

# BERMUDA COMMERCIAL BANK LIMITED - TERMS & CONDITIONS

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## **BERMUDA COMMERCIAL BANK LIMITED**

### **TERMS AND CONDITIONS**

#### **SECTION A - GENERAL TERMS AND CONDITIONS**

##### **A1. INTERPRETATION AND CONSTRUCTION**

###### **1.1 Definitions**

“Account” means any account of the Client with the Bank.

“Account Application Form” means an application to the Bank in such form and made in such manner as may be required by the Bank for the opening of any Account or the provision of any Facility.

“Account Currency” means the currency in which an Account is maintained and shall be any one of the currencies in which the Bank may offer services from time to time.

“Agreement” means any account opening agreement or other agreement between the Bank and the Client, each of which shall be deemed to incorporate by reference these Terms and Conditions.

“ATM” means an automated teller machine.

“Authorisation Limit” means the Card utilisation limit as requested by the Client or set by the Bank from time to time expressed in the Account Currency.

“Applicable Laws” means all laws, rules, regulations, and directives, whether in or outside Bermuda relevant or applicable to the Bank or the conduct of its business, including any such laws, rules, regulations and directives of any jurisdiction(s) which are applicable to the Client, or where any correspondent bank or other service provider to the Bank is located.

“Bank” means Bermuda Commercial Bank Limited and includes its subsidiary companies, directors and employees.

“Bank’s Group” means the Bank, and/or any of its affiliates and associated entities;

“Banking Day” means a day on which the Bank is open for business in Bermuda as defined by the Bermuda Monetary Authority.

“BCB Mobile Banking Application” means the BCB downloadable software application which allows access to BCB’s Internet Banking System via iPhone or Android cell phone.

“Card” means a debit or credit card issued by the Bank to the Client.

“Call Account” means an account the balance of which is payable after one full call account cycle notice has been given, subject to any Minimum Account Balance Requirement, which may be an interest bearing account. The rate of interest, if any, paid on the Call Account will change from time to time at the sole discretion of the Bank.

“Client” means the Person(s) who enters into this Agreement and any Person who utilises any Facility made available by the Bank, and where the context so admits, includes: (a) any one of those Persons; (b) each or any of those Persons constituting the Client in relation to an Account which is a joint account; and (c) each or any of those Persons authorised to give Instructions in relation to an Account which is opened for a corporation, partnership, trust, association or other form of legal entity.

“Court” means any court in Bermuda constituted under the laws of the islands of Bermuda.

“Current Account” means a non-interest bearing deposit account, subject to any Minimum Account Balance Requirement, the balance of which is payable on demand. The Current Account in all cases is the Client’s account through which all incoming and outgoing funds, credits and debits shall be processed.

“Electronic Record” means a record created, stored, generated, received or communicated by electronic means.

“Facilities” means facilities, functions, services and products offered or available or utilised at any time whether at any office or through the telephone, facsimile, the Internet, any computer or other electronic terminal, equipment or system or otherwise and Facility means any of the Facilities.

“Fixed Deposit Account” means an Account bearing a set rate of interest for a fixed term.

“Funds Transfer Request Form” means the form used by the Bank from time to time, including any such form displayed on the Website, for use by the Client to request

any transfer or withdrawal of funds from an Account or between Accounts and shall include, but not be limited to, inter-Account transfers, withdrawal requests, wire transfer requests, standing orders, foreign exchange purchase/sale, transfers into or out of any investment vehicle, etc in whatever form is acceptable to the Bank.

“Instruction” means any request, Funds Transfer Request Form, Account Application Form, authorisation or Instruction, in whatever form and howsoever sent, given or transmitted (whether through any telecommunications, computer or other electronic terminal, equipment or system or otherwise) to the Bank: which the Bank reasonably believes to be the Instruction of the Client, and includes any Instruction to revoke, ignore or vary any previous Instruction of the Client, in all cases together with such information as the Bank may from time to time require in accordance with its security procedures.

“Instrument” includes any cheque, draft, bill of exchange, note, bond, acceptance, Instruction or order for payment or transfer, contract, certificate or other document.

“Internet” means the information distribution and access system known as the worldwide web and accessible through the open-access global computer network comprising interconnected networks using a standard set of rules that regulate the way data is transmitted between computers.

“Internet Banking System” means the Bank’s electronic platform(s), enabling the Client access to any facilities or services from the location of its choice via the Bank’s Website from a computer or through the BCB Mobile Banking Application.

“Internet Banking Logon Information” means the information the Client uses to identify and authenticate themselves prior to gaining access to Internet Banking. This includes User ID, Password or other information used to confirm the Client’s identity.

“Loan Account Balance” means any sum owed by the Client to the Bank at any time, including all principal and accrued interest and other charges, incurred in connection with any credit or overdraft facility which may be granted by the Bank to the Client or otherwise utilised by the Client.

“Loan Limits” means the amount, if any, of any credit or overdraft facility granted by the Bank on any Account.

“Loss” means any and all injuries, liabilities, losses, damages, costs, charges and or expenses of whatsoever nature and however arising, including legal fees on a full indemnity basis.

“Minimum Account Balance” means the minimum balance which must be maintained by the Client with the Bank, in the applicable Account Currency, in such amount as the Bank may specify from time to time.

“Password” means a private combination of letters, numbers or symbols selected by and known only to the Client, which enables the Client to access any Accounts or Facilities on the Internet Banking System on a secure basis. The Bank may re-assign a new Password which is lost or forgotten by the Client.

“Persons” includes any natural Persons, any corporation, partnership, trust, association or other form of legal entity.

“Reversible Transaction” means any of the following: (a) any payment (or portion thereof) made in error on the part of the Bank, any correspondent bank or any other bank in a relevant payment chain, including (without limitation) in connection with any (i) return of funds, (ii) duplication of payment or (iii) routing of funds; (b) any payment (or portion thereof) made in connection with suspected unlawful, unusual or fraudulent Instructions, orders or activity and; (c) any payment (or portion thereof) made in error on the part of the remitter of the payment in question.

“Security Device” means the hardware device or software application used for generating an OTP (One Time Password) or, an OTP delivered by text message, for the purpose of conducting banking transactions by accessing the Internet Banking System.

“Signed” or “Signature” means a signature in either (a) manual written form, or (b) electronic form in, attached to, or logically associated with, information that is used by the Client to indicate his or its adoption of the content of that information and meets the following requirements: (i) it is uniquely linked to the Client, (ii) it is capable of identifying the Client, (iii) it is created using means that the Client can maintain under his or its sole control, and (iv) it is linked to the information to which it relates in such a manner that any subsequent alteration of the information is revealed. Subject to anything herein or in any Applicable Laws, anything which shall or may be signed shall be satisfied by an Electronic Record if a method is used to identify that Persons and to indicate that the

Persons intended to sign or otherwise adopt the information in the Electronic Record, and that the method is as reliable as appropriate for the purpose for which the Electronic Record was generated or communicated.

“Transactions In Progress” means a transaction in respect of which the Client has given an Instruction to the Bank, but which transaction has not yet been fully executed or performed by the Bank or any third party involved in such transaction.

“User” means the Client for the purposes of the Internet Banking System, or any other person may be nominated by the Client to have access to the Internet Banking System to carry out transactions on their behalf.

