

**MASTER AGREEMENT
TERMS AND CONDITIONS FOR MORTGAGEONE OPTIMIZER SERVICES**

1. INTRODUCTION

- 1.1 The following terms and conditions (as may be amended, modified, varied or supplemented from time to time, these “**Terms**”) shall apply to the MortgageOne Optimizer Services and MortgageOne Optimizer Banking Arrangement (as defined below) offered by Standard Chartered Bank, Singapore Branch (the “**Bank**”) to the Participants (as defined below).
- 1.2 Each of the Participants agrees to be bound by the terms of the MortgageOne Optimizer Contractual Documents (as hereinafter defined) and represents and warrants that he/she has, in deciding to sign up for the MortgageOne Optimizer Services, exercised his/her independent judgment and has not relied on any representations or warranties, whether oral or written, on the part of the Bank, its officers, employees or agents, or as contained in any brochures, posters and other promotional, advertising and marketing materials issued or which may be issued by the Bank from time to time, which are not expressly provided for in the MortgageOne Optimizer Contractual Documents.

2. DEFINITIONS AND INTERPRETATION

- 2.1 Definitions. In these Terms, unless the context requires otherwise:

“**Accounts**” means and includes without limitation the current account(s), deposit account(s) and any other account(s) (excluding Mortgage Loan Accounts) specified by the Participants in the Application Form and approved by the Bank to be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form;

“**Actual Outstanding Mortgage Loan Principal**” means the aggregate principal amount actually outstanding for the time being under a Mortgage Loan Facility pursuant to the Bank’s General Terms and Conditions for Mortgage Services (as may be amended, modified, varied or supplemented from time to time);

“**Aggregate Net Credit Balance**” means the aggregate of all Net Credit Balances in all the Profiles;

“**Application Form**” means the application form signed by each of the Participants and approved by the Bank in relation to the offer of the MortgageOne Optimizer Services to the Participants by the Bank, and each supplemental application form (including any form regarding a subsequent amendment, suspension or termination of the MortgageOne Optimizer Services) signed by the Participants and approved by the Bank from time to time;

“**Average Float Balance**” means the daily average of the Total Float Contribution that is swept to the Mortgage Loan Account(s) on a particular calendar month;

“**Borrower**” means a customer of the Bank who is a borrower or joint borrower (as the case may be) under a Mortgage Loan Facility;

“**Business Day**” means a day (excluding Sundays and gazetted public holidays in Singapore and Bank’s holidays) on which the Bank is open for business in Singapore;

“**Bank**” has the meaning ascribed to it in Clause 1.1;

“**Casual Overdraft**” means in respect of an Account, the amount in which the Account is in debit;

“**Credit Balance**” means in respect of an Account, the amount (in fully cleared funds) from time to time standing to the credit of such Account;

“**Customer Advice**” means any advices (excluding Portfolio Statements) relating to the first time linkage, amendment, termination, closure, delinkage, discontinuation, re-activation or any other activities relating to the MortgageOne Optimizer Services from time to time issued by the Bank in connection with the MortgageOne Optimizer Banking Arrangement;

“**Deemed Outstanding Net Balance**” means, with respect to a Mortgage Loan Account, the deemed outstanding balance at the end of each Business Day calculated according to the following formula:

$$\begin{array}{rcl} \text{Deemed} & & \text{Actual Outstanding} \\ \text{Outstanding Net} & = & \text{Mortgage Loan} \\ \text{Balance} & & \text{Principal} \end{array} \quad - \quad \begin{array}{r} \text{Total Float} \\ \text{Contribution} \end{array}$$

"Delinquency" with respect to any Mortgage Loan Account, means that any outstandings under the relevant Mortgage Loan Facility (whether principal, interest or other sums) remain outstanding and unpaid for a number of days according to the aging code specified by the Bank for such Mortgage Loan Facility from time to time;

"Eligible Customer" means the Borrower(s) or a Security Provider only and who complies with the criteria prescribed from time to time by the Bank for participating in the MortgageOne Optimizer Banking Arrangement;

"Event of Default" has the meaning ascribed to it in Clause 10;

"Float Contribution" means in respect of a Profile, the amount of funds swept from all the Accounts in the Profile into the Mortgage Loan Account(s) pursuant to the Sweeping Function described in Clause 3.2(a) at the end of a Business Day;

"Indemnified Persons" has the meaning ascribed to it in Clause 9.6(b) and **"Indemnified Person"** means any one of them;

"Instructions" has the meaning ascribed to it in Clause 9.6(b);

"Master Profile" means collectively the Accounts and the Mortgage Loan Accounts in the name of the Borrower(s) (and in respect of the Accounts, all having the same Signing Mandate) and approved by the Bank to be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form;

"Maximum Mortgage Loan Accounts Number" means the maximum number specified by the Bank from time to time of Mortgage Loan Accounts as set out in the Application Form that may be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form;

"Maximum Profile Number" means the maximum number of Sub-Profile(s) specified by the Bank from time to time as set out in the Application Form that may be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form;

"Maximum Sweeping Cap Amount" means the maximum amount based on the Maximum Sweeping Cap which can swept to the relevant Mortgage Loan Account(s) pursuant to the Sweeping Function described in Clause 3.2(a) but shall not, in any case, exceed the amount required to notionally reduce the Actual Outstanding Mortgage Loan Principal on such Mortgage Loan Account(s) to nil;

"Maximum Sweeping Cap" means one hundred per cent (100%) of the Actual Outstanding Mortgage Loan Principal or such other percentage of the Actual Outstanding Mortgage Loan Principal as may be determined from time to time by the Bank;

"Monthly Average Actual Outstanding Mortgage Loan Balance" means the actual average aggregate principal amount calculated on a daily basis and outstanding for the time being under all the Mortgage Loan Facilities in a particular calendar month and includes any late fee charges in a particular month and any late repayment(s) of the principal amount in a particular calendar month;

"Monthly Scheduled Outstanding Mortgage Loan Principal" means the actual average aggregate principal amount that should be outstanding for the time being under all Mortgage Loan Facilities in accordance with the loan principal repayment schedule applicable to such Mortgage Loan Facilities (as recalculated from time to time) in a particular calendar month;

"Mortgage Loan Account" means a mortgage loan account opened in connection with the Mortgage in the name of the Borrower(s) specified by the Borrower(s) in the Application Form and approved by the Bank to be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form, and **"Mortgage Loan Accounts"** means all of them;

"Mortgage Loan Facility" means a mortgage loan facility provided by the Bank to, *inter alia*, the Borrower(s) and which is specified by the Participants in the Application Form and approved by the Bank to be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form, and **"Mortgage Loan Facilities"** means all of them;

"MortgageOne Optimizer Banking Arrangement" means the banking arrangement covering the Profile(s) specified by the Participants in the Application Form and approved by the Bank to form part of the MortgageOne Optimizer Services to be offered to the Participants;

