



CHONG HING BANK LIMITED 創興銀行有限公司

TERMS AND CONDITIONS FOR CHONG HING PAPER GOLD SCHEME

1. APPLICATION

1.1 In these terms and conditions (these “Conditions”), “we”, the “Bank”, “us” and “our” refer to Chong Hing Bank Limited, and its successors and assigns. “You” and “your” refer to the customer who has accepted these Conditions.

1.2 These Conditions apply to all Transactions conducted under the Scheme.

2. DEFINITIONS AND INTERPRETATION

2.1 In these Conditions, unless the context otherwise requires:

“Business Day”	means a day (other than a Saturday, a Sunday, a public holiday and a day on which a tropical cyclone warning no. 8 or above or a “black” rainstorm warning signal is issued or an “extreme condition” announcement is made by the Hong Kong Government) on which banks are open for general business in Hong Kong.
“Confirmation”	in respect of a Transaction, means a confirmation confirming the commercial terms of that Transaction.
“Hong Kong”	means the Hong Kong Special Administrative Region of the People’s Republic of China.
“Offering Documents”	means the principal brochure and the product key facts statement for the Scheme, as may be amended or supplemented from time to time.
“Reference Asset”	means Loco London Gold with fineness of not less than 99.5%, as specified by the London Bullion Market Association (“Loco London Gold”). Its prevailing market price is quoted by market dealers in USD per ounce.
“Scheme”	means the Chong Hing Paper Gold Scheme issued by us.
“Transaction”	refers to each purchase or sale of Unit(s) made by you with us under the Scheme.
“Unit”	means a notional quantity of one ounce of the Reference Asset.

2.2 In these Conditions, unless the context otherwise requires:

- (i) the singular includes the plural and vice versa;
- (ii) a reference to a clause or schedule is a reference to a clause of or schedule to these Conditions; and

- (iii) a reference to a document is a reference to that document as modified from time to time.

2.3 The headings in these Conditions do not affect its interpretation.

2.4 In case of inconsistency between the English and Chinese versions of these Conditions, the English version shall prevail.

3. GENERAL PROVISIONS

3.1 You may from time to time request us to accept a Transaction from you. We may, but are not obliged to, accept any such request from you on such terms as we in our sole discretion think fit (acting fairly, in good faith and in a commercially reasonable manner).

3.2 A binding contract between you and us in respect of a Transaction is formed upon our acceptance of a request in respect of that Transaction from you. You acknowledge and agree that a Confirmation setting out the commercial terms of that Transaction will be delivered to you by us and such Confirmation is conclusive as to the commercial terms between you and us in respect of the relevant Transaction.

3.3 Notwithstanding anything herein contained, you agree and acknowledge that all calculations and determinations in connection with a Transaction will be conclusively made by us and will, save for manifest error, be binding on you.

4. PAPER GOLD ACCOUNT

4.1 Account

- (i) You may, with our agreement, open a non-interest bearing single currency (being HKD) account with the Bank to invest in the Scheme from time to time specified by us ("**PGS Account**").
- (ii) In addition, you also need to open a savings account, multi-currency savings account or current account in the relevant settlement currency, being HKD, USD or RMB for settling the relevant amount receivable or payable by you for each Transaction ("**Settlement Account**").
- (iii) You will execute such document(s) as the Bank may require for opening and operating the PGS Account and the Settlement Account. If there is any inconsistency between these Conditions and the terms of any account maintained by you with the Bank, these Conditions shall prevail for the purposes of the Scheme.
- (iv) No passbook and certificate of title will be issued for the Scheme. Apart from the Confirmation issued by us for each Transaction, all the Transactions you have conducted in any particular month and any balance of the Units of your PGS Account at the end of that month will be recorded and presented in HKD in the monthly accounts statement.
- (v) We will not deliver physical gold for any Transactions. You have no right to obtain physical gold. The balance of your Units maintained at your PGS Account does not represent that you have any right, ownership and possession of physical gold. The balance of the Units maintained at the PGS Account is notional and for the sole purpose of determining the value of the investment in the PGS Account. When you wish to liquidate the investment in the PGS Account, you may only do so by selling the balance of your Units to us and receiving the proceeds of sale.
- (vi) You acknowledge that we may terminate the Scheme and the PGS Account in accordance with Conditions 11.2 and 11.3. Upon termination, we will sell all the Units in the PGS Account in accordance with the provisions of Condition 11. You

may suffer a loss from the sale of the Units upon termination, depending on the prevailing price of the Units as quoted by us at that time.

