplated at Clause 10;
- (i) "EFTPOS" means Electronic Funds Transfer at Point of Sale whereby funds are debited from your nominated Card Account at the point of sale to pay for goods or services or where funds are withdrawn at the Account Holder's request through the combined use of the Card and PIN;
- (j) "Hotline" means the Bank's 24-hour, 7 days a week, debit card customer service / lost card telephone number 0800 99 55 88 (from within New Zealand) and +64 9 379 5588 (from overseas);
- (k) "ICBC Group" means Industrial and Commercial Bank of China Limited and its subsidiaries;
- (l) "Mainland China" means the People's Republic of China but excluding Hong Kong and Macau;
- (m) "Merchant" means any retailer or corporation which pursuant to a merchant agreement agrees to accept or process or cause its outlets to accept process the Card for payment;
- (n) "New Zealand Dollars" means the lawful currency for the time being of New Zealand;

- (o) "New Zealand Dollar Card Account" means a transactional account in New Zealand Dollars opened and maintained by the Bank for the purposes of recording debits and credits in respect of usage of the Card under this Agreement;
- (p) "Person" means any individual, firm, company or other legal or natural person whatsoever;
- (q) "PIN" means the personal identification number for the time being selected by the Account Holder to identify himself/herself when using a Card or accessing a Card Account via ATMs, EFTPOS facilities, the internet and any other electronic banking services;
- (r) "Renminbi" means the lawful currency for the time being of the People's Republic of China;
- (s) "Renminbi Card Account" means a transactional account in Renminbi opened with the Bank for the purposes of recording debits and credits in respect of usage of the Card under this Agreement;
- (t) "Statement" means a monthly statement of account sent by the Bank to the Account Holder, which sets out the transactions in respect of each relevant account including the Account Holder's Card Transactions;
- (u) "Transaction" means any Card Transaction and such other debit card facilities or services as the Bank may from time to time provide or arrange; and
- (v) "you" or "your" means the Account Holder.

Headings are for convenience only and do not affect interpretation. Words denoting the singular shall include the plural, and words denoting one gender shall include all genders.

## 2. Application of this Agreement

- 2.1 All facilities made available by the Bank to an Account Holder in respect of a Card or a Card Account are subject to the terms and conditions of this Agreement (as may be amended from time to time) and any other applicable terms and conditions. An Account Holder becomes subject to such terms and conditions (if not already so subject) by signing, activating or using a Card or permitting its use.
- 2.2 This Agreement shall be binding on each successor, personal representative and Person lawfully acting on behalf of an Account Holder.

## 3. The Account(s)

- 3.1 Before an Account Holder will have access to the Card Account the Account Holder must:
  - (a) satisfy the Bank's AML/CFT and KYC Requirements; and
  - (b) be issued with its own Card and unique PIN.
- 3.2 The Account Holder must nominate the relevant Card Account. Nominated Card Accounts are subject to the Bank's approval and the Bank does not need to give any reasons for refusing to accept the nominated Card Account.
- 3.3 The Account Holder can change the nominated Card Accounts at a later date by visiting any of the Bank's branches or by giving the Bank written notice of such intention. Termination of a Card does not terminate the Card Account.
- 3.4 When a Card and unique PIN associated with that Card is used, the Account Holder authorises the Bank to automatically debit or credit (as the case may be) the nominated Card Account with the amount of any Transactions without further verification or authentication. If the Account Holder pays using EFTPOS, the Account Holder authorises the Bank to debit the nominated Card Account with the amount of the Transaction and credit that amount to the relevant Merchant.
- 3.5 Transactions made using a Card cannot be stopped or reversed. Any disputes relating to goods or services purchased using an EFTPOS Transaction must be resolved with the relevant Merchant.

## 4. The Cards

- 4.1 The Account Holder must sign the Card immediately upon receipt and before using the Card. The Card must not be used if not signed by the Account Holder.
- 4.2 The Card is at all times property of the Bank, is not transferable, may not be copied or reproduced and must be surrendered immediately upon the Bank's request or if the relevant Card Account is closed, withdrawn or cancelled for any reason or if the Card has expired.

## 5. Daily Limits

- 5.1 Each Card Account will be subject to a daily withdrawal / purchase Transaction limit determined by the Bank, at its sole discretion, and recorded in the Fees and Charges Brochure or as otherwise notified to the Account Holder by any other means. When added to the relevant

daily withdrawal / purchase Transaction limit, the total Charges incurred under each Card Account by the Account Holder added together collectively, where applicable, must not exceed such daily withdrawal / purchase Transaction limit. Such daily withdrawal / purchase Transaction limit may be varied by the Bank in accordance with Clause 18.1(c).

- 5.2 Further limits may also be placed by other banks and service providers on the amount of individual Transactions able to be completed using ATM or EFTPOS. Overseas Transactions may also be subject to other limits and additional fees over which the Bank has no control.
- 5.3 The Bank will not permit Card Transactions to be effected in excess of:
- (a) the available funds relating to the applicable Card Account; and
  - (b) the daily withdrawal / purchase Transaction limit relating to the applicable Card Account.
- 5.4 The Bank may also refuse to authorise any Card Transaction that the Account Holder wishes to effect even though such Card Transaction would not cause the available funds or daily withdrawal / purchase Transaction limit relating to the applicable Card Account to be exceeded, where it has reasonable grounds to do so.