"MortgageOne Optimizer Contractual Documents" means collectively, these Terms, the Application Form and (unless otherwise specified) any other document (including such documents referred to in Clause 5) as may be contemplated by these Terms or the Application Form and any other documents from time to time specified by the Bank to form part of the MortgageOne Optimizer Contractual Documents but excluding any advertising, promotional and marketing materials issued by the Bank in connection therewith;

"MortgageOne Optimizer Services" means all the services described in Clause 3.2 which are offered from time to time by the Bank to the Participants and which have been requested by the Participants in the Application Form and approved by the Bank;

“**Net Credit Balance**” means the aggregate of the Credit Balances of all Accounts within a Profile less the aggregate of all Casual Overdrafts on any Account within such Profile;

“**other agreement**” has the meaning ascribed to it in Clause 8;

“**Participant**” means a person who is a Borrower or a Security Provider (regardless of whether the person is a Primary Customer or not) and who is specified as a participant in an Application Form;

“**Portfolio Statement**” means a monthly statement of account issued by the Bank in relation to the MortgageOne Optimizer Banking Arrangement and/or any other statements of account from time to time issued by the Bank in relation to the MortgageOne Optimizer Banking Arrangement which statements are to be issued to the Primary Customer in respect of the Master Profile;

“**Primary Customer**” means a Participant who is named as a primary customer in the Application Form in respect of a Master Profile for the purposes of receiving Portfolio Statements, or alternatively a Participant who is named as a primary customer in the Application Form in respect of a Sub-Profile for the purposes of receiving Customer Advices in relation to that Sub-Profile;

“**Principal Account**” means the repayment account of one or more Mortgage Loan Accounts specified in the Application Form, from which all fees and charges payable for the MortgageOne Optimizer Services will be debited;

“**Process Agent**” has the meaning ascribed to it in Clause 17.1;

“**Profile**” means any of the Master Profile or the Sub-Profiles;

“**Profile Available Balance**” means the Net Credit Balance which is available for withdrawal in respect of a Profile;

“**Security Provider**” means any person other than the Borrower(s) which has provided or subsequently provides a guarantee or security to the Bank in respect of all or any part of the Mortgage Loan Facilities;

“**Shared Drawing**” has the meaning ascribed to it in Clause 3.2(b)(B)(i);

“**Signing Mandate**” refers to the mandate for operating joint account(s);

“**Software**” has the meaning ascribed to it in Clause 15.1;

“**Sub-Profile**” means collectively the Accounts in the name of one or more Participants, all such Accounts having the same Signing Mandate and approved by the Bank to be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form;

“**Substitute Process Agent**” has the meaning ascribed to it in Clause 17.2;

“**Terms**” has the meaning ascribed to it in Clause 1.1;

“**Total Float Contribution**” means the total of all Float Contributions in all the Profiles at the end of each Business Day;

“**Trigger Level**” means 50% or such other percentage level as may be determined by the Bank from time to time;

“**Utilisation Cap**” refers to the percentage derived in the following manner:

$$\text{Where} \quad \frac{A - B}{C} \times 100\%$$

A = Monthly Average Actual Outstanding Mortgage Loan Balance

B = Average Float Balance

C = Monthly Scheduled Outstanding Mortgage Loan Principal;

“**Utilisation Fee**” means the fees which are chargeable if the Utilisation is less than the Trigger Level calculated in the manner set out in Clause 3.2(c)(B) and which may be varied by the Bank from time to time.

2.2 Construction. In these Terms, unless the context requires otherwise, any reference to:

- (a) an “**authorisation**” includes any approvals, consents, licences, permits, franchises, permissions, registrations, resolutions, directions, declarations and exemptions;

- (b) **“determined”** or **“determines”** means determined or determines in its sole and absolute discretion;
- (c) **“including”** or **“includes”** means including or includes without limitation;
- (d) **“law”** and/or **“regulation”** includes any constitutional provisions, treaties, conventions, statutes, acts, laws, decrees, ordinances, subsidiary and subordinate legislation, orders, rules and regulations having the force of law and rules of civil and common law;
- (e) an **“order”** includes any judgment, injunction, decree, determination or award of any court, arbitration or administrative tribunal;
- (f) a **“person”** includes any individual but does not include any company, body corporate or unincorporate or other juridical person, partnership, firm, joint venture or trust or any federation, state or subdivision thereof or any government or agency of any thereof; and
- (g) **“tax”** includes any tax, levy, duty, charge, impost, fee, deduction or withholding of any nature now or hereafter imposed, levied, collected, withheld or assessed by any taxing or other authority and includes any interest, penalty or other charge payable or claimed in respect thereof and **“taxation”** shall be construed accordingly.

2.3 Successors and Assigns. The expressions **“Bank”**, **“Primary Customer”** and **“Participants”** shall where the context permits include their respective successors and personal representatives and (in the case of the Bank) its permitted assigns, transferees and any persons deriving title under it.

2.4 Miscellaneous. In these Terms, unless the context requires otherwise:

- (a) references to statutory provisions, regulations, guidelines and codes shall be construed as references to those provisions, regulations, guidelines and codes as replaced, amended, modified or re-enacted from time to time;
- (b) words importing the singular include the plural and *vice versa*;
- (c) words importing a gender include every gender;
- (d) references to these Terms shall be construed as references to the terms and conditions set out herein as the same may be amended, modified, varied or supplemented from time to time; and
- (e) unless otherwise stated, references to Clauses are to clauses of these Terms.

2.5 Clause headings. Clause headings are inserted for reference only and shall be ignored in construing these Terms.

2.6 Joint and Several. If the **“Participant”** consists of more than one person, then any reference herein to such **“Participant”** shall be construed as a reference to any and all of such persons. Each obligation of the Participants imposed by these Terms shall be construed as creating joint and several obligations on each of such persons, and the provisions of these Terms shall be applied accordingly.

3. MORTGAGEONE OPTIMIZER SERVICES

3.1 Application for MortgageOne Optimizer Services.

- (i) Any Eligible Customer may apply to the Bank for the provision of the MortgageOne Optimizer Services offered by the Bank from time to time by completing and submitting an Application Form to the Bank for approval. Upon approval of the Application Form by the Bank, the Application Form forms part of these Terms, and the provision of any MortgageOne Optimizer Services by the Bank to the Participants shall be governed by the MortgageOne Optimizer Contractual Documents. In the event of any inconsistencies between these Terms and any other MortgageOne Optimizer Contractual Documents, these Terms shall prevail.
- (ii) The Borrower(s) must specify in the Application Form who is the Primary Customer in respect of the Master Profile for the purposes of receiving any Portfolio Statements. The owners of each Sub-Profile must specify the Primary Customer in respect of that Sub-Profile for the purpose for receiving any Customer Advices. The Bank's obligation to send any Portfolio Statement or Customer Advice shall be fully discharged by the Bank sending the same to the relevant Primary Customer. The Primary Customer shall be responsible for notifying the Bank of any irregularities, discrepancies, omissions, errors, inaccuracies or incorrect entries therein. The appointment of a Primary Customer does not otherwise affect the rights and obligations of all Participants whether under the MortgageOne Optimizer Contractual Documents and/or under any other terms and conditions contained in any other agreement between the Bank and each Participant whether in relation to any Mortgage Loan Account, Account, Mortgage Loan Facility or otherwise.
- (iii) The Participants agree that the number of Sub-Profiles that may be linked to the MortgageOne Optimizer Services shall not exceed the Maximum Profile Number. The Participants also agree that the number of

Mortgage Loan Accounts that may be linked to the MortgageOne Optimizer Services shall not exceed the Maximum Mortgage Loan Accounts Number.

