



**CHINA CONSTRUCTION BANK (NEW ZEALAND) LIMITED
ACCOUNT TERMS AND CONDITIONS**

Date 13 Jan 2020

These terms and conditions should be read in conjunction with any applicable specific terms for particular types of accounts.

This document contains the account terms and conditions (“**Terms**”) for operating your bank accounts with China Construction Bank (New Zealand) Limited (“**Bank**”). Please take the time to read this document carefully. In these Terms, any reference to "you" or "your" means the person that is named as the Customer in the account opening forms for the account (and if more than one person, means each person individually, and any two or more of those persons).

Please note: Notwithstanding that, there are clauses in these Terms relating to accounts with cheque access; the Bank does not currently provide payment services by cheque. However, accounts with cheque access may be provided in the future. The Bank will inform you if cheque access becomes available to any of your accounts at that relevant time.

1. Application of Terms and Conditions

These Terms apply to all accounts operated or to be operated by you with the Bank including all accounts you hold jointly with other persons, unless specific terms and conditions applicable to an account provide otherwise. These Terms replace any earlier terms and conditions provided to you by the Bank.

By operating any account with the Bank, you acknowledge that you accept these Terms.

2. Specific Terms and Conditions

These Terms are to be read in conjunction with any specific terms and conditions that may also apply to particular types of accounts provided by the Bank. All additional terms and conditions will be made available to you on application or at the time that you take up that account. If there is any inconsistency between these Terms and any specific terms and conditions, the specific terms and conditions will prevail to the extent of that inconsistency.

3. Changes to Account Terms and Conditions

These Terms will continue to apply until the Bank gives you notice of any changes to them. Notice of any such changes will be given to you at least 14 days in advance (unless otherwise stated in these Terms). The Bank will give you notice in one or more of the following ways: by writing to you at the last address you have provided to us, or as displayed in our offices, or on our website.

4. **Opening your Accounts**

In order to open an account with the Bank, you must complete and submit the applicable account opening and operating authority. The Bank reserves the right to decline an application to open an account for any reason.

For security reasons and due to legal requirements, the Bank may require you to provide proof, satisfactory to the Bank, of your identity and address. Examples of such proof may include a passport, New Zealand driver's licence, and/or a New Zealand firearms licence. If you are not a personal applicant, you may be required to provide proof, satisfactory to the Bank, of additional details such as details of beneficial owners or shareholders.

5. **Instructing the Bank**

(a) **Verification of your identity**

The Bank may, at its discretion, require you to prove to its satisfaction your identity and the identity of any person who is authorised to operate your accounts.

(b) **General Instructions relating to your Accounts**

Where the Bank has made an account or accounts available to you, you may instruct the Bank in respect of your accounts by cheque (if available), telephone, facsimile, email, text, card or computer or by any other written, electronically communicated or verbal method acceptable to the Bank.

The Bank may require you to use forms acceptable to the Bank for the purposes of instructing the Bank. If an instruction is not in an acceptable form, the Bank may, in its absolute discretion, decide whether to carry out the instructions or not.

(c) **Persons Acting on your Behalf**

You must notify the Bank in writing, in a form acceptable to the Bank, of the details of any person that you wish to be authorised to instruct the Bank on your behalf in respect of your accounts. That person must provide the Bank with a specimen signature for identification purposes together with proof of identity, address and such other information as the Bank may require.

(d) **Transactions**

Unless specified otherwise in any applicable specific terms and conditions of any account, an account may be operated by deposits, withdrawals, transfers, direct credits, direct debits, automatic payments or any other type of payment authority acceptable to the Bank.

6. **Authority**

You authorise the Bank:

- (a) to open and continue your accounts;
- (b) to act in accordance with your instructions in relation to each account, except where the Bank considers it has good reason not to so act. In particular,

unless you have an arrangement with the Bank, the Bank will not be obliged to act in accordance with your instructions where to do so would result in an account becoming overdrawn;

- (c) to act in accordance with any instructions given to the Bank by any person authorised to operate your account;
- (d) at any time and without notice to you, to combine, consolidate, merge or apply any credit balance of any of your accounts with the balance of another of your accounts, by way of set-off, so as to treat them as a single balance, towards payment of money which is then, or will become, due and payable to the Bank by you (subject to any limitations the Bank agrees with you in writing). For this purpose, you authorise the Bank to transfer funds from one account to another (including any joint account which you can operate individually), to use funds in one currency to buy another currency and to break any term investment you may have. The Bank may do these things without prior notice and in the order, and as often, as the Bank determines (subject to any limitations the Bank agrees with you in writing); and
- (e) to record any telephone calls you may have with the Bank and to retain such recordings. The Bank can use information that it collects during those calls and give that information to other people or organisations. See clause 16 for further details as to how the Bank may use that information.

7. **General Terms and Conditions**

(a) **Bank Services**

The Bank will provide its services to you with reasonable care and skill.