## 6 ATM and Branch Deposits

- 6.1 The Bank does not accept physical deposits of money. All deposits to a Card Account must be made by using online or mobile banking. All online and mobile banking deposits are subject to verification and correction by Us. The Account Holder cannot make use of any deposited funds until such deposits have been credited to the relevant Card Account(s) as cleared. If any discrepancy arises, please contact the Bank.

## 7 Use of the Card(s)

- 7.1 The Account Holder acknowledges and agrees that the use of the Card is at his/her own risk and agrees to assume all risk incidental to or arising out of the use of the Card.
- 7.2 The Account Holder must observe and perform all security measures prescribed by the Bank relating to the Card, PIN, access to the Card Accounts or the services provided. The Account Holder acknowledges and agrees that failure to comply with this requirement may expose the Account Holder to the consequences of theft and/or unauthorised use of the Card for which the Bank will not be liable. The Account Holder hereby undertakes to indemnify the Bank and to hold the Bank free from all claims and liabilities arising from non-compliance with these terms.
- 7.3 The Account Holder shall comply with all requirements, directions, instructions and guidelines for use of the Card issued by the Bank from time to time in respect of all services to the Account Holder.
- 7.4 The Card may be used in respect of the relevant Card Account at any branch of the Bank and other financial institutions, ATMs, and Merchants in New Zealand which accept such Card for effecting Transactions in relation to the relevant Card Account. Certain fees and charges may apply with respect to the use of the card. Refer to the Fees and Charges Brochure (uploaded to Our website) for more information.
- 7.5 The Card may be used in respect of the Renminbi Card Account at ATMs and Merchants using a Renminbi clearing system/China Unionpay (within Mainland China only) which accept such Card for effecting Transactions. A Mainland China ATM balance enquiry and/or withdrawal fee will apply as recorded in the Fees and Charges Brochure. All Mainland China ATM and EFTPOS Transactions made with the Card will be effected through the Renminbi Card Account provided there are sufficient funds in that account failing which the Transaction will be effected through the New Zealand Dollar Card Account.
- 7.6 The Card may not be used for overseas transactions outside of Mainland China. If however overseas transactions are effected, the transaction will be subject to conversion at such exchange rates and fees and will be charged to such relevant Card Account, in each case, as the Bank may in its discretion determine. The Bank is not responsible for any loss or inconvenience the Account Holder may suffer if, because of occurrences beyond the Bank's control, the Account Holder cannot use the Card outside of Mainland China.
- 7.7 The Card may also be used to access the Card Account, and the Account Holder agrees that such service shall be subject to any relevant terms and conditions of the Bank from time to time in effect in relation to the Card Account in addition to the terms and conditions under this Agreement. The Account Holder is advised to read through such terms and conditions of the Bank before proceeding to use such service.
- 7.8 The Account Holder shall, when effecting an ATM or EFTPOS Transaction, use the Card:
- (a) so that the available funds for each Card Account and any daily withdrawal / purchase Transaction limit notified by the Bank to the Account Holder is not exceeded; and
  - (b) within the validity date and the expiry date embossed on a Card,

any failure to do so will cause all purchase Transactions (other than Transactions processed via online or mobile banking and provided there are sufficient cleared funds in the relevant Card Account) to be rejected.

7.9 The Card Account and the balance must be regularly and carefully checked and monitored by the Account Holder and checked each time prior to issuing any instructions to the Bank. The Account Holder must immediately inform the Bank of any irregularity.

7.10 The Account Holder's right to use the Card shall be suspended:

- (a) if such Card is lost or stolen; or
- (b) if the Bank is informed by the Account Holder that the PIN is or may be known to any other Person; or
- (c) if the Bank believes, in its sole discretion, that there are reasonable grounds for suspension of such Card; or
- (d) if the Card has expired or where the Card or Card Account is cancelled; or
- (e) if the Account Holder ceases to be a customer of the Bank.

7.11 The Account Holder may request that a renewal and/or replacement Card be issued following:

- (a) expiry or where the Card is damaged or faulty upon returning any such expired, damaged or faulty Card; or
- (b) upon loss or theft of the Card.

If any renewal and/or replacement Card is issued, the Bank shall be entitled to charge the relevant fee and require the Account Holder to execute all necessary documents to give effect to such request for renewal and/or replacement. The use of a replacement Card is subject to the terms and conditions which are in force at the date of renewal and/or replacement.

7.12 In consideration of the Bank issuing a renewal and/or replacement Card, the Account Holder agrees to hold the Bank free from liability and shall indemnify the Bank from and against all claims, demands, losses, damage, cost, charges, and expenses which the Bank may incur and be liable for in the event the original card is used or dealt with in any way now or at any future time or in consequence of the Bank issuing such renewal and/or replacement Card for which the Bank may debit the relevant Card Account and/or set off such sum from any account standing to the credit of a Card Account.