- (vii) You understand that conflicts of interest may arise and affect your interests if any of our subsidiaries, affiliates or associates are involved in connection with the Scheme, even though we have internal measures in place to minimise such conflicts. Nevertheless, we will act in good faith and in a commercially reasonable manner in making determinations and calculations with respect to the Scheme. If by virtue of or arising out of the Transactions in accordance with these Conditions, any profit, commission, fee, benefit or other advantage shall accrue to us (or any of our subsidiaries, affiliates or associates), you agree that we (or any such subsidiaries, affiliates or associates) shall be entitled to retain the same for our own account.

4.2 Trading of Units

- (i) Each purchase and sale of the Units will be at the price offered by us (as principal) at the time of the Transaction and in the minimum quantity of 0.1 unit, and incremental of 0.1 unit thereafter. Each Transaction will be subject to the maximum transaction amount to be determined by the Bank from time to time which will be specified in the Offering Documents. The denomination currency of the Scheme is Hong Kong dollar (“**HKD**”). The Bank will quote the selling price and the purchase price per Unit in HKD, United States Dollar (“**USD**”) or Renminbi (“**RMB**”).
- (ii) We will at your request quote indicative prices of each Unit in HKD, USD or RMB, unless we are unable to do so. We are not obliged to transact at such indicative prices.
- (iii) All Unit prices are determined by the Bank taking into account (i) the Bank’s prevailing purchase or selling prices of one ounce of Loco London Gold in USD (as quoted by market dealers to the Bank), (ii) the Bank’s profit margins, and, (iii) for the Unit prices provided in HKD or RMB, the prevailing spot exchange rate between USD and HKD or offshore RMB (as the case may be). The prevailing exchange rate will be determined by the Bank in good faith and commercially reasonable manner with reference to the quotes provided by the interbank foreign exchange market participants at the time such price is determined.
- (iv) You may give your instructions to purchase or sell the Units during the trading hours determined by us from time to time which will be specified in the Offering Documents. All Transactions with instructions received within the trading hours as specified in the Offering Documents will be executed on the same Business Day. We will not accept any instruction outside the trading hours.

You may only purchase or sell the Units on terms acceptable to us which terms may include but not limited to, where applicable, the price, quantity, trade date / time, settlement date, settlement currency and amount of the Transaction. The commercial terms of the Transaction will be recorded in a Confirmation which will be issued to you.

- (v) The purchase of Units of the Scheme will be credited to, and the sale of Units of the Scheme will be debited from, the PGS Account. Settlement for the relevant amount payable by you for a purchase of the Units shall be completed by a direct debit of such relevant amount from your Settlement Account on the same Business Day we execute your purchase instruction. The proceeds of any sale of the Units shall be paid to you on the same Business Day we execute your sale instruction by a direct credit of such proceeds to your Settlement Account. You hereby authorise us to debit from your Settlement Account necessary funds for settlement of the Transaction. If the available fund is not sufficient for settlement, we will not proceed to carry out your instructions.

5. FORCE MAJEURE

5.1 The Bank is not liable for any failure or delay to meet its obligations due to any one or more of the following causes beyond the reasonable control of the Bank (each, a “**Force Majeure Event**”):

- (i) any act of God or sovereign;
- (ii) acts, restrictions, regulations, edicts, mandates, refusals to grant any licenses or permissions, changes in policy or prohibitions or measures of any kind on the part of any government or regulatory authority or the exercise of military or usurped powers;
- (iii) interruptions, calamity, war, invasion, riots, hostilities, terrorism, sabotage or other blockade or embargo, insurrection, natural disasters, adverse weather conditions, strikes, industrial actions;
- (iv) breakdown, malfunction or failure of transmission or power, communication or computer facilities or systems;
- (v) infection or disease epidemic(s) or contamination; and
- (vi) a material change in the monetary, political, financial or economic conditions or exchange or capital controls or other moratorium or restrictions on currency exchange or remittance, whether in Hong Kong or elsewhere.

