

BBC Credit Card (International) Ltd.

BBC COMMERCIAL CARD USER AGREEMENT

The Card(s) (as defined below) is/are issued by International Commercial Bank (International) Limited ("Company") on the following terms and conditions:-

1. **Interpretation**
 - 1.1 Unless the context otherwise requires, the following expressions shall have the following meanings in this Agreement:-
 - "Account" means an account opened by and maintained with the Company to which the Charges shall be debited and includes Master Account and Sub-account as defined in the context of this Agreement;
 - "Applicant" means, unless otherwise stated, an individual, a sole proprietorship, a partnership, a corporation or other form of entity (whether incorporated or not) at whose request one or more of the Cards are issued by the Company to the Cardholder(s) nominated by such entity;
 - "ATM" means any automatic teller machine in operation in the JETCO, PLUS and/or CIRCUS Networks and such other networks as from time to time announced by the Company;
 - "Card" means a commercial card issued by the Company to a Cardholder nominated by the Applicant and at the joint request of the Applicant and the Cardholder;
 - "Cardholder" means any person to whom and in whose name a Card is issued by the Company;
 - "Charges" means the aggregate value or amount of all purchases of goods or services and/or cash advances effected by the use of the Card and relevant fees, charges, interest, costs and expenses in connection therewith;
 - "Fees Schedule" means the schedule setting out the annual fees, cash advance handling fee, late charge, interest and other fees and charges from time to time in force and applicable to the Card;
 - "Hong Kong" means the Hong Kong Special Administrative Region of the People's Republic of China;
 - "Master Account" means an account opened by and maintained with the Company under the name of the Applicant to which all Charges arising out of or in connection with the use of all Cards issued by the Company on the application of the Applicant shall be debited;
 - "New Transaction" means in relation to a Statement, a transaction by which the Cardholder has incurred any Charges through the use of the Card, occurring:-
 - (a) at any time after the time ("Relevant Time") at which the last transaction as shown in that Statement was effected by the use of the Card, or at any time before the time when the Charges in respect of which the laws of as of the date of that Statement be provided by the Account and shown in that Statement;
 - "PDF Ordinance" means the Personal Data (Privacy) Ordinance, Chapter 486 of the Laws of Hong Kong;
 - "Personal Data" means the personal identification number of the Cardholder required to gain access to services provided by the Company from time to time through the Card; and
 - "Sub-account" means a subsidiary account to the Master Account opened by and maintained with the Company for each Cardholder to which the Charges arising out of or in connection with the use of the Card are debited;
 - 1.2 In this Agreement, words denoting the singular shall include the plural and vice versa and reference to one gender shall include all genders, unless the context otherwise requires.
 - 1.3 Reference to the Company shall include where the context permits or requires be deemed to include a reference to its successors and assigns.
2. **Issue of Cards**
 - 2.1 Upon the joint application of the Applicant and a Cardholder nominated by the Applicant and subject to the approval of the Company (in its discretion) the Company shall issue to the Applicant and Cardholder one or more Cards in accordance with the terms of this Agreement by and through the Company's Card Issuing Unit. Immediately upon receipt of the Card from the Company, the Cardholder shall:-
 - (a) sign the Card on the space provided; and
 - (b) sign an acknowledgment of receipt of such Card or otherwise activate such Card in accordance with the instructions of the Company.
 - 2.2 The signature of the Cardholder on the Card, or the use and activation of the Card by the Cardholder shall constitute conclusive evidence of the Cardholder's agreement to the terms of this Agreement by and through the Company's Card Issuing Unit.
 - 2.3 A renewal Card normally shall be issued at least 30 days' prior to the expiry date of a Card. Unless written notice of termination of the Card is received by the Company within such 30 days' period, the renewal Card shall be deemed to have been received by the Cardholder by the expiry of the Card. By using such renewed Card, the Cardholder shall be deemed to have accepted the renewal Card.
 - 2.4 The Company shall have the right to refuse issuing a replacement Card to the Cardholder if his/her Card is lost or stolen. Where a replacement Card is issued, the Company shall be entitled to charge a handling fee for the replacement Card in accordance with the Fees Schedule for any illegal transaction.
 - 2.5 Neither the Cardholder nor the Applicant may transfer the Card to any person or allow any person to use the Card or pledge the Card as security for any purpose.
