

## **Business Banking Debt Restructuring Plan - Terms and Conditions**

### **You need to read this document carefully.**

The following sets out the specific terms and conditions on the Business Banking Debt Restructuring Plan. **You must read it in conjunction with our Client Terms. To the extent of any inconsistency between these terms and conditions and our Client Terms, these terms and conditions prevail. If there is any inconsistency between the terms in the Letter and our Client Terms, the terms in the Letter shall prevail.**

**You acknowledge that : (i) the Client Terms have been made available to you at any of our branches or on our website at <http://www.sc.com/hk>; (ii) a copy of the Letter together with these terms and conditions have been provided to you; (iii) you have read and understood the Letter, these terms and conditions and the Client Terms; and (iv) you agree to be bound by the “banking agreement” referred to in the Client Terms.**

**You have read and agreed to be bound by the Notice to Customers and Other Individuals relating to the Personal Data (Privacy) Ordinance (“Ordinance”) and the Code of Practice on Consumer Credit Data (“Notice”) which are available to you at any of our branches and on our website at <http://www.sc.com/hk>.**

### **1. Definitions**

In these terms and conditions, unless the context requires otherwise:

“**Agreement**” means the agreement recorded in the Letter, these terms and conditions and all provisions of the Client Terms applicable to you.

“**Bank**” means Standard Chartered Bank (Hong Kong) Limited.

“**Client Terms**” means the Client Terms of the Bank for the time being in force.

“**Debt Restructuring**” means the restructuring of the Present Loan Outstanding in such terms and conditions as agreed by the Bank and set out in the Letter.

“**Debt Restructuring Date**” means the date stated by the Bank in writing in the Letter or otherwise when the Debt Restructuring takes effect.

“**Event of Default**” means any one of the events or circumstances specified in Clause 10 as constituting an event of default; and “**Prospective Event of Default**” means any event or circumstances which with the giving of notice and/or the lapse of time and/or the fulfillment of any other condition would be an Event of Default.

“**Hong Kong**” means the Hong Kong Special Administrative Region.

“**Letter**” means the Business Banking debt restructuring confirmation letter issued by the Bank to you in relation to the restructuring of the Present Loan Outstanding and accepted by you.

“**Present Loan Outstanding**” means such aggregate sum of outstanding loans, interest and other amounts due and owing by you to the Bank as at the date of the Letter and in the amount stated in the Letter, which is to be repaid and restructured by the Restructured Indebtedness.

“**Restructured Indebtedness**” means the sum of money advanced or to be advanced by the Bank to you on the Debt Restructuring Date.

“**Standard Chartered Group**” means collectively or each of Standard Chartered PLC and its subsidiaries and affiliates (including the Bank, each branch or representative office).

## **2. The Debt Restructuring**

- 2.1 Subject to the terms and conditions of the Agreement, the Bank agrees to restructure the payment and/or the outstanding amount of the Present Loan Outstanding in such terms and conditions as set out in the Agreement with effect from the Debt Restructuring Date. You hereby agree and acknowledge that in consideration of the Debt Restructuring and with effect from the Debt Restructuring Date, you owe to the Bank the Restructured Indebtedness and you shall repay the same to the Bank by such time, in such amount and on such terms as required by the Agreement.
- 2.2 If there is a restructuring of the outstanding amount of the Present Loan Outstanding (i.e. the amount of the Restructured Indebtedness is less than the amount of the Present Loan Outstanding), the Bank's agreement not to claim for the difference between the Present Loan Outstanding and the Restructured Indebtedness is strictly subject to the condition subsequent that you shall have performed all your obligations under the Agreement to the satisfaction of the Bank, including but not limited to timely payment of all periodic payments required to be paid by you to the Bank, no Event of Default or Prospective Event of Default shall have occurred throughout the duration of the Agreement and all representations and warranties made by you in or in relation to the Agreement remain true, correct and complete throughout the duration of the Agreement.

## **3. Conditions Precedent**

- 3.1 The Bank's obligations herein and in particular those relating to the Debt Restructuring and the Agreement will not take effect unless and until you have first performed all conditions precedent stated in the Letter to the satisfaction of the Bank prior to the Debt Restructuring Date unless otherwise waived by the Bank in writing.
- 3.2 Without prejudice to the foregoing, the Bank shall not be obliged to proceed with the Debt Restructuring or grant any Restructured Indebtedness pursuant to this Agreement unless and until the Bank is satisfied that the following has been complied with:-
- (a) the conditions referred to in Clause 3.1 hereinabove have been satisfied;
  - (b) all representations and warranties made by you herein are true, correct and complete as of the Debt Restructuring Date by reference to the facts and circumstances then subsisting; and
  - (c) no event of default under any other agreements or documents between you and the Bank and your other lenders, if any, has occurred as a result of the Debt Restructuring (unless previously waived or remedied).

## **4. Prepayment**

You may prepay all (but not part) of the Restructured Indebtedness if:

- (a) you give us a prior written irrevocable notice of at least three (3) business days; and
- (b) when you prepay, you must also pay all accrued but unpaid interest, fees and charges in connection with the Restructured Indebtedness.

## **5. Interest**

- 5.1. You shall pay to the Bank interest on the Restructured Indebtedness at such rate (both before or after judgment, where applicable), in such period and in such manner as set out in the Letter until full payment thereof in accordance with the provisions of the Agreement.

- 5.2. Interest shall accrue from day to day and shall be calculated on the basis of the actual number of days elapsed, inclusive of the 1<sup>st</sup> day of the period during which it accrues but excluding the last.
- 5.3. Interest shall be paid in arrears.
- 5.4. The Bank's calculation of the amount of interest from time to time due and payable by you hereunder shall (save for manifest error) be conclusive and binding on you.
- 5.5. If you fail to pay any principal, interest or any other amount payable under the Agreement when due, the Bank may at its discretion require you to pay interest on the overdue amount from the due date for payment until the date of actual payment (both before or after judgment) at such rate as may from time to time be determined by the Bank and notified to you. Any interest that is not paid (default or otherwise) may be compounded at such intervals as the Bank may choose and consolidated into the Restructured Indebtedness in the absolute discretion of the Bank and shall bear interest accordingly, without prejudice to any other rights of the Bank. A certificate issued by any of the Bank's officers as to the rates of interest payable on any such moneys shall, in the absence of manifest error, be conclusive and binding on you.