(b) **Terms relating to Deposits**

- (i) Deposits other than physical cash will only be provisionally credited to the account nominated by you (unless the Bank agrees otherwise with you in writing). You may not access these deposits until they are cleared and if not cleared they will be reversed from your account. Accordingly, the balance of any of your accounts with the Bank may be altered by reversal of any unpaid cheque or other non-cash payment included in a deposit.
- (ii) The Bank may, at its discretion, accept deposits in foreign currencies. A foreign currency is any currency other than New Zealand dollars. If it accepts such deposits, the period before the funds become available will depend on the currency of the funds. Where foreign currency deposits are made by way of cheques or drafts, those deposits will be subject to the laws of the country of the bank that made the cheque or draft.
- (iii) You may also have funds deposited into your account by way of electronic transfer from a foreign bank. If such deposits are made in a foreign currency, the Bank may elect, at its discretion, whether or not to accept the deposit. If a foreign currency deposit is accepted, the period before the funds become available to you will depend on the currency of the funds.

- (iv) If you or someone else on your behalf deposits funds with the Bank in a foreign currency, the Bank may charge you a fee for this service. If a foreign bank charges the Bank a fee or cost for this service, you agree to reimburse the Bank and you agree that the Bank can take that money out of your account.
- (v) The Bank may, at its discretion, allow you to withdraw a deposit out of your account in a different currency (where applicable). If so, the Bank will convert the amount of the deposit into the same currency as the receiving account. The Bank will use its exchange rates that apply at the time of the conversion. The amount taken may therefore change due to exchange rate fluctuations.
- (vi) If a deposit is made on a non-business day in Auckland, New Zealand, it may be processed on the next business day.
- (vii) The Bank is not responsible for any delay in processing deposits to your account.

(c) Ownership of Funds in your Accounts

Unless you instruct the Bank otherwise in writing, you acknowledge that you are solely entitled to the funds in your accounts and that the funds in your account belong to you and not to any other person and that no other person has any legal or beneficial interest in them.

(d) Non-compliant cheques

The Bank may, in its discretion, refuse to accept for collection or payment cheques which do not comply with current banking standards applied by the Bank.

(e) Stopping a Payment

If you wish to stop a cheque or other payment from any of your accounts you must notify the Bank before the payment is made from the relevant account. The Bank will then advise you of any further requirements to stop that payment (if it is able to).

(f) Mistaken payments

If you make a payment from any of your accounts in error, it may not be possible to stop or reverse the payment once made. Payments made by you in error may only be recovered from the relevant account it has been paid to with the consent of that account holder.

(g) Payments in error

There may be circumstances where the Bank can reverse payments paid into any of your accounts without notice to you, such as when the Bank or another bank or financial institution involved in making the payment has made an error.

(h) Application of Deposits

The Bank is not obliged to act on or verify compliance with an instruction to apply a deposit for a specific purpose or subject to any condition and the Bank will not be

responsible for applying a deposit contrary to any instruction (unless the Bank agrees otherwise with you in writing).

(i) **Credit Interest**

You may receive interest on the credit balance you have in certain types of accounts with the Bank, at the rate(s) (if any) applicable to that account. Whether interest is payable by the Bank on an account will be set out in a brochure or other material for that account, or on our website.

Unless agreed otherwise, interest will be calculated daily at the interest rate the Bank decides applies to the account or the rate the Bank has agreed with you and the Bank will add that interest to your account monthly on the last business day of the month.

For credit balances denominated in a foreign currency, you will receive interest in that currency. Interest will be calculated daily based on a year having 360, 365 or other number of days depending on the market practice for calculating interest relating to the relevant currency. The rate of interest payable on any applicable account may be altered at any time by the Bank without the need for prior notice. In addition, the Bank may:

- (i) determine minimum credit balances in applicable accounts before paying any interest;
- (ii) apply different interest rates depending on the amount of money in the applicable account; and
- (iii) decide on other criteria that must be satisfied to earn interest, for example making a deposit of a minimum amount on a monthly basis.

Details of current interest rates may be obtained from the Bank.

(j) **Bank Fees and Charges**

(i) **General**

The Bank is entitled, from time to time, to debit your accounts with all applicable fees and charges payable in respect of your accounts and any services provided to you by the Bank.

Fees and charges that are applicable to your account may be described more fully in the specific terms and conditions that apply to your account. The Bank may also, from time to time, debit your accounts with the amount of any fee, charge, recovery cost and any other amount payable to any governmental agency or payable by law, without prior notice, in respect of your account (subject to any limitations that the Bank agrees to with you in writing).

Details of current fees and charges may be obtained from the Bank.

The Bank may change its fees and charges at any time. Wherever possible, the Bank will tell you of any new fees or charges or any change to its fees or charges before you have to pay it. If you are not happy with a change to the Bank's fees or charges, you can elect to close your account in accordance with these Terms.

(ii) **Recovery costs**

At the Bank's demand, you must pay any costs incurred by the Bank in connection with the Bank's collection, or attempted collection, of amounts overdue on any of your accounts (including the costs of any collections agent and any legal fees incurred by the Bank, on a solicitor/own client basis) (subject to any limitations that the Bank agrees to with you in writing). If you do not pay any such costs on demand, the Bank can deduct those costs from your account without prior notice.