“User ID” means an alpha-numeric name, symbol or code issued or assigned by the Bank to the Client to enable the Client to access the Internet Banking System.

“Website” means all Web Pages which are accessible using the domain name registered to the Bank as amended from time to time.

These Terms and Conditions shall be construed at all times in a manner which serves to maximise the Bank’s rights and options with respect to any matter.

## **A2. GENERAL**

2.1 These Terms and Conditions shall apply in relation to all Account(s) and Facilities applied for or established for or by the Client and shall govern the ongoing relationship between the Bank and the Client.

2.2 These Terms and Conditions shall continue to apply notwithstanding any previous agreement between the Bank and the Client with respect to any Account, matter or relationship covered by these Terms and Conditions unless the contrary is expressly stated in any such agreement and in the event of any conflict or inconsistency between any of the provisions of these Terms and Conditions and the provisions of any such previous or subsequent agreement, such conflict or inconsistency shall, in the absence of any express agreement to the contrary, be resolved in such manner as would maximise the Bank’s rights and options with respect to any matter or issue to which the inconsistency or conflict relates.

2.3 Any contracts or agreements between the Client and the Bank may be formed by written and/or electronic means and neither the Client nor the Bank may challenge the validity of agreements made in this manner.

2.4 The Bank may engage or appoint any Persons to carry out any instruction or functions or duties of the Bank to the Client or to exercise any authority granted to the Bank by the Client and the Bank shall not be liable to the Client for any Loss suffered or incurred by the Client as a result of any act or omission of such Persons.

2.5 The Bank shall be entitled to record any communications between the Bank and the Client or any officer, servant or agent of the Client using any recording apparatus, without prior notice or warning to the Client. Any such recording may be used as evidence in any proceedings or disputes involving the Bank. The Bank may record and shall keep records of the Client’s electronic, telephone or other written communications for as long as the Bank considers appropriate. Communications sent by means of the Internet Banking System, shall be treated as satisfying any legal requirement that a communication should be in writing. Each party waives any right it may have to challenge any such communication on the basis that it was prepared or sent or received in electronic form.

2.6 The Bank may decline to open any Account or Facility which is the subject of any Account Application Form notwithstanding that the Client may have complied with any and all requirements of the Bank for opening that Account or Facility.

2.7 All transactions effected or made by the Client on any day after the time stipulated by the Bank as the latest time by which transactions on that day should be effected or made shall be treated as transactions effected or made for the next Banking Day.

2.8 The Bank may rely and act upon any Instruction to open, maintain, and/or close any Account or with respect to the operation of any Account or the transfer of any funds into or out of the Account provided that the Bank shall not have any obligations to act on any Instructions unless the Bank has agreed to do so.

2.9 The Bank is irrevocably authorised by the Client to accept and act upon the Client’s Instructions given to the Bank in a form acceptable to the Bank. In consideration of the Bank acting in accordance with any Instructions howsoever received from the Client, the Client agrees to indemnify the Bank against all loss in relation to

acting on such Instructions and the Client irrevocably authorises the Bank to debit any account in respect to all amounts chargeable to the Client as a result of the Bank receiving and acting upon such Instructions. The Bank shall not be required to verify or check that Instructions given to the Bank by the Client have been given and remain in force in respect of debits, credits or any other Instructions. The Client agrees to be liable for all monies due and liabilities incurred arising from Instructions given.

2.10 The Bank shall be entitled, but is not obligated, to verify and be satisfied with respect to the identity of the Persons purporting to give any Instruction or the source and origin of any Instruction and/or the source or beneficiary of any funds covered by an Instruction, and the Bank may defer relying or acting upon any Instruction unless and until the Bank is satisfied as to the matters on which the Bank sought verification regardless of whether the Bank is under any obligation to act upon or carry out that Instruction.

2.11 In the event that the Bank decides to act on any Instruction or is otherwise under an obligation to act upon or carry out any Instruction, the Bank shall be allowed such amount of time to act and implement any Instructions as may be reasonable having regard to the systems and operations of the Bank and the other circumstances then prevailing and shall not be liable for any Loss arising from any delay on the part of the Bank in acting on any such Instruction.

2.12 Where any Instruction is ambiguous or inconsistent with any other Instruction, the Bank shall be entitled to rely and act upon any Instruction in accordance with any reasonable interpretation thereof which the Bank believes in good faith to be the correct interpretation or refuse to act until all Person(s) constituting the Client issue a fresh Instruction in such form and manner required by the Bank.

2.13 No amendments or variations may be made by the Client to these Terms and Conditions.

2.14 The Bank shall not be liable to the Client (a) for any Loss incurred by the Client arising from or due to breakdown of equipment, delay in the transmission or wrongful interception of any Instruction through any equipment or system including any equipment or system owned and/or operated by or for the Bank or (b) any breach of the Bank's obligations to the Client caused by or arising from any of the foregoing events.

2.15 In order to protect the Client, the Bank may choose not act on any Instructions via public email or Internet as this is a communication channel which is not controlled by the Bank. If the Client does send Instructions via such methods, the Client shall bear the risks. The Bank shall in no circumstances be liable for any loss or damage arising from the Client's use of public email or Internet.

2.17 The Client shall pay the Bank all the fees, commissions and other charges at such rates and in such manner as the Bank may impose with respect to: (a) any Account or the maintenance of any Account; or (b) any period during which the balance on any Account remains below the Minimum Account Balance; or (c) any Account with any balance in favour of the Client which has remained dormant for such period as the Bank may determine or has been closed or terminated; or (d) the availability and/or provision of any Facility to the Client or otherwise; or (e) the execution or implementation of any Instruction; or (f) any payment, withdrawal, advance, purchase or other transaction obtained or effected by or for the Account of the Client; or (g) such other matters as the Bank may determine. All of the Bank's fees, commissions and other charges shall be posted on its Website, and shall otherwise be set forth in the Bank's fee schedule as in effect from time to time, a copy of which is available on request.

2.18 The Bank shall be entitled to charge interest on any sum or payment due to the Bank from the Client at such rate and calculated in such manner as the Bank may impose and to debit any Account in respect of the interest charged.

2.19 The Client shall reimburse the Bank for any and all disbursements, costs and/or other expenses incurred by the Bank in connection with: (a) the execution or implementation of any Instruction; or (b) the provision of Facilities for or in respect of any Account or the Client.

2.20 The operation of all Accounts, the execution of all Instructions, and the provisions of all Facilities shall be subject at all times to the Applicable Laws. The Bank may take or refrain from taking any action whatsoever, and the Client shall do all things required by the Bank, in order to procure or ensure compliance with Applicable Laws.

2.21 The Bank does not ordinarily mail or otherwise send statements, confirmations or any advices to the Client save for on the request of the Client in respect of any Account.

2.22 The Client shall promptly examine and verify all Account information identified to its Accounts and shall give the Bank written notice of any inaccuracy, error or omission in any such Account information within the period prescribed by the Bank or in the absence of any period prescribed by the Bank within FIFTEEN (15) days after the date when the Client receives or is deemed to have received such Account information. All Account information shall as against the Client be deemed to be true, correct and accurate as regards all transactions, matters and amounts stated therein save for such inaccuracy, error or omission stated in the notice of the Client given to the Bank within the period prescribed herein.

