



中國工商銀行(亞洲)

ICBC (Asia)

Industrial and Commercial Bank of China Limited and Industrial and Commercial Bank of China (Asia) Limited Cardmember Agreement - Dual Currency Credit Card

IMPORTANT:

PLEASE READ THIS CARDMEMBER AGREEMENT THOROUGHLY BEFORE USING OR SIGNING A CARD OR USING ANY OF THE SERVICES. BY USING OR SIGNING OR RETAINING A CARD OR USING ANY OF OUR SERVICES, YOU WILL BE DEEMED TO HAVE ACCEPTED ALL THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT AND WILL BE BOUND BY THEM. YOUR USE OF THE CARD WILL BE GOVERNED BY THIS AGREEMENT. IF YOU DO NOT WISH TO BE BOUND BY THIS AGREEMENT, CUT YOUR CARD IN HALF AND RETURN THE PIECES TO US. UNLESS YOU DO SO, WE WILL ASSUME THAT YOU HAVE ACCEPTED THIS AGREEMENT. YOU SHOULD NOT USE THE CARD BEFORE OR AFTER THE PERIOD OF VALIDITY PRINTED ON THE FACE OF THE CARD.

1. Definitions

In this Agreement, the following words shall have the following meanings, unless the context otherwise requires:

- (a) "Account Holder" means a person in whose name the Card Account is opened and maintained;
- (b) "Balance Transfer" means a transfer of the debit balance on any credit card held with any credit card issuer or any account with other banks (other than a Bank) to a Card Account;
- (c) "Bank" means ICBC (Asia) with respect to the Hong Kong Dollar Card Account or ICBC with respect to the Renminbi Card Account;
- (d) "Bank Group Company" has the meaning given to it in the Data Notice;
- (e) "Card" means any dual currency credit card comprising a Hong Kong Dollar Card Account and a Renminbi Card Account, whether a principal, supplementary, or corporate card, whether "platinum", "gold" or "classic", and including a generic or affinity or "co-brand" card, issued by ICBC (Asia) (for itself and/or on behalf of ICBC) pursuant to this Agreement;
- (f) "Card Account" means either the Hong Kong Dollar Card Account or the Renminbi Card Account, or a specific one of them as the context may require;
- (g) "Cardmember" means a Person in whose name a Card has been issued and, where the context permits or requires, includes a supplementary cardmember, any of their respective personal representatives and lawful successors (but may or may not include the Account Holder as the context may require);
- (h) "Card Transaction" means any purchase of goods and/or services or any transfer or cash advances effected by the use of a Card;
- (i) "Charge" means any amount debited to a Card Account as shown on the Statement;
- (j) "Credit Reference Agencies" means any data user who carries on a business of providing consumer credit reference service, whether or not that business is the sole or principal activity of that data user;
- (k) "Data" shall be as defined in the Personal Data (Privacy) Ordinance (Cap. 486) of the Laws of Hong Kong and any codes of practice issued pursuant to this Ordinance;
- (l) "Data Notice" means ICBC (Asia)'s "Circular to Customers and Other Individuals relating to the Personal Data (Privacy) Ordinance" from time to time revised and circulated to customers;
- (m) "Hotline" means ICBC (Asia)'s 24-hour credit card customer service telephone number (852) 218 95588;
- (n) "Hong Kong" means the Hong Kong Special Administrative Region of the People's Republic of China;
- (o) "Hong Kong dollars" means the lawful currency for the time being of Hong Kong;
- (p) "Hong Kong Dollar Card Account" means an account in Hong Kong Dollars opened and maintained by ICBC (Asia) for the purposes of recording debits and credits in respect of usage of the Cards under this Agreement;
- (q) "ICBC" means Industrial and Commercial Bank of China Limited;
- (r) "ICBC (Asia)" means Industrial and Commercial Bank of China (Asia) Limited, its successors and assigns;
- (s) "Mainland China" means the People's Republic of China but excluding Hong Kong and Macau;
- (t) "Minimum Payment" means, the aggregate, as specified in each Statement, of (i) the higher of a specified amount or a percentage, determined by ICBC (Asia) (for itself and/or on behalf of ICBC) from time to time (the currently applicable amount and percentage being specified in the attached Schedule), of the outstanding amount in Hong Kong Dollars if in relation to the Hong Kong Dollar Card Account and in Renminbi if in relation to the Renminbi Card Account shown on the current Statement, (ii) any unpaid minimum payment in Hong Kong Dollars if in relation to the Hong Kong Dollar Card Account, and in Renminbi if in relation to the Renminbi Card Account, specified in previous Statements and (iii) the amount by which the outstanding amount in Hong Kong Dollars if in relation to the Hong Kong Dollars Card Account and in Renminbi if in relation to the Renminbi Card Account shown in the current Statement exceeds the credit limit assigned to the applicable Card Account, which shall be paid by a Cardmember (if the Charges are attributable to such Cardmember's use of a Card) and/or the Account Holder on or before each Payment Due Date;
- (u) "Payment Due Date" means the date on which the debit balance of a Card Account for any month owed by a Cardmember is payable as specified in the relevant Statement;
- (v) "Person" means any individual, firm, company or other legal or natural person whatsoever;
- (w) "Personal Data" shall be as defined in the Personal Data (Privacy) Ordinance (Cap. 486) of the Laws of Hong Kong and any codes of practice issued pursuant to this Ordinance;
- (x) "PIN" means the personal identification number for the time being supplied by ICBC (Asia) (for itself and/or on behalf of ICBC) enabling a Cardmember to identify himself when using a Card;
- (y) "Renminbi" means the lawful currency for the time being of the People's Republic of China;
- (z) "Renminbi Card Account" means an account in Renminbi opened with ICBC for the purposes of recording debits and credits in respect of usage of the Cards under this Agreement; and
- (aa) "Statement" means a monthly statement of account sent by ICBC (Asia) to the Account Holder, setting out the amount then due to ICBC (Asia) and ICBC in respect of both Hong Kong Dollar Card Account and Renminbi Card Account.

Headings are for convenience only and do not affect interpretation. Words denoting the singular shall include the plural, and words denoting one gender shall include all genders.

