

**ICBC PHYSICAL PRECIOUS METALS TERMS AND CONDITIONS**

These Terms and Conditions govern the purchase of ICBC Gold (as defined herein) transactions with Industrial and Commercial Bank of China (Malaysia) Berhad (Company No. 201001000001 / 839839-M) of Level 10, Menara Maxis, Kuala Lumpur City Centre, 50088 Kuala Lumpur (“the Bank”). It is important that you read and understand these terms and conditions. You are advised to regularly visit the Bank’s official website for any updates or amendments to these terms and conditions to ensure that you have the latest version for your records. Please read these terms and conditions thoroughly before entering into any transaction to buy or sell ICBC Gold. By placing an order or confirming a trade, you are deemed to have accepted all the terms and conditions herein.

**1. PURPOSE**

You may from time to time, within the business hours stipulated by the Bank (“Investment Hours”) on a day which the Bank is open for ICBC Gold business (“Business Day”), at the Bank’s counter or by other means designated by the Bank, buy from and/or sell to the Bank gold bullion, gold coin or other kinds of gold of 999.9 fineness (“ICBC Gold”) subject to the terms and conditions as provided hereinafter.

**2. PURCHASE OF ICBC GOLD**

- 2.1 The Bank may from time to time sell to you ICBC Gold pursuant to your purchase order in accordance with the terms and conditions herein contained. Each purchase order shall be in such form as the Bank shall, from time to time prescribe, and will only be accepted by the Bank if placed by you during Investment Hours on a Business Day.
- 2.2 The issuance or the provision of the purchase application form by the Bank does not constitute a contractual offer by the Bank to sell ICBC Gold to you. The Bank shall be at liberty to refuse or reject any purchase order.
- 2.3 The Bank may, but is not under any obligation to, maintain in its possession a sufficient quantity of ICBC Gold at all times to meet the requirements of any purchase order issued by you.
- 2.4 Upon acceptance of your purchase order and subject to receipt of full payment of the price of ICBC Gold, the Bank shall make available ICBC Gold for your collection at the selected branches which the Bank designates and the ICBC Gold shall be collected by you within five (5) working days from the date of notification by the Bank that the ICBC Gold is ready for collection. You shall indemnify and keep the Bank fully indemnified against all claims, costs, expenses, liabilities and/or damages arising from the non collection of the ICBC Gold in accordance with the terms and conditions herein.
- 2.5 No cancellation of the purchase order is allowed at any time following its issuance. Furthermore, no refund shall be made in respect of any failure to collect the ICBC Gold (or any part thereof) within the time frame stipulated in accordance with clause 2.4 herein.
- 2.6 By submitting an application for purchase and/or sale of ICBC Gold, you represent and warrant that:-
  - (a) you are at least eighteen (18) years of age and above and are of full legal capacity and of sound mind;
  - (b) you are not an undischarged bankrupt;
  - (c) you have full rights, power and authority to make purchases of ICBC Gold and to enter into and exercise your rights and perform your obligations under these terms and conditions;
  - (d) the obligations created hereto are valid, legally binding and enforceable against you;
  - (e) all actions, conditions and things required to be taken, fulfilled and done (including the obtaining all necessary consents, if any) in order to enable you lawfully to enter into, exercise you rights and perform and comply with your obligations under these terms and conditions have been taken, fulfilled and done; and
  - (f) your entry into, exercise of your rights and/or performance of or compliance with your obligations under these terms and conditions do not and will not violate (aa) any law

- to which you are subject to; or (bb) any of the documents constituting it; or (cc) any other agreement to which you are a party to;
- (g) no litigation, arbitration or administrative proceeding is current, pending, threatened or anticipated which could (aa) restrain your entry into, performance of or compliance with or enforcement of your obligations under these terms and conditions, and/or any ICBC Gold purchase/sale transaction; or (bb) have a material adverse effect on your performance or compliance with or enforcement of your obligations under these terms and conditions.

