

# **DBS Octopus ATM Card Terms and Conditions**

**DBS Bank (Hong Kong) Limited**



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Terms and Conditions applicable to holders of the DBS Octopus ATM Card:

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\* The Conditions of Issue of Octopus is not set out in this booklet. A copy of this document can be downloaded from the Octopus official website ([www.octopus.com.hk](http://www.octopus.com.hk)).

### Note:

The latest version of the documents issued by DBS Bank (Hong Kong) Limited can be obtained from the Bank's website ([www.dbs.com.hk](http://www.dbs.com.hk)).

The latest version of the documents issued by Octopus Cards Limited can be obtained from the Octopus official website ([www.octopus.com.hk](http://www.octopus.com.hk)).

## A) DBS Octopus ATM Card Terms & Conditions

### 1. Definitions and interpretation

#### 1.1 Definitions

- (a) Unless the context otherwise requires and except as varied or otherwise specified in these DBS Octopus ATM Card Terms and Conditions ("**Terms and Conditions**"), words and expressions used in these Terms and Conditions shall have the meanings as specified in Bank Accounts and Services Terms and Conditions.

- (b) In these Terms and Conditions, unless the context otherwise requires:

**"AAVS"** or **"Automatic Add Value Service"** means the service described in Clause 3.1;

**"AAVS Account"** means a Hong Kong dollar current account or a credit card account in the name of the Customer maintained with the Bank that is designated by the Customer in the relevant application form (as such account may be amended from time to time with the Bank's prior consent) for the purpose of using AAVS;

**"AAVS Agreement"** means the Octopus Automatic Add Value Agreement between OCL and the Customer in connection with AAVS;

**"Bank Accounts and Services Terms and Conditions"** means the terms and conditions applicable to accounts maintained with the Bank as may be specified by the Bank from time to time;

**"Conditions of Issue of Octopus"** means the terms and conditions applicable to the Octopus functions as may be specified by OCL from time to time;

**"Customer"** means a customer to whom the Bank issues a DBS Octopus ATM Card;

**"DBS Octopus ATM Card"** means an ATM Card issued by the Bank which carries ATM functions and Octopus functions;

**"OCL"** means Octopus Cards Limited;

**"Packaged Account"** means DBS Treasures, DBS Account or any other types of account designated as such by the Bank from time to time; and

#### 1.2 Interpretation

In these Terms and Conditions, where not inconsistent with the subject or context:

- (a) words suggesting the singular shall include the plural and vice versa; words suggesting any gender shall include other genders; and headings are inserted for reference only and shall not affect construction;
- (b) any reference to a Customer shall include a reference to his/her executors, personal representatives, administrators and lawful successors;
- (c) any reference to an agreement, contract or other document includes a reference to it as it may be amended, varied or replaced from time to time; and

- (d) the words “other”, “include” and “including” do not limit the generality of any preceding words and the words “include” and “including” shall be construed as if they were followed by the words “without limitation”.

## **2. DBS Octopus ATM Card, ATM functions, AAVS and Octopus functions**

- 2.1 The DBS Octopus ATM Card is issued by the Bank. Unless otherwise specified by the Bank, a DBS Octopus ATM Card shall be valid for a maximum period of five years commencing from the date of issue.
- 2.2 Use of the DBS Octopus ATM Card is subject to:
  - (a) these Terms and Conditions and the provisions of any application form relating to the DBS Octopus ATM Card or related services;
  - (b) Bank Accounts and Services Terms and Conditions;
  - (c) the AAVS Agreement;
  - (d) the Conditions of Issue of Octopus.
- 2.3 The DBS Octopus ATM Card carries ATM functions and Octopus functions. The ATM functions (and related services) are provided by the Bank and the Octopus functions and related services (including AAVS) are provided by OCL.
- 2.4 The Customer may use the DBS Octopus ATM Card to perform functions and/or obtain services offered by the Bank from time to time with respect to an ATM Card. Use of the ATM functions and related services is subject to the documents specified in paragraphs (a) and (b) of Clause 2.2. OCL is not responsible for the quality, maintenance or replacement of the DBS Octopus ATM Card, which is the sole responsibility of the Bank.