- (iv) Each Account or Mortgage Loan Account within a Profile must be held by the same account holders and where any such Account or Mortgage Loan Account is a joint account, must have the same Signing Mandate provided that any Account or Mortgage Loan Account within a Master Profile must be an account opened by the Borrower(s). For illustration purposes only, where an account is held by A and B with the Signing Mandate "A and/or B", an account held by A or B alone or with the Signing Mandate "A and B" cannot be linked in the same Profile.
- (v) The Borrower(s) must also specify in the Application Form whether the Aggregate Net Credit Balance to be automatically applied by the Bank pursuant to Clause 3.2(a) shall be up to the Maximum Sweeping Cap Amount or up to 50% of the Monthly Scheduled Outstanding Mortgage Loan Principal.

3.2 MortgageOne Optimizer Services. The MortgageOne Optimizer Services as set out in Clauses 3.2(a) and (b) shall apply to the Accounts, Mortgage Loan Accounts and Mortgage Loan Facilities specified by the Participants in the Application Form to be linked to the MortgageOne Optimizer Banking Arrangement in the manner specified in the Application Form:

(a) *Sweeping Function:*

- (A) Subject to Clause 3.2(c), the Aggregate Net Credit Balance will be automatically applied by the Bank (up to the Maximum Sweeping Cap Amount or up to 50% of the Monthly Scheduled Outstanding Mortgage Loan Principal, as the case may be) in accordance with the priority stated in Clause 3.2(a)(B) at the end of each Business Day towards notionally reducing, for the purpose of calculating interest only (but not towards actually reducing by way of repayment or prepayment) the Actual Outstanding Mortgage Loan Principal under all the Mortgage Loan Facilities (notwithstanding any prohibition against prepayment or reduction in principal or interest under the terms of such Mortgage Loan Facilities). The Aggregate Net Credit Balance will be automatically applied to reduce the Actual Outstanding Mortgage Loan Principal in descending order from the Mortgage Loan Facility charging the highest rate of interest to the Mortgage Loan Facility charging the lowest rate of interest. If more than one Mortgage Loan Facility designated in the Application Form for such purpose is charging the same rate of interest, as between such Mortgage Loan Facilities charging the same rate of interest, the Aggregate Net Credit Balance will be applied (up to the Maximum Sweeping Cap Amount) towards notionally reducing, for the purpose of calculating interest only (but not towards actually reducing by way of repayment or prepayment) the Actual Outstanding Mortgage Loan Principal under such Mortgage Loan Facilities in ascending order of account number. The Bank shall have no obligation to give prior notification to any Participant as to which Credit Balances from which Accounts have been applied to so notionally reduce the Actual Outstanding Mortgage Loan Principal under which Mortgage Loan Facility.
- (B) The order in which the Aggregate Net Credit Balance will be swept from the Account(s) under Clause 3.2(a)(A) shall be as follows:
 - (i) As between Profiles, the order of priority in which the Aggregate Net Credit Balance will be swept would be from Account(s) within the Master Profile and then from the Sub-Profiles in the order in which the relevant Sub-Profile appears in the Application Form (i.e. Sub-Profile 1 before Sub-Profile 2 etc).
 - (ii) Within Profiles, the order of priority in which the Net Credit Balance will be swept from the Accounts in a Profile would be in ascending order, from the Account bearing the lowest interest rate to the Account bearing the highest interest rate in that Profile.
 - (iii) Within Profiles, where there is more than one Account bearing the same interest rate, the order of priority in which the Net Credit Balance will be swept from the said Accounts bearing the same interest rate will be in ascending order of account number.
- (C) If there is any Casual Overdraft of any Account, the Fund Allocation feature of the Optimizer Function described in Clause 3.2(b)(A)(i) will apply first to determine where the aggregate Credit Balances of the Accounts of the Participants in that Profile will be automatically applied. After such application, Clause 3.2(a)(A) and 3.2(a)(B) shall apply to determine where the Aggregate Net Credit Balance will be automatically applied.

(b) *Optimizer Function:* This function will apply only within each Profile, but not across Profiles.

(A) *Fund Allocation:*

- (i) At the end of each Business Day, where there is any Casual Overdraft under any Account in a Profile, the aggregate Credit Balances of the Account(s) in that Profile will be automatically applied towards repayment of the Casual Overdrafts in that Profile in descending order from the Casual Overdraft charging the highest rate of interest to the Casual Overdraft charging the lowest rate of interest. If more than one Casual Overdraft in the Profile is charging the same rate of interest, then the priority of repayment as between the Casual Overdraft(s) charging the same interest will be in ascending order of account number. The Bank shall have no obligation to confirm to any Participant which Credit Balances have been applied to repay the Casual Overdraft.

- (ii) Following the application of the aggregate Credit Balances in each Profile under Clause 3.2(b)(A)(i), if there is any Actual Outstanding Mortgage Loan Principal under any Mortgage Loan Facility, Clause 3.2(a)(A) and 3.2(a)(B) will apply to determine where and how the Aggregate Net Credit Balance will be automatically applied.
- (iii) If after the Aggregate Net Credit Balance has been applied under Clause 3.2(a)(A) and Clause 3.2(a)(B) there is no Deemed Outstanding Net Balance under any Mortgage Loan Facility in the Master Profile, any part of the Net Credit Balance of the Accounts in a Profile not so applied will be transferred to the Account in that Profile from time to time earning the highest rate of interest. If there are two or more Accounts in the Profile earning the highest rate of interest, then as between such Accounts, such part of the Net Credit Balance of the Accounts in the Profile will be transferred to the Account in that Profile in descending order of account number.

For the avoidance of doubt, interest earned in any Account in a Profile will be credited to such Account on the usual interest payment date and will not be subject to Clause 3.2(b)(A) until the day after the next Business Day following such payment.

(B) *Shared Drawing Function:*

- (i) In the event that the Credit Balance of any Account in a Profile is not sufficient for a withdrawal to be made from such Account, the Participant(s) (as the case may be) in whose name(s) the Profile has been created may make a withdrawal up to the Profile Available Balance ("**Shared Drawing**").
- (ii) A Shared Drawing shall be deemed to be made at the end of the Business Day on which it is made from the Account in that Profile then earning the lowest rate of interest and shall be subject to all other terms and conditions applicable to the relevant Account.
- (iii) In the event that Shared Drawings by way of multiple cheques exceed, in aggregate, the amount available to be drawn pursuant to this Shared Drawing Function on a particular day, the Bank will have the discretion to reject some or all such cheques, based on a default mechanism determined by the Bank, notwithstanding individual cheque amounts would fall within the amount available to be drawn.