2. Application of this Agreement

2.1 All facilities made available by a Bank to any Person in respect of a Card or a Card Account are subject to the terms and conditions of this Agreement from time to time in force and any other applicable terms and conditions. A Person becomes subject to such terms and conditions (if not already so subject) by signing, activating or using a Card or permitting its use.

2.2 This Agreement shall be binding on each successor, personal representative and person lawfully acting on behalf of any Cardmember.

3. The Cards

3.1 This Card is not transferable and must be surrendered to ICBC (Asia) immediately upon any Bank's request.

3.2 ICBC (Asia) is entering into this Agreement for itself with respect to the Hong Kong Dollar Card Account and ICBC is entering into this Agreement for itself with respect to the Renminbi Card Account.

4. Credit Limit

4.1 The credit limit of each of the Hong Kong Dollar Account and the Renminbi Card Account will be subject to a

credit limit determined by ICBC (Asia) and ICBC respectively, at their respective sole discretion, and notified to the Account Holder and each Cardmember(s) by ICBC (Asia) (for itself and/or on behalf of ICBC). Such credit limit may be varied by ICBC (Asia) and ICBC (as the case may be) at their respective sole and absolute discretion without prior notice to or consent of any Cardmember.

- 4.2 A Cardmember may apply for a review of his assigned credit limit for the applicable Card Account at any time but neither Bank shall be obliged to approve the application.
- 4.3 Each Bank may at its sole discretion (but shall not be obliged to) permit Card Transactions to be effected in excess of the credit limit for the applicable Card Account, and a Cardmember (to which the Card Transactions relate) and the Account Holder shall be jointly and severally liable for such transaction in accordance with the terms of this Agreement.

5. Use of the Card

- 5.1 Each Card may be used in respect of the Hong Kong Dollar Card Account at ICBC (Asia) and other financial institutions and merchants using [Visa International] (including any Card Transactions within Mainland China which have been converted from Renminbi into Hong Kong Dollars) which accept such Card for effecting purchases of goods and services, drawing of cash advances, payment of a Cardmember's outstanding accounts with any other bank or credit card issuer in Hong Kong other than ICBC (Asia) by way of Balance Transfer and such other credit card facilities or services as ICBC (Asia) may from time to time provide or arrange.
- 5.2 Each Card may be used in respect of the Renminbi Card Account at specified Mainland China branches of ICBC, and other financial institutions and merchants using a Renminbi clearing system/Unionpay (within Mainland China only) which accept such Card for effecting purchases of goods and services, drawing of cash advances, payment of a Cardmember's outstanding Renminbi account with any other bank or credit card issuer in Mainland China other than ICBC by way of Balance Transfer and such other credit card facilities or services as ICBC may from time to time provide or arrange.
- 5.3 A Card may also be used to access a Cardmember's bank account with ICBC (Asia), and such Cardmember agrees that such service shall be subject to any relevant terms and conditions of ICBC (Asia) from time to time in effect in addition to the terms and conditions under this Agreement. Each Cardmember is advised to read through such terms and conditions of ICBC (Asia) before proceeding to use such service.
- 5.4 Each Cardmember shall use a Card, and the Account Holder shall ensure that each Cardmember uses a Card:
- (a) so that the credit limit for each Card Account (including but not limited to any cash advance limit or limit on Balance Transfer amounts) from time to time notified by ICBC (Asia) (for its own behalf and/or on behalf of ICBC) to the Account Holder as applicable to such Card Account is not exceeded; and
 - (b) within the validity date (if any) and the expiry date embossed on a Card.
- 5.5 A Cardmember's right to use a Card shall be suspended:
- (a) if such Card is lost or stolen; or
 - (b) if any Bank is informed by a Cardmember that the PIN is or may be known to any other Person.
- 5.6 The Account Holder and any Cardmember may request that renewal and/or replacement Cards be issued to each Cardmember following expiry, loss or theft. Neither Bank shall be under an obligation to issue a renewal or replacement card and, if any renewal and/or replacement card is issued, each Bank shall be entitled to charge the relevant fee.
- 5.7 (a) ICBC (Asia) may at any time in its sole discretion and without giving any reasons, terminate any right of any Cardmember to use his Card to access his bank account with ICBC (Asia).
- (b) ICBC (Asia) shall notify any Cardmember in writing of such termination referred to in Clause 5.7(a) above, and such Cardmember shall then return such Card, duly cut in two or otherwise defaced, to ICBC (Asia). Until such Card is returned to ICBC (Asia), and a replacement Card is issued in accordance with Clause 5.7 (c) below, the right to use his Card by such Cardmember shall be suspended.
- (c) If a Cardmember has returned such Card in accordance with Clause 5.7 (b) above, ICBC (Asia) (for itself and/or on behalf of ICBC) shall issue to such Cardmember a replacement Card, which shall no longer enable such Cardmember to access his bank account with ICBC (Asia).
- 5.8 No Card is transferable and a Cardmember shall not permit his Card to be used by any other person.
- 5.9 Each Cardmember undertakes to act in good faith at all times in relation to all dealings with a Bank.
- 5.10 A Cardmember shall not use a Card or the Card Account for any illegal purposes. ICBC (Asia) (for itself and/or on behalf of ICBC) is entitled, in its sole and absolute discretion, to refuse to act on or give effect to any Card Transaction instruction if ICBC (Asia) has reason to believe that such instruction is given in connection with any illegal transaction. ICBC (Asia) (for itself and/or on behalf of ICBC) reserves the right to reverse or cancel any Card Transaction which it suspects or has reason to believe is for the purpose of or otherwise related to any illegal transaction.

6. Cardmember Information

- 6.1 The Account Holder and any Cardmember will promptly notify ICBC (Asia) (for itself and/or on behalf of ICBC) in writing of any change of employment, business, residential address, work place address, email address, or telephone number, and of any change in personal or financial circumstances which might be material to a Bank in permitting the use or the continued use of a Card.
- 6.2 Each Cardmember agrees to any Bank (for itself and/or on behalf of ICBC in case of ICBC (Asia)) recording the telephone conversations or any verbal communication between a Cardmember and a Bank.