7.13

- (a) The Bank may at any time in its sole discretion and without giving any reasons, terminate the right of the Account Holder to use his/her Card to access a Card Account on reasonable notice.
- (b) The Bank shall notify the Account Holder in writing of such termination referred to in Clause 7.13(a), and the Account Holder shall then return such Card, duly cut in two or otherwise defaced, to the Bank. Until such Card is returned to the Bank, and a replacement Card is issued in accordance with Clause 7.13(c) below, the Account Holder's right to use his/her Card shall be suspended.
- (c) If the Account Holder has returned such Card in accordance with Clause 7.13(b) above, the Bank shall (at its discretion) issue a replacement Card to the Account Holder.

7.14 The Account Holder shall not permit his/her Card to be used by any other Person in any circumstances whatsoever.

7.15 The Account Holder undertakes to act in good faith at all times in relation to all dealings with the Bank.

7.16 The Account Holder shall not use a Card or the Card Account for any illegal purposes. The Bank is entitled, in its sole and absolute discretion, to refuse to act on or give effect to any Card Transaction instruction if the Bank has reason to believe that such instruction is given in connection with any illegal transaction. The Bank reserves the right to reverse or cancel any Card Transaction which it suspects or has reason to believe is for the purpose of, or otherwise related to, any illegal transaction. The Account Holder agrees that the Bank does not owe him/her any duty and/or obligation whatsoever to monitor and block the use of the Card for any unlawful activities.

7.17 If the Account Holder uses the Card to purchase goods and/or services through mobile or online internet sites or portals, the Account Holder shall be solely responsible for the security of such use at all times. The Account Holder agrees that the entry of the Card information on the internet shall be sufficient proof of the authenticity of such instructions. The Bank shall not be under any obligation to verify the identity or the authority of the person entering the Card information and the Bank shall not be liable for acting on such use of the Card regardless of whether the Person is authorised or otherwise and regardless of the circumstances prevailing at the time of the Transaction. However, the Bank reserves the discretion to not carry out any such Transactions over the internet if the Bank has any reason to doubt its authenticity or if in the Bank's opinion it is unlawful or otherwise improper to do so or for any other reason.

## 8 Account Holder Information

- 8.1 The Account Holder will promptly notify the Bank in writing of any change of name or change of employment, business, residential address, work place address, email address, telephone number, or other personal particulars and contact details and of any change in personal or financial circumstances which might be material to the Bank in permitting the use or the continued use of a Card.
- 8.2 The Account Holder agrees to the Bank recording the telephone conversations or any verbal communication between the Account Holder and the Bank.
- 8.3 The Bank shall be entitled to disclose to any Merchant to whom the Card may be presented, China UnionPay or any member institution of China UnionPay, the account number and any other information which may be necessary to facilitate the use of the Card or the processing of any Transaction effected or to be effected through the use of the Card.

## 9 PIN

- 9.1 A Card will not be activated until a PIN is allocated to that Card. The PIN is set by the Account Holder himself/herself, it shall remain effective until it is cancelled by, or with the agreement of, the Bank. The Account Holder may change the PIN at any time by such means as the Bank may prescribe and the new PIN shall take effect immediately.
- 9.2 The Account Holder shall not select a PIN that is unsuitable such as:
- (a) birth dates, months or years;
  - (b) sequential numbers (e.g. 1234);
  - (c) number combinations that may be easily guessed (e.g. 1111);
  - (d) parts of the Account Holders telephone number;
  - (e) parts of numbers in the order in which they are printed on the Card; and
  - (f) other easily accessible personal data (e.g. driver licence or other numbers easily connected to the Account Holder).
- 9.3 The Account Holder shall not disclose the PIN of the Card to any other Person (including the police, Bank staff, or family members) and shall act in good faith and exercise reasonable care and diligence in keeping such PIN secret. In particular, the Account Holder shall:
- (a) memorise the PIN and not record the PIN in writing or keep any record (electronic or otherwise) of the PIN; and
  - (b) take care to ensure no one can see him or her entering the PIN at ATM or EFTPOS Transactions or at other points of sale or at computer terminals.
- 9.4 If the Account Holder becomes aware that the PIN is or may be known to any other Person, the Account Holder will not be protected from any unauthorised Card Transactions until the Bank is notified and the Account Holder shall accordingly as soon as reasonably practicable inform the Bank or call the Hotline. The Account Holder must change the PIN as soon as possible (if applicable) and not use his/her Card until such time. The Account Holder may be asked for a further form of identification (such as a copy of his/her driver licence or passport and a utility bill issued within the last three months' evidencing the Account Holder's proof of address).

## 10 Charges

- 10.1 The Account Holder agrees to pay to the Bank and authorises the Bank to debit the Card Account for all Charges, which includes, but is not limited to, the following Charges:
- (a) the amount of the Card Transactions; and
  - (b) any amount due in respect of the use of any other facility or service that the Bank may from time to time provide or arrange.
- 10.2 The Card Account may be debited as provided in Clause 10.1 above even though the Charges were incurred (without limitation) by (i) telephone, fax, mail order or automatic payment or direct debit authorisation, or (ii) use of a Card over the internet, through an ATM, EFTPOS terminal, debit card pay phone or any other facility permitting use of a Card without the execution of a sales draft or the signature of the Account Holder.
- 10.3 Charges incurred in or converted into New Zealand Dollars will be posted into the New Zealand Dollar Card Account and Charges incurred in Renminbi (and not otherwise converted into any other currency) will be posted into the Renminbi Card Account.