## 6. Repayment

- 6.1. You must repay the Restructured Indebtedness in such amount, by the dates and in such manner as stated in the Letter.
- 6.2. Any balance of money owing for the account of the Restructured Indebtedness (after payment of all instalments) must be repaid on the final payment date as stated in the Letter.
- 6.3. Any amount due on a day which is not a business day must be paid on or before the immediately preceding business day.
- 6.4. Where the Restructured Indebtedness is to be repaid by instalments, the Bank may advise you from time to time of the manner in which you must repay the instalments, including for example, requiring you to designate a bank account for repayment by direct debit (the "**Designated Account**").
- 6.5. The Bank will start deducting instalments from the Designated Account for the repayment of the Restructured Indebtedness pursuant to the instalment payment schedule as stated in the Letter.
- 6.6. You must ensure that any payment instrument or payment instruction is honoured. In particular, you must:
- (a) ensure that there are sufficient funds in the Designated Account to be debited;
  - (b) not stop payment of cheques for the payment of the Restructured Indebtedness or any part thereof; and
  - (c) not cancel or vary any payment arrangement (unless to do so to reflect a change in the instalments as required by the Bank) or close or change the account on which cheques are drawn for the payment of the Restructured Indebtedness or any part thereof.

- 6.7 If your Designated Account is opened and maintained with another financial institution, you must:
- (a) organise a payment arrangement with such financial institution under which an amount equal to each instalment amount can be debited from the Designated Account and paid to the Bank on each instalment repayment date and give the Bank satisfactory evidence that this is in place upon the Bank's demand; or
  - (b) provide the Bank with any authorization the Bank may from time to time require to enable the Bank to debit the instalment amount from the Designated Account when due.
- 6.8 Despite any other terms to the contrary in the banking agreement made between you and the Bank, the Bank may at any time demand immediate repayment of the Restructured Indebtedness in full, together with all accrued but unpaid interest, fees and charges in connection with the Restructured Indebtedness.
- 6.9 If you fail to pay in full any of the instalments payable on any of the instalment payment date, without prejudice to any other rights of the Bank provided herein, you shall pay to the Bank on the following day after the due date a monthly late repayment fee of 4.5% of the unpaid amount of such instalment or a minimum of HK\$100.00, whichever is higher and this monthly late repayment fee shall be payable by you until such relevant instalment is repaid.
- 6.10 You agree that the Bank may use amounts that it receives from any of the instalments to pay interest rather than to reduce the principal amount of the Restructured Indebtedness you owe to the Bank or may pay amounts you owe to the Bank in any order as determined by the Bank at its absolute discretion. For example, the Bank may allocate a higher proportion of any one or more of your instalments to interest rather than to the principal amount you owe to the Bank.
- 6.11 All sums payable to the Bank by you shall be paid without set-off, counterclaim or any other restriction or condition and free and clear of any tax or other deductions or withholdings of any nature. If you or any other person shall be required by any law or regulation to make any deduction or withholding on account of tax or otherwise from any payment, you shall, together with such payment, pay such additional amount as will ensure that the Bank receives free and clear of any tax or other deductions or withholdings the full amount which the Bank would have received if no such deduction or withholding had been required.
- 6.12 Any moneys received by the Bank in respect of your obligations to the Bank may be placed and kept to the credit of a suspense account for so long as the Bank thinks fit, and in the event of any proceedings in or analogous to bankruptcy, winding-up, liquidation, composition or arrangement, the Bank may prove for and agree to accept any dividend or composition in respect of your outstanding obligations as if there had been no suspense account or no credit therein.
- 6.13 If any court gives a judgment in the Bank's favour for any amounts owing by you and such judgment is expressed in a currency (the "judgment currency") other than the currency in which such amounts are owing to the Bank (the "currency of account"), you shall fully indemnify the Bank in respect of all losses which it may at any time suffer as a result of any difference between (i) the rate or rates of exchange used for such purpose to convert the sum in question from the currency of account into the judgment currency and (ii) the rate or rates of exchange at which the Bank may purchase the currency of account with the judgment currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such judgment.

## **7 Evidence of debt**

- 7.1 The Bank shall maintain in accordance with its usual practice on its books of accounts evidencing the amounts from time to time owing to it by you hereunder.
- 7.2 In any legal action or proceeding arising out of or in connection with the Agreement and otherwise for the purposes hereof, the entries made from time to time in such accounts shall, in the absence of manifest error, be final and conclusive and binding upon you as to the existence, amounts and currencies of the obligations of you therein recorded.
- 7.3 For all purposes hereof, including any legal proceedings, a certificate by any of the Bank's officers as to the sums and liabilities for the time being owing by you to the Bank shall, in the absence of manifest error, be conclusive evidence thereof. The Bank may debit your account with any sum which you are liable to pay to the Bank whether or not a demand has first been served on you.

## **8 Covenants**

You covenant and undertake with the Bank that from the date of the Letter until the whole of the Restructured Indebtedness and all the relevant interest, fees and charges are discharged in full:

- (a) you shall ensure that the Designated Account is credited with adequate funds to meet each instalment payment;
- (b) if you become aware of the occurrence of an Event of Default or Prospective Event of Default, you will forthwith notify the Bank and provide the Bank with full details of such Event of Default or Prospective Event of Default and the steps which you are taking in order to remedy or mitigate the effect of the Event of Default or Prospective Event of Default or otherwise in connection with it;
- (c) if you shall create or permit to be created any lien or other encumbrance on any of your property in respect of your obligations as debtor or guarantors for borrowed money or the advance of credit, such lien or encumbrance shall equally and rateably secure the payment of all amounts payable under the Agreement, provided however that this clause shall not apply to :-
- (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price thereof; and
- (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than six months after the date on which it is originally incurred.