(iii) **Taxes**

Unless you have supplied the Bank with a copy of your current certificate of exemption, the Bank will deduct withholding tax from any interest credited or paid to you. If your IRD number has not been supplied, this deduction may have to be made at a higher rate than might otherwise apply. For non-residents the Bank may, in its discretion, elect to pay to the Inland Revenue Department a non-resident approved issuer levy instead of deducting non-resident withholding tax. In this case, the amount of the non-resident approved issuer levy will be deducted from any interest credited or paid to you.

You should immediately notify the Bank of any change in your applicable tax rate or your tax residence status.

(iv) **Foreign currency fees**

If the Bank offers you a service which involves transactions in a foreign currency, the Bank may charge a fee in that currency or in another currency that is different to the currency of your account. If so, the Bank will convert the charge or fee into an amount denominated in the currency of your account. The Bank will use its exchange rates that apply at the time.

(v) **Other deductions**

The Bank may, without prior notice, make deductions from your account to pay:

- (i) interest or fees if your accounts become overdrawn (with or without prior arrangement with us); or
- (ii) interest on any unpaid interest. You can contact the Bank to find out its current interest rate or fees payable on overdrawn accounts or unpaid interest at any time.

(k) **Payment Priority**

The Bank may, in its discretion, determine the order of priority of payments from any of your accounts.

(l) Restrictions on your Accounts

You may not, without the prior written consent of the Bank, assign, mortgage, charge or declare a trust over or in respect of any of rights to your accounts, including any credit balances.

(m) Closing or suspending your Accounts

You or the Bank may close any of your accounts at any time, subject to any specific terms and conditions of your account. The Bank will not close any of your accounts without first giving you notice (unless any of the events below occur).

The Bank may also suspend the operation of any of your accounts, or close any of your accounts, without prior notice, in the event:

- (i) of your death, your bankruptcy or any other lack of legal capacity or if you have committed an act of bankruptcy, or if a petition has been presented for your bankruptcy or you have applied for or are subject to any personal insolvency procedure or proceedings under the Insolvency Act 2006;
- (ii) any third party claims an interest in your account that the Bank considers may be justifiable, pending resolution of that matter;
- (iii) there are insufficient funds to cover any payment instructions given by you;
- (iv) you breach these Terms, any other applicable terms and conditions in relation to your account or any other loan documents or security agreements you have entered into with us;
- (v) the Bank reasonably believes that you or someone else has used or is using your account illegally or fraudulently or that you are not complying with any New Zealand or overseas laws applying to you;
- (vi) for organisation accounts, while the authority of the person representing the organisation is unclear;
- (vii) the Bank reasonably believes that there is a legal requirement to do so, or a court or other authority requires us to do so;
- (viii) the Bank believes that you, or payments in or out of your account are subject to a New Zealand or international payments sanction regime;
- (ix) you have not provided us with a declaration or information we have asked for to open or continue to operate your account (or we believe such information or declaration is incomplete or inaccurate);
- (x) your account has never been used, or has not been used for an extended period; or
- (xi) the Bank considers there are other reasonable grounds to do so,

(In each case the Bank will make reasonable efforts to notify you of the the suspension or closure. The Bank may be prevented from telling you why it has suspended or closed your account to comply with laws in New Zealand or overseas).

You must reimburse the Bank for all costs and expenses reasonably incurred by the Bank in connection with the events set out in paragraphs (l) to (x) above. The Bank is not liable for any loss if it does not close or suspect your account when it could have done so in accordance with this clause.

If the Bank or you close your account, you must repay any funds that you owe the Bank relating to that account. The Bank will pay or transfer to you funds that the Bank hold for you relating to that account. However you agree that the Bank can retain sufficient funds to cover any amounts you owe the Bank that are necessary to comply with any court order, legal requirement or if you have breached these Terms, to cover any loss that the Bank might have suffered as a result of such breach.

(n) **Debit Cards**

If the Bank issues you with a debit card for use in respect of any of your accounts, you authorise the Bank to debit the relevant account for amounts equal to any withdrawals, payments or transfers made through or with the use of such debit card. Any debit card issued by the Bank to you remains the property of the Bank.

(o) **Foreign currency accounts and exchange rate risk**

Where you choose to hold deposits with us in any currency other than New Zealand dollars you accept that your deposits are exposed to exchange rate risk. This is because while your deposit is in a currency other than New Zealand dollars, the value of the New Zealand dollar may fluctuate. At the end of your foreign currency term deposit, you will be repaid the funds from your term deposit in the currency of your account. You may then convert this into New Zealand dollars, which could have a different value than when you invested the money. This difference could mean that you are either worse or better off. This is exchange rate risk.

Additionally, you will face exchange rate risk if the Bank converts your term deposit into another currency during the term of your deposit for any reason. For example, this might happen should you choose to break your foreign currency term deposit early (if allowed under the relevant terms and conditions), or if the Bank receives a demand from a third party such as the Inland Revenue Department (under the appropriate legislation). In this situation, the Bank will convert the money to New Zealand dollars based on its exchange rate applying on the date of the transaction.