 - 2.6 **Credit Limit**
 - 4.1 The Company may from time to time (in its discretion) determine the credit limit and/or cash advance limit in respect of any Card issued by the Company to the Cardholder. Where more than one Card is issued at the request of the Applicant, the Cardholders may be subject to separate and independent credit limits or may share any credit limits in such proportion as the Company may (in its absolute discretion) determine from time to time determine.
 - 4.2 The Company may at its discretion increase the credit limit and cash advance limit in respect of the Company from time to time and shall not use the Card in excess of such credit limit and/or cash advance limit. Breach of this Clause 4.2 shall not in any way reduce or discharge the liability of the Cardholder and the Applicant for payment of any Charge arising as a result of such breach.
 - 4.3 The Cardholder and the Applicant shall be jointly and severally liable for any amount in excess of such credit limit upon receipt of demand from the Company.
 - 4.4 The Company shall be entitled to charge a handling fee at the rates as set out in the Fees Schedule on each cash advance made available to the Cardholder.
5. **Account Statement and Payment**
 - 5.1 In relation to each Sub-account, the Company shall send a statement of account to the Cardholder concerned on a monthly or other periodic basis ("Cardholder Statement") showing the account balance in each Sub-account as at the end of the statement period specified therein ("Current Balance") and specifying a payment due date ("Due Date"). In relation to the Master Account, the Company shall send duplicate or copies of all Cardholder Statements or of the Company's option a consolidated statement of account of all Cardholder Statements to the Applicant on a monthly or other periodic basis ("Applicant Statement"). The Applicant shall be deemed to have accepted the Cardholder Statement, the Cardholder Statement and, in relation to the Applicant, the Applicant Statement. Any reference to the terms "Statement", "Current Balance" and "Due Date" shall be construed accordingly.
 - 5.2 Where the Company receives within 60 days from the date of the Statement a notification in writing from the Cardholder or the Applicant (as the case may be) to the contrary, the Company shall be entitled to treat all transactions shown on the Statement as correct.
 - 5.3 Any Current Balance which is outstanding due to the Company shall be payable immediately upon receipt of the Statement.
 - 5.4 The amount of the whole of such Current Balance is receivable by the Company on or before the Due Date. No interest shall be payable in respect of such Current Balance. If no payment or payment of less than the Current Balance is received by the Company on or before the Due Date, interest at a rate as set out in the Fees Schedule (which shall apply before as well as after judgment) shall be charged on the unpaid balance from the date of the Statement on a daily basis until payment in full. All interest charged shall be debited to the Account on a monthly or other periodic basis.
 - 5.5 If payment or payment of less than the Current Balance is received by the Company on or before the relevant Due Date, interest at a rate as set out in Fees Schedule (which shall apply before as well as after judgment) shall be charged on the unpaid balance from the date of the Statement on a daily basis until payment in full.
 - 5.6 When an Account reservation/payment of less than the Current Balance on or before the Due Date, the foregoing Clauses 5.1 and 5.5 shall not apply and shall be respectively replaced by the following provisions:
 - 5.1.1 In relation to each Sub-account, the Company shall send a statement of account to the Cardholder concerned on a monthly or other periodic basis ("Cardholder Statement") showing the account balance in each Sub-account as at the end of the statement period specified therein ("Current Balance"), the minimum payment due from the Cardholder in respect of any Current Balance which is outstanding due to the Cardholder ("Minimum Payment") and specifying a payment due date ("Due Date"). In relation to the Master Account, the Company shall send duplicate or copies of all Cardholder Statements or of the Company's option a consolidated statement of account of all Cardholder Statements to the Applicant on a monthly or other periodic basis ("Applicant Statement"). The term "Statement" in this Agreement shall mean, in relation to a Cardholder, the Cardholder Statement and, in relation to the Applicant, the Applicant Statement. Any reference to the terms "Statement", "Current Balance", "Minimum Payment" and "Due Date" shall be construed accordingly.
 - 5.2.1 If no payment or payment of less than the Minimum Payment is received by the Company on or before the relevant Due Date, then in addition to the interest payable on the unpaid balance pursuant to Clause 5.4, a late charge as set out in the Fees Schedule shall be charged, in full, on the amount of such Current Balance on a daily basis until payment in full.