## **9 Event of Default**

9.1 An Event of Default occurs if any of the following events shall occur:

- (a) you fail to pay any amount due or payable under the Agreement on the due date or on demand, if so payable;

- (b) you fail to observe or perform any of your obligations under the Agreement or under any undertaking or arrangement entered into in connection herewith and not remedied within fourteen (14) days, other than an obligation to make a payment;
  - (c) any representation, warranty or statement which is made (or acknowledged to have been made) by you in the Agreement or which is contained in any certificate, statement, legal opinion or notice provided under or in connection with the Agreement or otherwise and without prejudice to the generality of the above any representation, warranty or statement regarding the amount of the total indebtedness due and owing from you to your creditors other than the Bank before, as at and after the date of the Agreement proves to be incorrect in any material respect or if repeated at any time with reference to the facts and circumstances subsisting at such time would not be accurate in all material respects;
  - (d) any provision of the Agreement is or becomes for any reason, invalid or unenforceable;
  - (e) any indebtedness of yours become due and capable of being declared due before its stated maturity, any guarantee or similar obligation of you are not discharged at maturity or when called or you go into default under, or commits a breach of, any instrument or agreement relating to any such indebtedness, guarantee or other obligation;
  - (f) an encumbrancer takes possession of, or a trustee, receiver or similar officer is appointed in respect of, all or any part of your asset, or distress or any form of execution is levied or enforced upon or sued out against any such assets of you, or distress or any form of execution is levied or enforced upon or sued out against any such assets and is not discharged within seven (7) days of being levied, enforced or sued out;
  - (g) you convene a meeting of your creditors or proposes or makes any arrangement or composition with, or any assignment for the benefit of, your creditors or a petition is presented against you for the appointment of a trustee in bankruptcy;
  - (h) anything analogous to any of the events specified in paragraphs (f), or (g) occurs under the laws of any applicable jurisdiction; or
  - (i) any adverse circumstances occur which in the opinion of the Bank materially and adversely affect your ability to perform your obligations under the Agreement.
- 9.2 Upon occurrence of any one or more Events of Default and at any time thereafter, the Bank may by notice to you :
- (a) declare the obligations of the Bank hereunder including but not limited to the reduction, if any, of the indebtedness owing from you to the Bank and the waiver of interest, if any, on such indebtedness to be terminated, whereupon such obligations shall terminate; and/or
  - (b) without prejudice to the Bank's overriding right of requiring full payment of demand, declare all amounts payable hereunder by you which would otherwise be due after the date of such termination to be immediately due and payable, whereupon all such amounts shall become immediately due and payable, all without demand of payment or notice of any kind, which are expressly waived by you.

## **10 Set off and Lien**

- 10.1 The Bank (and any other member of the *Standard Chartered Group*) may set off or exercise a lien over any amount the Bank (or any other member of the *Standard Chartered Group*) owe you against any amount you owe to the Bank (or any other member of the *Standard Chartered Group*) (whether or not the obligation is matured or contingent). The Bank (and each other member of the *Standard Chartered Group*) may also combine or consolidate all *accounts* you maintained with each of them. If the Bank (or any other member of the *Standard Chartered Group*) combines any such *accounts*, any credit funds held by you in such *accounts* will be applied to adjust the amount owing by you in relation to your other *accounts*. The Bank (and each other member of the *Standard Chartered Group*) may do so at any time (even if you are not in *default*).
- 10.2 If you have a joint account, the Bank (and each other member of the Standard Chartered Group) may set off or exercise a lien over any amount the Bank (or any other member of the Standard Chartered Group) owe you against any amount owing to the Bank (or any other member of the Standard Chartered Group) in any one accountholder's account.
- 10.3 For the purposes of clauses 10.2 and 10.3, each member of the Standard Chartered Group may make any necessary currency conversions at the rate they reasonably consider appropriate.

## **11 Indemnity**

You shall fully indemnify the Bank from and against any expenses, losses, damages or liabilities and any reasonable costs or expenses which it may incur as a consequence of the occurrence of any Event of Default, or otherwise in connection with the Agreement. Without prejudice to its generality, the foregoing indemnity shall extend to any interest, fees or other sums whatsoever paid or payable (including legal costs and disbursements on an indemnity basis) as a result of the said event.

## **12 Others**

- 12.1 The Bank may take such action as it in its absolute discretion thinks fit to enforce its rights in respect of the Restructured Indebtedness including without limitation employing third party agencies to collect any sums owing to the Bank. You will be liable to indemnify the Bank in respect of and reimburse the Bank on demand all costs and expenses (including without limitation the charges of any agent or service provider employed and legal costs and expenses on an indemnity basis) which are of reasonable amount and were reasonably incurred (whether directly or indirectly) by the Bank in demanding, collecting or attempting to collect, or suing to recover, any sum payable to the Bank under the Agreement, or in seeking any remedy for any breach of these terms and conditions, or otherwise in enforcing or attempting to enforce terms and conditions of the Agreement.
- 12.2 Time shall be of the essence of the Agreement in every respect.
- 12.3 Any forbearance or delay by the Bank in exercising any right, power or remedy shall not be deemed to be a waiver of such right, power or remedy, and any single or partial exercise of any right, power or remedy shall not preclude the further exercise thereof and no course of dealing between me/us nor any waiver in any one or more instances shall be deemed a waiver in any other instance. Each of the Bank's rights, powers, and remedies shall continue in full force and effect until such rights, powers or remedies are specifically amended or waived by an instrument in writing executed by the Bank.
- 12.4 No act, conduct or negotiation by or on behalf of the Bank shall in any way preclude it from exercising any right under these terms and conditions or constitute a suspension or variation of such right.

12.5 Any consent or waiver under the Agreement:

- (a) may be given subject to such conditions as the Bank may specify;
- (b) shall be effective only in the instance and for the purpose for which it is given; and
- (c) must be in writing to be effective.

12.6 This is a continuing agreement and all the rights, powers and remedies hereunder shall apply to all your past, present, future and contingent obligations to the Bank, and notwithstanding any intermediate payment or settlement of account or any other matter whatsoever.

12.7 Each of the rights, powers and remedies given to the Bank under these terms and conditions shall be cumulative and in addition to all other rights, powers and remedies given to the Bank by virtue of any other security, statute or rule of law or equity. Where from time to time any specific agreement is concluded between you and the Bank and is intended by its terms to govern a particular transaction, such other agreement shall apply to such transaction in conjunction with these terms and conditions. If there is any conflict between such other agreement and these terms and conditions, the terms of such other agreement to the extent that they are valid and enforceable shall prevail in respect of such transaction.