The Bank is not responsible for any loss you may suffer as a result.

(p) **Overdrafts**

Both arranged and unarranged overdrafts are repayable on demand. There could be circumstances where your account has insufficient funds to cover:

- (i) a withdrawal or payment out of your account;
- (ii) a payment made into your account being reversed by the bank that made the payment; or

- (iii) deduction by the Bank of fees, charges or interest.

Under any of these circumstances, the Bank will treat each situation as a request from you for an unarranged overdraft. The Bank does not have to agree to provide you with the unarranged overdraft and can approve or decline the request. The Bank will not be liable for any loss if the Bank does not agree to provide you an unarranged overdraft. If the Bank does agree to give you an unarranged overdraft, you will be charged interest on that amount at our applicable unarranged overdraft interest rate and our applicable unarranged overdraft fee.

8. Terms and Conditions Specific to Joint Accounts

(a) Deposits

Where the Bank receives a deposit in your name or in the name of a person with whom you have a joint account, the Bank may credit it to your joint account, unless specifically instructed in writing to pay it into a separate account in that name.

(b) Operating Joint Accounts

Unless you have specified otherwise in writing, any one of you or the person(s) with whom you have a joint account may instruct the Bank in respect of your joint account. You and the person(s) with whom you have a joint account will be jointly and individually liable for all amounts owing in your joint account at all times.

(c) Death of One Party to a Joint Account

If one or more parties to a joint account dies, the balance of the joint account will be payable to the surviving joint party or parties and these parties will have full authority to operate the account. The Bank will incur no liability in paying such funds to the surviving joint party or parties.

(d) Joint Security

When jointly owned assets are provided as security for borrowing with the Bank, the Bank recommends that each joint account holder seek independent legal advice regarding the individual liability of each party for debts incurred both now and in the future and the possible implications on the assets provided as security.

(e) Disputes

If a dispute occurs between you as joint account holders, you must advise the Bank immediately and should seek independent legal advice.

(f) Closing your Joint Accounts

Unless you have specified that all signatories to your joint account are required to operate your joint account, your joint account may be closed by one of you by instructing the Bank that you wish to close the account. Where the Bank, acting in accordance with your instructions, closes your joint account, the Bank will not be liable to any party to the joint account for consequences arising from the closure of that account.

(g) Suspension or Closure of Joint Accounts

The Bank may suspend the operation of or close a joint account, without prior notice to you, in the event:

- (i) there is a dispute between any of the joint account holders and the dispute is not resolved to the Bank's satisfaction;
- (ii) any joint account holder has committed an act of bankruptcy or has been declared bankrupt or a petition has been presented to declare any joint account holder bankrupt or any joint account holder has applied for or is subject to any personal insolvency procedure or proceedings under the Insolvency Act 2006;
- (iii) any joint account holder attempts to assign or dispose of their interest in the joint account;
- (iv) any third party claims an interest in your account that the Bank considers may be justifiable, pending resolution of that matter;
- (v) there are insufficient funds to cover any payment instructions given by you;
- (vi) you breach these Terms or any other applicable terms and conditions;
- (vii) the Bank considers there are other reasonable grounds to do so (in which case the bank will make reasonable efforts to notify you of the circumstances of the suspension or closure);
- (viii) one joint account holder attempts to withdraw or notifies the Bank of their intention to withdraw as a joint holder from the joint account; or
- (ix) any of the other events set out in clause 7(m) occur.

In such case:

- (i) each joint account holder prior to suspension or closure of the account will continue to be jointly and individually liable for any outstanding debt; and
- (ii) The Bank is not liable to any joint account holder for any consequences of suspension or closure of an account nor will the Bank be liable to any joint account holder if it does not suspend or close a joint account when it could have done so.

(h) Notice to Joint Account holders

Any notice given by the Bank to one joint account holder is deemed sufficient notice to all joint account holders.

9. **Terms and Conditions Specific to Partnership Accounts**

(a) **Warranty**

You warrant that each of the partners in the partnership have authorised the account to be opened and operated and that such opening and operating and all terms and conditions applicable to the account complies with the provisions of the partnership contract.

(b) **Accession**

Every partner, as at the date on which the partnership account is opened, and you must ensure that every person who thereafter joins the partnership as a partner, agrees, or on joining the partnership will be deemed to agree, to be bound by these Terms.

(c) **Liability**

All partners will be jointly and individually liable for all amounts owing on a partnership account and for the performance of all obligations imposed under these Terms or by New Zealand law.

The Bank must be notified in writing immediately should there be any change in the composition of the partnership. Until the Bank receives such notice, the Bank shall treat the partnership as unchanged. A former partner will remain jointly and individually liable in respect of the partnership account until released from liability in writing by the Bank.

(d) **Deposits**

Where the Bank receives a deposit (whether by cheque or any other means) in favour of any one or more of the partnership's partners, the Bank may credit it to the partnership account, unless instructed in writing to credit it to another account.