2.23 The Client (or where the Client comprises more than one Person, each of such Persons) shall promptly notify the Bank by such means as the Bank deems acceptable of any change or variation on his or its/their information provided to the Bank when Accounts were opened (including change of address), his or its/their signature(s) (or that of the Persons the Client has duly authorised to operate his or its/their Account), and the Bank shall be entitled to assume that there has been no change or variation until the Bank has received notice thereof given in accordance with this Clause.

### **A3. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

3.1 The Client hereby represents, warrants, acknowledges and undertakes that:

- (a) the Client has full capacity, authority, authorisations, consents, licenses and approvals required to accept and agree to the terms and conditions of these Terms and Conditions, to open, maintain and/or continue to maintain all Account(s) from time to time opened and/or maintained and/or continued to be maintained with the Bank, and to give the Bank any Instructions that may be given from time to time;
- (b) except for any security or encumbrance created in favour of the Bank, no Persons other than the Client have or will have or acquire any beneficial or other interest in or security or other rights over any Account and/or over any cash or assets

held by the Bank for the Client without the prior written consent of the Bank;

- (c) in respect to the opening and maintenance of the Accounts and in respect to all funds and/or assets which may be deposited into the Accounts from time to time, the Client has complied with and will continue to comply with all Applicable Laws;
- (d) the Bank is subject to certain legal and regulatory obligations in regard to the detection, disclosure and prevention of financial crime, including but not limited to money laundering (as defined in Applicable Laws). Accordingly, the Client undertakes and agrees that:
  - (i) the Client will fully cooperate with the Bank and provide all information requested by the Bank from time to time in regard to the Client, the Account(s) and all transactions executed through the Account(s) in order to enable and assist the Bank in discharging its obligations under the Applicable Laws and banking practices in any jurisdiction where the Bank conducts business, where any Client is located, or is deemed a citizen, and where any correspondent bank or other services provider to the Bank is located including, but not limited to, copies of such information and documents concerning its business and financial position as the Bank may Request;
  - (ii) that the Bank may delay, block or refuse to make a payment or transfer if the Bank reasonably believes that making such payment or transfer may breach any Applicable Laws or banking practice;
  - (iii) the Bank may immediately and without notice close or suspend any Account, or freeze funds in any Account, if the Bank reasonably believes that such Account has been used in the commission of any fraud or unlawful activity;

- (iv) the Bank may use any Client information to prevent or investigate any fraud or unlawful conduct, including any suspected fraud or unlawful conduct;
- (v) the Bank may transfer and disclose any Client information to: (A) any member of the Bank's Group; (B) any sub-contractors, agents, service providers, or associates of the Bank's Group (including their employees, directors and officers); (C) any investigative agencies or other persons which may assist the Bank in complying with its anti-money laundering and know your customer obligations, (D) any organisation which provides any services to the Bank in connection with the financial services provided by the Bank, (E) regulatory bodies, government agencies, law enforcement agencies and courts, (F) other financial institutions, including any correspondent banks and clearing or settlement systems; and (G) the Client's authorised agent, executor, administrator or legal representative;
- (e) the Bank is subject to certain regulatory obligations in regard to the prevention of tax evasion (as defined in Applicable Laws). Accordingly, the Client authorises the Bank to disclose relevant account and/or personal information to local or international tax authorities for the purpose of the Bank's compliance with its obligations under tax regulations including the US Foreign Account Tax Compliance Act ("FATCA") or the Common Reporting Standard ("CRS").

3.2 The representations, warranties and undertakings in Clause 3.1 shall be deemed repeated whenever any Instruction is given to the Bank, any Account of the Client is established or opened and any cash, asset or instrument is deposited, received or transferred by the Bank for the Client.

3.3 The Bank shall have no liability to the Client for any disclosure of Client information as provided for in Clause 3.1, or actions taken by the Bank in fulfillment of its obligations or in compliance with Applicable Laws.

3.4 In the event of closure of the Client's Account under any of the foregoing provisions, the Client is solely responsible for:

- (a) making arrangements to transfer and manage their funds; and/or
- (b) making alternative banking arrangements.

3.5 The Bank shall not be liable to the Client in any respect for any Loss suffered by the Client, including indirect or consequential Loss, which might arise from closure or suspension of the Client's Account under any of the foregoing provisions.

#### **A4. CURRENCY CONVERSION**

4.1 The Bank may; (a) convert any amount in any Account standing to the credit of the Client or any amount due from the Bank to the Client to any other currency for the purposes of carrying out any Instruction of the Client crediting any Account, assessing the Client's liability or the liability of the Client to the Bank or enforcing the Bank's rights under these Terms and Conditions or under any Account (including to effect any set-off or consolidation by the Bank of Accounts); or (b) convert the balance in any Account or any part thereof (and if the Bank so chooses, together with the interest accrued on the amount so converted) into any other currency selected by the Bank at the time such balance or part thereof becomes due and payable by the Bank and to repay the same in such other currency in full and complete discharge of the Bank's obligations with respect thereto; or (c) convert any sum received by the Bank (whether for credit into any Account or in payment of any sum due to the Bank) in any currency into the currency of the Account or the currency in which payment is to be made, as the case may be.

4.2 The conversion by the Bank of any sum into any currency pursuant to any provision of Clauses A4 shall be effected at the rate of exchange quoted by the Bank or on such other terms as the Bank may otherwise determine.

4.3 Without limiting Clause 4.1, the Bank may also take the following actions when receiving incoming funds for credit to the Client's Account:

- (a) If the beneficiary account is specified for the incoming funds, the incoming funds shall be credited in accordance with the Instructions received by the Bank regardless of the Currency

Accounts held by the Client, or placed in the manner set out in (b) below.

- (b) If no beneficiary account is specified for incoming funds, the incoming funds may be held in an "investigation account" pending inquiry of the remitter of such payment.

#### **A5. TAXES**

5.1 All tax charges or liabilities the Client may incur in any jurisdiction are the Client's sole responsibility. The Bank will not advise the Client on or be responsible for such liabilities in any circumstances. The Client is advised to seek independent legal and/or tax advice.

5.2 In the event of the Bank being required to make a deduction or withholding on any sums payable by the Bank to the Client by the revenue authorities of any jurisdiction, the Bank will not be liable to the Client in respect of any loss suffered by the Client as a result of any such deduction or withholding. In the event of the revenue authorities of any jurisdiction requiring the Bank to make a payment in respect of tax as a result of the Client's failure to pay such tax, the Client agrees to indemnify and reimburse the Bank in respect of any such payments.

5.3 The Client is solely responsible for understanding and complying with its tax obligations (including but not limited to, tax payment or filing of returns or other required documentation relating to the payment of all relevant taxes) in all jurisdictions in which those obligations arise.

#### **A6. RIGHT TO DEBIT ACCOUNT**

6.1 The Bank may at any time debit any Account (in any currency) for any sum due from or owed or reimbursable by the Client to the Bank without first requesting payment thereof from the Client.

6.2 The Bank may at any time, without requesting the Client's authorisation or approval, debit any Account belonging to such Client for any sum that the Bank believes to have been deposited in any account of such Client as a result of any Reversible Transaction.