2.7 To facilitate the purchase and payment for the ICBC Gold, you must maintain a valid multi-currency savings/current account ("Account") with the Bank. You represent and warrant that all information provided for the Account opening is true, accurate and complete, and you undertake to promptly notify the Bank of any material changes thereto. By placing an order, you acknowledge that you have read, understood, and agreed to be bound by: (i) these terms and conditions; and (ii) the Bank's general terms and conditions governing account opening. In the event of any inconsistency between these two, these terms and conditions shall prevail to the extent of the inconsistency regarding ICBC Gold transaction.

### **3. BANK'S SELLING PRICE AND PAYMENT**

3.1 Each purchase of ICBC Gold by you from the Bank shall be at the selling price in MYR or CNY or USD per gram or per oz as quoted by the Bank at the time of such transaction.

3.2 The selling price quoted is derived from recognized benchmarks, including the prevailing world and/or local market price of AU999 standard gold for ICBC Gold and the applicable exchange rate (USD, CNY or MYR), and represents the final transaction price inclusive of the Bank's spread.

3.3 Settlement for the price of ICBC Gold shall be completed via direct debit from your Account in MYR or CNY or USD (whichever applicable) maintained with the Bank in accordance with your instructions. These terms and conditions together with the duly executed purchase order shall constitute conclusive evidence of the transaction between the parties. The Bank is hereby expressly authorized to debit the Account for the purchase price, together with any applicable taxes, duties or administrative fees related to the transaction. You should maintain sufficient cleared funds in your Account for the full settlement of the purchase price. In the event of insufficient funds, the purchase order shall automatically lapse and be deemed null and void. The Bank shall not be liable for any losses, damages or opportunity costs (including but not limited to loss of profit due to market fluctuation) arising from such failure to settle. You remain liable for any consequential losses or administrative costs incurred by the Bank as a result of the voided transaction. You acknowledge the inherent currency and foreign exchange risks associated with the purchase and sale of ICBC Gold. You expressly assume all such risks and agree that the exchange rate applicable for any settlement shall be at the Bank's prevailing rate at the time of the transaction.

### **4. CONDITION OF ICBC GOLD**

ICBC Gold will be sold to you on an "as is" basis and a serialized certificate ("ICBC Gold Certificate") will be issued by the Bank in relation to the ICBC Gold sold to you.

### **5. RELIANCE AND REPETITION**

You hereby acknowledge and agree that the Bank has executed each and every ICBC Gold purchase transaction on the basis of and in full reliance on each of the representations and warranties above and hereby represent and warrant to the Bank and for the Bank's benefit that each of the representations in Clause 2.6 will be extended to cover each and every ICBC Gold purchase transaction between the Bank and yourselves.

### **6. DECLARATION**

You hereby declare that:

- (a) You have full legal capacity, rights, power and authority to enter into the transaction for the purchase and/or sale of ICBC Gold.
- (b) You understand that ICBC Gold prices are subject to market fluctuations. You hereby agree to bear all risks and losses arising therefrom, and expressly agree that the Bank shall not be responsible or liable for any losses suffered by you arising from any depreciation in the price or market value of ICBC Gold and/or currency exchange rate fluctuation.
- (c) You recognize and acknowledge that the returns on your investment in ICBC Gold are uncertain and there is a possibility that you risk earning no returns and/or may incur losses. You hereby confirm that you have read and understood the terms and conditions which govern the transactions. You acknowledge that the Bank provides these terms and conditions, the market brief and analysis for informational purposes only. Accordingly, your decision to purchase the ICBC Gold is based solely on your own judgement and/or independent professional advice, independent of any representations or suggestions made by the Bank.
- (d) You agree that the Bank shall have no responsibility or liability whatsoever to you for any depletion or diminution in the value of the ICBC Gold purchased from the Bank and for any other losses, damages, cost or expenses incurred or suffered by you including but not limited to the incurrence of any tax and/or other levy (if any) with respect to the purchase or the physical delivery of the ICBC Gold.
- (e) As and when required, you shall furnish the Bank with any information/ financial statements required for the purpose of regulatory reporting or for whatsoever reasons which the Bank may deem reasonable or necessary.
- (f) You understand and agree that the Bank has discretion to monitor and record any verbal communication between yourselves and the Bank by means of electronic devices.