5.2 The Bank will use reasonable endeavours to meet its obligations under the Scheme as soon as reasonably practicable upon cessation of such Force Majeure Event(s).

6. SUSPENSION OF DEALING

6.1 The Bank reserves its right to suspend dealing of Units of the Scheme if:

- (i) any suspension of or limitation on trading of the Reference Asset, whether in the event of any technical failure of trading channel, unavailability of price quote or a Force Majeure Event, occurs;
- (ii) any event occurs that disrupts or impairs the ability of market participants in general to effect transactions in, or obtain market values for the Reference Asset; or
- (iii) any event occurs that disrupts or impairs the Bank in general to effect transactions under the Scheme,

in each case is material in the determination of the Bank acting fairly, in good faith and in a commercially reasonable manner.

6.2 The Bank shall inform you via the usual communication means (such as by email or SMS) as soon as reasonably practicable if the Bank decides to suspend dealing of units of the Scheme and immediately upon suspension uplift /dealing resumption.

7. REPRESENTATIONS

7.1 In connection with each Transaction, you represent and acknowledge to us that:

- (i) you have full capacity and authority to perform your obligations under these Conditions and each Transaction;
- (ii) you are not relying on any advice, statements or recommendations (whether written or verbal) from us regarding that Transaction;

- (iii) you have made your own independent decision to enter into the Transaction and as to whether that Transaction is appropriate or proper for you based upon your own judgment and upon advice from such third party advisors as you have deemed necessary;
- (iv) you are not a U.S. Person within the meaning under the Securities Act of the United States;
- (v) we are not acting as a fiduciary or an advisor for you in respect of that Transaction;
- (vi) you understand and accept the terms, conditions and risks of that Transaction and you are willing to accept those terms and conditions and to assume (financially and otherwise) those risks;
- (vii) you are entering into that Transaction as principal and not as agent for any other person, unless you notify us otherwise in writing;
- (viii) you have all necessary licenses and approvals, and are duly authorised, to perform your obligations under that Transaction;
- (ix) you are not restricted under the terms of your constitution (if applicable) or in any other manner from performing your obligations under that Transaction;
- (x) all documents and information you deliver and provide to us for the purpose of these Conditions are valid, complete and accurate; and
- (xi) we are not making, and have not made any representation whatsoever on the performance of the gold market.

7.2 The representations contained in this Condition 7 will survive termination of these Conditions.

8. INFORMATION

You have read our privacy policy statement and personal information collection statement relating to the Personal Data (Privacy) Ordinance (Cap. 486 of the Laws of Hong Kong) (as amended from time to time). You authorise us to use your information for the purposes and to disclose your information to the persons referred to in such notices (as amended from time to time) and to our service providers and regulatory authorities.

9. INSTRUCTIONS

- 9.1** You authorise us to act on instructions from you or any authorised representative (including any instructions we believe have been given by you or an authorised representative).
- 9.2** All instructions (whether written or verbal) given or purported to be given by any means by you or your authorised representative to us are binding on you and you agree to fully indemnify us for any loss suffered by us as a result of our accepting such instructions unless such loss is caused by the gross negligence or wilful default of the Bank. We may, in our discretion, delay acting or not to act on instructions without prior notice.
- 9.3** You will give instructions to us in writing or through other means which have been agreed upon between us. We may reject or act on an instruction not so given. We may act on an instruction which is inconsistent with an existing arrangement, without enquiry.
- 9.4** You may change your authorised representative or signing arrangements by notice to us and by providing us with required documents. We may reject an instruction dated prior to the change but subsequently received.

9.5 We have no obligation to verify the identity or authority of the person giving an instruction or the authenticity of an instruction. We may at our discretion require evidence of identity or authority.

9.6 We will be deemed to have received or executed your instruction only when you have received our confirmation that we have received or executed such instructions.