#### **A7. GENERAL INDEMNITY**

7.1 The Client shall indemnify and hold the Bank harmless from and against any and all Loss suffered or incurred by the Bank as a result of any of the following:

- (a) any failure by the Client to comply with any of these Terms and Conditions;
- (b) the Bank acting in accordance with the Client's Instructions or in any manner permitted under these Terms and Conditions;
- (c) any actions taken by the Bank in compliance with Applicable Laws or in relation to any changes to those Applicable Laws;
- (d) any actions taken by the Bank in discharging its obligations under tax regulations and laws and/or as a result of disclosures to the tax authorities;
- (e) any act or thing done or caused to be done by the Bank in connection with or referable to these Terms and Conditions or any Account; and
- (f) any breach by the Client of Applicable Laws or of any of the representations, warranties or undertakings set forth herein.

#### **A8. RIGHT TO WITHHOLD AND SET-OFF**

8.1 For so long as any sum is due or owed by the Client to the Bank, the Bank may at any time withhold payment or transfer of any money, securities or other thing of value standing to the credit of the Client on any Account until the Client shall have paid in full the sum due or owed to the Bank.

8.2 The Bank may at its discretion without notice to the Client combine and/or consolidate any Account with another Account and/or apply and set-off any sums due to or standing to the credit of the Client against all sums or other liabilities of the Client now or at any time hereafter due, owing or incurred by the Client to the Bank.

#### **A9. GENERAL PLEDGE AND NEGATIVE PLEDGE**

9.1 All properties, instruments, mutual fund shares, securities and other assets of the Client in the possession



or control of the Bank shall be subject to a general lien in favour of the Bank in respect of all sums or other liabilities of the Client now or at any time hereafter due, owing or incurred by the Client to the Bank on any Account or otherwise in any manner whatsoever, in any currency, whether actual or contingent, joint or several and the Bank may apply the proceeds thereof in settlement of those sums and liabilities. The Client hereby grants to the Bank a lien or charge on the Accounts (and all sums which may be deposited in the Accounts from time to time) in order to secure to the Bank the prompt payment and satisfaction in full of obligations of the Client, and the Bank hereby accepts such pledge.

9.2 Except those rights created in favour of the Bank herein, the Client shall not create or allow to exist any security, encumbrance, lien, right of set-off or other right or restriction in favour of any Persons over any Account or Facility without the Bank's express authorisation. Save for as required by Applicable Laws, the Bank shall not be required to recognise any Persons other than the Bank and the Client as having any interest in any Account.

#### **A10. GENERAL EXCLUSION**

10.1 So long as the Bank acts in good faith, it shall not be liable to the Client in any respect for any Loss suffered by the Client, including indirect or consequential Loss, or for punitive damages, whether arising from any breach of the Bank's obligations to the Client, acting other than in good faith or otherwise.

10.2 The Bank accepts no liability for the Client's inability to contact the Bank or any consequence thereof. The Bank shall not be liable to the Client for any indirect, special, incidental or consequential loss or damage which may arise in respect of the Client's use of the Internet Banking System, or any component of it. The Bank shall not be liable for any indirect, special, incidental or consequential loss, or any loss or damage to the Client's goodwill, profits or anticipated savings or those of any third party.

#### **A11. RELATIONSHIP OF THE BANK WITH THE CLIENT**

11.1 Unless otherwise expressly agreed by the Bank in writing, the Bank does not assume any advisory, fiduciary or similar or other duties to the Client. The Bank assumes, and relies on the assumption, that the Client has

taken the necessary independent legal, tax, financial and other advice in relation to any Account or Facility or transaction between the Bank and the Client or effected by the Bank pursuant to an Instruction.

#### **A12. DEFAULT**

12.1 A Default shall be deemed to occur in the event that:

- (a) The Client (or where the Client consists of more than one Persons, any such Person):
  - (i) Has failed to comply with or observe any of his or its obligations hereunder or under any Account or Facility;
  - (ii) Dies, becomes bankrupt or insane, commits an act of bankruptcy, or has an action to place him in bankruptcy commenced against him;
  - (iii) Has any insolvency or bankruptcy action or proceeding against him or pending in any jurisdiction;
  - (iv) Makes any compromise or arrangement with his or its creditors;
  - (v) Notifies the Bank of changes to the Client's address, financial condition or other information previously furnished to the Bank which changes are unacceptable to the Bank for any reason; or
- (b) Any action is taken by any creditor of the Client to recover, realise or enforce any security over any assets of the Client; or
- (c) The Bank in good faith is of the opinion that it should take action in order to preserve its rights or interest with respect to any Account or any Facility granted to the Client.

#### **A13. TERMINATION AND OTHER RIGHTS**

13.1 Without prejudice to any other right of the Bank under these Terms and Conditions or any other agreement with the Client or otherwise at law, the Bank may at any time after the occurrence of a Default, do any one or more of the following without notice:

- (a) immediately and without notice suspend or close any or all of the Client's Accounts;
- (b) immediately suspend or terminate any or Facilities or transactions entered or effected with or for the account of the Client or the Bank's relationship with the Client and/or any or all Facilities;
- (c) accelerate any and all liabilities (whether actual or contingent or prospective at that time) of the Client to the Bank so that they shall become immediately due and payable;
- (d) liquidate and realise any cash, securities and other property of the Client in the possession or control of the Bank;
- (e) suspend, terminate, assign or dispose of any or all contracts, transactions or instruments to which the Client is entitled or is party (including any Card, any open positions on any securities, contracts or instruments established between the Client and the Bank or by the Bank on behalf of the Client) at prevailing market prices, or at prices regarded by the Bank in good faith as the best prices available at such time;
- (f) apply any amounts of whatsoever nature standing to the credit of the Client against any amounts which the Client owes to the Bank (of whatsoever nature and howsoever arising, including any contingent amounts), or generally to exercise the Bank's right of set-off against the Client.

13.2 Notwithstanding the Client's bankruptcy, death, insolvency, or incapacity or receipt by the Bank of written notice of termination from the Client, all payments made by the Bank by debiting an Account will be valid and binding upon the Client if made prior to receipt by the Bank of written notice of such bankruptcy, death or incapacity or, in the case of termination by telephone, prior to such communication of termination. Any such termination shall be without prejudice to the accrued rights of the Bank and the Client's obligations and liabilities to the Bank as of the date of termination.

13.3 In the event of closure of the Client's Account under any of the foregoing provisions, the Client is solely responsible for:

- (a) making arrangements to transfer and manage their funds; and/or
- (b) making alternative banking arrangements.

13.4 The Bank shall not be liable to the Client in any respect for any Loss suffered by the Client, including indirect or consequential Loss, which might arise from closure or suspension of the Client's Account under any of the foregoing provisions.

**A14. CLOSURE AND SUSPENSION OF ACCOUNTS**

14.1 Without limiting the foregoing in respect of the Bank's right to close or suspend Accounts, the Bank may, at any time, close any or all of the Client's Accounts by giving 30 days' written notice. At the end of the 30 days' written notice period, in addition to the Account being closed, any services or Facilities provided to the Client's Account will cease.