 - 5.7 All payment made to the Company pursuant to this Agreement shall be made in Hong Kong dollars subject to the Company's discretion to accept payment in other currencies. Charges which are affected in currencies other than Hong Kong dollars may be debited to the Account by conversion into Hong Kong dollars by the Company or by the Applicant. Where payment is made in a currency other than Hong Kong dollars, such payment may be credited into the Account after conversion into Hong Kong dollars at a rate determined by the Company which shall be subject to the payment of a conversion fee in the Fees Schedule, which conversion fee shall be debited to the Account. Where payment is made in a currency other than Hong Kong dollars, the conversion fee shall be debited to the Account. Where payment is made in a currency other than Hong Kong dollars, the conversion fee shall be debited to the Account. Administrative or handling fees for processing such bank draft or instrument will be credited into the Account.
 - 5.8 Payment received from the Cardholder or the Applicant shall be applied to the repayment of the balance of his/her Sub-account in the following order or in any other order as the Company may in its absolute discretion determine from time to time:
 - (a) interest in respect of cash advance;
 - (b) interest in respect of principal spending;
 - (c) service fees charges;
 - (d) annual fee; and
 - (e) collection fee and legal costs and expenses incurred by the Company for enforcing this Agreement.
 - 5.9 Where more than one Cards are issued at the request of the Applicant, payment made by the Applicant shall be appropriated towards payment of the respective sums of moneys due from the Cardholders in such order and priority as the Company may in its absolute discretion determine from time to time.
 - 5.10 The Company shall have the right (in its absolute discretion) to refuse the payment of any sum of money into the Account in excess of the Current Balance of the Account.
 - 5.11 The Applicant and Cardholder shall be jointly and severally liable to the Company to settle the entire outstanding balance in the Sub-account which relates to that Cardholder and any Charge effected or incurred but not then settled by that Sub-account.
 6. **Fees and Charges and Interest Rates**
 - 6.1 All fees, charges, interest, costs and expenses incurred by the Cardholder and/or the Applicant under this Agreement are more particularly set out in and shall be paid according to the Fees Schedule.

- 6.2 The Company may from time to time (in its discretion) revise the Fees Schedule in accordance with Clause 19. Copies of the current Fees Schedule are available on request from the principal place of business of the Company in Hong Kong and on the Company's website at www.bcci.com.hk.
7. **Cardholder's Obligations and Liabilities**
 - 7.1 The Cardholder shall be jointly and severally liable for the use of the Card and the PIN and keep the Card safely under his/her personal control and the PIN secret. Without limiting the generality of the foregoing, the Cardholder must take the following measures to keep the Card safe and the PIN secret to prevent fraud:-
 - (a) keep any record of the PIN separate from the Card;
 - (b) destroy the original printed copy of the PIN;
 - (c) never write down the PIN on the Card or on anything usually kept with or near it;
 - (d) never give up or record the PIN without disclosing it to;
 - (e) never use any easily accessible personal information as the PIN; and
 - (f) use the Card in accordance with the procedures, instructions and/or security guidelines from time to time issued by the Company.
 - 7.2 Upon the occurrence of any of the following events, the Cardholder or the Applicant shall report to the Company as soon as reasonably practicable to the Company by phoning to the 24-hour hotline number (852) 2544-2222 of the Company and thereafter confirm the same in writing within 24 hours of such other period as the Company may prescribe from time to time:
 - (a) loss and/or theft of the Card;
 - (b) unauthorized use of the Card and/or the PIN;
 - (c) disclosure of the PIN to any unauthorized person;
 - (d) suspicion of any counterparty card used for same name as the Card or purported to be issued under the Account; and/or
 - (e) any suspected unauthorized use of the Card and/or the PIN and/or disclosure of the PIN.
 - 7.3 Without prejudice to the obligations under Clause 7.2, the Cardholder and/or the Applicant shall report the relevant event to the police and shall submit to the police any report or any other document or information which may be reasonably practicable.
 - 7.4 The Company shall be entitled to act on any instruction (whether oral or in writing) purportedly given by the Cardholder and/or the Applicant and any action so taken by the Company shall not render the Cardholder liable to the Cardholder or otherwise discharge any liability of the Cardholder.
 - 7.5 Notwithstanding anything contained herein to the contrary, the Cardholder and the Applicant shall repay to the Company immediately upon demand from the Company:
 - (a) the outstanding balance of the Account;
 - (b) all Charges in respect of the transactions effected by the use of the Card but not debited to the Account; and
 - (c) all fees and charges payable by the Cardholder and the Applicant to the Company under this Agreement.