## **7. CUSTOMER'S ACKNOWLEDGEMENT**

By entering into any transaction under these terms and conditions, you acknowledge and agree to the following in respect of all ICBC Gold purchased:-

- (a) You acknowledge that the ICBC Gold is not a principal-protected product and is not an interest-bearing account. This product is not insured by Perbadanan Insurans Deposit Malaysia.
- (b) The Bank shall not be liable for any delay, failure or omission in the execution of processing of any purchase or sale transaction of ICBC Gold, howsoever caused.
- (c) the Bank is entitled to retain all profits, commissions, fees, charges or other benefits derived from the sale of ICBC Gold under these terms and conditions .

## **8. INDEMNITY AND LIMITATION OF LIABILITY**

8.1 The Bank shall not be liable for any losses, damages, costs, charges, liabilities or expenses (whether future or contingent) arising from the Bank's exercise of its rights and powers under these terms and conditions.

8.2 You shall indemnify and keep the Bank fully indemnified against all claims, losses, costs (including legal costs on a solicitor-client basis), liabilities, expenses, and/or damages which the Bank may incur or suffer arising out of or in connection with the purchase/sale of the ICBC Gold, or your breach of any of these terms and conditions.

8.3 The service in relation to the purchase and sale of ICBC Gold may be terminated by the Bank if there is any change in law which prohibits or renders it illegal for the Bank to continue providing such services. You shall not bring any action or claims whatsoever against the Bank to recover any losses or damages as you may suffer as a result of the termination of service.

8.4 The Bank reserves the right to refuse or reject any purchase or sale of ICBC Gold order at the discretion of the Bank, without the necessity to provide any justification or notice to you.

8.5 You expressly agree that the judgement and discretion of the Bank in respect of the time, price and terms of sale of the ICBC Gold shall be final, binding and conclusive.

## 9. DISCLOSURE

9.1 The acceptance of these Terms and Conditions shall constitute due and proper authority for the Bank to disclose to any government or agency or department of any government or such other party(ies) which the Bank sees fit and appropriate the details of your accounts and all transactions effected by the Bank in connection therewith.

9.2 To enable the Bank to evaluate and provide account, product or service (collectively, "Services"), you must provide the Bank with all required personal and account information ("Personal Data"). You acknowledge that your failure to supply such Personal Data may result in the Bank being unable to establish, provide or continue the Services. The Personal Data will be used to process your requests and for all purposes set out in the Bank's Privacy Notice as amended from time to time.

9.3 You agree that the Bank may process your Personal Data (including using, storing, disclosing, transferring, compiling, matching, obtaining and/or exchanging it) within or outside Malaysia, as necessary for its operations and services. This may involve sharing your Personal Data with:

- (a) any related or associated companies of the Bank (including subsidiaries, affiliates, representative and branch offices worldwide) ("ICBC Group"), particularly those providing: (i) group oversight or support services; (ii) financial services; and/or (iii) services to other ICBC Group members;
- (b) any agents, vendors or other third parties assisting the Bank;
- (c) any other banks, credit/charge card companies, merchants (e.g. for card inquiries or applications), credit bureaus and credit reference agencies;
- (d) any organizations conducting surveys, analyses or developing systems on the Bank's behalf;
- (e) any parties involved in sending communications to your last known address;
- (f) any other person or entity as reasonably required by the Bank.

The Bank may process your Personal Data for purposes including, but not limited to:

- (i) managing your accounts and providing services;
- (ii) credit assessments, risk management, and debt collection;
- (iii) fraud prevention, crime detection, and anti-money laundering efforts;
- (iv) complying with legal obligations or responding to legal processes;
- (v) internal audits, system development, and service improvement;
- (vi) promoting or offering other services within ICBC Group (where permitted by law);
- (vii) any other purposes outlined in the Bank's general data disclosure policy (as updated and notified to you).