7. PIN

- 7.1 As soon as the PIN is assigned by ICBC (Asia) (for itself and/or on behalf of ICBC) to a Cardmember, it shall remain effective until it is cancelled by, or with the agreement of, ICBC (Asia) (for itself and/or on behalf of ICBC). A Cardmember may change the PIN at any time by such means as ICBC (Asia) (for itself and/or on behalf of ICBC) may prescribe and the new PIN shall take effect immediately.
- 7.2 A Cardmember shall not disclose the PIN of a Card to any other Person and shall act in good faith, exercise reasonable care and diligence in keeping such PIN secret.
- 7.3 If a Cardmember becomes aware that the PIN is or may be known to any other Person, he shall as soon as reasonably practicable inform ICBC (Asia) (for itself and/or on behalf of ICBC) or call the Hotline. Such Cardmember shall change the PIN as soon as possible (if applicable). If a Card incorporates a facility to enable such Card to be used to access a Cardmember's bank account with ICBC (Asia) using the PIN, such Cardmember shall also as soon as reasonably practicable inform ICBC (Asia) through ICBC (Asia)'s 24-hour lost card hotline or by any other means acceptable to ICBC (Asia) in accordance with ICBC (Asia)'s terms and conditions governing such bank account.

8. Charges

- 8.1 (a) The Hong Kong Dollar Card Account may be debited by ICBC (Asia) for itself for the following Charges:-
- (1) the amount of any Balance Transfer agreed to by ICBC (Asia);
 - (2) the amount of the Card Transactions; and
 - (3) any amount due in respect of the use of any other facility or service that ICBC (Asia) may from time to time provide or arrange.
- (b) The Renminbi Card Account may be debited by ICBC for itself for the following Charges:-
- (1) the amount of any Balance Transfer agreed to by ICBC;
 - (2) the amount of the Card Transactions; and
 - (3) any amount due in respect of the use of any other facility or service that ICBC may from time to time provide or arrange.
- 8.2 The Card Account may be debited as provided in Clause 8.1 above even though the Charges were incurred (without limitation) by (i) telephone, fax, mail order or direct debit authorisation, or (ii) use of a Card over the internet, in an automated teller machine, merchant's point of sale terminal, credit card pay phone or any other facility permitting use of a Card without the execution of a sales draft or the signature of the Account Holder or any Cardmember.
- 8.3 ICBC (Asia) (for itself and/or on behalf of ICBC) may at its sole discretion (but shall not be obliged to) require the Account Holder or a Cardmember to promptly pay the Charges on or before the Payment Due

upon demand by ICBC (Asia) (for itself and/or on behalf of ICBC). Until such requirement or demand the Account Holder or a Cardmember may make either partial payment or full payment of the Charges on or before the Payment Due Date. The minimum partial payment shall be the Minimum Payment.

- 8.4 ICBC (Asia) (for itself and/or on behalf of ICBC) may issue a supplementary Card to a Cardmember (other than the Account Holder) at the joint request of the Account Holder and a Cardmember. The Account Holder shall be liable for the use of both the Account Holder's Card and any supplementary Cards issued to Cardmembers (other than the Account Holder) at the joint request of the Account Holder and the Cardmembers. The Account Holder shall be jointly and severally with a Cardmember (to which the Charges relate) liable for the total amount of Charges due to a Bank in respect of the Card Account.
- 8.5 Each Cardmember (other than the Account Holder) is also liable jointly and severally with the Account Holder to a Bank for total amount of Charges attributable to his own use of a Card. ICBC (Asia) (for itself and/or on behalf of ICBC) shall have complete discretion in recovering any Charges incurred by a supplementary Cardmember from either the Account Holder or the supplementary Cardmember or both. The supplementary Cardmembers shall not be liable for the use of any Card by any other Cardmember or by the Account Holder.
- 8.6 Subject to Clause 11.3 below, a Cardmember's failure to sign any sales or cash advance voucher will not relieve the Account Holder and/or such Cardmember from liability to a Bank in respect thereof.
- 8.7 Charges incurred in or converted into Hong Kong Dollars will be posted into the Hong Kong Dollar Card Account and Charges incurred in Renminbi (and not otherwise converted into any other currency) will be posted into the Renminbi Card Account.
- 8.8 Charges in any currency other than Hong Kong Dollars and Renminbi will be converted into Hong Kong Dollars at the prevailing exchange rate determined by ICBC (Asia) (in consultation with, if applicable, any relevant international card associations) on the day of conversion and debited to the Hong Kong Dollar Card Account in Hong Kong Dollars.

9. Fees and Expenses

9.1 ICBC (Asia) (for itself and/or on behalf of ICBC) may also debit the following fees, charges and expenses to a Card Account:

- (a) an initial and/or annual fee for the use of the applicable Card Account and each Card (which may vary depending on the type of Card);
- (b) a handling charge for the supply of reissued or replacement Cards;
- (c) a cancellation fee;
- (d) a handling charge for each cash advance;
- (e) a handling charge for the issue of cashiers orders by a Bank;
- (f) a handling charge for each cheque tendered to a Bank in respect of the applicable Card Account which is not honoured, and for each direct debit or autopay instruction which is returned unpaid;
- (g) a handling charge for funds transfer from or to the Card Account;
- (h) a finance charge calculated on a daily basis on each cash advance and accruing from the date of such advance until the date upon which it is finally repaid in full;
- (i) a finance charge calculated on a daily basis on the amount of each Balance Transfer and accruing from the date of the Balance Transfer in question is made until the date upon which it is finally repaid in full;
- (j) a finance charge calculated on a daily basis on the outstanding Charges (other than cash advances and Balance Transfers, where sub-paragraphs (h) and (i) above apply), and the finance charge specified in this sub-paragraph from the last Statement date to the current Statement date unless a Bank (to which the applicable Card Account relates) receives in full the total amount due as specified in the last Statement on or before the Payment Due Date stipulated in that Statement;
If the total amount due as specified in the last Statement is not received by a Bank (to which the applicable Card Account relates) by the latest due date stipulated in that Statement, the finance charge payable under this sub-paragraph (j) will apply to all new Charges (other than cash advances and Balance Transfers as aforesaid) incurred between the dates of the last and current Statements as from the respective dates such Charges are incurred, notwithstanding that such Charges will not be payable until the Payment Due Date specified in the current Statement;
- (k) a late payment charge, if at any time the Minimum Payment has not been paid by the latest Payment Due Date as specified in a Statement;
- (l) an "over limit" charge if any credit limit or cash advance limit or limit on Balance Transfer amounts applicable to a Card is exceeded;
- (m) a handling charge for the supply of copies of Statements;
- (n) a handling charge for the supply of original sales drafts or copies of sales drafts;
- (o) a handling charge for any dispute proved to be unfounded after investigation;
- (p) a handling charge for the issue of reference letter by a Bank;
- (q) a handling charge for the issue of audit confirmation by a Bank; and
- (r) other fees, charges and expenses,
at such rates and in such amounts as ICBC (Asia) (for itself and/or on behalf of ICBC) may from time to time determine. The fees, charges and expenses of ICBC and ICBC (Asia) are contained in the "Fee Schedule of the ICBC Asia Credit Card" (the "Fee Schedule"), and a copy of the Fee Schedule currently in force is supplied with this Agreement.