 8. **Unauthorized Transactions**
 - 8.1 The Cardholder and the Applicant shall examine the Statement carefully and report any unauthorized transactions in the Statement to the Company within 90 days of the date when the Company has informed the Company of any unauthorized transaction in the Statement.
 - 8.2 The Company shall use reasonable endeavours, except in circumstances which are beyond its control, to complete the investigation within 90 days upon receipt of notice of an unauthorized transaction from the Cardholder and/or the Applicant.
 - 8.3 In the event that the Cardholder and/or the Applicant have informed the Company of any unauthorized transaction before the Due Date and payment of the disputed amount has been withheld over the investigation period, the Company reserves the right to re-impose any fees, charges and/or interest on the disputed amount over the period commencing from the date of transaction (or such later date as the Company may in its absolute discretion determine) together with all related fees, charges and/or interest if such dispute made by the Cardholder and/or the Applicant shall subsequently be proved to be unfounded.
 9. **Cardholder's Liabilities for Unauthorized Transaction**
 - 9.1 Notwithstanding anything contained herein to the contrary, the Cardholder and the Applicant shall be jointly and severally liable for all losses and/or interest if such dispute made by the Cardholder and/or the Applicant shall subsequently be proved to be unfounded.
 - (a) in the event of theft and not been received by the Cardholder and the Applicant;
 - (b) for any unauthorized transactions made after the Cardholder and/or the Applicant have duly notified the Company of the loss, theft and/or unauthorized use of the Card;
 - (c) when faults have occurred in the terminals, or other systems used, which cause the Cardholder to suffer loss and damage, unless the fault was obvious or advised by a message or notice on display; and
 - (d) when transactions are made through the use of counterfeit cards.
 - 9.2 Subject to Clause 9.1, the Cardholder and the Applicant shall be deemed to have acted in good faith and with due care (including taking the precautions under Clause 7.1 and reporting loss, theft and/or unauthorized use of the Card in accordance with Clause 7.2), the liability of the Cardholder and the Applicant for loss, theft and/or unauthorized use of the Card shall not exceed the maximum from time to time prescribed by the applicable law.
 - 9.3 Notwithstanding anything contained herein to the contrary, the Cardholder and the Applicant shall be fully liable for all loss and damage arising out of or in connection with the loss, theft and/or unauthorized use of the Card if the Cardholder or the Applicant has acted fraudulently or with gross negligence or if the Cardholder and the Applicant have failed to take reasonable precautions to prevent such loss, theft and/or unauthorized use of the Card, or if the unauthorized use of the Card involves the use of the Cardholder's PIN with or without the Cardholder's knowledge, and the Cardholder and the Applicant agree to jointly and severally indemnify and keep the Company fully indemnified against all losses, damages, interest, costs and expenses reasonably incurred as a result thereof.
 10. **Liabilities of the Applicant and the Cardholder**
 - 10.1 The Applicant shall (jointly and severally with each Cardholder) be liable to the Company for any and all transactions effected and/or liabilities incurred by the Cardholder through the use of the Card of such Cardholder.
 11. **Limitation on Liabilities**
 - 11.1 Under no circumstance shall the Company be responsible for any direct loss and liability which the Cardholder and/or the Applicant may suffer or incur as a result of the use of the Card and/or any other services provided by the Company, whether or not such loss and liability is caused by any Card services offered by the Company or any goods and services obtained by the Cardholder and/or the Applicant through the use of the Card, subject however to the provisions under Clause 9.1, and except to the extent that any such loss and liability is attributable to the fraud, gross negligence or willful default of the Cardholder and/or the Applicant.
 - 11.2 The Company accepts no responsibility for the refusal of any merchant establishment (including any financial institution) to honour the Card or for any goods and services supplied to the Cardholder and/or the Applicant.
 - 11.3 The Company shall not be liable for any loss and liability incurred by the Cardholder and/or the Applicant in connection with any merchant establishment or financial institution. Any claim or dispute the Cardholder and/or the Applicant may have against or with any merchant establishment or financial institution shall be resolved directly between the Cardholder and/or the Applicant and such merchant establishment or financial institution and in no event shall such claim or dispute render the Cardholder and/or the Applicant of their obligations to the Company hereunder.
 - 11.4 The Company shall not be obliged to credit the Account or refund made by any merchant establishment or financial institution until such funds have been received by the Company.