10.4 Charges in any currency other than New Zealand Dollars and Renminbi will be converted into New Zealand Dollars at the prevailing exchange rate determined by the Bank (in consultation with, if applicable, China UnionPay) on the day of conversion and debited to the New Zealand Dollar Card Account in New Zealand Dollars.

## 11 Fees and Expenses

11.1 Without limitation to the generality of clause 10 above, the Account Holder agrees that he/she is liable for all fees, charges (including any government charges) and expenses as advised by the Bank from time to time or as otherwise disclosed in the Fees and Charges Brochure and accordingly agrees that the Bank may debit the following fees, charges and expenses to a Card Account without any further notice to the Account Holder:

- (a) an initial and/or annual fee for the use of the applicable Card Account and each Card (which may vary depending on the type of Card issued in respect of a Card Account) which shall become due for payment on the anniversary date of establishment of the Card Account;
- (b) a handling charge for the supply of reissued or replacement Cards;
- (c) a handling charge for each ATM cash withdrawal or EFTPOS Transaction within New Zealand that is not processed through the UnionPay network;
- (d) an ATM balance enquiry fee if you use your Card to check your Card Account balance at an ATM outside of New Zealand;
- (e) an ATM cash withdrawal fee if you use your Card to withdraw cash at an ATM outside of New Zealand;
- (f) an international transaction fee if you use your Card to make purchases outside of New Zealand;
- (g) any charges by other banks or service providers in respect of a Transaction over which the Bank has no control;
- (h) any other fees, charges and expenses, at such rates and in such amounts as the Bank may from time to time determine. Whenever possible, the Bank will inform you of any non-standard charges before payment is due.

## 12 Payment of Charges

12.1 Subject to Clause 12.2, payments to the New Zealand Dollar Card Account shall be settled in New Zealand Dollars, payments to the Renminbi Card Account shall be settled in Renminbi and payments to any other multi-currency accounts may be settled in New Zealand Dollars.

12.2 Card Account payments:

- (a) Charges in:
  - (i) the New Zealand Dollar Card Account (which shall include for the avoidance of doubt any Card Transactions in any other jurisdiction which have been converted from another currency into New Zealand Dollars) shall be settled in New Zealand Dollars at any branches of the Bank in New Zealand or by other means as advised by the Bank from time to time;
  - (ii) the Renminbi Card Account shall be settled in Renminbi;
  - (iii) any other multi-currency account shall be settled in New Zealand Dollars.
- (b) The Bank will not accept other foreign currency payments to the relevant Card Account.
- (c) If the amount of New Zealand Dollars available in the Card Account after the conversion of such foreign currency does not cover the total New Zealand Dollar Charges outstanding, the Account Holder shall remain liable for any difference caused by such exchange conversion.

12.3 All payments by the Account Holder:

- (a) shall be deemed not to have been made until such time as the relevant funds have been received in cleared and available funds by the Bank.
- (b) shall be payable without any deduction or withholding on account of any other amount whatsoever whether by way of set-off, counterclaim or otherwise, and notwithstanding any legal limitation, disability or incapacity of that Account Holder.
- (c) Payments to the applicable Card Account may be applied in the following order or in such other way as the Bank thinks fit:
  - (i) fees and charges that are not provided for in Clause 10.1(a) to (b) above, including, legal and collection fees, handing charges, late payment charges, over limit charges and any other service fees and charges that are not provided for in Clause 10.1(a) to (b) above;

- (ii) outstanding billed principal amount of such charges provided for in Clause 10.1(a) to (b) above; and
- (iii) outstanding unbilled principal amount of such charges as provided for in Clause 10.1(a) to (b) above.

12.4 All payments into or credits made to either the New Zealand Dollar Card Account or the Renminbi Card Account will be applied by the Bank in accordance with Clause 12.3, and if the payment is in excess of the outstanding balance of the Charges in respect of the applicable Card Account, such excess will be applied to fund future Card Transactions or Charges as and when they are debited to such Card Account. Any such credit balance in the New Zealand Dollar Card Account and the Renminbi Card Account shall not, in any case, bear interest.

12.5 If the Account Holder is required by any applicable laws or regulations to make any deduction or withholding from any sum payable by the Account Holder to the Bank hereunder, then the liability in respect of that deduction or withholding shall be the liability of the Account Holder such that after the making of such deduction or withholding the net payment shall be equal to the amount which the Bank would have received had no such deduction or withholding been made. It shall be the sole responsibility of the Account Holder to effect payment of such deduction or withholding to the relevant authority within the applicable time limit and the Account Holder shall indemnify the Bank against all claims, demands, actions, proceedings, damages, losses, costs and expenses including all legal fees and disbursements brought against or incurred by the Bank for all consequences of the Account Holder's failure to do so.