(e) **Operating partnership accounts**

Each of the partners undertake to ratify and confirm all transactions undertaken by the authorised signatories as advised to the Bank in respect of the partnership account. If the Bank receives conflicting instructions from any persons authorised to operate the partnership account, the Bank may refuse to act on any of those instructions or may act on any one of such instructions. If the Bank communicates with one partner, this will be deemed sufficient notice to all partners (unless the Bank has otherwise agreed with you in writing).

10. **Terms and Conditions Specific to trustee and estate accounts**

You must tell the Bank if you are opening an account as trustee of a trust.

(a) **Warranty**

You warrant that each of the trustees, executors and administrators have authorised the account to be opened and operated in accordance with all terms and conditions applicable to the account and that such opening and operation of the account comply with the provisions of the trust deed, will or other authority.

(b) **Accession**

Every trustee, executor, or administrator as at the date on which the account is opened, and you must ensure that every person who is thereafter appointed as such, agrees or on being appointed will be deemed to agree to be bound by these Terms.

(c) **Liability**

All trustees of any trust or all executors or administrators of any estate holding an account will be jointly and individually liable for all amounts owing on the account and for the performance of all obligations imposed under these Terms or by New Zealand law.

The Bank must be notified in writing immediately should there be any change in the trustees, executors or administrators. Until the Bank receives such notice, the Bank shall treat the trust or estate as unchanged. A former trustee, executor or administrator will remain jointly and individually liable in respect of the applicable account until released from liability in writing by the Bank.

(d) **Deposits**

Where the Bank receives a deposit (whether by cheque or any other means) in favour of any one or more of the trustees, executors or administrators, the Bank may credit it to that account, unless instructed in writing to credit it to another account.

(e) **Operating trust accounts**

Each of the trustees, executors, or administrators undertake to ratify and confirm all transactions undertaken by the authorised signatories as advised to the Bank in respect of the account. If the Bank receives conflicting instructions from any persons authorised to operate the account, the Bank may refuse to act on any of those instructions or may act on any one of such instructions. If the Bank communicates with one trustee, this will be deemed sufficient notice to all trustees (unless the Bank has otherwise agreed with you in writing).

11. **Terms and Conditions Specific to accounts with cheque access (if available)**

(a) **Cheque books**

You may request a chequebook for any account that the Bank provides cheque access to.

You are responsible for keeping any chequebook safe and secure at all times. If a chequebook or any completed cheque is lost or stolen, you must immediately inform the Bank. You must never pre-sign a blank cheque.

(b) **Crossings**

There are different legal consequences of crossing cheques in different ways. If you are in doubt about these, you should ask the Bank for details.

(c) **Instructions as to special purpose**

The Bank is not obliged to verify compliance with any notice or instruction to apply the proceeds of a cheque for a specific purpose or subject to any condition.

(d) Dishonoured cheques

The Bank may refuse to pay out on a cheque in certain circumstances, including (without limitation), if:

- (i) the cheque has been incorrectly completed, not signed in terms of the any account operating authority; or
- (ii) The Bank believes there will not be sufficient funds in your account.

You may incur dishonour fees if this occurs.

(e) Post-dated and or out of date cheques

Cheques presented before the date of the cheque or more than six months after the date of the cheque may be dishonoured.

(f) Stopped cheques

The Bank will make reasonable efforts to stop payment on a cheque issued on your account if you notify the Bank to do so. The Bank will not be liable if payment on a cheque is not prevented. Charges may apply for stopped cheques.

(g) Alerting cheques

If you wish to alter a cheque, you must do so in accordance with any relevant account opening and operating authority. If you wish to increase the amount payable on a cheque, your full signature and that of anybody else who must co-sign the cheque must be placed next to the alteration. All other alterations must be initialled by the drawer in accordance with the relevant account operating authority.

(h) Closure of account

If an account is closed, you must return all of your unused cheques and any debit or credit cards relating to that account to the Bank. Government stamp duty may be refundable on receipt of any unused cheques.

12. Your Responsibility

(a) Generally

You are responsible for:

- (i) ensuring that you have sufficient funds in an account to enable the Bank to comply with your instructions relating to that account, and to meet all debits from that account;
- (ii) checking your account statements to ensure that they are accurate and immediately advising the Bank of any error or discrepancy;
- (iii) immediately notifying the Bank of any alteration to a payment authority or of any change of name, address or any other contact detail; and

- (iv) complying with any applicable specific terms and conditions of any account or service provided with an account.

(b) Password / Personal Identification Number (“PIN”)

Where your account is protected by password or PIN, you are responsible for selecting and keeping your password or PIN secure. In particular, you must:

- (i) not keep a written record of your password or PIN;
- (ii) not choose a password or PIN in a form that can be readily identified as a password or PIN;
- (iii) not select a password or PIN that consists of any readily accessible personal data such as your birth date, telephone number, licence plate or passport nor must it be an obvious number or combination of numbers;
- (iv) not disclose your password or PIN to any other person;
- (v) not allow any other person to see your PIN or password when you enter it and you must make sure it is not retained on any device (including by way of saved data on an internet browser);
- (vi) notify the Bank immediately if you become aware that your password or PIN has become known to someone else; and
- (vii) ensure that any authorised persons who are able to assess any of your accounts by password or PIN keep their password or PIN secure as set out above.