12.8 The Bank may, at any time and at its absolute discretion, by notice to you vary, amend or supplement any of these terms and conditions (including without limitation, the basis of calculation of any interest, charges, commissions or fees). Such variation, amendment or supplement shall take effect on the date of the notice setting out details of such variation, amendment or supplement or, if later, the date specified in the notice.

12.9 These terms and conditions shall operate for the benefit of the Bank and its successors and assignees, notwithstanding any change by way of amalgamation, consolidation or otherwise in the constitution of the Bank or of any such successor or assignee. The Bank may assign or otherwise transfer all or any of its rights and interests under these terms and conditions and any transactions to which these terms and conditions relates and/or the goods, documents and other properties in respect of which the Bank has a security interest and may deliver the same to the transferee(s), who shall thereupon become vested with all the rights and powers in respect thereof which were formerly vested in the Bank. The Bank shall be released and discharged from any liability or responsibility in respect of the goods, documents or other properties so transferred, but shall retain all its rights and powers in respect of goods, documents or other properties not so transferred.

12.10 You shall immediately upon demand by the Bank and at your expense make, execute, do and perform all such further assurances, instruments, acts or things as the Bank shall from time to time reasonably require to perfect these terms and conditions and the Bank's title to the security hereby constituted or intended to be constituted.

12.11 Any provision in these terms and conditions which is invalid for any reason in any jurisdiction shall be ineffective only to the extent of such invalidity and shall not affect the validity of the remaining provisions hereof or the validity of such provision in any other jurisdiction. Nothing in these terms and conditions shall operate so as to exclude or restrict any liability, the exclusion or restriction of which is prohibited by the laws of Hong Kong.

12.12 Nothing herein shall impose any obligation on the Bank to provide or continue any banking facilities or other accommodation or services to you, and these terms and conditions may be terminated or discontinued forthwith by the Bank at its absolute discretion with or without notice to you.

### 13 **Power of Attorney**

You irrevocably and by way of security appoint the Bank to be your attorney, with full power of substitution, and in your name or otherwise on your behalf and as your act and deed to sign, seal, execute, deliver, perfect and do all deeds, instruments, acts and things which may be required or which the Bank shall think fit for carrying out any of your obligations hereunder or for effecting any sale, disposal or other dealing by the Bank or for giving to the Bank the full benefit of these terms and conditions and of the security granted hereunder. You hereby ratify and confirm and agree to ratify and confirm any deed, instrument, act and thing which such attorney may lawfully execute or do

### 14 **Disclosure**

- (a) All information provided by you and such further personal data relating to a person may be collected by the Bank from time to time before, during or after this application, and such information may be used and disclosed for such purposes and to such persons (whether the recipient is located in Hong Kong or elsewhere, or places that do not offer the same level of data protection as Hong Kong) in accordance with the Bank's policies on the use and disclosure of personal data. Such policies are set out in statements, circulars, terms and conditions or notices made available by the Bank to its clients from time to time. The collected data may be used in connection with matching procedures (as defined in the Personal Data (Privacy) Ordinance).
- (b) The Bank is authorized to disclose and transfer from time to time all information in connection with your accounts and business with the Bank (including credit balances and any security given) to all or any of the following persons (whether in or outside Hong Kong):
- (i) any member of the Standard Chartered Group;
  - (ii) any actual or proposed participant or sub-participant in, or assignee or novatee of the Bank's right in relation to any loans granted to you by the Bank, including but not limited to the Restructured Indebtedness and/or your accounts;
  - (iii) agent, contractor or third party service provider which provides services of any kind to the Bank or Standard Chartered Bank in connection with the operation of its business; and
  - (iv) any financial institution with which you have or proposes to have dealings to enable credit checks to be conducted on you.
  - (v) any person under a duty of confidentiality to the Bank.

You also consent to the disclosure of any of your information by the Bank or any member of the Standard Chartered Group if required or permitted to do so by any law, regulation, court order or any regulatory authority in any jurisdiction.

### 15 **Client's Consent and Acknowledgement**

- (a) You consent and acknowledge that the Bank may provide your information to any proposed or actual individual guarantor or other security provider (or their solicitors) in respect of any credit facilities extended to you, including (without limitation):

- (i) any financial information concerning you;
  - (ii) a copy of the contract evidencing the obligations to be guaranteed or secured or a summary of such contract;
  - (iii) a copy of any formal demand for overdue payment which may be sent to you after you have failed to settle an overdue amount; and
  - (iv) from time to time on request by the proposed or actual guarantor or security provider, a copy of your latest statement of account or other information showing your financial status of the Client and/or credit facilities extended to you.
- (b) Subject to applicable local Hong Kong laws, you hereby consent for the Bank or any member of the Standard Chartered Group to share your information with local or overseas regulators or tax authorities where necessary to establish your tax liability in any jurisdiction.
- (c) You agree and undertake to notify the Bank within 30 calendar days if there is a change in any information which you have provided to the Bank.

Where required by local or overseas regulators or tax authorities, you consent and agree that the Bank may withhold, and pay out, from your account(s) such amounts as may be required according to applicable laws, regulations, agreements with regulators or authorities and directives.

## 16 **Notices**

Any notice or communication under or in connection with the Agreement shall be in writing and shall be delivered personally, or by post, telex or cable to the addresses given in the Agreement or at such other address as the recipient may have notified to the other parties in writing. Proof of posting or despatch shall be deemed to be proof of receipt:

- (a) in the case of a letter, on the third business day after posting; and
- (b) in the case of a facsimile message, on the same date of despatch.

## 17 **Assignment**

The Bank may assign its rights under the Agreement or any part thereof and/or transfer its obligations hereunder or any part thereof, subject to the terms of the Agreement, and for this purpose may disclose to a potential assignee or transferee such information about you as shall have been made available to such lender. Where the Bank transfers its obligations or any part thereof, you shall execute such documents as are reasonably necessary to release the Bank to the extent of the transfer and join the transferee as a party hereto. You may not assign your rights hereunder.