9.7 An instruction once accepted cannot be altered or cancelled without our agreement.

10. LIMIT OF LIABILITY AND INDEMNITY

10.1 Unless caused by our gross negligence, wilful misconduct or fraud, we are not liable for:

- (i) any delay or interruption in your having access to an account or service, or any inability to use an account or service;
- (ii) any loss, error, delay, misdirection, corruption or unauthorised alteration or interception of a message sent through the internet, telephone or any other means, or any unauthorised access to a service, account or information;
- (iii) any failure to execute or error in executing your instructions;
- (iv) any error, malfunctioning, interruption, suspension or failure of any software, equipment or system to the extent that it is attributable to any cause or circumstance that is beyond our reasonable control;
- (v) anything (including any computer virus) which may impair the functions of a computer system; or
- (vi) any loss or damage arising from termination of your PGS Account or any service provided to you.

10.2 We are not liable for any loss caused by a third party, government, market disruption or any event beyond our control (including a Force Majeure Event). We are not liable for any act or omission unless due to our gross negligence, wilful misconduct or fraud.

10.3 To the maximum extent permitted by the applicable laws, we shall only be liable for direct losses incurred by you that are caused solely by our gross negligence, wilful misconduct or fraud, and we should in no event be liable for any indirect, incidental or consequential damages, including but not limited to loss of profit, loss of opportunity or reputational damages.

10.4 You shall on demand fully and effectively indemnify us against any liabilities, losses, reasonable expenses and legal costs resulting from your settlement failures or other default or our provision of the services hereunder including without limitation our accepting in good faith any instructions placed by phone, electronic means or any other means purportedly given by you to us.

11. TERMINATION

11.1 You may terminate your PGS Account by notice to us after selling all the Units in the PGS Account.

11.2 We have the right to terminate the Scheme by giving at least one month's prior written notice to you.

11.3 We reserve the right to terminate your PGS Account (acting fairly, in good faith and in a commercially reasonable manner) in the following circumstances:

- (i) with at least one month prior written notice to you, including but not limited to for situations where the balance in your PGS Account is zero for the period of 36 consecutive months;
- (ii) with not less than seven calendar days' prior written notice to you upon the occurrence of an Event of Default.

11.4 Upon termination of the Scheme and/or your PGS Account, if you could not sell your Units in the Scheme back to us before the termination date, the amount payable by us back to you on such termination will be determined by us (acting fairly, in good faith and in a commercially reasonable manner) based on the total number of all Unit(s) remaining in your PGS Account valued at the prevailing purchase price for a Unit as of the termination date, which may be substantially less than your capital invested in the Scheme. As soon as reasonably practicable after the termination date, we will provide to you a statement showing, in reasonable detail, the calculations and any amount payable. Such amount will be payable on the day specified in the notice.

11.5 Termination of the Scheme or your PGS Account will not affect accrued rights or obligations under these Conditions.

12. EVENTS OF DEFAULT

12.1 We will make payments and deliveries under each Transaction, subject to the condition precedent that no Event of Default set out in Condition 12.2 below has occurred.

12.2 The following events are Events of Default under these Conditions:

- (i) you fail to satisfy any material obligation under these Conditions (including any Transaction entered into under these Conditions);
- (ii) you become insolvent or fail or admit in writing your inability to pay your debts as they become due;
- (iii) any representation made by you under the Scheme proves to be incorrect or misleading in any material respect (including if you become a U.S. Person after opening your PGS Account);
- (iv) if you are an individual, you die or become mentally incapacitated; and
- (v) it is or would be unlawful under any applicable law for you to comply with any material provision of these Conditions or any Transaction entered into under these Conditions.

13. SET-OFF AND LIEN

13.1 We are entitled, at any time without notice to you, to combine all or any of your accounts with us to set-off against any your liabilities owed by you (whether alone or jointly with others) to us.

13.2 In addition to any lien that we may be entitled, we may also sell the Units of your PGS Account at such time on such terms as the Bank may determine in its sole and absolute discretion (acting fairly, in good faith and in a commercially reasonable manner) and apply the net proceeds of sale to discharge your liabilities owed to us.

14. FEES AND CHARGES

We may vary or impose fees and charges in connection with each Transaction and/or your PGS Account with at least one month's prior written notice.

15. CHANGES

15.1 We may change the dealing and pricing arrangements of the Scheme (including the scheduled trading means and the scheduled trading hours) or any requirements from time to time with at least one month's prior written notice to you (or such other period of notice in compliance with applicable laws and regulations). If you do not close your relevant account(s) prior to the effective date of any changes, you are deemed to have agreed to such changes.