### 13 Records

13.1 Subject to Clauses 13.3 below, the Bank's record of the amount of any Charge, incurred using a PIN, over the internet, by means of an ATM, EFTPOS terminal, other computer terminal, any telecommunication devices or by any other means shall, whether or not authorised by the Account Holder, in the absence of manifest error, be final and binding on the Account Holder.

13.2 The Account Holder may at any time ask the Bank to issue any information about any Card Account or Card Transaction including copies of previous Statements, details of Transactions, details of current fees and charges or copies of the current terms and conditions of use. A fee may be charged for some of these services.

13.3 The Account Holder must examine each Statement and must immediately notify the Bank in writing of any unauthorised or incorrect Charges or Transactions arising from whatever cause, including forgery, fraud, lack of authority or negligence of the Account Holder or any other Person.

13.4 Any Card Account Statement or notice or any amendment to this Agreement that is sent by the Bank to the Account Holder shall be considered to have been sent and received by the Account Holder at the same time.

### 14 Rights of the Bank

14.1 Nothing in this Agreement shall affect the Bank's right of set-off, transfer and application of monies at law or pursuant to any other agreement from time to time subsisting between the Bank and any Person.

14.2 The Bank is entitled (but not legally obliged):

- (a) to give effect to any instruction given by any Person to effect payment of sums due under this Agreement from another account with the Bank;
- (b) to set-off or transfer, at any time and without prior notice, any monies of whatever description standing in the books of the Bank to the credit of the Account Holder, whether held singly or jointly with others and whether in New Zealand Dollars or any other currency in or towards discharge of the total amount debited to the relevant Card Account; and
- (c) to set-off or transfer, at any time and without prior notice, any monies of whatever description standing in the books of the Bank to the credit of the Account Holder, whether held singly or jointly with others and whether in New Zealand Dollars or any other currency in or towards discharge of the total amount of Charges in the relevant Card Account attributable to his/her own use of the Card.

For the purpose of set-off of funds in any currency other than New Zealand Dollars, the Bank may convert the currency into New Zealand Dollars at the prevailing exchange rate determined by the Bank at the time of conversion. If the Bank exercises its rights under this Clause 14.2, it shall promptly notify the Account Holder.

14.3 The Bank is entitled to check the Account Holder's credit standing at any time as and when it deems fit and appropriate without notice to the Account Holder.

14.4 The Bank shall be entitled to appoint agent(s) for various services as the Bank thinks fit and appropriate which shall include but is not limited to Card processing or collection of all sums due and the Bank shall be entitled in its absolute discretion to disclose to such agent(s), without giving any notice to the Account Holder or providing any reason, all information pertaining to the Card to facilitate the services rendered by such agent(s) on behalf of the Bank.

## 15 Exclusion of Liability

15.1 The Bank shall not be under any liability whatsoever to the Account Holder in respect of any loss or damage arising directly or indirectly from:

- (a) any defect in any goods or services paid for by the use of a Card or any claim or complaint by the Account Holder against the supplier of such goods or services, or any other dispute between the Account Holder and any such supplier. For the avoidance of doubt, the Account Holder shall remain fully liable for any Charges incurred in respect of the relevant goods or services. By signing a voucher or Transaction report or entering the PIN or other identifying number or password at an electronic banking facility or internet, the Account Holder indicates his/her acceptance that the Transaction amount is correct;
- (b) the refusal of any Person, ATM, EFTPOS terminal, other computer terminal, internet website or any telecommunication devices to honour or accept a Card whether or not instructed by the Bank;
- (c) save as provided in Clause 15.2(a) below, the incurring of a Charge other than by the Account Holder;
- (d) subject to Clauses 15.2 and 15.6 below, access to the use of a Card and/or services by the Account Holder or any other Person whether or not authorised;
- (e) the Bank's inability to execute or delay in executing any of the Account Holder's instructions due to prevailing market conditions, suspected fraud or forgery or other causes beyond the control, and not attributable to any default or negligence, of the Bank;
- (f) the exercise by the Bank of its right to demand and procure surrender of a Card prior to the expiry date embossed on its face, whether such demand and surrender are made and/or procured by the Bank or by any other Person or computer terminal on the Bank's behalf;
- (g) the exercise by the Bank of its right (i) to modify, suspend or withdraw any of the facilities, services or benefits from time to time available in respect of a Card pursuant to Clause 18.1(a) and (b) below, (ii) to amend any daily withdrawal / purchase Transaction limit applicable to a Card or a Card Account pursuant to Clause 18.1(c) below, or (iii) to terminate a Card or a Card Account pursuant to Clause 19 below;
- (h) any act of fraud, forgery or gross negligence of the Account Holder or any other Person (not being an employee, agent or servant of the Bank), including (without limitation) the Account Holder's failure to observe Clauses 9 and 15.4 or follow any other recommendation of the Bank from time to time regarding the safety and secrecy of a Card and the PIN;
- (i) any act or omission of any third party (other than agents of the Bank) through which facilities of the Account Holder may be made available provided that the Bank shall have exercised reasonable care and skill in connection with its dealings with such third party;
- (j) the inaccuracy in any information or data provided by the Account Holder, or any damage to or loss or inability to retrieve any data or information, that may be stored in a Card or any microchip or circuit or device in a Card; or
- (k) any dispute between the Account Holder and the Bank.