(c) *Utilisation Fee*

- (A) A Utilisation Fee calculated at the end of every calendar month in the manner set out in Clause 3.2(c)(B) below shall be payable to the Bank if the Utilisation Cap is less than the Trigger Level. Such Utilisation Fee shall be paid to the Bank and the Bank shall (in the following order of priority until all fees and charges shall have been fully paid):
 - (i) deduct such Utilisation Fee from the Principal Account;
 - (ii) be entitled (whether with or without notice) to set off and apply any Credit Balance of any Participant against such Utilisation Fee;

and until so paid, such Utilisation Fee shall be due and owing to the Bank. The Bank shall have no obligation to confirm to any Participant which Credit Balances from which Accounts have been applied in payment of such fee.

- (B) The Utilisation Fee shall be computed as follows:

$$A \quad \times \quad B$$

where

A = Monthly Average Actual Outstanding Mortgage Loan Balance

B = 1% per annum or such other rate as determined by the Bank from time to time.

- (C) Where the Borrower(s) has indicated in the Application Form that the Aggregate Net Credit Balance to be swept is up to 50% of the Monthly Scheduled Outstanding Mortgage Loan Principal, the Trigger Level would not be set off and hence the Utilisation Fee set out in Clause 3.2(c)(B) will not be payable.
- (D) During the course of the MortgageOne Optimizer Banking Arrangement, the Borrower(s) may at any time via submitting the Application Form and without seeking the consent of any other Participant, vary earlier instructions as to whether the Aggregate Net Credit Balance to be swept in accordance with Clause 3.2(a) should be up to the Maximum Sweeping Cap Amount or up to 50% of the Monthly Scheduled Outstanding Mortgage Loan Principal. The Participants agree and acknowledge they will waive all rights and claims as a result of such unilateral variance by the Borrowers(s) including any interests that may have been earned on any deposit accounts linked to the MortgageOne Optimizer Banking Arrangement of which they are the owners of.

- 3.3 Interest on Mortgage Loan Accounts. With respect to each Mortgage Loan Account, subject to the terms and conditions of the Bank's General Terms and Conditions for Mortgage Services (as may be amended, modified, varied or supplemented from time to time), the Bank will charge interest on the Deemed Outstanding Net Balance in each Mortgage Loan Account and interest shall be calculated daily at the rate of interest stated in the relevant offer letter or as otherwise specified by the Bank in its sole and absolute discretion from time to time).
- 3.4 Redrawal under Mortgage Loan Account. Any amount applied towards the notional reduction of the Actual Outstanding Mortgage Loan Principal under any Mortgage Loan Account under Clause 3.2 from time to time may, at the Bank's sole and absolute discretion and subject to the MortgageOne Optimizer Contractual Documents, be redrawn in the manner set out in Clause 3.2(b)(B).
- 3.5 Termination, Suspension, Delinkage and Closure of Mortgage Loan Accounts, Accounts and Mortgage Loan Facilities.
- (a) The Participants agree that each of the others shall have the right subject to this Clause 3.5(a) to close all or any of their own Mortgage Loan Accounts or Accounts without the consent of the others and that upon any such closure, the relevant Mortgage Loan Accounts or Accounts shall cease to be linked to the MortgageOne Optimizer Banking Arrangement.
- (b) The owner(s) of the Master Profile may request for (i) the termination or suspension of the MortgageOne Optimizer Banking Arrangement in whole or in part, (ii) the delinkage of any Mortgage Loan Account or Account within the Master Profile or (iii) the closure of the Master Profile by submitting to the Bank such a request three (3) Business Days prior to the termination, suspension, delinkage or closure in accordance with the MortgageOne Optimizer Contractual Documents and/or the terms and conditions applicable to such Mortgage Loan Accounts, Accounts or Mortgage Loan Facilities. Each of the Participants irrevocably authorises the Bank (at the Bank's sole and absolute discretion) to continue to process any transactions relating to such Mortgage Loan Accounts, Accounts, or Mortgage Loan Facilities in accordance with the relevant MortgageOne Optimizer Contractual Document until the end of the third Business Day, notwithstanding the request for termination, suspension, delinkage or closure. Each of the Participants agrees that the owner of the Master Profile shall have the right to request for termination, suspension, delinkage or closure of the Master Profile subject to this Clause 3.5(b) without the consent of the others.
- (c) Any of the Participants who are the owners of the Sub-Profiles may request (without the consent of the other Participants and without seeking the consent of the owner of the Master Profile) for (i) the delinkage of any Account within that Sub-Profile of which they are the owners or (ii) the closure of any Sub-Profile of which they are the owners by submitting to the Bank such a request three (3) Business Days prior to the delinkage or closure in accordance with the MortgageOne Optimizer Contractual Documents and/or the terms and conditions applicable to such Accounts. Each of the Participants irrevocably authorises the Bank (at the Bank's sole and absolute discretion) to continue to process any transactions relating to such Accounts in accordance with the relevant MortgageOne Optimizer Contractual Document until the end of the third Business Day, notwithstanding the request for delinkage or closure. In situations where there are two or more owners of an Account or Sub-Profile, a Participant who is an owner may request for the delinkage of his/her Account or the closure of his/her Sub-Profile without seeking the consent of the other owner and without seeking the consent of the other Participants.
- (d) The Bank shall be entitled at any time at its sole discretion, without prior notice to any Participant or any other person, to terminate or suspend the MortgageOne Optimizer Banking Arrangement (that applies to the Participants) in whole or in part or delink any Mortgage Loan Account, Account or Mortgage Loan Facility or close the Master Profile or any Sub-Profile for any reason (including without limitation, if any of the representations and warranties set out in Clause 6.1 cease to be accurate) and shall have no liability to any Participant if it does so. The aforesaid right vested in the Bank shall in no way affect the Bank's ability to continue to offer the MortgageOne Optimizer Banking Arrangement to other customers who are Participants or who intend to become Participants.
- (e) The Bank is not obliged to continue the offer of the MortgageOne Optimizer Services and may at any time in its sole discretion terminate, suspend or withdraw the offering of the MortgageOne Optimizer Services to all existing Participants who have signed up for the MortgageOne Optimizer Services. Where the Bank decides to suspend or withdraw the offering of the MortgageOne Optimizer Services entirely, the Bank shall notify all the Participants in accordance with Clause 9.9. Such suspension or withdrawal shall take effect from the date specified in such notification(s) sent to the Participants. Any such termination, suspension or withdrawal shall only be effective if made in writing and signed by the Bank.
- (f) Where the Mortgage Loan Facilities are fully redeemed, the MortgageOne Optimizer Banking Arrangement shall automatically terminate within the next Business Day and the Bank shall not be obliged to give any notice of termination in respect thereof.
- (g) Unless the Bank in its sole and absolute discretion agrees otherwise and, in any event, subject to the MortgageOne Optimizer Contractual Documents, upon:
- (A) a termination, suspension, delinkage or closure as referred to in Clauses 3.5(a), (b), (c), (d), (e) or (f); or
- (B) a Delinquency or charge off (in accordance with the Bank's charge off policy in place from time to time) of a Mortgage Loan Account,

the Float Contribution will be transferred to an Account within the relevant Profile from which that Float Contribution originated in the following manner:

- (i) The Account to which the Float Contribution will be transferred is the Account within that relevant Profile from time to time earning the highest rate of interest.
 - (ii) If more than one Account in that particular Profile is earning the same rate of interest, as between the Accounts earning the same interest rate, the Float Contribution will be returned to the Account in that Profile in descending order of account number.
- (h) Each of the Participants agrees that:
- (i) upon the termination or suspension of the MortgageOne Optimizer Banking Arrangement in whole or the closure of the Master Profile, the MortgageOne Optimizer Services shall cease completely; or
 - (ii) upon the termination or suspension of the MortgageOne Optimizer Banking Arrangement in part or the delinkage, closure, Delinquency or charge off, the MortgageOne Optimizer Services shall cease in respect of the relevant Account, Mortgage Loan Account and Mortgage Loan Facility,

and the relevant Participant(s) will immediately cease, except as set out in Clause 3.5(g) to (h), to have any rights or claims whatsoever to or over such Mortgage Loan Accounts, Accounts or Mortgage Loan Facilities including any funds credited or transferred thereto, and the Bank shall have no liability to any Participants in any event.

- (i) Any such termination, suspension, delinkage, closure, Delinquency or charge off shall not affect in any way the liabilities and obligations of the Participants under the Mortgage Loan Facilities and the terms and conditions contained in any other agreement (as defined in Clause 8 below) relating to such Mortgage Loan Accounts, Accounts or Mortgage Loan Facilities shall continue to govern the respective Participants in relation thereto.

3.6 **Business Days.** The MortgageOne Optimizer Services will be available for use on Business Days only. In connection with any deposit, withdrawal and drawings made on any day which is not a Business Day, funds will be allocated and accrued interest will be credited to the relevant Mortgage Loan Account or Account (as the case may be) in accordance with the MortgageOne Optimizer Contractual Documents on the next Business Day.

3.7 **No Adjustments.**

- (a) No delayed or reversed credit or debit made for any reason whatsoever to any Account, Mortgage Loan Account or Mortgage Loan Facility shall oblige the Bank in any way to compensate any Participant for any loss, damage, charge or expense which the Participant may suffer or for any gain, profit or other benefit which the Participant may have enjoyed under the MortgageOne Optimizer Banking Arrangement had such credit or debit been made (whether timely or otherwise) or not been made.
- (b) If adjustment entry(ies) is(are) required to be made to any Account, Mortgage Loan Account or Mortgage Loan Facility, the MortgageOne Optimizer Services shall not run retrospectively and no adjustment or re-adjustment will be made to any other Account, Mortgage Loan Account or Mortgage Loan Facility to cater for such adjustment entry(ies).

4. TRANSFER AUTHORISATION, PORTFOLIO STATEMENTS AND CUSTOMER ADVICES

4.1 **Transfer Authorisation.** Each Participant hereby irrevocably authorises and instructs the Bank to apply or transfer or release the Credit Balances of any Accounts in the manner set out in Clauses 3.2 without notice to or further authorisation from any Participant or other person.

4.2 **Portfolio Statements and Customer Advices.**

- (a) Each Participant agrees that any notice which is required to be given by the Bank to any of them in respect of any such application, transfer or release shall be sufficiently and timely given if contained in a Portfolio Statement delivered to the Master Profile Primary Customer's correspondence address specified in the Application Form and that the Bank's obligation in respect thereof is fully discharged if such notice is addressed to the Master Profile Primary Customer at the address on record with the Bank.
- (b) Each Participant hereby agrees, and irrevocably authorises the Bank, that:
 - (i) all Portfolio Statements will be delivered by the Bank to the Master Profile Primary Customer at the Master Profile Primary Customer's correspondence address specified in the Application Form, and that the remaining Participants shall not be entitled to receive any Portfolio Statement;

- (ii) all Customer Advices will be delivered by the Bank to the Master Profile Primary Customer and in respect of each Sub-Profile, to the relevant Primary Customer for that particular Sub-Profile, in each case to the relevant correspondence address specified in the Application Form,

provided that the Bank may in its sole and absolute discretion decide (without prejudice to Clause 12), and is hereby irrevocably authorised, to disclose Portfolio Statements or the Customer Advices (or any information contained in any Portfolio Statements or Customer Advices) to any Participant.

4.3 **Conclusive and Binding.** The Master Profile Primary Customer must verify the correctness of each Portfolio Statement and the Primary Customer for a Sub-Profile must verify the correctness of each Customer Advice. They shall notify the Bank promptly and in any case within fourteen (14) days from the date of such statement or advice (as the case may be), of any irregularities, discrepancies, omissions, errors, inaccuracies or incorrect entries in the contents of such statement or advice, which otherwise shall be conclusive and binding on all the Participants.

4.4 **Liability of Bank.** Neither the Bank nor any of its officers, employees, agents, correspondents or any other person appointed by the Bank or any third party providers or their employees shall be liable on account for any misstatement or misrepresentation contained in any Portfolio Statement or Customer Advice nor shall any such Portfolio Statement or Customer Advice in any way affect the provision of the MortgageOne Optimizer Services by the Bank to the Participants and/or the respective obligations of the Participants in connection therewith.

5. **OTHER DOCUMENTS**

The Bank may at any time require the Participants to, and the Participants shall in accordance with the instructions of the Bank, execute such other documents or take such other actions as the Bank may deem appropriate or necessary in relation to the provision of the MortgageOne Optimizer Services to the Participants.