16. NOTICE

16.1 Any notice, demand or other communication by the Bank will be considered as received by you:

- (i) at the time of personal delivery or leaving it at the address last notified in writing by you (if delivered personally);
- (ii) the following day after posting it to your or your authorised representative's last known address (if sent by post);
- (iii) immediately after emailing it to the email address last notified in writing by you (if sent by email); or
- (iv) immediately after sending it to the contact number last notified in writing by you (if sent by SMS).

16.3 Any notice or other communication by you or your authorised representative to the Bank shall not be effective until actually received by the Bank.

16.4 You or your authorised representative shall promptly notify the Bank of any change in its address, email address, contact number or facsimile number to which notices or other communications should be sent.

16.5 All instructions and correspondence relating to any business or transaction given to us by or on behalf of you are sent at your own risk.

17. JOINT ACCOUNTS

If the PGS Account is maintained in the joint names of two or more persons:

17.1 The account holders of the joint PGS Account are jointly and severally liable with each other for the obligations and liabilities in connection with the PGS Account under these Conditions.

17.2 We are authorised to comply with any instruction or other directions given by any account holders of the joint PGS Account for or in connection with the PGS Account (unless we agree or decide otherwise).

17.3 Any notice under these Conditions to any account holder of the joint PGS Account will be considered as effective notification to all account holders of the joint PGS Account.

17.4 Our payment of cash to any account holders of the joint PGS Account discharges our obligations to all account holders of the joint PGS Account.

18. MISCELLANEOUS

18.1 Amendments

The Bank has the right to vary these Conditions from time to time (acting fairly, in good faith and in a commercially reasonable manner) by giving at least one month's prior written notice to you. You will be bound by such variation unless we have received notice from you to terminate your PGS Account with effect before the date on which that variation takes effect.

18.2 Severability

If any provision of these Conditions is or becomes illegal, invalid or unenforceable under the laws of any jurisdiction, such illegality, invalidity or unenforceability does not affect any other provisions which remain in full force, validity and effect.

18.3 Assignment by us or by you

- (i) Subject to and to the extent permitted by any applicable laws and regulations, we may at any time assign or transfer any or all of our rights and obligations under these Conditions to any person without your agreement.
- (ii) You are not allowed to assign or transfer any of your rights or obligations under these Conditions to any person unless with our prior written agreement.

18.4 Our responsibility

You authorise us to take such steps or action as we may consider appropriate or useful to enable us to act on instructions from you or any authorised representative. These may include taking action or refraining from action for complying with any law, regulation or court order, or rule, direction, guideline, code, notice or restriction (whether or not having the force of law) issued by any regulatory authority, governmental agency (including tax authority), clearing or settlement bank, exchange or industry or self-regulatory body, whether in or outside Hong Kong, to which we or you are subject or with which we or you are expected to comply from time to time.

18.5 Recordings

In the course of providing the services, we (or any of our agents or nominees) may record and monitor your instructions or communications with you by tape, video or other means. Subject to any applicable laws and regulations, the Bank may destroy any documents or record relating to the PGS Account after such period of time as the Bank considers appropriate.

18.6 Waivers

Any forbearance or delay by the Bank in exercising any right or remedy under these Conditions shall not be deemed to be a waiver of such right or remedy, and any single or partial exercise of any right or remedy shall not preclude the further exercise thereof.

Any remedies provided to us herein are not intended to be exclusive of any other remedy and each and every remedy shall be cumulative and in addition to every other remedy given under these Conditions or now or hereafter existing at law or in equity, by statute or otherwise.

18.7 Governing Law and Jurisdiction

These Conditions and each Transaction shall be governed by and construed in all respects in accordance with the laws of Hong Kong.

The parties submit to the non-exclusive jurisdiction of the Hong Kong courts.

18.8 No Third Party Rights

Without prejudice to the rights of the Bank in general or under these Conditions, a person who is not a party to these Conditions will have no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce any provision of these Conditions or to enjoy any other benefit pursuant thereto (for the avoidance of doubt, no consent by, or notice to, such person for the rescission, variation or supplement regarding these Conditions is required).