15.2 Provided the Account Holder has not acted fraudulently or negligently, the Account Holder shall not be liable for loss incurred:

- (a) where a Card Transaction instruction effected by the Bank was given by use of a Card before the Account Holder received a Card, or given through the use of a lost, stolen or counterfeit Card or where an unauthorised Person has used a Card or gained knowledge of the PIN relating to that Card after the Bank has received proper notice of the loss or theft of the Card or that the Card is in possession of, or the PIN relating to the Card is or may be known by, any other Person from the Account Holder through the Hotline in accordance with Clauses 9.4 or 15.4 (as the case may be) or any other means acceptable to the Bank; or
- (b) directly as a result of a fault in the Card, any ATM and other facilities or systems used which was not obvious or was not advised by a message or notice on display or otherwise drawn to the Account Holder's attention; or
- (c) fraudulent or negligent acts or omissions of the Bank's employees, agents or parties involved in the provision of electronic banking services.

15.3 In the event of any proceedings which the Account Holder may bring against the Bank for any cause whatsoever, the Account Holder agrees that the Bank's liability shall not exceed those amounts wrongly charged to the Card Account (and interest on such amounts).

15.4 The Account Holder shall report to the Bank (through the Hotline) as soon as reasonably practicable upon discovery of the loss or theft of any Card or the loss, theft or disclosure to a third party of any PIN.

15.5 The Account Holder shall provide to the Bank all material information as to the circumstances of the loss or theft of a Card or disclosure of the PIN and take all reasonable steps to assist the Bank to recover any losses so incurred.



15.6 The liability of the Account Holder to the Bank for unauthorised Charges prior to giving notice under Clauses 9.4 or 15.4 (as the case may be) above shall be limited in accordance with Clause 15.7 save where the Account Holder has:

- (a) acted fraudulently or negligently;
- (b) contributed to the unauthorised Charges, for example (but not limited to) breach of these terms and conditions by:
  - (i) selecting an unsuitable PIN;
  - (ii) failing to reasonably safeguard the Card;
  - (iii) keeping a written record of the PIN;
  - (iv) parting with the Card and/or disclosing the PIN to any other Person;
  - (v) failing to take reasonable steps to prevent disclosure when entering the PIN; or
  - (vi) unreasonably delaying or failing to report to the Bank in accordance with Clauses 9.4 or 15.4 (as the case may be) above,

whereupon the Account Holder shall be liable for such unauthorised Charges.

15.7 The maximum liability of the Account Holder for unauthorised Charges or unauthorised usage of a Card will be the lesser of:

- (a) the actual loss at the time of notification; or
- (b) the maximum amount that the Account Holder would have been entitled to withdraw from the relevant Card Account between the time the Card was lost or stolen and the time that the Account Holder notified the Bank.

15.8 The Account Holder shall be liable for all losses and transactions:

- (a) arising from the unauthorised use of the Card or PIN as a result of fraud or negligence by the Account Holder;
- (b) where the Account Holder has:
  - (i) unreasonably delayed in notifying the Bank through the Hotline in accordance with Clauses 9.4 or 15.4 (as the case may be) or any other means acceptable to the Bank; or
  - (ii) failed to observe and perform all security measures prescribed by the Bank relating to the Card, PIN, access to the Card Accounts or the services provided.

15.9 Any Indemnity given to the Bank under these Terms and Conditions will survive termination of the Card Accounts.

## 16 Disclosure of Personal Data

16.1 To enable the Bank to consider whether to provide the Account Holder with any account, product or service (collectively, "service" or "services") the Account Holder is required to supply to the Bank from time to time the Account Holder's personal details and information including for purposes of satisfying the AML/CFT and KYC Requirements ("Personal Data") and failure to do so may result in the Bank's inability to provide such service. The Personal Data will be used for considering the Account Holder's request and subject to the Bank agreeing to provide such service, the Personal Data (which shall thereafter include, without limitation, all details and information pertaining to any of the Account Holder's accounts held with the Bank and any of the Account Holder's Transactions and dealings with or through the Bank – collectively, "Personal Data") will be used in connection with the purposes set out below.

16.2 The Account Holder agrees that the Bank may use, store, disclose, transfer, compile, match, obtain and/or exchange (all whether within or outside New Zealand) such Personal Data to, from or with any Person as the Bank may consider necessary including without limitation:

- (a) any member of the ICBC Group which (i) provides group management oversight of the Bank and/or global and regional support, or (ii) carries on business within the financial services industry, or (iii) is a provider of services to other members of the ICBC Group;
- (b) any banks or Merchants in debit or charge card enquiries;
- (c) any information gathering or processing organisation conducting survey(s) or analysis or developing system applications on the ICBC Group's behalf;
- (d) China UnionPay;
- (e) any Person or organisation involved in the sending or delivering of any communication to your last known address on our records;