9.4. You understand 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 Malaysian law or the law of any jurisdiction to which such information is transmitted). The Bank may transfer the Personal Data outside Malaysia. Other countries may not provide the same level of protection for data as Malaysia. 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 unauthorized or accidental disclosure, access or deletion. You agree to the Personal Data being used as described and that it may be transferred as stated above. Depending on the type of data, including but not limited to Personal Data and information pertaining to your account, and where it is held, you may be entitled to request details (including copies) of the information that the Bank holds about you and to require the Bank to correct any inaccuracies. Requests for further information should be addressed to:

Industrial and Commercial Bank of China (Malaysia) Berhad  
Digital and Retail Banking Department  
Level 10, Menara Maxis, Kuala Lumpur City Centre,  
50088 Kuala Lumpur.

## **10. SUSPENSION OF SALE**

Notwithstanding any provisions to the contrary and/or any express or implied duty or obligation on the Bank's part, it is hereby expressly agreed that the Bank shall be entitled not to accept any instruction for sale of ICBC Gold and/or to quote any price in the period during which the ICBC Gold exchange of Malaysia or other authority(ies) which the Bank is subject to, shall suspend investment in ICBC Gold on the ground of drastic fluctuation increase or decrease in the price of ICBC Gold.

## **11. CHANGE OF TERMS AND CONDITIONS**

11.1 You hereby agree that the Bank reserves the right at any time and from time to time to add new terms and conditions or to amend, delete, vary or modify these Terms and Conditions, in the Account, with notice and they shall become effective on such date as the Bank may decide on to adopt.

11.2 Notices of such additions or modifications or amendments may be communicated to you by displaying it at the premises of the Bank or its branch office for a period of not less than twenty-one (21) calendar days prior to the effective date of such additions, modifications or amendments.

11.3 In addition to the terms and conditions of the Bank, the sale of ICBC Gold by the Bank shall be governed by and be subject to the rules, regulations and guidelines issued by Bank Negara Malaysia, the Associations of Banks Malaysia and other relevant bodies or associations whether or not such rules, regulations and guidelines have the force of law ("Rules"). If changes to the Rules, their interpretation, or the Bank's compliance with them directly or indirectly:-

- (a) increase the Bank's cost of fulfilling its obligations;
  - (b) reduce amounts received or receivable by the Bank, its effective return, or its return on capital; or
  - (c) force the Bank to make any payments or forego returns based on amounts it receives or is entitled to receive,
- then the Bank may, at its sole discretion, terminate the sale of ICBC Gold service with reasonable advance notice.

## **12. INTERPRETATION**

12.1 In construing these Terms and Conditions unless the context otherwise requires words denoting the singular shall include the plural and vice versa and words denoting the masculine shall include the feminine and/or neuter and vice versa.

12.2 Clause headings are included for convenience of reference only and shall be ignored in the construction of this Agreement.

## **13. NO WAIVER OF RIGHTS**

No failure or delay by the Bank in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude the Bank from any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

## **14. GOVERNING LAW AND JURISDICTION**

The Laws of Malaysia shall govern and be applicable to the Terms and Conditions herein contained and all transactions in connection therewith. In relation to any legal action or proceedings arising out of or in connection with these Terms and Conditions, and/or all transaction in connection thereto ("Proceedings"), you irrevocably submit to the exclusive jurisdiction of the courts of Malaysia and waives any objection to Proceedings in any such court on the grounds of venue or on the grounds that the Proceedings have been brought in an inconvenient forum.

**MARKETING AND PROMOTIONAL CONSENT FORM**

Tick ( ) in the relevant box/es:

- I/We provide my/our consent for the Bank to disclose my/our customer information to other entities within the ICBC Group or third parties of the Bank such as strategic alliances for marketing and promotional purposes.
- I/We do not want to receive any information on promotions and marketing at this point in time.
- I/We understand that I/We can withdraw the consent given for disclosure of information for marketing and promotional purposes any time by contacting the Bank.

Customer Name:	
NRIC / Passport Number:	
Signature:	
Date:	