14.2 Without limiting the foregoing in respect of the Bank's right to close or suspend Accounts, the Bank may, at any time, close or suspend any or all of the Client's Accounts immediately and without notice, if the Bank reasonably believes that the Client has:

- (a) put the Bank in a position where it may break a law, regulation, code or other duty that applies to it;
- (b) given the Bank false information at any time;
- (c) committed (or attempted to commit) fraud against the Bank or another third party; and/or
- (d) behaved in a threatening or abusive manner to employees of the Bank.

14.3 In the event of closure of the Client's Account under any of the foregoing provisions, the Client is solely responsible for:

- (a) making arrangements to transfer and manage their funds; and/or
- (d) making alternative banking arrangements.

14.4 The Bank shall not be liable to the Client in any respect for any Loss suffered by the Client, including indirect or consequential Loss, which might arise from closure or suspension of the Client's Account under any of the foregoing provisions.

**A15. FORCE MAJEURE**

- 15.1 The Bank shall not be liable to the Client for any Loss or delay caused by or arising from;
- (a) any event, the occurrences of which is beyond the Bank's reasonable control, including fire, earthquake, flood, lightning, riots, strikes, lockouts, government action, war, disruption of electrical power supplies; or
  - (b) any breakdown, disruption or failure of any telecommunications, computer or other electronic equipment or system (whether operated or maintained by the Bank or otherwise), including the inability or failure of any such equipment or system to accept and/or recognise and/or properly and accurately store, process and/or transmit dates or data incorporating or relying on dates, or the processing and/or transmitting of dates or data incorporating or relying on dates, or the processing, storage and or transmission of any inaccurate date or data by virtue of such inability or failure of any such equipment or system; or
  - (c) caused by or arising from any breach of the Bank's obligations to the Client caused by or arising from any of the events set out in sub-clauses (a) and (b) above.

**A16. MISCELLANEOUS**

16.1 All notices, demands and communications by the Bank to the Client may be sent or dispatched by the Bank to the Client by means of the Bank's Website, hand delivery, post, email or facsimile transmission or any other means deemed appropriate by the Bank to the email or other address or facsimile number of the Client as per the Client's records. Any such notice, demand or communication so dispatched by the Bank to the Client shall be deemed to have been received by the Client: (a) in the case of dispatch by the Bank's Website, email or facsimile communications or other electronic communications, immediately upon transmission by the Bank; (b) in the case where it was delivered or left at the address of the Client on the date it was so delivered or left at that address and (c) in the case of dispatch by post: (i) to any address in Bermuda, on the second day after it was posted by the Bank; or (ii) to any address outside

Bermuda, on the seventh (7) day after it was posted by the Bank.

16.2 Where the address provided to the Bank as the mailing address of the Client in relation to any Account differs from the address provided to the Bank as the mailing address of the Client in relation to any other Account or Accounts, Clause A15.1 shall apply in relation to any of those addresses as may be selected by the Bank from time to time and notwithstanding that the address to which any notice, demand or communication of the Bank in relation to any Account is addressed and dispatched is not the address provided by the Client for that Account.

16.3 These Terms and Conditions shall be binding on the Bank and the Client and their respective successors in title and assigns and shall continue to be binding on the Client notwithstanding: (a) any change in the name or constitution of the Bank; or (b) the consolidation or amalgamation of the Bank into or with any other entity, and in such event such entity shall thereupon substitute for the Bank in relation to these Terms and Conditions, all Accounts and all Facilities, made available at that time by the Bank to the Client and these Terms and Conditions shall continue in force as between the Client and such entity.

16.4 The Client may not assign, charge or create any encumbrance or interest on or over the Client's rights under these Terms and Conditions or over any Account or any balance on any Account in favour of any Persons other than the Bank without the express written consent of the Bank to the Client and these Terms and Conditions shall continue in force as between the Client and such entity.

16.5 The Bank may assign any or all of its rights under these Terms and Conditions or under any Account or Facility to any Persons or entity the Bank deems fit.

16.6 The Bank may at any time amend, vary or supplement any terms or conditions of these Terms and Conditions and any of the terms or conditions relating to any Account or any Facility of the Bank. Any such amendment, variation or supplement shall be made a part of the Bank's Terms and Conditions provided on the Bank's Website as of any date and utilisation of the Website, and use of any Facility or any Account after such date shall constitute the Client's acceptance and agreement to be bound by such amendment, variation or supplement.

16.7 Any Agreement and these Terms and Conditions are governed by and shall be construed in accordance with

the laws of Bermuda. The Client and the Bank agree that the Courts of Bermuda are a proper forum for any court proceedings in connection with any Agreement and any Terms and Conditions or anything arising therefore and the Client submits to the jurisdiction of the Courts of Bermuda for the benefit of the Bank. The Bank and the Client agree that nothing herein shall preclude the right to bring proceedings in any other Court of competent jurisdiction as the Bank may elect and that legal proceeding in any one or more jurisdiction shall not prejudice legal proceedings in any other jurisdiction.

16.8 Without limiting the foregoing, the Client acknowledges that the Bank, the services offered via the Internet Banking System and the Website, and these Terms and Conditions are subject to the requirements of Bermuda Electronic Transactions Act 1999, as amended, and the Standard for Electronic Transactions promulgated thereunder. Accordingly, the guidelines for ecommerce set forth in the Standard for Electronic Transactions are incorporated herein by reference.

16.9 If any of the Terms and Conditions is or becomes illegal, invalid or unenforceable, the same shall not affect the legality, validity or enforceability of any other terms or condition.

16.10 No failure to exercise or enforce and no delay in exercising or enforcing on the part of the Bank its rights under any of these Terms and Conditions shall operate as a waiver thereof nor shall it in any way prejudice or affect the right of the Bank afterwards to act strictly in accordance with the powers conferred on the Bank under these Terms and Conditions.

16.11 These Terms and Conditions, may at the Bank's discretion, be translated into a language other than the English language. The Client agrees that such translation shall only be for his or its/their convenience and the English text shall prevail in the event of any ambiguity, discrepancy or omission as between the English text and any translated text.

16.12 Any reference herein or in any Applicable Laws, to anything which shall or may be written or in writing, shall be satisfied by an Electronic Record if the information contained in the Electronic Record is accessible and is capable of retention for subsequent reference.

## **SECTION B – CALL, CURRENT AND FIXED DEPOSIT ACCOUNTS AND OTHER FACILITIES**

### **B1. GENERAL**

1.1 No payments or withdrawals will be executed from a Call Account, Current Account or Fixed Deposit Account unless the Instructions are in accordance with the Account mandate, and the terms of the Account or Facilities and payments or withdrawals made as a result of such Instructions shall be binding on the Client.

1.2 The Bank may in its absolute discretion refuse to authorise a payment Instruction or withdrawal request given by the Client where the effect of debiting the payment Instruction or withdrawal request to the Account would result in the balance in the Account falling below the Minimum Account Balance and/or the Account going into overdraft.

### **B2. BANK'S POLICIES, PRACTICES AND PROCEDURES**

The operation of any Account and the utilisation or provision of any Facility of the Bank shall at all times be subject to the Bank's policies, practices and procedures in force at any time, including relating to all Applicable Laws, and the Bank shall not be required to take any action, effect any transaction or permit any Account to be operated or any Facility to be utilised or provided except in accordance with such policies, practices and procedures.