6. **REPRESENTATIONS AND WARRANTIES**

6.1 **Representations and Warranties.** Each Participant represents and warrants to the Bank that:

- (a) he/she has full capacity and legal right to own his/her property and assets and to carry on his/her business;
- (b) he/she has full capacity and legal right to enter into and engage in the transactions contemplated by each MortgageOne Optimizer Contractual Document;
- (c) each MortgageOne Optimizer Contractual Document constitutes legal, valid and binding obligations of the Participants enforceable in accordance with its terms;
- (d) neither the execution of any MortgageOne Optimizer Contractual Document nor the performance by the Participants of any obligations or the exercise of any rights under any MortgageOne Optimizer Contractual Document will conflict with or result in a breach of any law, regulation, judgment, order, authorisation, agreement or obligation applicable to any Participant or cause any limitation placed on any Participant to be exceeded;
- (e) all authorisations required from any governmental or other authority or from any creditors of the Participant for or in connection with the execution, validity and performance of the MortgageOne Optimizer Contractual Documents have been obtained and are in full force and effect and there has been no default under the conditions of any of the same;
- (f) no litigation, arbitration or administrative proceeding is current, pending or threatened (i) to restrain the entry into, exercise of his/her rights (if any) under and/or performance or enforcement of or compliance with his/her obligations under any MortgageOne Optimizer Contractual Document or (ii) which has a material adverse effect on him/her;
- (g) no steps have been taken by him/her nor have any legal proceedings been instituted or threatened for his/her bankruptcy or for the appointment of a trustee-in-bankruptcy or similar officer over him/her or any of his/her assets;
- (h) except as otherwise notified by any Participant to the Bank, the Participant (as the case may be) is the ultimate beneficial owner of each Account and Mortgage Loan Account designated by it in an Application Form and does not hold any such deposit or account or any sums held therein beneficially for any other person(s) as trustee, nominee, agent or otherwise; and

- (i) all information provided by the Participants to the Bank in connection with any MortgageOne Optimizer Contractual Document is true, complete and accurate.

6.2 Continuing Representation and Warranty. The Participants also represent and warrant to and undertake with the Bank that the foregoing representations and warranties will be true and accurate throughout the continuance of the MortgageOne Optimizer Contractual Documents and for so long as the MortgageOne Optimizer Services are in operation with reference to the facts and circumstances subsisting from time to time.

7. UNDERTAKINGS

Each of the Participants hereby undertakes and agrees with the Bank throughout the continuance of the MortgageOne Optimizer Contractual Documents and for so long as the MortgageOne Optimizer Services are in operation that:

- (a) he/she will not, without the prior written consent of the Bank (which consent shall not be unreasonably withheld) have outstanding any security on or over, any of the Accounts or any interest therein (other than in favour of the Bank);
- (b) he/she will promptly deliver to the Bank details of any proceedings which, if it had been current, pending or threatened at the date of approval of the Application Form, would have rendered the warranty in Clause 6.1(f) incorrect; and
- (c) from time to time on request by the Bank do or procure the doing of all such acts and execute or procure the execution of all such documents as the Bank may require for giving full effect to any MortgageOne Optimizer Contractual Document or securing to the Bank the full benefit of all rights, powers and remedies conferred upon the Bank in any MortgageOne Optimizer Contractual Document.

8. TERMS AND CONDITIONS FOR MORTGAGE LOAN ACCOUNTS, ACCOUNTS, AND MORTGAGE LOAN FACILITIES

These Terms are in addition to the terms and conditions contained in any other agreement between the Bank and any Participant, whether in relation to any Mortgage Loan Account, Account, Mortgage Loan Facility or otherwise ("**other agreement**"). In the event of any discrepancy or inconsistency between the provisions of these Terms and the terms and conditions contained in any other agreements (including any prohibition against prepayment or reduction in principal or interest under the terms of any Mortgage Loan Facility), the provisions of these Terms shall prevail.

9. MISCELLANEOUS

9.1 Entire Agreement. The MortgageOne Optimizer Contractual Documents shall constitute the entire agreement between the Bank and the Participants with respect to the MortgageOne Optimizer Banking Arrangement and shall supersede all prior communications between the Bank and the Participants.

9.2 No Implied Waiver. No failure or delay by the Bank in exercising any right or remedy provided by law or hereunder shall impair such right or remedy or operate or be construed as a waiver or variation thereof or preclude its exercise at any subsequent time nor shall any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy. Any waiver of any provision of such Terms pursuant to this Clause 9.2 shall only be effective if made in writing by the Bank. The rights and remedies herein are cumulative and not exclusive of any rights and remedies provided by law.

9.3 Severability. If at any time any provision of these Terms or any MortgageOne Optimizer Contractual Document is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity and enforceability of such provision under the law of any other jurisdiction and the remaining provisions of these Terms and the relevant MortgageOne Optimizer Contractual Document shall not be affected or impaired thereby.

9.4 Amendments. Subject to clause 9.5, the Bank shall have the sole discretion to amend, modify or supplement these Terms and any other MortgageOne Optimizer Contractual Documents. The Bank shall notify the Participants of such amendments, modification or supplements in such manner as it deems fit. Any such amendments, modifications or supplements shall take effect from the date specified in such notification(s) and shall be part of these Terms and/or other MortgageOne Optimizer Contractual Documents and the Participants shall be bound by the same..

9.5 Addition of or substantial changes to MortgageOne Optimizer Services. For the avoidance of doubt, the Bank shall have the sole discretion to introduce new MortgageOne Optimizer Services or in the Bank's view, substantially change the

manner in which the MortgageOne Optimizer Services operate. The Bank shall notify the Participants of such changes in accordance with Clause 9.9. Such changes shall take effect from the date specified in such notification(s) and shall be part of these Terms and/or other MortgageOne Optimizer Contractual Documents and the Participants shall be bound by the same. Any changes made to the MortgageOne Optimizer Services pursuant to this Clause 9.5 shall only be effective if made in writing by the Bank.

9.6 Instructions

- (a) Unless otherwise agreed in writing by the Bank, the Bank shall act only in accordance with the Instructions (as defined in Clause 9.6(b)) of Participants. Written Instructions must be signed in accordance with the mandate for the MortgageOne Optimizer Services as specified by the Participants in the Application Form. The Bank reserves the right not to accept Instructions given by telex, facsimile transmission, telephone or other electronic means (other than by use of the phone banking services or an automated teller machine), but the Bank may at its sole and absolute discretion require, as a condition of the Bank acting on any such Instructions, an indemnity from the Participants in form and substance satisfactory to the Bank.
- (b) The Bank shall be entitled to rely on the instructions of any Participant as specified in these Terms or the Application Form (the "**Instructions**") and shall owe no liability to any Participant if it acts (or does not act) in good faith in accordance with any such Instructions. The Bank shall be under no duty to inquire into the authenticity of any Instruction or the identity or authority of the person giving or purporting to give any Instruction. The Bank may treat all Instructions given as fully authorised and binding on any Participant regardless of the circumstances prevailing at the time of the Instructions being given or the nature or amount of the transaction and notwithstanding any error, misunderstanding, lack of clarity, fraud, forgery or lack of authority in relation to the Instructions, and the Bank may act upon Instructions received so long as the Bank or any of its officers or employees believes in good faith the same to be genuine when given. Notwithstanding the foregoing, the Bank reserves the right not to act upon any Instruction received if the Bank or any of its officers or employees believes such Instruction to be unclear, fraudulent, forged or unauthorised. The Bank shall not be liable to any Participant for any losses sustained by any Participant as a result of the Bank in good faith acting or deciding not to act (as the case may be) in accordance with the provisions of this Clause 9.6. The Participants will fully indemnify the Bank and its officers, employees, agents, correspondents and any other person appointed by the Bank (collectively, "**Indemnified Persons**") against all claims, demands, actions, proceedings, damages, losses, costs and expenses incurred arising out of anything done or omitted to be done pursuant to any Instruction given.
- (c) The Bank may (but shall not be obliged to) record, and each of the Participants acknowledges and agrees that the Bank may record, all telephone conversations between the Bank and any of the Participants, and Instructions given by any of the Participants to the Bank, by writing and/or by tape recording and/or other methods as the Bank may determine. The Bank's record of such telephone conversations and such Instructions shall, in the absence of manifest error, be conclusive and binding on the Participants and may be retained by the Bank for such period as it deems appropriate.
- (d) The Participants shall fully indemnify and keep indemnified the Bank and each other Indemnified Person against any costs or charges arising from revocation or alteration of any Instructions given by all or any of them.