9.2 ICBC (Asia) may (for itself and/or on behalf of ICBC) waive the fees specified in Clause 9.1 (a) above in whole or in part. However, if any Card is terminated pursuant to Clause 17.1 below within one year of its issue, ICBC (Asia) (for itself and/or on behalf of ICBC) shall have the right to charge a cancellation fee.

10. Payment of Charges

10.1 Subject to Clause 10.2 below, payments to the Hong Kong Dollar Card Account shall be in Hong Kong Dollars and payments to the Renminbi Card Account shall be in Renminbi.

10.2 Renminbi Card Account payments:

- (a) Charges in the Renminbi Card Account shall be settled in Renminbi at specified branches of ICBC in Mainland China or by other means as advised by ICBC (Asia) (on behalf of ICBC) from time to time.
- (b) ICBC may (exceptionally but without any obligation) accept Hong Kong Dollars or other foreign currencies acceptable to ICBC for payments to the Renminbi Card Account.
- (c) In the event of payment in accordance with clause 10.2(b) above, Hong Kong Dollars or foreign currencies will be converted to Renminbi at the exchange rate quoted by ICBC on the day of conversion.
- (d) If the amount of Renminbi after conversion from Hong Kong Dollars or other foreign currencies does not cover the total Renminbi outstanding in the Renminbi Card Account, the Account Holder and the Cardmember (to which such Charges in Renminbi relates) shall remain jointly and severally liable for any difference caused by such currency conversion.

10.3 Hong Kong Dollar Card Account payments:

- (a) Charges in the Hong Kong Dollar Card Account (which shall include for the avoidance of doubt any Card Transactions within Mainland China which have been converted from Renminbi into Hong Kong Dollars) shall be settled in Hong Kong Dollars at any branches of ICBC (Asia) in Hong Kong or by other means as advised by ICBC (Asia) from time to time.
- (b) ICBC (Asia) may (exceptionally but without any obligation) accept other foreign currencies acceptable to ICBC (Asia) for payments to the Hong Kong Dollar Card Account.
- (c) In the event of payment in accordance with clause 10.3(b) above, the foreign currencies will be converted into Hong Kong Dollars at the exchange rate quoted by ICBC (Asia) as applicable on the date of conversion.
- (d) If the amount of Hong Kong Dollars after the conversion of such foreign currency does not cover the total Hong Kong Dollars Charges outstanding in the Hong Kong Dollar Card Account, the Account Holder and a Cardmember (to which such Charges in Hong Kong Dollars relate) shall remain jointly and severally liable for any difference caused by such exchange conversion.

10.4 All payments:-

- (a) shall be deemed not to have been made until such time as the relevant funds have been received in

cleared and available funds by a Bank to which such payments relate;

- (b) shall be payable without any deduction or withholding on account of any other amount whatsoever whether by way of set-off, counterclaim or otherwise, and notwithstanding any legal limitation, disability or incapacity of any Person.
 - (c) Payments to the Hong Kong Dollar Card Account may be applied in the following order or in such other way as ICBC (Asia) (to which such payments relate) thinks fit:-
 - (i) legal and collection fees;
 - (ii) finance charges;
 - (iii) outstanding billed principal amount of such charges provided for in Clause 8.1(a) above;
 - (iv) cash advance handling charge;
 - (v) late charges;
 - (vi) over limit charges;
 - (vii) other service fees and charges; and
 - (viii) outstanding unbilled principal amount of such charges as provided for in Clause 8.1(a) above.
 - (d) Payments to the Renminbi Card Account may be applied in the following order or in such other way as ICBC (to which such payments relate) thinks fit:-
 - (i) legal and collection fees;
 - (ii) finance charges;
 - (iii) cash advance handling charge;
 - (iv) late charges;
 - (v) over limit charges;
 - (vi) other service fees and charges; and
 - (vii) the outstanding principal amount of such charges as provided for in Clause 8.1 above.
- 10.5 All payments into or credits made to either the Hong Kong Dollar Card Account or the Renminbi Card Account will be applied by a Bank in accordance with Clause 10.4, and if the payment is in excess of the outstanding balance of the Charges in respect of the applicable Card Account, such excess will be applied to fund future Card Transactions or Charges as and when they are debited to such Card Account. Any credit balance in the Hong Kong Dollar Card Account and the Renminbi Card Account shall not, in any case, bear interest.
- 10.6 If a Cardmember and/or the Account Holder is/are required by any applicable laws or regulations to make any deduction or withholding from any sum payable by such Cardmember and/or the Account Holder to a Bank hereunder, then the liability in respect of that deduction or withholding shall be the liability of such Cardmember and/or the Account Holder such that after the making of such deduction or withholding the net payment shall be equal to the amount which a Bank would have received had no such deduction or withholding been made. It shall be the sole responsibility of such Cardmember and/or the Account Holder to effect payment of such deduction or withholding to the relevant authority within the applicable time limit and such Cardmember and the Account Holder shall indemnify such Bank for all consequences of such Cardmember's or the Account Holder's failure to do so.