- (f) any credit bureaus or Credit Reference Agencies established by any other authorities;
- (g) any debt collection agencies that may be appointed by the Bank for any and all purposes including without limitation in connection with such service and/or in connection with matching for whatever purpose (whether or not with a view to taking any adverse action against the Account Holder) any Personal Data held by that debt collection agency with the Personal Data concerning the Account Holder in the Bank's possession; and/or
- (h) to such Persons, including any service provider or third party:
  - (i) for the purpose of promoting, improving and furthering the provision of other services by the Bank and any member of the ICBC Group to the Account Holder generally; and/or
  - (ii) for the purpose of fraud or crime prevention, audit and debt collection and so that services may be processed for the Bank; and/or
  - (iii) for the purpose of investigating, reporting, preventing or otherwise in relation to money laundering, terrorist financing and criminal activities generally; and/or
  - (iv) for the purpose of any legal process initiated by or served on, the Bank (whether or not the Bank is a party); and/or
  - (v) for any other purposes as may be in accordance with the Bank's general policy on disclosure of Personal Data as set out in statements, circulars, notices or other terms and conditions made available by the Bank to the Account Holder from time to time.

16.3 The Account Holder understands that the Bank, or any member of the ICBC Group or any third party to whom the Bank has transmitted information about the Personal Data, will be obliged to disclose such information if legally compelled to do so (whether by New Zealand law or the law of any jurisdiction to which such information is transmitted). The Bank may transfer the Personal Data outside New Zealand. Other countries may not provide the same level of protection for data as New Zealand. However, all Personal Data held by the ICBC Group or by its sub-contractors or agents will be afforded a high level of protection against any unauthorised or accidental disclosure, access or deletion. The Account Holder agrees to the Personal Data being used as described and that it may be transferred as stated above. The Bank may use, analyse and assess information held about the Account Holder's account, including the nature of the Account Holder's Transactions, to give the Account Holder information about products and services from members of the ICBC Group and those of selected third parties which the Bank thinks may interest the Account Holder via telephone, mobile phone, electronic media, post or other means. The Bank may pass this information to other members of the ICBC Group so that they may do the same unless the Account Holder has objected to such disclosure for purposes of cross-selling. The Account Holder is entitled to request details (including copies) of the information that the Bank holds about the Account Holder and to require the Bank to correct any inaccuracies. The Bank may charge a fee for the providing of any data. Requests for further information should be addressed to:  
Level 11, 188 Quay Street, Auckland CBD, New Zealand

16.4 The Account Holder may, at any time, choose not to receive direct marketing information. The Account Holder needs to write to ICBC (NZ) Branch at Ground Floor, 2 Queen Street, Auckland CBD, New Zealand with the Account Holder's request and the Bank will delete the Account Holder's name from its direct marketing mailing lists without charge.

## 17 Transfer, Assignment and Sub-Contracting

17.1 For the avoidance of doubt, the Bank may at any time transfer, assign, delegate or sub-contract any or all of its rights or obligations under this Agreement to any Person without prior notice to the Account Holder.

17.2 The Account Holder shall in no event transfer, assign, delegate or sub contract any or all of its rights or obligations under this Agreement.

## 18 Amendment

18.1 The Bank may at any time and from time to time, on 14 days' prior notice to the Account Holder:

- (a) vary, revise or change this Agreement and any fees and charges payable or applicable under this Agreement; and/or
- (b) add to, reduce, modify, suspend or withdraw any of the facilities, services or benefits from time to time available in respect of a Card or Card Account; and/or
- (c) amend the daily withdrawal and/or purchase Transaction limits applicable to a Card or the Card Account.

18.2 If the Account Holder does not accept such amendment, he/she shall give written notice to the Bank before the effective date of the amendment, terminating the use of a Card and, if appropriate, the Card Account and returning his/her Card to the Bank cut in two or otherwise defaced. Any debit balance on the Card Accounts shall also be paid in full at that time. If the Account Holder uses his/her Card or retains a Card after the effective date of an amendment, the Account Holder shall be deemed to have agreed to such amendment in all respects without reservation.

18.3 The Bank shall give notice of any amendment referred to in this Clause 18 in any form either in writing, in the Statements or by display at its branches, press advertisement or such other form as the Bank thinks fit and appropriate, stipulating a date on which such amendment shall take effect.

**19 Termination**

19.1

- (a) The Account Holder may at any time by giving reasonable notice in writing to the Bank or by such other method as the Bank may deem appropriate terminate any Card Accounts. Such notice will not take effect until such written notice and the relevant Card, duly cut in two or otherwise defaced, has been received by the Bank and the Account Holder shall accordingly remain liable for the use of the Card until such time.
- (b) For the avoidance of doubt, each Card Account shall be deemed to be terminated upon termination of any other Card Account.
- (c) The Account Holder's right to use the Card shall be terminated upon termination of this Agreement pursuant to this Clause 19.
- (d) No refund of the annual fee or any part thereof will be made to the Account Holder, unless the Account Holder has terminated the Card and/or Card Account pursuant to Clause 18.2.