 - 11.5 The Company shall not be responsible for any delay in or any error, failure or malfunction of any computer system or other equipment employed by the Company in the course of performing its obligations hereunder or providing any Card services to the Cardholder and/or the Applicant or the equipment used in the course of performing its obligations hereunder.
 - 11.6 Notwithstanding anything herein to the contrary, the Company shall not be responsible for any indirect, consequential or incidental loss of profit or opportunities or other types of loss or damage whatsoever which the Cardholder, the Applicant or any third party may suffer from the use of the Card.
 - 11.7 In the course of providing the Card services, the Company may communicate with or seek instructions from the Cardholder and/or the Applicant through telephone, facsimile, internet or such other method as the Company may from time to time determine. In this connection, the Cardholder and the Applicant shall be deemed to have acted in good faith and with due care (including taking the precautions under Clause 7.1) and means and retaining it for such period as is considered appropriate. The Company shall in good faith and with due care give effect to such communication and/or instructions without requiring further confirmation from the Cardholder and/or the Applicant. Any such communication and/or instructions shall be deemed to have been received by the Cardholder and/or the Applicant and the Applicant.
 12. **Termination and Suspension of the Card**
 - 12.1 A Cardholder may terminate his/her Card and the Applicant may terminate any or all Cards at any time by giving not less than 14 days' prior written notice to the Company. The Applicant may terminate the Master Account at any time by giving not less than 14 days' prior written notice to the Company. Upon the termination of the Master Account, all Sub-account(s) hereunder and all related Card(s) shall be automatically terminated forthwith. Notwithstanding any such termination, the Applicant and each Cardholder shall remain jointly and severally liable for transactions effected through the use of any Card or Cards issued by the Company before the termination of the Master Account.
 - 12.2 The Company may terminate this Agreement in respect of any Card at any time without prior notice or giving any reason to the Cardholder. Without limiting the generality of the foregoing, the Company is entitled to terminate this Agreement by listing the Card in its cancellation or in its bulletin without notice to the Cardholder and/or the Applicant.
 - 12.3 Upon termination of the Agreement (whether by the Cardholder, the Applicant or the Company), the Cardholder and/or the Applicant shall surrender or procure the surrender of the Card to the Company. Until the Card is surrendered, the Cardholder and the Applicant shall remain jointly and severally liable for any loss and liability incurred by the Cardholder and/or the Applicant under this Agreement. No request to terminate a Card shall be effective unless and until such Card is terminated by or services to the Company.
 - 12.4 The Company may at any time without notice suspend, cancel or terminate the Card and/or any transactions thereby offered and/or disapprove any transactions effected through the use of such Card.
 - 12.5 The Company shall be entitled to act on any instruction whether oral or in writing purportedly given by the Cardholder and/or the Applicant and the Company shall not be liable to the Cardholder and/or the Applicant for any loss or damage of whatever nature which the Cardholder and/or the Applicant may suffer or incur as a result of such instruction.
 - 12.6 The Company shall have the right at its absolute discretion to refuse any instruction whether oral or in writing purportedly given by the Cardholder and/or the Applicant if the Company is in doubt of the authenticity of such instruction and the Company shall not be liable to the Cardholder and/or the Applicant for any loss or damage of whatever nature which the Cardholder and/or the Applicant may suffer or incur whether directly or indirectly as a result of such refusal by the Company.
 - 12.7 The Company shall not be liable for any loss or damage of whatever nature suffered or incurred by the Cardholder whether directly or indirectly as a result of such instruction or any other instruction purportedly given by the Cardholder and/or the Applicant.
 - 12.8 The Card shall at any time remain the property of the Company. The Cardholder and/or the Applicant shall unconditionally and immediately upon demand surrender or procure to be surrendered the Card to the Company.
 - 12.9 In the event that the Cardholder and/or the Applicant have informed the Company of any unauthorized transaction before the Due Date and payment of the disputed amount has been withheld over the investigation period, the Cardholder and/or the Applicant agree to pay the hire or purchase price (whether in whole or in part) of the goods and/or services to the Company by instalments through the Card, all the then outstanding instalments shall become due and payable immediately upon the termination of the Card or if the Cardholder and/or the Applicant fail to pay the instalments and the Applicant shall forthwith terminate any and all arrangements which are authorized or set up prior to the date of termination with any third party for regular recurring payments charged or debited to the Card.