11. Records

- 11.1 Subject to Clauses 11.3 and 11.4 below, ICBC (Asia)'s record (for itself and/or on behalf of ICBC) of the amount of any Charge, howsoever incurred shall, whether or not authorised by a Cardmember, in the absence of manifest error, negligence or fraud, be final and binding on the Account Holder and such Cardmember, and ICBC (Asia)'s (for itself and/or on behalf of ICBC) record of the amount of any Charge incurred using a PIN, over the internet, or by means of an automated teller machine, point of sale terminal, other computer terminal or any telecommunication devices shall be binding on the Account Holder and each Cardmember.
- 11.2 If a Card Transaction does not originate from a sales draft, ICBC (Asia) shall be entitled to debit the amount of such Card Transaction to the applicable Card Account as if it had been submitted to ICBC (Asia) (for itself and/or on behalf of ICBC) in writing and signed, and the Account Holder and each Cardmember hereby authorise ICBC (Asia) (for itself and/or on behalf of ICBC) to do so.
- 11.3 The Account Holder must examine each Statement and must notify ICBC (Asia) (for itself and/or on behalf of ICBC) in writing within 60 days from the issue date of such Statement of any unauthorised Charges arising from whatever cause, including forgery, fraud, lack of authority or negligence of the Account Holder, any Cardmember or any other Person. After such period, the Statement will be deemed to be correct and conclusive evidence of the balance upon the applicable Card Account. No claim to the contrary by the Account Holder or any other Cardmember shall be admissible against a Bank unless any such unauthorised Charge arose from any of the following;
- (a) any unauthorized transactions arising from forgery or fraud by any third party including any employee, agent or servant of the Account Holder and a Cardmember and in relation to which a Bank has failed to exercise reasonable care and skill;
 - (b) unauthorized transactions arising from forgery or fraud by any employee, agent or servant of a Bank; or
 - (c) other unauthorized transactions arising from the default or negligence on the part of a Bank or any of its employees, agents or servants.
- 11.4 Where the Account Holder or a Cardmember reports an unauthorised transaction before the Payment Due Date, the Account Holder or such Cardmember may give a written request to ICBC (Asia) (for itself and/or on behalf of ICBC) to withhold the obligation to make payment of the disputed amount during the investigation period by ICBC (Asia) (for itself and/or on behalf of ICBC) and requesting that any finance charges be suspended in respect of the disputed amount while it is under investigation by ICBC (Asia) (for itself and/or on behalf of ICBC). If, however, the report made by the Account Holder or such Cardmember is subsequently proved to be unfounded, each Bank reserves the right to re-impose the finance charges on the disputed amount over the whole period, including the investigation period. The duration of any investigation period shall be at the sole discretion of the Bank to which such unauthorised transaction relates (but shall be no longer than 90 days except in circumstances which are beyond the control of such Bank) and the Account Holder, and such Cardmember and the Account Holder shall follow the instructions of such Bank and fully cooperate with such Bank in relation to any such investigation concerning the disputed amount.

12. Rights of a Bank

- 12.1 Nothing in this Agreement shall affect a Bank's right of set-off, transfer and application of monies at law or pursuant to any other agreement from time to time subsisting between a Bank and any Person.
- 12.2 Any credit to be given in respect of Charges will be applied by a Bank to the applicable Card Account only after deduction of any costs (including but not limited to collection and remittance costs), if any, so incurred to such Bank for applying the credit.
- 12.3 ICBC (Asia) is entitled (but not legally obliged):-
- (a) to give effect to any instruction given by any Person to effect payment of sums due under this Agreement from another account with ICBC (Asia);
 - (b) to set-off or transfer, at any time and without prior notice, any monies of whatever description standing in the books of ICBC (Asia) to the credit of the Account Holder, whether held singly or jointly with others and whether in Hong Kong Dollars or any other currency in or towards discharge of the total amount debited to the Hong Kong Dollar Card Account; and
 - (c) to set-off or transfer, at any time and without prior notice, any monies of whatever description standing in the books of ICBC (Asia) to the credit of a Cardmember, whether held singly or jointly with others and whether in Hong Kong Dollars or any other currency in or towards discharge of the total amount of Charges in the Hong Kong Dollar Card Account attributable to his own use of a Card.
- For the purpose of set-off of funds in any currency other than Hong Kong Dollars, ICBC (Asia) may convert the currency into Hong Kong Dollars at the prevailing exchange rate determined by ICBC (Asia) at the time of conversion. If ICBC (Asia) exercises its rights under this Clause 12.3(b) and 12.3(c), it shall promptly notify the Account Holder or, as the case may be, the Cardmember to which such exercise of rights relates.
- 12.4 Any branch of ICBC in Mainland China is entitled (but not legally obliged):
- (a) to set-off or transfer, at any time and without prior notice, any monies of whatever description standing in

the books of ICBC to the credit of the Account Holder, whether held singly or jointly with others and whether in Renminbi or not, in or towards discharge of the total amount debited to the Renminbi Card Account; and

(b) to set-off or transfer, at any time and without prior notice, any monies of whatever description standing in the books of ICBC to the credit of a Cardmember, whether held singly or jointly with others and whether in Renminbi or not, in or towards discharge of the total amount of Charges in the Renminbi Card Account attributable to his own use of a Card.

If any branch in ICBC in Mainland China exercises its rights of set-off or transfer under this clause 12.4, ICBC shall promptly notify ICBC (Asia), which shall thereafter promptly notify the Account Holder or, as the case may be, Cardmember (to which such exercise of rights relates) of the same.

13. Exclusion and Limitation of Liability

13.1 No Bank shall be under any liability whatsoever to the Account Holder or any Cardmember in respect of any loss or damage arising directly or indirectly from:-