9.7 Liability of Bank. The Bank shall not be liable for any loss or damage suffered by any Participant as a result of or arising from:

- (a) the failure of any Participant to comply with the terms of any MortgageOne Optimizer Contractual Document and the relevant terms and conditions for the Accounts, Mortgage Loan Accounts and Mortgage Loan Facilities or to exercise due care in its dealings with the Bank;
- (b) any act, omission, error or default of any of the Participants or any other party (other than the Bank) with or through whom transactions on behalf of the Participants are conducted in respect of the MortgageOne Optimizer Services;
- (c) the Bank acting on any unauthorised Instruction;
- (d) the misunderstanding or misinterpretation of any Instruction given by or on behalf of any Participant whether by phone, electronic means or otherwise;

- (e) the failure of the Bank for any reason whatsoever to perform any function under the MortgageOne Optimizer Banking Arrangement and/or to provide any of the MortgageOne Optimizer Services;
- (f) any failure of the Bank to perform or process any obligation or service or instruction or to take any action where such inability or failure is attributable directly or indirectly or partially or solely to any circumstance or event beyond the reasonable control of the Bank, including any equipment or computer malfunction, power, network or telecommunication failure or inadequacy, interruption, interception, error, delay or loss in transmission or transfer facilities, or the act or omission of any third party; or
- (g) any act, omission, error, neglect, default or misconduct of any of the Bank's officers, employees, agents, correspondents or any other person appointed by the Bank and any third party providers or their employees.

9.8 **Indemnity.** Each Participant shall hold harmless and indemnify the Bank and each other Indemnified Person against all liabilities, claims, costs, damages and expenses of any kind (including legal fees and allocated costs of in-house counsel on a full indemnity basis) incurred by any of them and all actions and proceedings which may be brought by or against them, in connection with the provision of any services and/or the exercise of the powers and rights of the Bank under any MortgageOne Optimizer Contractual Document and the relevant terms and conditions for the Accounts, Mortgage Loan Accounts and Mortgage Loan Facilities.

9.9 **Notices.**

- (a) Each Participant agrees that all statements, notices or other communications shall be in writing and shall be served by sending it to the relevant correspondence address specified in the Application Form. Any statement, notice or other communication shall be deemed to have been duly given:
 - (i) in the case of delivery by hand, when delivered;
 - (ii) in the case of facsimile, when confirmed by an activity report indicating that the correct number of pages was sent to the correct facsimile number and that such facsimile message was well-received; and
 - (iii) in the case of post, on the second Business Day after the date of posting (if sent by local mail) and on the seventh Business Day after the date of posting (if sent by air mail),

provided that in each case where delivery by hand or by facsimile occurs after 6 p.m. on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9 a.m. on the next following Business Day.

References to time in this Clause 9.9 are to local time in the country of the addressee.
- (b) The Participants shall notify the Bank of a change to their name, relevant addressee, address or facsimile number for the purposes of this Clause 9.9, provided that such notice shall only be effective on:
 - (i) the date specified in the notice as the date on which the change is to take place; or
 - (ii) if no date is specified or the date specified is less than five Business Days after the date on which notice is given, the date following five Business Days after notice of any change has been given.
- (c) In proving such service it shall be sufficient to prove that the envelope containing such notice was properly addressed and delivered either to the address shown on it or into the custody of the postal authorities as a pre-paid recorded delivery, special delivery or registered post letter.

10. **SET-OFF**

Notwithstanding anything else in these Terms, if any Participant fails to pay any sum due under a Mortgage Loan Facility or fails to comply with any of his/her obligations thereunder ("**Event of Default**") or a potential Event of Default has occurred, the Bank shall have the right, without prior notice to the Participants or any other person, to set off and apply any amounts in any Mortgage Loan Account of the Borrower(s) or any Credit Balance on any Account of the Participant (whether subject to notice or not and whether matured or not and in whatever currency) and any other indebtedness owing by the Bank to the Participants, against the liabilities of the Borrower(s) under such Mortgage Loan Facility and the Bank is authorised to purchase with the monies standing to the credit of any such Mortgage Loan Account or Account (as the case may be) such other currencies as may be necessary for this purpose. This Clause 10 shall not affect any general or banker's lien, right of set-off or other right to which the Bank may be entitled.

11. ASSIGNMENT

- 11.1 None of the Participants shall assign or transfer any of their respective rights or obligations under any of the MortgageOne Optimizer Contractual Document.
- 11.2 The Bank may assign all or part of its rights and/or transfer all or part of its obligations under any MortgageOne Optimizer Contractual Document without the prior consent of the Participants.

12. DISCLOSURE

Without prejudice to the Bank's rights to disclose customer information under common law, the Banking Act (Cap. 19) or otherwise, each of the Participants agrees that the Bank may disclose to and provide the following information to (a) the Participants, (b) any third party guarantor of, or provider of security for, the obligations of any of them who is not also a Participant, (c) its representative and branch offices and any of its related corporations in any jurisdiction, (d) any authority including without limitation any central bank or other fiscal or monetary authority in any jurisdiction, (e) any potential assignee or transferee in respect of its rights and/or obligations under or in connection with any MortgageOne Optimizer Contractual Document, (f) any person as may be permitted or required under any applicable law, (g) any rating agency and (h) any persons proposing to enter into any contractual arrangements with the Bank in relation to any MortgageOne Optimizer Contractual Document:

- (i) copies of the terms and conditions (or a summary of the terms and conditions) of any Account, Mortgage Loan Account and Mortgage Loan Facility;
- (ii) any formal demand for payment sent to any Participant;
- (iii) any Portfolio Statement provided to a Primary Customer or (pursuant to Clause 4.2) any Participant or any Customer Advice provided to any Participant in relation to any Account, Mortgage Loan Account or Mortgage Loan Facility;
- (iv) any other information relating to the MortgageOne Optimizer Banking Arrangement; and
- (v) any information about the Participants as the Bank may think fit.