13. Terms and Conditions Specific to foreign exchange transactions

You may request that the Bank enter into foreign exchange transactions (“Forex Transactions”) with you from time to time in connection with the operation of your account. If the Bank agrees to enter into a Forex Transaction, the terms and conditions set out in this clause 13 shall apply together with any other specific terms and conditions notified to you by the Bank at the time the Forex Transaction is entered into.

(a) Warning – Foreign exchange risk

You acknowledge that you should not enter into Forex Transactions unless you understand the risks associated with fluctuations in exchange rates and are able to actively monitor those risks. The Bank is not liable for any loss you incur as a result of a Forex Transaction.

(b) Entering into Forex Transactions

Forex Transactions may be entered into by telephone or by way of electronic mail. You agree that you will be legally bound from the time the Bank accepts your request.

The Bank will send you a confirmation of the terms of the Forex Transaction in writing (which may include electronic mail). If you receive the written confirmation and any

part of the information contained in it is incorrect, you must immediately notify the Bank.

The Forex Transaction is still valid and binding even if a written confirmation is not sent to you. If you fail to notify the Bank of any incorrect information within one business day, you will be deemed to be bound by the confirmation.

(c) **Payments**

Each of you and the Bank will make payments to the other in the currency and amounts and at the time and to the account agreed for each Forex Transaction. If you have not provided adequate details to the Bank, then the Bank may nominate the account and time for payment.

All payments to the Bank must be made in cleared funds and without any withholding, deduction or set-off. The Bank will only be obliged to make a payment to you so long as none of the Termination Events referred to in paragraph (d) below have occurred.

If on the same day payments are due from both parties under a Forex Transaction then the party that owes the higher amount shall deduct the amount that is owed by the other and pay only the net amount then owing to that other party. Such payment will satisfy in full the obligations of both parties in relation to the relevant payments.

(d) **Termination of Forex Transactions**

For the purposes of these Terms, “**Material Adverse Effect**” means a material adverse effect on:

- (i) your business, operation, property, prospect or condition (financial or otherwise);
- (ii) your ability to perform or comply with your obligations under a Forex Transaction, these Terms or any other applicable terms and conditions;
- (iii) the validity, legality or enforceability of the whole or any part of an Forex Transaction, these Terms or any other applicable terms and conditions, or the rights and remedies available under each; or
- (iv) the priority and ranking of any security expressed to be created pursuant to any security document you have entered into in favour of the Bank,

In addition, a Material Adverse Change shall be construed accordingly.

The Bank may terminate any or all-outstanding Forex Transaction(s) if:

- (v) you fail to make, when due, any payment under that transaction or any other agreement you have entered into with the Bank;
- (vi) you do not comply with your obligations under these Terms or any other applicable terms and conditions in any way; or

- (vii) any event or circumstance occurs that has, or in the reasonable opinion of the Bank may have, a Material Adverse Effect, each, a “Termination Event”.

If the Bank elects to terminate any Forex Transaction, the payments due on termination will be determined in accordance with paragraph (e) below.

(e) Payments after Termination

If the Bank terminates a Forex Transaction, the Bank will determine, as at the termination date, the mark-to-market value in New Zealand dollars of that terminated Forex Transaction. Such a determination will be made by the Bank on the basis of market quotations obtained by the Bank. Each quotation will be for an amount, if any, that the Bank would have to pay someone else (expressed as a positive number) or that someone else would pay the Bank (expressed as a negative number) to assume your rights and obligations under the terminated Forex Transaction or Forex Transactions. Where a quotation is denominated in a currency other than New Zealand dollars, the Bank may convert the quoted amount into New Zealand dollars using an exchange rate selected by the Bank.

Once the mark-to-market value of each terminated Forex Transaction has been determined, the sum of those values will be calculated. If this final amount is positive then you must pay this amount to the Bank. If this final amount is negative then the Bank must pay the absolute value of this amount to you.

You must pay any termination payment due by you to the Bank promptly following receipt of a request for payment from the Bank. You acknowledge that the Bank may debit your account for the amount of such payment and, for this purpose, may convert amounts held in one currency into another currency and may break a term deposit.

(f) Independent Advice

You acknowledge that in entering into any Forex Transaction, you will not be relying on any representation or information made or given by the Bank and the Bank will not be liable for your loss in any circumstances to the extent permissible by law. You will obtain, and rely on, independent advice if you so require prior to entering into a Forex Transaction.

(g) Miscellaneous

If you fail to pay the Bank an amount when due, you must pay interest on that overdue amount. Such interest will accrue from the date the amount was due to the date that you make payment. The Bank will determine the rate of interest and interest may be capitalised.

If requested, you must provide the Bank with a list of persons authorised to enter into and settle Forex Transactions on your behalf.