- (a) any defect in any goods or services paid for by the use of a Card or any claim or complaint by a Cardmember against the supplier of such goods or services, or any other dispute between a Cardmember and any such supplier, for the avoidance of doubt, each Cardmember and the Account Holder shall remain fully liable for any Charges incurred in respect of the relevant goods or services;
- (b) the refusal of any Person, automated teller machine, point of sale terminal, other computer terminal, internet website or any telecommunication devices to honour or accept a Card;
- (c) save as provided in Clause 11.3 above and in Clause 13.2(a) below, the incurring of a Charge other than by a Cardmember;
- (d) subject to Clauses 13.2(a) and 13.8 below, access to the use of a Card and/or services by a Cardmember or any other person whether or not authorised;
- (e) any Bank's inability to execute any of a Cardmember's instructions due to prevailing market conditions or other causes beyond the control, and not attributable to any default or negligence, of a Bank;
- (f) the inaccuracy in any information or data provided by the Account Holder or a Cardmember which is stored in a Card containing a device capable of storing data or information or the loss of such information or data due to the negligence of the Account Holder or a Cardmember;
- (g) the exercise by a Bank of its right to demand and procure surrender of a Card prior to the expiry date embossed on its face, whether such demand and surrender are made and/or procured by a Bank or by any other Person or computer terminal;
- (h) the exercise by a Bank of its right (i) to modify, suspend or withdraw any of the facilities, services or benefits from time to time available in respect of a Card pursuant to Clause 16.3 below, (ii) to amend the credit limit (including but not limited to any cash advance limit or limit on Balance Transfer amount) applicable to a Card or a Card Account pursuant to Clause 16.4 below, or (iii) to terminate a Card or a Card Account pursuant to Clause 17 below;
- (i) any injury to the credit character and reputation of the Account Holder or any Cardmember in connection with or caused by the repossession of a Card, any request for its return or the refusal of any Person to honour or accept a Card whether or not instructed by a Bank;
- (j) any act of fraud, forgery or gross negligence of a Cardmember or any other Person (not being an employee, agent or servant of a Bank), including (without limitation) such Cardmember's failure to observe Clauses 7 and 13.4 or follow any other recommendation of a Bank from time to time regarding the safety and secrecy of a Card and the PIN; or
- (k) any act or omission of any third party (other than agents of a Bank) through which facilities of a Cardmember or the Account Holder may be made available provided that such Bank shall have exercised reasonable care and skill in connection with its dealings with such third party.

13.2 Provided a Cardmember has not acted fraudulently or with gross negligence, such Cardmember and the Account Holder shall not be liable for loss as incurred:

- (a) where a Card Transaction instruction effected by a Bank was given by use of a Card before a Cardmember or the Account Holder received a Card, or given through the use of a lost, stolen or counterfeit card after ICBC (Asia) (for itself and/or on behalf of ICBC) has received proper notice of the loss or theft of his Card or that the PIN is or may be known to any other Person from such Cardmember through the Hotline in accordance with Clauses 7.3 or 13.4 (as the case may be) or any other means acceptable to ICBC (Asia) (for itself and/or on behalf of ICBC) (provided that in the case of a lost or stolen card, such Cardmember has acted in accordance with Clauses 13.4 and 13.5 below); or
- (b) directly as a result of a fault in any automated teller machines and other facilities which was not obvious or was not advised by a message or notice on display or otherwise drawn to such Cardmember's attention.

13.3 In the event of any proceedings which a Cardmember and/or the Account Holder may bring against a Bank for any cause whatsoever, such Cardmember and/or the Account Holder agree(s) that a Bank's liability shall not exceed those amounts wrongly charged to the Card Account (and interest on such amounts).

13.4 A Cardmember shall report to ICBC (Asia) (for itself and/or on behalf of ICBC) (through the Hotline) as soon as reasonably practicable upon discovery of the loss or theft of any Card or the loss, theft or disclosure to a third party of any number used in relation to any cash advance or ATM function or facility incorporated in a Card.

13.5 A Cardmember and the Account Holder will not be liable for any unauthorised Charges incurred after ICBC (Asia) (for itself and/or on behalf of ICBC) has received proper notice of the loss or theft of his Card or that the PIN is or may be known to any other Person from such Cardmember through the Hotline in accordance with Clauses 7.3 or 13.4 above (as the case may be) or any other means acceptable to ICBC (Asia) (for itself and/or on behalf of ICBC), provided that such Cardmember has not acted fraudulently or with gross negligence.

13.6 Where a Card incorporates a facility to enable such Card to be used to access a Cardmember's bank account with ICBC (Asia), such Cardmember must also report the theft or loss of a Card as soon as reasonably practicable to ICBC (Asia) through ICBC (Asia)'s 24-hour lost card hotline or any other means acceptable to ICBC (Asia) in accordance with its terms and conditions governing such facility from time to time.

13.7 A Cardmember shall provide to ICBC (Asia) (for itself and/or on behalf of ICBC) all material information as to the circumstances of the loss or theft of a Card or disclosure of PIN and take all reasonable steps to assist ICBC (Asia) (for itself and/or on behalf of ICBC) to recover any losses so incurred.

13.8 The liability of a Cardmember and the Account Holder to a Bank for unauthorised Charges (but not in relation to any cash advances) prior to giving notice under Clauses 7.3 or 13.4 (as the case may be) above shall be limited to the amount specified in the attached Schedule save where such Cardmember has acted fraudulently or with gross negligence whereupon such Cardmember and the Account Holder shall be jointly and severally liable for such unauthorised Charges.

13.9 The liability of any Cardmember to ICBC(Asia) for any unauthorised transactions under such Cardmember's bank account with ICBC (Asia) prior to serving notice under Clause 13.6 above will be determined in accordance with ICBC (Asia)'s terms and conditions with respect to such bank account from time to time in effect.

14. Consents to Disclosure of Personal Data

14.1 The Account Holder and each Cardmember agree:

- (a) to be bound by the Data Notice which is distributed to the Account Holder and the Cardmember(s) with this Agreement;
- (b) to the use of personal data about them for the purposes specified in the Data Notice;
- (c) to the transfer of personal data about them to the Persons specified in the Data Notice; and
- (d) that the provisions of the Data Notice shall apply generally to ICBC (Asia)'s (for itself and/or on behalf of ICBC) and ICBC's treatment of their personal data.

14.2 Without prejudice to the Data Notice, the Account Holder and each Cardmember authorise a Bank to contact any Person (including, without limitation, employers, banks, financial institutions, credit card issuing companies, credit reporting agencies, credit bureaux or any other information sources) to obtain, exchange and disclose credit reports and references and any other information a Bank may require to operate a Card Account. A Bank shall not approach any proposed referee for the Account Holder or a Cardmember unless the Account Holder or

that Cardmember has first confirmed that he has obtained the prior consent of such referee.