13. FEES AND EXPENSES

- 13.1 Each Participant shall pay:
- (a) on demand, all fees, costs, charges and expenses (including legal fees on a full indemnity basis) incurred by the Bank in connection with the MortgageOne Optimizer Banking Arrangement, including but not limited to set up fees, maintenance fees, account linkages fees as may be specified in the Application Form from time to time and revised at the Bank's sole discretion;
 - (b) on demand, all fees, costs, charges and expenses (including legal fees on full indemnity basis) incurred by the Bank in the administration of, or in protecting or enforcing any rights under any MortgageOne Optimizer Contractual Document and/or any such amendment, supplement or waiver; and
 - (c) promptly, and in any event before any interest or penalty becomes payable, any stamp, documentary, registration or similar tax or fee payable in connection with the entry into, registration, performance, enforcement or admissibility in evidence of any MortgageOne Optimizer Contractual Document and/or any such amendment, supplement or waiver, and shall indemnify the Bank against any liability with respect to or resulting from any delay in paying or omission to pay any such tax.
- 13.2 Each Participant agrees that any fees, costs, charges and expenses referred to in Clause 13.1 shall, on demand, be paid to the Bank and the Bank shall (in the following order of priority until all fees and charges shall have been fully paid):
- (a) deduct such fees and charges from the Principal Account;
 - (b) be entitled (whether with or without notice) to set off and apply any Credit Balance of any Account against such fees and charges;

and until so paid, such fees and charges shall be due and owing to the Bank. The Bank shall have no obligation to confirm to any Participant which Credit Balances from which Accounts have been applied in payment of such fees and charges.

14. WARRANTY ON PERFORMANCE

- 14.1 The Bank makes no warranty as to the performance or profitability of the MortgageOne Optimizer Services or any part of it. The Bank does not guarantee that the MortgageOne Optimizer Services will provide the most optimal management of the funds of the Participants, be the most optimal fund management product in the market or will not be affected by adverse tax consequences. Each of the Participants hereby acknowledges his/her understanding that there may be legal, tax and/or accounting risks or implications associated with the MortgageOne Optimizer Services and therefore the Participants should consult legal, financial, tax or other professional advisers in relation to such risks and implications.
- 14.2 The Bank shall be entitled to assume and rely on the assumption that each of the Participants has consulted legal, financial, tax or other professional advisers in relation to his/her participation in the MortgageOne Optimizer Banking Arrangement and/or has satisfied himself/herself that he/she shall participate in the MortgageOne Optimizer Banking Arrangement and that the Bank does not therefore assume any advisory, fiduciary or any other similar duties to the Participants.

15. DISCLAIMER AGAINST SOFTWARE MALFUNCTION

- 15.1 The Bank makes no warranty that the software used by the Bank (whether or not owned, operated or maintained by the Bank or any other person for the purpose of or in connection with the provision by the Bank of the MortgageOne Optimizer Services) in its provision of the MortgageOne Optimizer Services ("**Software**") will be uninterrupted, timely, secure or error-free or that the results that may be obtained from the use of the Software will be effectively accurate or reliable.
- 15.2 The Bank shall not be under any liability to any Participant whatsoever in connection with any problem, failure, defect, error, fault, malfunction, inoperability, inaccessibility and/or unavailability of the Software (or any part thereof), any telecommunications network, equipment, infrastructure, cables or other facilities or software.
- 15.3 The Bank shall further not be liable to any Participant for any special, punitive, incidental, indirect or consequential damage of any kind whatsoever, including without limitation, any loss of profits arising out of or in connection with the use of the Software or any telecommunications network, equipment, infrastructure, cables or other facilities or software.

16. GOVERNING LAW AND JURISDICTION

- 16.1 Unless otherwise specified, each of the MortgageOne Optimizer Contractual Documents, including these Terms, shall be governed by and construed in accordance with the laws of Singapore.
- 16.2 Each of Participants irrevocably:
- (a) submits to the non-exclusive jurisdiction of the courts of Singapore over any action or proceeding arising out of or relating to any MortgageOne Optimizer Contractual Document. Such submission shall not prejudice the Bank's right to commence any action against any Participant in any other court of competent jurisdiction to whose jurisdiction each of the Participants hereby irrevocably submits;
 - (b) waives, to the fullest extent that it may effectively do so, the defence of an inconvenient forum to the maintenance of such action or proceeding and shall further waive any objections to the jurisdiction of any courts referred to in this Clause 16;
 - (c) agrees that a judgment or order of any court referred to in this Clause 16 is conclusive and binding on it and may be enforced against it in the court of any other jurisdiction; and
 - (d) consents to service of process or any other document in connection with proceedings in any court by facsimile transmission, personal service, delivery at any address specified in the MortgageOne Optimizer Contractual Documents or any other usual address, mail or in any other manner permitted by the laws of Singapore, the law of the place of service or the law of jurisdiction where proceedings are instituted.
- 16.3 To the extent that the Participants may in any jurisdiction claim for themselves or their assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to themselves or their assets such immunity whether on grounds of sovereignty or otherwise (whether or not claimed), the Participants irrevocably agree not to claim and irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction. The Participants irrevocably agree and undertake that they and their assets are, and shall be, subject to any proceedings, attachment or execution in respect of their obligations under the MortgageOne Optimizer Contractual Documents.
- 16.4 The Participants irrevocably consent in respect of any proceedings anywhere to the giving of any relief or the issue of any process in connection with those proceedings including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective of the use or intended use) of any order or judgment which may be made or given in those proceedings.

17. PROCESS AGENT

- 17.1 Where any Participant is not resident in Singapore, such Participant undertakes to, upon the Bank's request, forthwith appoint a process agent ("**Process Agent**") acceptable to the Bank to receive, for him/her and on his/her behalf, service of process in any proceedings in Singapore referred to in Clause 16, failing which the Bank shall be entitled to appoint such a person by notice to the Participant. The Participants agree to maintain such Process Agent throughout the continuance of the MortgageOne Optimizer Contractual Documents and for so long as the MortgageOne Optimizer Services are in operation.
- 17.2 If for any reason the Process Agent ceases to be able to act as such or no longer has an address in Singapore, such Participant shall immediately notify the Bank of this, and undertakes to forthwith appoint a substitute process agent acceptable to the Bank ("**Substitute Process Agent**"), failing which the Bank shall be entitled to appoint such a person by notice to the Participant.
- 17.3 Any service of process on the Process Agent or Substitute Process Agent shall be deemed completed on delivery to the Process Agent or Substitute Process Agent (as the case may be) (whether or not it is forwarded to and received by the Participant).
- 17.4 The Participant shall deliver to the Bank a copy of the Process Agent or Substitute Process Agent's acceptance of appointment pursuant to Clauses 17.1 and 17.2 respectively, within thirty (30) days of such appointment.
- 17.5 Nothing shall affect the right to serve process in any other manner permitted by law.

18. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT (CAP. 53B)

Save for each Indemnified Person or save as expressly provided to the contrary in any MortgageOne Optimizer Contractual Document, a person who is not a party to these Terms shall have no rights under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce the terms of any MortgageOne Optimizer Contractual Document. Notwithstanding any term of these Terms to the contrary, the consent of any person who is not a Participant is not required for any variation (including any release or compromise of any liability thereunder) or termination of any MortgageOne Optimizer Contractual Document.