## 18 **Governing Law and Jurisdiction**

18.1 The Agreement is governed by, and shall be construed in accordance with, the laws of Hong Kong.

18.2 You irrevocably:

- (a) submit to the non-exclusive jurisdiction of the courts of Hong Kong; and
- (b) consent to service of process by being posted, delivered to or left at your address last notified or in any other manner permitted by the relevant law.

19 **Languages**

The Chinese translation of these terms and conditions is provided for convenience only and in the event of any inconsistency between English and Chinese versions of these terms and conditions, the English version shall prevail for all purposes.

## 中小企業債務重整計劃 – 條款及細則

### 務請閣下小心審閱本文件。

本文件載列債務重整計劃的特定條款及細則。本文件須與銀行的客戶條款一併閱讀。若本條款及細則與客戶條款有任何不符，一概以本條款及細則為準。若該函件所載之條款與客戶條款有任何不符，一概以該函件所載之條款為準。

閣下確認：(i) 閣下可於本行任何分行索取及於本行網站 <https://www.sc.com/hk/zh> 下載客戶條款；(ii) 該函件中所列之主要條款的摘要以及本條款及細則的副本已提供予閣下；(iii) 閣下已細閱和理解該函件、本條款及細則及客戶條款；及(iv) 閣下同意受客戶條款所指的「銀行協議」約束。

閣下已閱讀關於《個人資料(私隱)條例》(「條例」)及《個人信貸資料實務守則》的《致客戶及其他個別人士的通知》(「通知」)並同意受其約束，通知可於銀行任何分行索取及於銀行網站 <https://www.sc.com/hk/zh> 下載。

### 1. 該等條款及細則中，除文意另有所指外：

「協議」	指該函件所記錄的協定、本條款及細則及任何適用的客戶條款。
「銀行」	指渣打銀行(香港)有限公司。
「客戶條款」	指屆時有效力的銀行客戶條款。
「債務重整」	指依銀行同意的條款及細則載於該函件中的重整尚欠債項。
「債務重整日」	指銀行在該函件中列名的日期，或重整生效當日。
「失責事故」	指第 10 條所指構成失責事故的事故或情況，而[預期失責事故]指任何事故或情況，會隨著發出通知及/或失去時效及/或符合任何其他細則而成爲失責事故。
「該函件」	指渣打銀行(香港)有限公司發給閣下的有關閣下同意重組尚欠債項的債務重整確證書。
「尚欠債項」	指於該函件所載日期，數額為該函件所載的所有閣下所欠銀行的貸款、利息以其他數額之和，並將按經重整的債項償還或重整。
「經重整的債項」	指銀行在債務重整日對閣下的放款金額。
「渣打集團」	指渣打集團有限公司或其附屬公司和聯營公司(包括各分支機構或代表辦事處)的個別或共同稱謂。

### 2. 債務重整

- 2.1. 根據協議的條款及細則，銀行同意從債務重整日起，按照協議的條款及細則重整尚欠債項的繳付方式及/或未清償的金額。閣下同意並確認以債務重整作為代價並從債務重整日起生效，閣下所欠銀行的經重整的債項，閣下應根據協定所列金額、時間及條款向銀行償還。
- 2.2. 如銀行重組尚欠債項(即經重整的債項的金額低於尚欠債項的金額)，即使銀行與閣下訂定不需要閣下償還尚欠債項與經重整的債項之間的差額，該訂定也嚴格受到任何後續條件所約束，即閣下須履行協議規定的所有義務達至銀行滿意的程度，包括但不限於閣下向銀行準時償還所有分期還款，在整個協議期間內沒有發生或將會發生失責事故，以及在整個協議期間於協議中或與協議有關的所有由閣下作出的陳述和保證均保持真實和正確。

### 3. 先決條件

- 3.1 除非銀行書面免除，閣下必須在債務重整日前履行該函件中所載的所有先決條件達至銀行滿意的程度，否則本條款及細則所載的銀行責任，特別是與債務重整有關者，將不會生效。

3.2 在不影響上述條文的前提下，銀行無義務根據協議進行債務重整或給予任何經重整的債項，除非並直至銀行信納以下事項得到遵守：-

- (a) 已符合上文第3.1條所載的條件；
- (b) 於債務重整日，根據當時存續的事實及情況，閣下對銀行所作的一切陳述及保證均屬真實正確；及
- (c) 閣下與銀行或閣下的其他貸款人（如有）之間沒有發生由債務重整所導致的失責事故（除非先前已放棄追究權利或作出補救）。

#### 4. 提前還款

閣下可在下列情況下提前償還全部(但非部分)經重整的債項。

- (a) 閣下提前至少 3 個工作日給予銀行不可撤回的書面通知；及
- (b) 閣下提前還款時，亦須就經重整的債項支付所有應計而未付的利息、費用及收費。

#### 5. 利息

- 5.1. 閣下需按該函件所載利率（在裁判之前或之後，如適用）、所載期間及所載方式向銀行支付經重整的債項的利息，直至按照協議條文全數還清債項為止。
- 5.2. 利息逐日計收，按實際過去的日數計算，該段期間的第一天計算在內，但最後一天則不計算在內。
- 5.3. 所有累計利息應於每月期末支付。
- 5.4. 銀行關於應付利息金額（除非明顯錯誤）的計算應為最終的，對閣下具約束力。
- 5.5. 假若閣下有任何到期而未付的本金、利息或其他任何協議下的款項，銀行可要求閣下應銀行在該函件中載明的利率或銀行決定並通知閣下的利率，對該到期而未支付的金額支付利息，利息從到期日開始計算至實際償還日（在裁判之前或之後，如適用）。在不影響銀行的其他任何權利的情況下，銀行有絕對酌情權將任何未支付的利息（無論是因失責或其他原因）以銀行選擇的周期複利計算被合併入經重整的債項，並將因而衍生利息。銀行任何職員出具之有關上述任何款項應付利率之證明，若無明顯錯誤，則為最終證明並對閣下具有約束力。