### **B3. JOINT ACCOUNTS AND FACILITIES**

3.1 Accounts may be held in sole or joint names. Where the Account is held in joint names each party to the Account is jointly and severally liable for all liabilities incurred on the Account including, without limitation, for any use of any Security Device or other Client identifying information and in connection with any Funds Transfer Request duly signed or initiated by the Account holders.

3.2 In the event of death of any one of such Persons constituting the Client with respect to any joint account, the doctrine of survivorship shall apply to that Account and the Account or Facility shall be terminated upon the Bank's receipt of notice of death. The Bank shall be authorised to dispose of the balance in the Account or

Facility as the property of or to the order of the survivor. Receipt of such property shall constitute full and sufficient discharge of the Bank's liabilities and obligations and the Bank shall be freed from all suits, claims and demands whatsoever made by the heir's executors or administrator of the deceased. The Bank shall not be imputed with notice of proportion of ownership, nor shall it be under any obligation to enquire about the same.

### **B4. CORPORATE AND OTHER BUSINESS ACCOUNTS**

4.1 The Bank may also establish business Accounts with Clients which are corporations, partnerships, trusts and other incorporated or unincorporated legal entities ("Corporate Accounts").

4.2 At all times the Bank may rely upon and carry out Instructions of each of those Persons authorised or identified by the Client to give Instructions in respect to an Account, and the Bank shall be entitled to treat any Instructions or agreement of any such Person as the Instruction or agreement of the Client.

### **B5. CALL AND CURRENT ACCOUNTS**

5.1 Payments or withdrawals from a Call Account or Current Account shall be made in accordance with a Fund Transfer Request Form sent by the Client to the Bank and are effected on demand subject to the terms of the Account. The payment method and currency chosen by the Client may affect the value date of that payment.

5.2 Payment or withdrawals from a Call Account or Current Account may also be made by the Bank, in accordance with the other provisions hereof, to settle any obligations of the Client to the Bank.

5.3 If the Client has a Card, it may be suspended if the balance on the Current Account falls below either the minimum balance required by the Bank for the use of such Card or below the Minimum Account Balance.

### **B6. FIXED DEPOSIT ACCOUNTS**

6.1 Fixed Deposits may not be withdrawn prior to the maturity thereof without the consent of the Bank. In the event that the Bank permits any withdrawal before the

maturity, such withdrawal shall be effected subject to such terms as the Bank may impose at its sole discretion, including any early termination fee and the pro-ratio or reduction in interest otherwise payable thereon.

6.2 A Fixed Deposit may be renewed for a similar period on its maturity date at the prevailing interest rate quoted by the Bank with respect to such period at the date of renewal (together with the interest accrued thereon, if the Bank so chooses) or on such other terms as the Bank may otherwise determine unless prior written Instructions to the contrary shall have been given to the Bank at the outset or not later than the time prescribed by the Bank.

6.3 Payments or withdrawals from a Fixed Deposit Account may also be made by the Bank, in accordance with the other provisions hereof, to settle any obligations of the Client to the Bank.

#### **B7. OVERDRAFT AND OTHER CREDIT FACILITIES**

7.1 The Client shall not be entitled to overdraw on any Account except: (a) to the extent of the limit of any Loan Limits granted by the Bank on that Account; or (b) with the express prior written consent of the Bank.

7.2 The Bank may at its absolute discretion grant credit facilities on any Account or permit an Account to be overdrawn subject to such terms and conditions as the Bank may impose.

7.3 Any credit or overdraft facility and the terms thereof, on any Account may, unless otherwise expressly agreed in writing by the Bank, be reviewed, revised or terminated at any time and from time to time by the Bank and the balance due to the Bank on the Account shall be immediately repayable by the Client on termination thereof or on demand by the Bank at any time.

7.4 In the absence of any agreement between the Bank and the Client to the contrary, the Bank shall be entitled to charge interest on any credit facility or overdraft on any Account at such rate and periodic basis and calculated and compounded in such manner as the Bank may determine from time to time and to debit the Account in respect of the interest charged.

7.5 The Bank may condition the granting of any credit or overdraft facility on the Client signing such form of instrument of security, pledge, promissory note or mortgage as the Bank may from time to time require.

#### **B8. EXCLUSION OF RESPONSIBILITY AND LIABILITIES**

The Bank makes no representation or warranty and assumes no obligation or liability regarding the availability or continued availability or operation of any Account, the Website or any telephone, ATM, Card, computer or other telecommunication system (whether provided, operated or maintained by the Bank or otherwise) and shall not be liable for any Loss incurred or arising from any one or more of the following howsoever caused:

- (a) the cessation or interruption of any Instruction or of the Account or Facilities;
- (b) the corruption or loss of any data (whether stored in a Card, any ATM or any other equipment) or system or Instruction or in the course of transmission thereof through the telephone, an ATM, the Internet, any computer or any electronic or telecommunication system including but not limited to any such corruption or loss resulting from what are commonly known as computer "viruses" or other unauthorised interception;
- (c) any errors generated in the transmission of data or Instruction through any equipment or system used whether by the Bank or any other person in connection with any Account;
- (d) the failure of any ATM, computer or other electronic or telecommunication systems or terminal or equipment to accept, recognise or process any Card, Security Device or Instruction;
- (e) the failure or refusal of any Persons to accept or honor any Instruction;
- (f) any defect, breakdown, failure or maintenance of any computer or other electronic or telecommunication systems or terminal or equipment used (including ATM'S) whether by the Bank or any other persons in the provision or operation of the Website; and
- (g) any inaccuracy or incompleteness in any information obtained from the use of any Card or the Website or provided as part of the Internet Banking System, and/or for any breach of the Bank's obligations to the Client caused by or arising from any of the foregoing events.

## SECTION C – INTERNET BANKING

### C1. Using the Internet Banking System

1.1 These conditions apply to the use of the Bank's Internet Banking System. By registering to use the Bank's Internet Banking System a Client is deemed to have accepted these conditions.

1.2 If any of the Client's accounts are a joint account, these conditions apply to each Client together and separately. If more than one Client uses the Internet Banking System, each person must have their own Internet Banking Logon Information User ID, Password and additional security details.

1.3 When using the Internet Banking System, Clients must follow the instructions that the Bank may give from time to time.

1.4 The Client is responsible for ensuring that their computer, software and other equipment are capable of being used with the Bank's Internet Banking System, and ensure that the computer or device used to access the Internet Banking System is running the latest security related software updates from the vendor and is free of malicious software.

1.5 Both the Bank and the Client may cancel the use of the Internet Banking System at any time.

### C2. Security

2.1 The Client agrees that it shall:

- a take all reasonable care in protecting and keeping secret their Security Device and Internet Banking Logon Information;
- b not permit any other Persons to have access to or knowledge of any Security Device or Internet Banking Logon Information;
- c memorise the Internet Banking Logon Information and shall not record or retain the Internet Banking Logon Information in any form and shall destroy the document, email, electronic file or other communication by which the Internet Banking Logon Information is provided by the Bank to the Client;
- d not do anything that may compromise the security of the Internet Banking System or the systems or security of another Client; follow any

reasonable instruction or recommendations that the Bank may issue regarding Internet Banking security, including without limitation, the security recommendations contained on the Website;

- e change the Internet Banking Logon Information regularly or as required by the Bank and will ensure that any Passwords or User ID's shall conform with requirements and shall not be easily identifiable;
- f notify the Bank immediately if the Client knows or suspects that someone has learned the Client's Internet Banking Logon Information. The Client will be liable for any unauthorised transactions made on its Account, and any relevant fees and charges, until such time as the Client has given such notice to the Bank and the Bank has had a reasonable opportunity to act on such notice;
- g sign off the Internet Banking System when finished and never leave a computer unattended whilst signed into the Internet Banking System. As a security measure, if a Client has not used the system for more than a specified period of time, a Client may be asked to sign in again; and
- h Contact the Bank immediately if the Security Device is lost, damaged, faulty or stolen.