- 14.3 The Account Holder and each Cardmember authorise a Bank to compare information provided by the Account Holder and any Cardmember with other information collected about them for checking purposes or to produce more data. A Bank may use the results of such comparisons for the purposes of taking any action in relation to a Card including action which may be adverse to the interests of the Account Holder or a Cardmember, for example, denying authorisation for the use of a Card or cancelling a Card.
- 14.4 Subject to the Data Notice, the Account Holder and each Cardmember authorise a Bank to hold, store, use, otherwise process and administer, for the purposes of operating a Card Account, marketing, verification of data, credit checking and enforcing this Agreement, any information about the Account Holder, any Cardmember and a Card Account and to disclose any such information as is necessary for these purposes to:-
- (a) any Persons employed or contracted by a Bank (whether in Hong Kong, Mainland China, or any other part of the world) or branches of ICBC in Mainland China who shall provide such Bank with any services in relation to the administration and production of the Cards including, without limitation, administrative and data processing services in connection with the maintenance and operation of customer accounts, marketing of banking and card services, and card embossing services;
 - (b) other Bank Group Companies worldwide;
 - (c) any Person whose name or logo appears on a Card;
 - (d) any actual or proposed transferee, assignee or successor of all or any part of the assets or business of a Bank, or other banks, financial institutions, debt collection agencies, credit and payment card companies, credit reference agencies; and
 - (e) governmental or regulatory authorities, whether in Hong Kong or elsewhere, and legal counsel, and to consent to the transfer to, and use of such information in, Hong Kong, Mainland China or such other country as a Bank may reasonably consider appropriate.
- 14.5 The Account Holder and each Cardmember authorise each Bank to disclose such information as is necessary in relation to the Account Holder and any Cardmember to governmental or regulatory authorities, whether in Hong Kong, Mainland China or such other country, in compliance with any laws, regulations or court orders.
- 14.6 ICBC (Asia) (for itself and/or on behalf of ICBC) may from time to time send to the Account Holder or any Cardmember marketing or promotional materials and documents and/or newsletters.
- 14.7 A Cardmember shall have the right to request a Bank to cease using the personal data of such Cardmember for a Bank's marketing purposes without charge to such Cardmember.
- 14.8 ICBC (Asia) (for itself and/or on behalf of ICBC) agrees to notify a Cardmember or the Account Holder (as the case may be) in writing within 30 days of a Cardmember's or the Account Holder's default in payment of at least the Minimum Payment on the Payment Due Date. Unless the Minimum Payment is fully repaid before the expiry of 60 days from the Payment Due Date, such Cardmember or the Account Holder (as the case may be) shall be liable to have his account data retained by credit reference agencies until the expiry of 5 years from the date of final settlement of the amount in default or 5 years from the date of such Cardmember's or the Account Holder's (as the case may be) discharge from bankruptcy as notified to the credit reference agencies, whichever is earlier.

15. Transfer, Assignment and Sub-Contracting

- 15.1 For the avoidance of doubt, a Bank may at any time transfer, assign, delegate or sub-contract any or all of its right or obligations under this Agreement to any Person without prior notice to the Account Holder or any Cardmember.

16. Amendment

- 16.1 This Agreement and any fees, charges and interest and charge rates payable or applicable under this Agreement may be amended at any time and from time to time by notice (except as provided in Clauses 16.3 and 16.4 below) from ICBC (Asia) (for itself and/or on behalf of ICBC) to the Account Holder and the Cardmembers. Further, where any such amendment is within the ICBC (Asia)'s (for itself and/or on behalf of ICBC) control, 30 days prior notice of the amendment becoming effective shall be given by ICBC (Asia) to the Account Holder and the Cardmembers.
- 16.2 If the Account Holder or a Cardmember does not accept such amendment, he shall give written notice to ICBC (Asia) (for itself and/or on behalf of ICBC) before the effective date of the amendment, terminating the use of a Card and, if appropriate, the Card Account and returning his Card to ICBC (Asia) (for itself and/or on behalf of ICBC) cut in two or otherwise defaced. Any debit balance on the Card Accounts shall also be paid in full at that time. If the Account Holder or a Cardmember uses his Card or retains a Card after the effective date of an amendment, the Account Holder and such Cardmember shall be deemed to have agreed to such amendment in all respects without reservation.
- 16.3 Subject to Clause 16.1 above, a Bank may add to, reduce, modify, suspend or withdraw any of the facilities, services or benefits from time to time available in respect of a Card without notice.
- 16.4 A Bank may at any time amend the credit limit (including but not limited to any cash advance limit and any Balance Transfer limit) applicable to a Card or the Card Account to which such Bank relates without giving any reasons or notice to the Account Holder, such amendment to take immediate effect.
- 16.5 ICBC (Asia) (for itself and/or on behalf of ICBC) shall give notice of any amendment referred to in this Clause 16 (except Clauses 16.3 and 16.4 above) in writing, in the Statements or by display at its branches, press advertisement or otherwise, stipulating a date on which such amendment shall take effect.

17. Termination

- 17.1 (a) The Account Holder may at any time by giving reasonable notice in writing to ICBC (Asia) (for itself and/or on behalf of ICBC) or by such other method as ICBC (Asia) may deem appropriate terminate both Card Accounts.
- (b) Subject to Clause 17.1(c) below, such notice will not take effect until such written notice and all Cards (including any supplementary Cards), duly cut in two or otherwise defaced, have been received by ICBC (Asia).
- (c) In relation to any supplementary Card issued to a Cardmember, the Account Holder shall remain liable for the use of such Card until it is returned to ICBC (Asia) (for itself and/or on behalf of ICBC), or ICBC (for itself and/or on behalf of ICBC (Asia)), which shall act promptly, is able to implement the procedures which apply to lost Card if the Account Holder so requests.
- (d) The Account Holder agrees that he may be liable for any costs and expenses arising from ICBC (Asia) (for itself and/or on behalf of ICBC) implementing the procedures applying to lost Cards pursuant to Clause 17.1(c) above.
- (e) A Cardmember may also request cancellation of his Card by notice to ICBC (Asia) accompanied by return of a Card. For the avoidance of doubt, supplementary Cards may be terminated by either the Account Holder or such supplementary Cardmember by giving reasonable written notice to ICBC (Asia) (for itself and/or on behalf of ICBC) accompanied by the return of the Card, duly cut in two or otherwise defaced.
- (f) For the avoidance of doubt, the Hong Kong Dollar Card Account shall be deemed to be terminated upon termination of the Renminbi Card Account, and vice versa.
- (g) A Cardholder's right to use a Card shall be terminated upon termination of this Agreement pursuant to this Clause 17.
- 17.2 A Bank may at any time, with or without notice as such Bank may determine in the circumstances, terminate the Card Account (to which such Bank relates) or a Card without giving any reasons. For the avoidance of doubt, these would include when ICBC (Asia) is informed by a Cardmember that his PIN is or may be known to any other Person.
- 17.3 On termination of the Card Accounts (and notwithstanding any prior agreement between a Bank and the Account Holder or any Cardmember to the contrary) or on the death or bankruptcy of an Account Holder the total sum due to a Bank as reflected in a Card Account, and the amount of any Charges incurred after termination, shall become immediately due and payable by the Account Holder and, as the case may be, every Cardmember. Interest will accrue thereon thereafter at such rate as ICBC (Asia) may from time to time notify to the Account Holder and such Cardmember. The Account Holder and the Cardmember shall be jointly and

severally responsible for all outstanding Charges together with interest under a Card Account notwithstanding the termination of this Agreement.