#### 6. 還款

- 6.1. 閣下須按該函件中所載金額、日期以及方式償還經重整的債項。
- 6.2. 經重整的債項戶口的任何欠款結餘（在繳付全部分期款項後）須於該函件所載的最終繳款日償還。
- 6.3. 倘若有關款項於非營業日到期，則閣下須於上個營業日或之前支付。
- 6.4. 當經重整的債項為分期還款，銀行可通知閣下分期還款的方法，包括，舉例而言，要求閣下指定銀行戶口直接扣賬還款，並要求閣下向銀行提供文件以便從有關戶口直接扣賬（「指定戶口」）。
- 6.5. 銀行將根據該函件載明的分期付款時間表從閣下的指定戶口扣除分期還款來償還經重整的債項。
- 6.6. 閣下須確保任何付款憑據或付款指示均獲兌現。特別，閣下必須：
  - (a) 確保指定戶口有足夠資金以供扣賬；
  - (b) 不可截停償還經重整的債項或其任何部分的支票；及
  - (c) 不可取消或更改任何付款安排（除非是銀行因應分期變動而提出有關要求）或結束或更改償還經重整的債項或其任何部分的支票的支付戶口。

6.7. 倘若閣下之指定戶口設立並存在於另一財務機構，閣下必須：

- (a) 與該財務機構訂立付款安排，於各分期的到期繳款日從有關指定戶口扣除相當於各分期款額的款項支付銀行，並且根據銀行的要求向銀行提供有關安排實行的充分證明；或
- (b) 向銀行提供銀行所需的任何授權，以便本行銀行在到期時從有關指定戶口扣取分期款項。

6.8. 不論閣下與銀行達成的銀行協議有任何其他條款相反規定，銀行可隨時要求立即清繳全部經重整的債項以及有關全部經重整的債項的所有應計而未付的利息、費用及收費。

6.9. 閣下如未在分期付款日全數償還任何分期款項，不影響本文所列任何銀行權利，閣下須向本銀行支付每月延遲還款費用，數額為該筆分期款項的 4.5%，最低數額為港幣一百元，而閣下須支付此每月延遲還款費用直至閣下全數償還該筆分期款項。

6.10. 閣下同意銀行可將來自閣下任何分期還款的款項，用於支付利息而非減少閣下對銀行所欠的經重整的債項之本金，或者按銀行絕對酌情權決定的任何次序支付閣下對銀行所欠的任何款項。例如，銀行可將閣下任何一期或以上的分期還款的較大部分用於償付利息而非閣下對銀行所欠的本金。

6.11. 閣下應向銀行支付之一切款項支付時應無抵銷、反索賠或任何其他限制或條件，免除與不涉及任何性質之任何稅款或其他扣減額或預扣款。若任何法律或條例規定閣下或任何他人因稅項或其他原因需要從任何款項進行任何扣減或預扣，閣下應於支付上述款項時支付額外款項，以確保銀行收到若無上述規定之扣減或預扣時銀行將收到之全部款項（免除與不涉及任何稅款或其他扣減或預扣款）。

6.12. 銀行就閣下對銀行之義務收到之任何款項可存入與記入暫記賬戶之貸方，期限以銀行認為適合者為準。若發生任何或類似任何破產、清盤、清算、債務和解或協議程序，銀行可證明閣下未償義務並同意就該等義務接受任何分配之款項或債務和解，猶如不存在暫記賬戶或其貸方項下之款項。

6.13. 若任何法院就閣下所欠之任何款項作出銀行勝訴之判決以及該判決明示規定之貨幣（“判決貨幣”）不同於欠銀行款項之貨幣（“賬戶貨幣”），閣下應向銀行足額賠償銀行任何時候由於下列兩者之差額而可能遭受之一切損失(i)將有關款項從賬戶貨幣兌換為判決貨幣所用之匯率及(ii)銀行收到用於償還上述任何判決全部或部份金額之款項後可能使用判決貨幣購買賬戶貨幣之匯率。

## 7. 債項證明

7.1. 閣下同意銀行應按照慣常做法，設置帳冊紀錄閣下不時所欠銀行的債項數額。

7.2. 在任何因本協議而起或與之有關的法律行動或訴訟中，在該等帳目中不時紀錄的項目，除非有明顯的錯誤，否則就所紀錄的閣下債務的存在、數額和貨幣，應是最終和不可推翻的，對閣下具有約束力。

7.3. 就所有目的而言，包括任何法律訴訟，銀行任何職員出具之就閣下當時尚欠銀行的款項和責任的證明，若無明顯錯誤，則為最終證明。無論閣下是否事先收到銀行的要求，銀行都可以在閣下向銀行支付的任何款項中扣款。

## 8. 契諾

閣下向銀行承諾，由該函件簽署當日起，直至經重整的債項連同其所有利息、費用及收費獲得全數清還為止

- (a) 閣下應保證指定戶口中有足夠資金滿足各期分期付款；
- (b) 如閣下獲悉發生任何失責事故或預期失責事故，應立即通知銀行，同時就其所採取以補救或減輕失責事故或預期失責事故影響的任何行動，向本行提供詳細資料；
- (c) 如閣下以債務人或擔保人的身份就任何財產設立或允許設立任何留置權或其他產權負擔作貸款或信貸預支，該等留置權或產權負擔，應平均及按比例地就本協議所載一切應償還款項，但本條不適用於：

- (i) 於購買財產時所設立的任何留置權，而該項留置權只在購買時就支付買價提供擔保；
- (ii) 銀行日常交易中產生的任何留置權，而該項留置權是就到期日與原來招致日期相隔不超過六個月的債項提供擔保。