You are not entitled to claim from the Bank any consequential loss in the event of the Bank’s breach of this clause 13.

No amendment or waiver to this clause 13 of the Terms is effective unless it is in writing signed by all the parties.

14. **Bank's position**

Subject to complying with its obligations of reasonable care and skill and any obligations, it may have under the Consumer Guarantees Act 1993, and notwithstanding anything else stated in these Terms and conditions, the Bank:

- (a) may decline to act or delay in acting, on any instruction given by you where it considers that it has good reason to do so (without prior notice);
- (b) may, where your account can be accessed by telephone or by any electronic means, assume that any telephone or electronic instructions received using your password or PIN are authorised by you;
- (c) is not liable for any claim that arises from acting in accordance with these Terms or acting reasonably in accordance with your instructions including, without limitation, if the Bank act on instructions that are unauthorised, forged or fraudulently given where the Bank is unable to reasonably have detected that from the instructions or where a payment is sent to the wrong person because you gave us the wrong details;
- (d) is not liable for any loss suffered by you or any third party due to matters outside the Bank's control; including, without limitation, machine failure, problems with any system or network or industrial action;
- (e) accepts no liability for the loss, destruction or delay in processing of cheques, and other documents;
- (f) accepts no liability for any delay in transferring funds to or from your accounts including, without limitation, if the Bank are unable to use the service that makes payments;
- (g) will not be liable for refusing to act on instructions the Bank consider to be unclear or illegible;
- (h) will not be liable for either refusing to act on contradictory instructions given in respect of any account or for acting on any one only of such contradictory instructions; and
- (i) Where an account holder operates more than one account (including any joint account) at the Bank, may set off against or combine any funds held in credit to that other account with any outstanding balance of the account.

15. **Indemnity**

You indemnify the Bank against any losses relating to your account and/or your relationship with us, except if such losses result directly from our fraud or gross negligence.

16. **Consumer Guarantees Act 1993**

If:

- (a) you are in trade; and

- (b) the Bank provides any accounts, facilities or other services to you for the purposes of a business, then the Bank confirm, acknowledge and agree that:
 - (a) those accounts, facilities, and services are supplied to you and acquired by you in trade and for a business purpose; and
 - (b) the statutory guarantees and implied terms, covenants and conditions contained in the Consumer Guarantees Act 1993 are excluded to the fullest extent permitted at law, and do not apply.

17. **Information about you**

Information about you, which, at any time, you provide to the Bank or is collected by the Bank may be stored, used or disclosed in accordance with this clause 16.

Your information will be held by China Construction Bank (New Zealand) Limited at Level 29, 48 Shortland Street, Auckland, New Zealand and/or its affiliates and related entities.

If you choose not to provide information that the Bank requests, this may result in your application for bank accounts and services being declined, or otherwise affect the level of service the Bank is able to provide to you.

(a) **Storage of Information**

Information about you may be stored physically or electronically, including in offshore facilities, by the Bank or any third party (who is subject to an obligation of confidentiality in relation to that information) contracted to store it.

The Bank will use reasonable safeguards to ensure that all information held about you is held securely in accordance with the Privacy Act 1993 and any other applicable laws. The Bank will not disclose that information to any other person, except for the purposes set out in these Terms, as authorised by you or when required or authorised by law.

(b) **The Privacy Act 1993**

If you are an individual, the Privacy Act 1993 provides you with the right to see all personal information held about you by the Bank and to request correction of that information if it is incorrect.

(c) **The Bank's Use of Information**

Information about you will be used primarily for administering your accounts, data analytics, credit, risk or prudential management, and for offering or providing services to you. Information may be disclosed to a third party in connection with any of these purposes provided the recipient of the information is subject to an obligation of confidentiality in relation to that information.

The information about you may also be used to further the relationship between you and the Bank and for marketing purposes, including communicating with you about any products or services that the Bank considers may be of interest to you (unless the Bank agrees otherwise with you in writing).

(d) Legal and regulatory compliance

You will provide the Bank with all information, which the Bank requires in order to comply with any laws, rules, or regulations in New Zealand or any other country. The Bank may share any information about you and your accounts with any government body or agency (including any tax authorities) or any third party service provider in New Zealand or overseas in order for the Bank or that third party service provider to comply with any laws, rules, or regulations in New Zealand or any other country.

The Bank may decline to open an account with you, and may be required to delay, defer, stop or refuse to process any transaction, or may terminate its relationship with you without notice, if you fail to provide such information to the Bank in the form, substance and timeframe required by the Bank.

Without limiting the above provisions, the Bank may delay, defer, stop or refuse to process any transaction without incurring any liability if the Bank knows or suspects that:

- (i) the transaction will or may breach any laws or regulations in New Zealand or any other country; and/or
- (ii) the transaction involves any person who is itself sanctioned, or is connected directly or indirectly, to any person who is sanctioned, under economic and/or trade sanctions imposed by any country.

You must comply with New Zealand law, and any applicable law of any other country, when using your accounts with the Bank, and only use your account for a lawful purpose.