19.2 The Bank may at any time, with or without notice as the Bank may determine in the circumstances, terminate the Card Account or a Card without giving any reasons. For the avoidance of doubt, these would include when the Bank is informed by the Account Holder that his/her PIN is or may be known to any other Person.

19.3 On termination of the Card Account(s) (and notwithstanding any prior agreement between the Bank and the Account Holder to the contrary) or on the death or bankruptcy of the Account Holder, the total sum due to the Bank as reflected in a Card Account, and the amount of any Charges incurred after termination, shall become immediately due and payable by the Account Holder. Interest will accrue thereon and thereafter at such reasonable rate as the Bank may from time to time notify to the Account Holder having regard to all the circumstances, including whether the Account Holder has died or gone bankrupt. The Account Holder shall be liable for all outstanding Charges together with interest under a Card Account notwithstanding the termination of this Agreement.

**20 Automated Teller Machines, Bank Account Services and Other Facilities**

20.1 If a facility has been incorporated into a Card to enable such Card to be used to access to the Account Holder's bank account with the Bank, the terms and conditions of the Bank governing such bank account from time to time in force shall apply to the use of a Card for these purposes.

20.2 If the Bank introduces any other products, facilities or services to the Account Holder through the Card, the same shall also be governed by their own specific terms and conditions from time to time in force.

20.3 If there shall be any conflict between any specific terms and conditions governing the ATM facility and any other products, facilities or services introduced by the Bank and this Agreement, the specific terms and conditions of each facility, product or service shall prevail.

**21 Notices**

21.1 The Account Holder agrees to accept service by the Bank of:

- (a) the Statement, including any notice (whether on the front or the reverse of the Statement) for which provision is made pursuant to this Agreement;
- (b) any other demand, communication or notice made or given by the Bank pursuant to this Agreement; and
- (c) legal process documents.

21.2 Any of the documents referred to in Clause 21.1 may be served by sending or making available the same (i) by ordinary post to the usual or last known address of the Account Holder, or (ii) by fax, email or otherwise over the internet and such document shall be deemed to have been duly served (a) if posted to an address in New Zealand, three business days after the date of posting, (b) if sent by fax, email or otherwise over the internet, the business day after the date of sending unless the Bank has received evidence to the contrary, or (c) if posted to an address outside of New Zealand, seven business days after posting, save that in the case of legal process, the relevant documents may not be served by fax, email or over the internet unless permitted by law.

21.3 The Bank is not responsible for the Account Holder's failure to receive a Statement or other communication if the Bank sends it to the usual or last known address, or in accordance with other contact information for the Card Account appearing in the Bank's record. The Bank is authorised to withhold Statements or other communication by post if previous mail to the Account Holder's usual or last known address is returned for non-delivery due to address change and the Account Holder cannot be contacted. For mutual protection, the Account Holder must advise the Bank immediately of any address change or other information to keep the Bank's record current.

21.4

- (a) Notwithstanding anything contained in this Agreement, except where the Bank has expressly been put on notice, the Bank is requested and authorised to act in accordance with and rely on any instruction or other notice or communication which may be or purport to be given or made available by telephone, fax or email or otherwise over the internet.
- (b) Subject to Clause 21.4(c) below, the Bank may (but shall not be obliged to) act on any notice which the Bank in good faith reasonably believes to be genuine and to have emanated from the Account Holder.
- (c) The Bank may (but shall not be obliged to) verify the identity or authority of the Person giving or purporting to give the notice or as to the authenticity of any notice given by telephone, fax or email or otherwise over the internet.
- (d) The Account Holder undertakes to keep the Bank indemnified against all reasonable claims, demands, actions, proceedings, damages, losses, costs and expenses including all legal fees and disbursements brought against or reasonably incurred by the Bank and arising out of anything done or omitted pursuant to any telephone, fax or email or other internet notice received by the Bank, save in the case of the Bank's fraud or negligence.
- (e) The Bank may at its discretion (but shall not be obliged to) record notices given by telephone in writing and/or any other method determined by the Bank. The Bank's record of any such notice shall be conclusive and binding on the Account Holder in whose name the notice was given in the absence of manifest error, fraud or negligence. The Bank may also require the Account Holder to confirm in writing any instructions given by telephone.

## 22 Expenses of Enforcement

22.1 The Account Holder shall indemnify the Bank in respect of any and all reasonable expenses properly incurred by the Bank in enforcing or attempting to enforce this Agreement including all reasonable legal fees, charges of debt collection agencies and disbursements. The Bank shall, on request, provide the Account Holder with a breakdown of all expenses he/she is liable to pay under this Clause 22.

## 23 Governing Law

23.1 The Agreement shall be construed and the provision of Card facilities shall be governed by New Zealand law, and subject to the non-exclusive jurisdiction of the New Zealand courts.

23.2 Any delay or failure by the Bank to exercise its rights and/or remedies under this Agreement does not represent a waiver of any of the Bank's rights.

23.3 If, at any time, any of these terms and conditions are or become illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the remaining terms and conditions shall not be affected.

23.4 Nothing in this Agreement shall operate so as to exclude or restrict any liability of any party to this Agreement, to the extent that such exclusion or restriction is prohibited by the laws of New Zealand.