 13. The Applicant hereby irrevocably authorizes the Company at any time and from time to time to combine and set off the Master Account and the Applicant's(s) of the Applicant with the Company without prior notice to the Applicant.
 - 13.2 The Cardholder hereby irrevocably authorizes the Company at any time to combine and set off his/her Sub-account and other account(s) of the Cardholder with the Company without prior notice to the Cardholder.
 - 13.3 A Cardholder shall be liable only for the balance of his/her Sub-account due from him/her to the Company (but not those of the Master Account or other accounts).
 14. **Debit Authorization**
 - 14.1 The Applicant acknowledges that liabilities of the Applicant to the Company hereunder may be settled in a variety of ways. The Applicant hereby irrevocably authorizes and instructs each of the Bank of China (Hong Kong) Limited, Nanyang Commercial Bank Limited and Citibank Banking Corporation Limited (the "Banks") with which it may have account(s) to debit and pay to the Company the full amount or part thereof standing to the credit of such account(s) (whether held singly or jointly with other, and whether or not such amount is matured or due and payable) for the satisfaction of any liability of the Cardholder to the Company hereunder without prior notice to the Cardholder upon request of the Company. The Cardholder agrees that the Company may disclose the aforesaid authorization and instruction to the Banks and the Applicant shall, at its own costs, do and execute, or arrange for the doing and executing of, each necessary act, document and thing required to enable the Banks to have power to implement this authorization and instruction. The Applicant further agrees that any of the Banks acting

- reliance upon this Clause 14.1 shall not be liable for any loss suffered by the Applicant and the Company shall not be liable for any overdraft interest and/or handling charges arising out of or as a result of the Banks acting in reliance upon Clause 14.1.
- 14.2 The Cardholder acknowledges that liabilities of the Cardholder to the Company hereunder may be settled in a variety of ways. The Cardholder hereby irrevocably authorizes and instructs each of the Banks with which he/she may have account(s) to debit and pay to the Company the full amount or part thereof standing to the credit of such account(s) (whether held singly or jointly with other, and whether or not such amount is matured or due and payable) for the satisfaction of any liability of the Cardholder to the Company hereunder without prior notice to the Cardholder upon request of the Company. The Cardholder agrees that the Company may disclose the aforesaid authorization and instruction to the Banks and the Applicant shall, at its own costs, do and execute, or arrange for the doing and executing of, each necessary act, document and thing reasonably within his/her power to implement this authorization and instruction. The Cardholder further agrees that any of the Banks acting in reliance upon this Clause 14.2 shall not be liable for any loss suffered by the Cardholder and the Company shall not be liable for any overdraft interest and/or handling charges arising out of or as a result of the Banks acting in reliance upon this Clause 14.2.
15. **Liabilities for Collection Costs and Legal Expenses**
 - 15.1 The Company is entitled to appoint debt collection agencies and/or institute legal proceedings, at any time without prior notice to the Cardholder and/or the Applicant, to recover any amount outstanding from the Cardholder and/or the Applicant under this Agreement, subject to the applicable laws and regulations, the Company shall not be liable (whether in contract or tort) for any act, conduct, omission or negligence of such agencies or any of their employees.
 - 15.2 The Cardholder and the Applicant shall jointly and severally indemnify the Company in respect of:
 - (a) all legal costs and expenses reasonably incurred by the Company in seeking to enforce payment of the debts due from that Cardholder and/or the Applicant to the Company under this Agreement; and
 - (b) all legal costs and expenses reasonably incurred by the Company in connection with the appointment of debt collection agencies provided that the total collection costs recoverable against that Cardholder and/or the Applicant hereunder shall in normal circumstances not exceed 30% of the aggregate outstanding balance of the Account for the payment of which that Cardholder is responsible.
16. **ATM or Other Used with ATM**
 - 16.1 Where the Card is used with any ATM, point of sale terminals or other devices (collectively "Electronic Devices") to effect cash advance or other transactions, the Cardholder's use of the card shall be subject to this Agreement in addition to any other terms and conditions (including the terms and conditions of the Banks and other service providers) which may govern any other services provided through the Card.
 - 16.2 The Company shall not be liable to the Cardholder for any transaction involving the use of the Card at any Electronic Device which is not effected for any reason whatsoever or should there be any malfunction and/or failure of the Card or any Electronic Device.