18. Automated Teller Machines, Bank Account Services and Other Facilities

- 18.1 If a facility has been incorporated into a Card to enable such Card to be used in automated teller machines, point of sale terminals and other computer terminals or otherwise to carry out electronic transactions, the use of such facility shall also be governed by the specific terms and conditions issued by ICBC (Asia) (for itself and/or on behalf of ICBC) relating to that facility from time to time in force.
- 18.2 If a facility has been incorporated into a Card to enable such Card to be used to access a Cardmember's bank account with ICBC (Asia), the terms and conditions of ICBC (Asia) governing such bank account from time to time in force shall apply to the use of a Card for these purposes.
- 18.3 If ICBC (Asia) introduces any other products, facilities or services to Cardmembers through a Card, the same shall also be governed by their own specific terms and conditions from time to time in force.
- 18.4 If there shall be any conflict between any specific terms and conditions governing the automated teller machine facility and any other products, facilities or services introduced by ICBC (Asia) and this Agreement, the specific terms and conditions of each facility, product or service shall prevail.

19. Notices

- 19.1 Each Cardmember (other than the Account Holder) irrevocably appoints the Account Holder as his agent for the purposes of service by a Bank of :-
 - (a) the Statement, including any notice (whether on the front or the reverse of the Statement) for which provision is made pursuant to this Agreement;
 - (b) any other demand, communication or notice made or given by a Bank pursuant to this Agreement; and
 - (c) legal process.
- 19.2 Any of the documents referred to in Clause 19.1 above may be served by sending or making available the same (i) by ordinary post to the usual or last known address of the Account Holder, or (ii) by fax, email or otherwise over the internet and such document shall be deemed to have been duly served (a) two days after the date of posting or transmission if mailed to an address in Hong Kong or sent or made available by fax, email or otherwise over the internet or (b) seven days after posting if mailed to an address elsewhere, save that in the case of legal process these periods shall be increased to seven and twenty-one days respectively and relevant documents may not be served by fax, email or over the internet unless permitted by law.
- 19.3 (a) Notwithstanding anything contained in this Agreement, each Bank is requested and authorised to act in accordance with and rely on any instruction or other notice or communication which may be or purport to be given or made available by telephone, fax or email or otherwise over the internet.
 - (b) Subject to Clause 19.3(c) below, ICBC (Asia) (for itself and/or on behalf of ICBC) may (but shall not be obliged to) act on any notice which ICBC (Asia) (for itself and/or on behalf of ICBC) in good faith reasonably believes to be genuine and to have emanated from the Account Holder or any Cardmember (as the case may be).
 - (c) ICBC (Asia) (for itself and/or on behalf of ICBC) may (but shall not be obliged to) verify the identity or authority of the Person giving or purporting to give the notice or as to the authenticity of any notice given by telephone, fax or email or otherwise over the internet and without requiring further confirmation in any form.
 - (d) Each Cardmember and the Account Holder undertakes to keep a Bank indemnified against all reasonable claims, demands, actions, proceedings, damages, losses, costs and expenses including all legal fees and disbursements brought against or reasonably incurred by such Bank and arising out of anything done or omitted pursuant to any telephone, fax or email or other internet notice received by such Bank, save in the case of such Bank's fraud or negligence.
 - (e) ICBC (Asia) (for itself and/or on behalf of ICBC) may at its discretion (but shall not be obliged) to record notices given by telephone, in writing and/or any other method determined by ICBC (Asia) (for itself and/or on behalf of ICBC). ICBC (Asia)'s (for itself and/or on behalf of ICBC) record of any such notice shall be conclusive and binding on the Account Holder or the Cardmember in whose name the notice was given in the absence of manifest error, fraud or negligence. ICBC (Asia) (for itself and/or on behalf of ICBC) may also require such Cardmember to confirm in writing any instructions given by telephone.

20. Expenses of Enforcement

- 20.1 The Account Holder and, as the case may be, every Cardmember shall indemnify a Bank in respect of any and all reasonable expenses properly incurred by a Bank in enforcing or attempting to enforce this Agreement including all reasonable legal fees, charges of debt collection agencies and disbursements. ICBC (Asia) shall, on request, provide the Account Holder and, as the case may be, every Cardmember with a breakdown of all expenses he is liable to pay under this Clause 20.

21. Law and Language

- 21.1 The Agreement shall be construed and the provision of Card facilities shall be governed by Hong Kong law, and subject to the non-exclusive jurisdiction of the Hong Kong courts.
- 21.2 If, at any time, any of these terms and conditions are or become illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the remaining terms and conditions shall not be affected.
- 21.3 Nothing in this Agreement shall operate so as to exclude or restrict any liability of any party to this Agreement, to the extent that such exclusion or restriction is prohibited by the laws of Hong Kong.
- 21.4 If there is any difference between the English language version of this Agreement and the Chinese language version, the English language version shall prevail for all purposes.

Effective Date: 26th March 2006

Industrial and Commercial Bank of China Limited and
Industrial and Commercial Bank of China (Asia) Limited
Cardmember Agreement - Schedule

1. Specified amount referred on in Clause 1(t)
HK\$50.00 for Hong Kong Dollar Card Account
Not applicable for Renminbi Card Account
2. Percentage referred on in Clause 1(t)
5% of the outstanding amount shown on the current Statement in respect of the Hong Kong Dollar Card Account
10% of the outstanding amount shown on the current Statement in respect of the Renminbi Card Account
3. Maximum liability for unauthorised Charges referred to in Clause 13.8
Up to HK\$500.00

Effective Date: 26th March 2006