(e) Market research

For the purposes of seeking your opinions on its services and products, the Bank may provide your name, address and telephone number to reputable market research organisations (unless you notify us that you wish to opt out). The information is selected at random and places you under no obligation to take part in the market research. The information is supplied in strict confidence to the research organisation, which will not be authorised to use it for any other purpose.

However, if you do not wish to be involved, or if you do not wish to receive promotional or marketing material from the Bank, please advise us.

(f) Credit agencies

In respect of opening accounts, loan applications and reviews, you authorise the Bank to make credit references and other enquiries within its usual procedures. For this purpose, the Bank may seek from any such source information about you.

The Bank may collect and disclose all information relevant to your accounts from or to any credit reporting agency. Credit reporting agencies may use information disclosed by the Bank to update their credit reporting database, and disclose any information that they hold about you to their own customers as permitted under the Credit Reporting Privacy Code 2004. In addition, the Bank may use any service provided by its credit reporting agencies to receive updates of the information it holds about you. You can ask credit reporters to correct your information if it needs to be updated.

If you are in default under any loan or facility from the Bank, the Bank can, at its discretion, disclose all relevant information about you, to and for the use by, credit reporting agencies, debt collection agencies and law firms.

(g) Service providers

In respect of the Bank providing you with accounts, products and related services, the Bank may from time to time utilise certain third parties to provide or support such services. The Bank may collect and disclose all information about you and relevant to your accounts to any third party service provider. A third party service provider may use and disclose that information for the purposes of providing services or as otherwise required by law. The information is supplied in strict confidence to the service provider.

18. Correspondence and Statements

(a) Correspondence

The Bank will send all written correspondence to you at the last postal address known to the Bank unless you agree otherwise. The Bank may also send written correspondence to you to your email address or your facsimile address last known to the Bank. You should inform the Bank of your preferred method of contact and must keep the Bank informed and updated as to your contact details.

(b) Statements

The Bank will send you an account statement every 6 months by ordinary post to your current address (as advised by you to the Bank) unless either:

(i) the type of account you have with the Bank is a type that does not receive account statements by post; or

(ii) you have agreed that we can send you account statements electronically because:

1 you have access to the Bank's Online Banking service for that account. If so, you consent to the information that would be covered in an account statement being disclosed to you via accessing an electronic statement on the Bank's Online Banking service to your account ; or

2 you have provided the Bank with your email address in the account opening form for your account or otherwise directly for this purpose. If so, you consent to receive account statements electronically in a PDF form to your email address provided to us.

In either case you can elect to receive statements in paper form by post if you do not wish to receive statements electronically.

The Bank has no obligation to tell you when electronic statements or account information is available for you to view via Online-Banking.

You can ask the Bank for a printed statement at any time. The Bank may charge you a fee for sending the statement by post to you.

You must check your statements and/or account information provided by the Bank (whether sent by post, email or available via Online-Banking or otherwise) regularly and carefully to ensure that the transactions are correct. If you believe there has been a mistake, or a transaction was not authorised by you, please contact the Bank immediately. You will need to give us information about the transaction so that the Bank can look into the issue. The Bank will endeavour to act quickly and fairly and correct the mistake (if it can).

19. Liens

If the Bank receives or holds any property, items or documents for you for any purpose, and you owe the Bank any money, the Bank may, at its discretion, exercise a lien over that property, item or document as security (unless the Bank agrees otherwise with you in writing).

20. Assistance

You must give the Bank any assistance that the Bank requires to deal with alleged or possible misuse of or unauthorised access to your account or in relation to any other transaction being investigated by the Bank or the police or any other governmental agency.

21. Code of Banking Practice

The Bank will comply with the Code of Banking Practice 2018 as it applies to these Terms. You can ask for a copy of the Code at any branch or download it from the NZBA website, www.nzba.org.nz

22. Governing Law

Your accounts, and the terms (including these Terms) upon which the Bank provides you with those accounts and related services, are governed and construed in accordance with New Zealand law. The courts of New Zealand shall have the nonexclusive jurisdiction to hear and determine disputes in respect of any of your account and/or any services provided by you by the Bank in connection with these Terms.

23. Feedback and Complaints

If you consider that the Bank have made a mistake, or you are unhappy with our service in anyway, you can contact the Bank either:

- (a) at the Bank's offices at China Construction Bank (New Zealand) Limited, Level 29, The Vero Centre, 48 Shortland St, Auckland 1010; or
- (b) by phone on +64 9 3388200,

and ask to speak to a manager. The Bank will try to put any mistake right quickly and fairly.

If you are unhappy with the Bank's investigation into your complaint, you can refer the matter to the Banking Ombudsman. To contact the Banking Ombudsman, you can

call +64 4 915 0400 (or freephone 0800 805 950), email help@bankomb.org.nz or write to PO Box 23-327, Featherston Street, Wellington 6146.

24. Further Information

For more information about these Terms or any other matter, please contact the Bank at:

China Construction Bank (New Zealand) Limited +64 9 3388200