 - 16.3 Notwithstanding anything contained herein to the contrary, the Cardholder shall be absolutely responsible for all transactions involving the use of the Card at any Electronic Device by any person, whether or not:
 - (a) such use is authorized or otherwise provided by the Cardholder;
 - (b) the Cardholder is at material time aware of such use;
 - (c) such use is against the Cardholder's instructions;
 - (d) such use is the result of or otherwise involves any criminal activity whatsoever including (without limitation) illegitimate violence or threat of imminent illegitimate violence, criminal intimidation, or deception in any form, on the part of any person whatsoever; or
 - (e) the Cardholder is notified by the Company or any law enforcement agency of any loss or theft of the Card, or of any criminal activity herebefore referred to.
 - 16.4 The Cardholder shall indemnify the Company against all losses, damages, claims and liabilities and all reasonable costs and expenses reasonably incurred by the Company or any law enforcement agency of any loss or theft of the Card, or of any criminal activity herebefore referred to.
17. **Transaction Record**
 - 17.1 The Company records all of its transactions effected by the use of the Card (including use of any ATM) shall be conclusive evidence of such use and shall be binding on the Cardholder and the Applicant for all purposes.
18. **Personal Data and Account Information**
 - 18.1 Each of the Cardholder and the Applicant hereby acknowledges that each of them have received, read and understood the contents of the Data Policy Notice or such other document(s) issued under whatever name from time to time by the Company and certain of its related entities relating to their general policies on use, disclosure and transfer of personal data (as the same may be amended from time to time) (DPN) and agree that the Cardholder and the Applicant consent to the Company's use of their personal data for the current version of the DPN are available at the principal place of business of the Company in Hong Kong or on the website of the Company at www.bcci.com.hk.
 - 18.2 Each of the Cardholder and the Applicant hereby authorizes the Company to use any information it may have concerning the Cardholder, the Applicant and the Cardholder's bank account in accordance with the DPN. The Cardholder further authorizes the Company to disclose any such information to the Applicant.
 - 18.3 Each of the Cardholder and the Applicant hereby also authorizes the Company to contact any information source for information the Company may require to verify, update or amend the information in the DPN. The Cardholder and the Applicant agree to provide such information to the Applicant to compare such information with the information provided by the Cardholder and/or the Applicant for checking or to produce more data. Each of the Cardholder and the Applicant hereby also consents that the Company may, if necessary, use the results of such comparison to take any appropriate action against the Cardholder and/or the Applicant regardless of whether such action may be adverse to their respective interest.
 - 18.4 The Company shall use all personal data (as defined in the PDF Ordinance) of the Cardholder and/or the Applicant in compliance with the PDF Ordinance.
 - 18.5 Each of the Cardholder and the Applicant shall notify the Company promptly in writing of any change in the information provided to the Company in the application form pursuant to which the Card is issued including but not limited to any change of employment or business or change of business contact details.
 - 18.6 The personal representative(s) (if applicable) of the Cardholder or the Applicant shall promptly notify the Company in writing of the death of the Cardholder or the Applicant (if applicable).
 - 18.7 The Cardholder and the Applicant shall be deemed to have authorized the Cardholder and/or the Applicant as confidential, but unless consent is prohibited by law, each of the Cardholder and the Applicant consents to the transfer and disclosure by the Company of any information relating to the Cardholder and/or the Applicant to and between the holding companies, branches, subsidiaries, representative offices, affiliates and agents of the Company and any third parties, including banks, financial institutions, exchanges and clearing houses) selected by the Company or any of them (each a "transfer"), wherever situated, for confidential use (including for data processing, statistical, credit and risk analysis purposes). The Company and any of the transferees may transfer and disclose any such information to any person as required by any law, court, regulator or legal process in Hong Kong or any relevant jurisdiction. The Company shall, subject to the DPN, apply to each of the Cardholder and the Applicant (in the case where the Applicant is an individual) respectively.
 - 18.8 Each of the Cardholder and the Applicant consents to the information of the Cardholder and/or the Applicant being transferred to another jurisdiction outside Hong Kong for the purpose of processing, storing or otherwise using such information in or outside Hong Kong.
 - 18.9 The Company will contract with the third parties to take reasonable care to keep the information of the Cardholder and/or the Applicant confidential and to observe, in conformity with local laws and regulations, the requirements of the PDF Ordinance. Local and overseas laws may require the Cardholder and the Applicant to disclose information to the relevant authorities.