2.2 The Client is entirely responsible for ensuring that their Security Device is kept secure and Internet Banking Logon Information is kept secret and not used by anyone else for any fraudulent purpose. The Client should not under any circumstances write its Internet Banking Logon Information down in a manner that allows them to be understood by someone else, and should not use any of them for another purpose or disclose them to anyone else under any circumstances. The Bank will never request this information from a Client.

2.3 The Bank may request that the Client/Users set up several security questions and corresponding answers which will be noted on the Client's Account, that will help assist the Bank's support staff to verify and identify Users. The Client and/or Users must avoid disclosing their answers to any third parties or selecting questions that can be easily answered by a third party. Acceptable answers will be taken as sufficient for verification.

### **C.3 Blocking access**

3.1 By the Client: Users may request blocking of their access to the Internet Banking System during the Bank's business hours. Such blocking requests must be immediately confirmed by telephone or in writing by the Client. In addition, Clients can block their access directly within the Internet Banking System. Blocking can be lifted by written request on the part of the Client.

3.2 By the Bank: The Bank is entitled to block access to the Internet Banking System at any time without stating reasons and without advance notice, if it regards such blocking as appropriate at its own discretion on objective grounds. The Bank accepts no liability for any losses resulting from such blocking.

### **C4. Instructions**

4.1 Instructions issued via the Internet Banking System may not be executed around the clock in each case. Processing such orders is contingent on the technical proper functioning of the Internet Banking System, the Bank's business days/business hours and, under certain circumstances, other processing points as well as on the trading days / hours of the third party.

4.2 The Client is responsible for ensuring that any Instructions regarding their Accounts received by the Bank through the Internet Banking System are true, accurate and complete.

4.3 The Bank is authorised to accept, rely upon and act upon a Client's Instructions given in any manner permitted by the Internet Banking System as if the Client had given signed written Instructions to the Bank, even if they may conflict with any other mandate given at any time concerning a Client's Accounts.

4.4 The Bank is authorised to debit from a Client's Accounts any amounts that the Bank has paid or incurred in accordance with Instructions received through the Internet Banking System.

4.5 The Bank is not required to confirm the identity or authority of any person using the Client's Security Device or Internet Banking Logon Information to make transactions. However, the Bank, may in its sole discretion, require proof at any time of the authority of any person seeking to make transactions on a Client's account through the Internet Banking System and may

refuse to accept any Instructions if the Bank is not satisfied with such proof.

4.6 The Client unconditionally accepts all transactions booked to the Client's Accounts via the Internet Banking System, insofar as they have been executed with the relevant authentication details. This also applies to all instructions, orders and messages transmitted to the Bank via Internet Banking System that are deemed to have been composed and authorised by the Client.

4.7 The Bank shall not be liable for any loss or damage suffered by the Client or a third party by reason of any failure of or refusal by the Bank to give effect to any of the Client's Instructions or requested transactions or for any reasonable delay by the Bank in implementing any Instructions or transactions.

4.8 In the event of making an error using the Internet Banking System, the Client agrees to contact the Bank immediately or if after opening hours, as soon as possible on the next working day by telephone at the number listed on our contact page on the BCB Website. The Client acknowledges that the Bank may not be able to stop or reverse a transaction or transactions made through the Internet Banking System and that the Bank shall not be liable for any loss the client may, as a result, incur.

4.9 The Bank may refuse to complete or reverse a transaction including but not limited to the following circumstances:

a) the transaction is one which the Bank cannot process including where to do so could be considered a violation of the Bank's policies or procedures or Applicable Laws;

b) the transaction exceeds the Client's balance or credit limit;

c) the transaction would violate a provision of any agreement between the Bank and the Client;

d) the transaction is directed to a third party who/that does not accept the transaction;

e) there is an operational failure or malfunction of the Internet Banking System; and

f) the transaction involves an Account that the Bank considers to be a dormant or blocked Account.



4.10 Any Instruction made through the Internet Banking System accompanied by the Security Device before written notice of any unauthorised use thereof has been given to the Bank by the Client (in reasonable time in advance of such Instructions from the Bank to take appropriate action to prevent such Instructions from being acted upon) shall be conclusively deemed to have been submitted by the Client and the Client waives an right it may otherwise have to challenge any such matter.

#### **C5. Currency Exchange/Stock Trading Activity**

5.1 The Client acknowledges that the Bank does not provide advisory services relating to stock exchange orders executed via the Internet Banking System.

5.2 The Client hereby confirms awareness of the risks associated with stock exchange orders or treasuring trading activities carried out via the Internet Banking System and that the Client is willing and able to bear the potential losses which may result from such Instructions. The Client absolves the Bank of conducting any verification regarding the Instructions.

5.3 When issuing stock exchange orders, the Client acknowledges the applicable norms (stock market laws, regulations, practices etc.) as binding and is under obligation to comply with such norms. The Bank is entitled to reject or cancel stock exchange orders insofar as they do not conform to the applicable norms.

5.4 Currency exchange rates or stock prices are subject to change without warning or notice, and are not guaranteed until the transaction is successfully completed.

#### **C6. Client orders and messages via Internet Banking System mailbox**

6.1 Each Client within the Internet Banking System is assigned a mailbox with which messages can be received from, and sent to, the Bank.

6.2 Messages and orders directed to the Bank are not handled with any particular priority. The Bank reviews, replies to and/or processes such messages and orders within the normal course of business and during business hours on bank working days. The Internet Banking System

mailbox is therefore unsuitable for messages or orders that are time-critical or subject to deadline (for example, time-critical payment orders or stock exchange orders, revocation of orders, blocking of credit cards, etc.).

6.3 The option for an authorised representative to issue orders via the Internet Banking System mailbox depends on the authorisation level as well as the relevant power of attorney for the Account on file with the Bank.

6.4 You have the option of adding a mobile phone number to your Internet Banking System profile. By adding a mobile phone number to your Internet Banking System profile, you are confirming that you are the Account holder for the mobile phone account or have the Account holder's permission to use the mobile phone number for Internet Banking System. You are also consenting to receive Internet Banking System Alerts via text messages. Text message and data charges may apply. Text messages may be transmitted automatically. Successful receipt of text messages is not guaranteed as the Bank has no control over the delivery or quality mechanisms in the mobile networks used by customers.

#### **C7. Messages from the Bank via Internet Banking System mailbox**

7.1 Messages are regarded as having been received when they are available for retrieval in the Internet Banking System mailbox. The Client is responsible for taking note on a timely basis of any messages sent to the Internet Banking System mailbox.