## 9. 失責

如發生下列事故則產生失責事故：

- (a) 閣下不依期或按要求償還協議下任何到期應付欠款；
- (b) 閣下不遵守或履行協議或任何有關承諾或安排下的責任，同時未有在十四（14）天內作出補救，但還款責任則除外；
- (c) 閣下在協議中作出（或確認作出的）的任何陳述、保證或聲明，或根據協議所提供的任何證明、聲明、法律意見或通知，其中所作出的任何陳述、保證或聲明，以及在不影響上述陳述、保證或聲明的一般性原則下，就閣下於協議訂立當日及前後所欠銀行以外其他債權人的債項總額，證明在任何重大方面屬於不正確，或如在任何時候，在參考當時存續的事實及情況而重復作出的任何陳述、保證和聲明，在一切重大方面屬於不準確者；
- (d) 協議中任何條文因任何理由屬於或變得失效或不可強制執行；
- (e) 閣下任何債項變得到期償還，以及在到期日前可宣佈為到期償還，而閣下的任何擔保或相類責任未有在到期日或催收時償還、或閣下失責或違反與任何該等債項、擔保或其他責任相關的任何文件或協議；
- (f) 債權負擔的持有人接管閣下全部或任何部分資產，或委託人、破產管理人或相類人員獲委任處理閣下全部或任何部分資產，或閣下任何資產遭扣押或遭強制執行任何形式的法庭命令或起訴，同時未有在遭扣押、強制執行或起訴後七(7)天內解除；
- (g) 閣下與閣下召開債權人會議，或向債權人提出或作出任何還債安排或債務重整協議或權益轉讓，或有人對閣下提出或閣下自動提出破產申請；
- (h) 根據任何適用司法管轄區的法律，發生相類於(f)或(g)段所載的任何事故；或
- (i) 發生任何不利情況，銀行認為對閣下履行協議下責任的能力，構成重大的不利影響；

9.2 任何一項或多項失責事故發生後，則銀行可通知閣下：

- (a) 宣佈銀行在本條款及細則下的責任，包括但不只限於減少閣下所欠銀行的債項（倘有）以及因債項終止而放棄收取該等債項的利息（倘有），被終止，而該等責任應即時終止，及/或
- (b) 在不影響銀行要求全數還清債務的凌駕權利下，可宣佈閣下根據本條款及細則在終止日期過後才到期的一切欠款，變得即時到期償還，而一切該等欠款，應即時到期償還，銀行無須發出任何種類的要求或通知，閣下茲明示放棄收取該等要求或通知。

## 10. 抵銷與留置權

10.1 銀行（及渣打集團任何其他成員）可將銀行（或渣打集團任何其他成員）應付閣下的任何款項與閣下應付銀行（或渣打集團任何其他成員）的任何款項互相抵銷或留置（不論有關責任是否到期或屬或然性質）。銀行（及渣打集團其他各成員）亦可合併或綜合所有閣下留存於銀行及其成員的戶口。倘若銀行（或渣打集團任何其他成員）合併該等戶口，則會以閣下戶口中所持的任何貸方資金，對閣下其他戶口的相關欠款作出調整。銀行（及渣打集團其他各成員）可隨時採取有關行動（即使閣下並無違約）。

10.2 閣下如擁有聯名戶口，則銀行（及渣打集團其他各成員）可將銀行（或渣打集團任何其他成員）應付閣下的任何款項，與任一戶口持有人的戶口應付銀行（或渣打集團任何其他成員）的任何款項互相抵銷或留置。

10.3 就第10.3及10.4條而言，渣打集團各成員均可按其合理認為適當的匯率進行任何必要的貨幣換算。

## 11. 彌償

如因發生任何失責事故或因為協議，銀行須承擔任何開支、損失、損害賠償或債務及任何合理費用或支出，閣下須對銀行作出全數彌償。在不影響一般性原則下，上述彌償應伸展至因為上述事故而支付或須支付的任何利息、費用或其他款項（包括須彌償的法律費用及開銷）。

## 12. 其他

12.1 銀行可全權酌情採取其認為適當的行動，以強制執行其對經重整的債項之權利，包括但不只限於僱用第三者機構以追討對銀行的欠款。銀行催收、追討或意圖追討或起訴以追討協議下的欠款，或因該等條款及細則被違反而尋求補救，或強制執行或意圖強制執行協議的條款及細則，因此合理招致（不論直接或間接）的合理數額的費用及支出，閣下須對銀行作賠償及按要求予以償還（包括但不只限於按彌償基準賠償所僱用的任何代理人或服務供應商的費用以及法律費用與支出）。

12.2 時間在各方面均屬協議的要素。

12.3 銀行暫不行使或延遲行使任何權利、權力或補救方法不應視為放棄該等權利、權力或補救方法，單獨或部份行使任何權利、權力或補救方法不應妨礙進一步行使該等權利、權力或補救方法。閣下之間任何交易習慣或於任何一種或幾種情況下之任何放棄不應視為於任何其他情況下之放棄。銀行之每項權利、權力及補救方法應繼續充份有效，直至該等權利、權力或補救方法由銀行簽署之書面文據特別修訂或放棄。

12.4 由銀行作出或代表銀行作出的任何行動、行為或商議，不得在任何方面妨礙銀行行使本條款就細則所賦予的權利，或引致該項權利被暫停或改變。

12.5 根據協議給予的同意或放棄的權利：

- (a) 必須符合銀行指定的條件；
- (b) 必須符合指定情況及目的方屬有效；及
- (c) 必須採用書面形式方屬有效。

12.6 本條款及細則為持續之協議：由本條款及細則證明之抵押應為持續之抵押；本條款及細則項下之一切權利、權力及補救方法適用於閣下對銀行之一切過往、現時、未來及或有義務。上述抵押無損於銀行現時或今後就該等義務與負債持有之任何其他抵押，並為該等其他該等抵押以外之抵押，儘管提前支付任何款項或結清任何賬目。或了結任何其他事宜。本條款及細則可予以執行，無須首先由銀行追索任何其他抵押或權利。

12.7 依據本條款及細則給予銀行之每項權利、權力及補救方法為累積之權利、權力及補救方法，並為由於任何其他抵押、法規或法律原則或衡平法規而給予銀行一切其他權利、權力及補救方法以外之權利、權力及補救方法。若閣下不時與銀行簽訂任何特殊協議以及該協議之目的為以其條款對一項特定交易加以規定，則該等其他協議應與本條款及細則一併適用於上述特定交易。若該等其他協議與本條款及細則發生抵觸，則於有效與可執行之範圍內，就上述交易而言應以該等其他協議之條款為準。

12.8 銀行可按其酌情權在給予閣下通知的情況下更改、變更或補充該協議的條款（包括但不限於任何利息、費用、佣金或收費的計算基礎）。該更改、變更或補充會在載明有關更改、變更或補充通知的日期或通知所述的日期生效（以較遲為準）。