 - 18.10 Each of the Cardholder and the Applicant acknowledges and agrees that some services, operational and processing procedures relating to the transactions services provided by the Company to the Cardholder and/or the Applicant may from time to time be outsourced by the Company to agents or service providers, including banks, financial institutions, exchanges and clearing houses) selected by the Company or any of them (each a "transfer"), wherever situated, and these service providers may from time to time be given access to information relating to the Cardholder, the Applicant, the Master Account, the Sub-account and/or the transactions and services provided by the Company to the Cardholder and/or the Applicant for the purpose of or in relation to the services and procedures they perform.
 - 18.11 The Applicant represents and warrants to the Company that it is duly authorized by its directors, shareholders, officers, proposed guarantors or security providers and/or other related individuals (Relevant Individuals) to provide their information to the Company and that it has informed the Relevant Individuals that the DPN is applicable to each of them. The Applicant will indemnify and hold the Company harmless from all claims, costs, penalties, damages and other losses incurred by the Company as a result of a breach of this representation and warranty by the Applicant.
 - 18.12 For the purpose of Clauses 18.1, 18.2 and 18.4, the Applicant shall be limited to an individual.
19. **Notice**
 - 19.1 Any notice given by the Cardholder and/or the Applicant hereunder shall be given in writing and delivered to the Company at its address at P.O. Box, Credit Card Centre, 68 Connaught Road West, Hong Kong.
 - 19.2 Without affecting other methods of communication, any statement, notice, demand or other communications are deemed to be received by the Cardholder and/or the Applicant:
 - (a) on posting to the address of the Cardholder and/or the Applicant in one or more of the banking halls in Hong Kong of the Banks;
 - (b) 3 Business Days after publication as an advertisement in a Hong Kong newspaper;
 - (c) when posted on the website of the Company;
 - (d) when sent by electronic mail or message or facsimile to any of the Cardholder and/or the Applicant on the Company's record, or 48 hours after mailing to such address or by days if the address is overseas;
 - (e) when sent by electronic mail or message or facsimile to any of email address or equipment or facsimile number of the Cardholder and/or the Applicant; and
 - (f) when communicated including by leaving a voice message, or by telephone or other oral communication, notwithstanding transfer through the post (in the case of a mailing), or the death or incapacity of the Cardholder and/or the Applicant. Business hours shall be any business hours open for business in Hong Kong on the relevant business day.
20. **Amendment**
 - 20.1 The Company may (in its discretion) from time to time change any of the terms and conditions of this Agreement and/or the Fees Schedule provided that the Cardholder and the Applicant are notified in writing of such change and the terms and conditions of this Agreement, fees and charges and the liabilities or obligations of the Cardholder takes effect, unless such changes are beyond the Company's control.
 - 20.2 Retention or continued use of the Card after the effective date of any change of the terms and conditions of this Agreement and/or the Fees Schedule shall constitute the Cardholder's and the Applicant's agreement to the change.
 - 20.3 If the Cardholder and/or the Applicant do not accept the proposed change by the Company, the only recourse available to the Cardholder and/or the Applicant is to determine the Card in accordance with Clause 12.1 or Clause 20.3 within reasonable time, the Company may (in its discretion) repay the annual or other periodic fees on the Card (if any) on a pro rata basis if the fees can be separately distinguished and the amount involved is not minimal.
 - 20.4 This Agreement shall be governed by and construed in accordance with the laws of Hong Kong and the Cardholder and the Applicant hereby irrevocably submit to the non-exclusive jurisdiction of the Hong Kong courts.
21. **Miscellaneous**
 - 21.1 This Agreement is written in both English and Chinese. In case of conflict or deviation in interpretation, the English version shall prevail. If at any time any provision hereof becomes illegible, invalid or unenforceable in any respect, the remaining provisions hereof shall in no way be affected or impaired thereby.
 - 21.2 This Agreement shall be binding on each successor, personal representative and person lawfully acting on behalf of the Cardholder and the Applicant.
 - 21.3 No failure to act, omission or delay by the Company to exercise or enforce any right under any terms and conditions of this Agreement shall operate as a waiver of such right, nor shall any single, partial or defective exercise of any right prevent any other or further exercise of it or the exercise of any other right.
 - 21.4 Neither Cardholder or the Applicant may assign any of its rights and/or obligations under this Agreement. The Company may assign or transfer any of its rights and obligations under this Agreement to any third party.