7.2 The Bank is entitled, without prior notice, to delete from the Client's Internet Banking mailbox any messages that exceed a designated maximum storage space per Client. Such deletions are carried out without regard to the above-mentioned deadlines in the case of cancellation of an Account for which the messages are designated. The Client is responsible for retrieving and securing any messages beforehand, if necessary. The Bank accepts no liability for any losses resulting from the deletion of messages. The Bank will retain messages in accordance with its records retention policy.

#### **C8. Electronic dispatch of bank documents**

8.1 The Bank reserves the right to provide the Client with bank documents in electronic form, either exclusively

or in addition to normal dispatch by post. The Bank shall notify the Client through the appropriate means regarding the form in which bank documents will generally be dispatched. The Client acknowledges that an authorised representative may gain access to the electronic bank documents.

8.2 Delivery: Electronic delivery of bank documents is carried out through the Client's Internet Banking System mailbox. The bank documents are regarded as having been delivered to the Client, irrespective of any subsequent additional dispatch by post, at the time when they are retrievable within the Internet Banking System. This applies even if the Client has no knowledge of the electronically dispatched bank documents (for example, if the Client has no access to the Internet Banking System), or if the Client does not or cannot retrieve the bank documents that are provided electronically. The effective deadlines for submitting objections also commence at the time the electronic documents are delivered.

8.3 Bank documents that the Client had previously received in paper form will be provided in electronic form through the Internet Banking System. Therefore, the bank documents provided via the Internet Banking System replace those previously dispatched in paper form. The bank documents provided via the Internet Banking System also supersede statements and information to the extent referred to in the Bank's General Terms and Conditions. The Client hereby explicitly acknowledges that the Bank fulfills its obligations of notification and accountability through the electronic dispatch of bank documents.

8.4 The Bank assumes no liability whatsoever for any losses resulting from the untimely retrieval of bank documents that are provided electronically. This applies particularly to notices of direct debit charges with the right of revocation.

8.5 Electronic bank documents are available for retrieval within Internet Banking for a period of at least 6 months. After this period, or if the designated maximum storage space per Client is exceeded, the bank documents may be deleted from the Internet Banking System. Such deletions are carried out without regard to the above-mentioned deadlines in the case of cancellation of an account and/or custody account for which the bank documents are electronically dispatched, or if the Agreement for the use of the Internet Banking System is cancelled. The Client is responsible for retrieving and securing any bank documents beforehand, if necessary.

The Bank accepts no liability for any losses resulting from the deletion of bank documents.

8.6 The Bank can provide no guarantee that bank documents retrieved electronically and subsequently printed out meet the standards of proof required in legal or other administrative proceedings (e. g. tax assessment procedure). The Bank can provide bank documents in paper form at the request and expense of the Client.

8.7 The Bank is entitled to dispatch any bank documents designated to be delivered exclusively in electronic form merely, or additionally, in paper form via post without stating reasons. The Bank accepts no liability for any losses resulting from such dispatch via post.

8.8 The electronic delivery of bank documents (exclusively or in addition to normal dispatch via post) may be cancelled by the Client or the Bank in writing at any time, without stating reasons. The cancellation also applies for delivery to any authorised representative. In the case of cancellation of the exclusively electronic delivery – and in the absence of any instructions to the contrary – from the date of cancellation all documents will be sent to the client at the last correspondence address reported to the Bank. Any related expenses or fees will be charged to the client.

## **C.9 Corporate Accounts**

9.1 Corporate Accounts have additional features and functionality to allow the creation and self-management by the Client of all Users and control their scope of activities by designating user levels, access levels and privileges on the Internet Banking System. Such privileges will extend to the requirement for multiple authorisation and other signature rules. The move to self-management of the Internet Banking System by the Client releases the Bank from liability against adherence to existing Account mandates or authorities and the liability to ensure proper authorisation will rest with the Client. For each User, Clients can designate which Corporate Account(s) the User will have access to and limits may be placed on the types of transactions for each Corporate Account the User is granted access to. An "Administrator" is a User who is able to create additional Users and to edit and monitor other Users. The Bank does not accept any liability in the event that an Administrator erroneously grants Users, privileges outside of their roles, or fails to set up restrictions, and that allows Users to complete sensitive transactions.

9.2 The system also provides for Administrators to assign Daily Limits for each Corporate Account separately. These control the total cumulative value of transactions that each corporate Client can control at a user level and at account level. These are refreshed every 24 hours from 12:00 AM to 11:59 PM Bermuda time. Coupled with signatory limits and access level controls for each User, Clients have the ability to modulate the quantum of transactions being conducted online. Clients are obligated to verify that the limits set up are reflective of their business needs. The lowest limit of all limits shall apply at any given time. The Bank does not accept any risk or responsibility if these limits prevent the Client from conducting their business online and do not absolve the Client and its Users from protecting the privacy of their data, User ID, Passwords or Security Devices and the Bank shall not take responsibility for any losses incurred by the Clients due to its usage.

#### **C.10 Provisions of Authorisation**

10.1 Internet Banking System authorisation for the use of Internet Banking System remains in effect in each case until its explicit revocation.

10.2 Internet Banking System authorisation does not lapse in the event that the Client dies, is declared missing, loses capacity to act or is declared bankrupt, irrespective of otherwise specified commercial register entries or other published documents. Following the death of the Client, the authorised representative is obliged to protect the interests of the Client's heirs, obtain their instructions and remain accountable to them. In the event of death of the Client, the Bank may subject any legal actions taken on the part of the Client's authorised representative to be contingent on the submission of documentation required under inheritance law and/or the written consent of the Client's heirs.

10.3 Internet Banking System authorisation may be revoked at any time by the Client, authorised representative or relevant heirs. Such revocation should be addressed to the Bank and must be confirmed in writing as well. Revocation of a standard power of attorney does not automatically result in revocation of the authorisation to use Internet Banking services; in fact, such authorisation must be explicitly revoked. Vice versa, revocation of the authorisation to use Internet Banking services does not automatically result in revocation of a standard power of attorney. However, the Bank reserves

the right to stipulate that the authorisation for use of Internet Banking be contingent on the existence of a standard power of attorney.

#### **C.11 Disclaimer**

Use of the Internet Banking System and the Website is at the Client's own risk. Internet Banking, the Website and its contents are provided on an "as is" basis, and without any representations, warranties or conditions of any kind, whether expressed or implied, and including without limitation implied warranties of merchantability or fitness for a particular purpose, all of which are hereby disclaimed to the fullest extent permitted by law.

#### **C.12 Liability Exclusion**

12.1 The Client shall assume the entire cost of all necessary servicing, repair or correction to any equipment arising from or connected to their access to the Website and Internet Banking System.

12.2 Without limiting the above, the Bank does not represent or warrant that:

(a) the Internet Banking System and the Website or its content will be available or will function without interruption or that they will be free of errors or that any errors will be corrected; or

(b) the Client's use of the Internet Banking System and the Website, including the browsing and downloading of any content, will be free of viruses, Trojan horses, worms or other destructive or disruptive components; or

(c) the Client's use of Internet Banking System and the Website or its contents will not infringe the intellectual property rights or other rights of any third party.

**END OF DOCUMENT**