12.9 儘管通過合併、聯合或其他而可能使銀行或其繼承人與受讓人之章程發生任何變化，本條款及細則適用於銀行及其繼承人與受讓人之利益。銀行可轉讓或出讓其於本條款及細則及與本條款及細則有關之任何交易項下一切或任何權利與權益及（或）銀行擁有抵押權益之貨物、單據及其他財產，並可將上述各項

交付受讓人。據此，以前歸銀行所有有關上述各項之一切權利與權力歸受讓人所有。銀行對於上述轉讓之貨物、單據或其他財產之任何義務或責任應予以解除與免除。然而，銀行對於未轉讓之貨物、單據或其他財產仍保留其一切權利與權力。

- 12.10 閣下應於銀行提出要求時立即進行、簽訂、作出及完成銀行為使本條款及細則與銀行對由本條款及細則構成或計劃構成抵押之所有權完全有效而不時合理要求之一切其他保證、文據、行為或事項，費用由閣下承擔。
- 12.11 本條款及細則之任何規定因故於任何國家地區無效僅應於無效之範圍內失效，並不影響本條款及細則其餘規定之有效性或上述規定於任何其他國家地區之有效性。本條款及細則之任何規定在行使時將不會限制或免除任何責任，而該等責任之限制或免除又非香港法律所容許。
- 12.12 本條款及細則之任何規定不應強加銀行任何義務，以向閣下提供或繼續提供任何銀行信貸或其他貸款或服務。本條款及細則可經銀行全權決定事前給予或不給予閣下通知而立即終止或中止。

### 13. 授權書

閣下不可撤銷地以及通過抵押指定銀行為閣下之代理人，擁有全權代理，以閣下名義或代表閣下（如同閣下之行動與行為）簽署、蓋印、簽訂、交付、進行下列各項可能需要或銀行認為適合之一切契據、文據、行為及事項並使其完全有效：履行閣下於本條款及細則項下之任何義務或銀行進行任何銷售、處置或其他交易或將本條款及細則之全部利益及依據本條款及細則授予之抵押之全部利益給予銀行。閣下特此批准與確認以及同意批准與確認上述代理人可能合法地簽訂或作出之任何契據、文據、行為或事項。

### 14. 披露

- (a) 所有由閣下提供之資料和銀行不時於本申請前、期間或之後搜集的個人資料的使用、披露目的及可予以披露的人士（不論接收人是否在香港特別行政區，或在資料保護程度不及香港的地方），銀行將按銀行所使用及披露個人資料的政策行事。該些政策載於銀行不時向閣下提供的說明、通知、條款及細則或通知內。所收集的資料可用於配對程序（定義見個人資料（私隱）條例）。
- (b) 銀行有權不時將所有關於閣下的賬戶及與銀行的業務來往（包括賬戶結餘及所提供的押品）披露及轉移予所有或任何以下人士（不論是在香港特別行政區與否）：
- (i) 渣打集團任何成員；
  - (ii) 任何對銀行就銀行授予閣下的貸款（包括但不限於經重整的債項）及/或閣下賬戶權益的實際或建議參與人、附屬參與人、受讓人或約務更替人；
  - (iii) 就銀行或渣打銀行業務營運提供任何形式服務的代理人、承包商或第三方服務提供商；及
  - (iv) 任何與閣下或擬與閣下進行交易的財務機構，藉此對閣下進行信貸審查。
  - (v) 對銀行有保密責任的任何人士。
- (c) 閣下亦同意，若任何司法管轄地之法律、法規、法庭命令或任何監管機構要求或允許，則銀行或渣打集團任何成員可披露閣下的任何資料。

### 15. 客戶同意及確認

- (a) 閣下同意並明白，銀行可向任何對閣下信貸授信的建議或實際的個人擔保人或其他押品提供人（或其律師）提供閣下的任何資料，其中包括（但不限於）：
- (i) 關於閣下的財務資料；
  - (ii) 有關顯示所擔保義務的合約副本或摘要；
  - (iii) （在閣下未清還逾期款項的情況下）發給閣下的任何逾期還款的正式付款要求的副本；及
  - (iv) （在建議或實際的擔保人或押品提供人的不時要求時）發給閣下的最新賬戶結單或其他顯示閣下財務情況及/或關於向閣下所提供的信貸授信的其他資料。

- (b) 根據香港當地適用法律，閣下特此同意銀行或任何渣打銀行集團公司在確定閣下於任何司法管轄地的納稅責任需要時，與當地或海外監管機構或稅務部門共享閣下的資料。
- (c) 閣下同意並承諾，若閣下向銀行提供的任何資料發生變化，閣下將於 30 個日曆日之內通知銀行。
- (d) 若當地或海外監管機構或稅務部門規定，閣下同意銀行可根據適用法律、條例、與監管機構或稅務部門的協議、以及指令從閣下的賬戶中預扣及支付可能需要的相關款項。

## 16. 通知

根據協議發出或與之有關的任何通知或通訊，必須採用書面形式，由專人送遞、或以郵寄、電傳或電報方式，發送到協議所載的地址或收件人以書面通知對方的其他地址。郵寄或發送證明應視為送達證明：

- (a) 如屬郵件，於郵寄後第三個營業日作已送達論；
- (b) 如屬傳真訊息，於發送同一日作已送達論。

## 17. 轉讓

在遵守協議條款下，銀行可轉讓其在協議下的權利或其中任何部分，以及/或轉讓其在協議下的責任或其中任何部分，並基於本項目的，向有意承讓人或受讓人披露閣下應向貸款人提供的資料。如銀行轉讓其責任或其中任何部分，閣下須簽署執行合理需要的文件，以解除銀行在轉讓限度內的責任，並加入成為受讓人的協議一方。閣下不可轉讓其在該協議下的權利。

## 18. 管轄法律及司法管轄權

18.1 本協議應受香港法律管限並按之解釋。

18.2 閣下不可撤銷地：

- (a) 接受香港法院的非專屬性管轄權；及
- (b) 同意以郵寄、送達或留置至最近通知的地址或有關法例允許的其他方式，接受送達法律程序文件。

## 19. 語言

本條款及細則的中文譯本只為方便而設，如本條款及細則的中、英文版本中有任何歧異，就所有目的而言，均以英文版本為準。