- 2.5 The Bank is not involved in the provision of the Octopus functions or related services and is not a party to the documents specified in paragraphs (c) to (d) of Clause 2.2. **The Customer shall refer any matter regarding any of the aforesaid (including the scope, types or quality of functions or services provided by OCL) to OCL and resolve it with OCL directly.** For the avoidance of doubt:
- (a) **any such matter of any nature (including complaint or dispute) between the Customer and OCL shall not prejudice or affect the Bank's rights and remedies against the Customer in connection with the DBS Octopus ATM Card; and**
  - (b) **the Bank is not liable for any loss or damage which may be incurred or suffered by the Customer arising from or in connection with the Octopus functions or related services, or any act, conduct, omission or negligence of OCL or any of its affiliates or any of their respective officers, employees or agents.**
- 2.6 **A Customer is required to maintain a Packaged Account with the Bank in order to hold and use the DBS Octopus ATM Card.** Nevertheless, the Bank may (but is not obliged to) allow the Customer to continue to hold and use his DBS Octopus ATM Card after his Packaged Account is terminated for any reason provided that he maintains a current account with the Bank instead.
- 2.7 To the extent necessary to give effect to the provisions of these Terms and Conditions, the documents specified in paragraphs (b) to (e) of Clause 2.2 shall be construed as if references to card, account or related services in such documents included references respectively to the DBS Octopus ATM Card, or the Packaged Account (or any other relevant bank account, as the case may be) maintained by the Customer with the Bank, or services relating to the above, wherever the context requires or permits.
- 2.8 If there is any inconsistency between the documents specified in Clause 2.2, the documents shall prevail in the order in which they are set out in Clause 2.2 to the extent of the inconsistency.

### **3. AAVS, operation of AAVS Account and overdraft**

#### **3.1 Automatic Add Value Service (AAVS)**

- (a) AAVS is provided by OCL.
- (b) **Upon first-use of AAVS by the Customer, the Customer is deemed to have read, accepted and agree to, and shall be bound by these Terms and Conditions and the AAVS Agreement as regards any matter relating to AAVS.**
- (c) With AAVS, the value stored pursuant to the Octopus stored value function on the DBS Octopus ATM Card will be automatically reloaded through AAVS from the AAVS Account. The automatic add-value amount of each Card is HK\$250 or HK\$500 (as the case may be) ("AAVS Amount") per reloading transaction with a maximum of one reloading transaction per day (or any other reloading amount or number of reloading transaction specified by OCL from time to time).
- (d) The AAVS Amount will be debited from the AAVS Account for each reloading transaction starting from the first reloading transaction.

- (e) The Customer shall keep the Bank fully indemnified against any loss or damage which may be incurred or suffered by the Bank arising from or in connection with the use of AAVS by the Customer.**
- (f) Until the DBS Octopus ATM Card is terminated with the consent of the Bank, the Customer may not cancel AAVS or switch or link AAVS to any other account maintained with any institution other than the Bank.**

### **3.2 AAVS Account**

- (a) The Customer authorizes the Bank to debit from or credit to the AAVS Account all amounts in relation to AAVS in accordance with instructions received from time to time by the Bank from OCL regarding the Customer. For the avoidance of doubt, the Bank is not required to notify the Customer or obtain his consent before acting on OCL's instructions.**
- (b) The Customer shall be liable for all amounts from time to time added or reloaded pursuant to the Octopus stored value function on the DBS Octopus ATM Card through AAVS and the AAVS Account.**
- (c) If the DBS Octopus ATM Card is terminated for any reason, the Bank is entitled to:**
  - (i) set off any remaining value stored on it pursuant to the Octopus stored value function against any outstanding indebtedness owing by the Customer to the Bank; and/or**
  - (ii) deduct any amount from the AAVS Account and apply it towards settlement of any debit balance in the Octopus stored value function.**

### **3.3 Overdraft**

- (a) The Customer shall ensure there are sufficient funds (which may include pre-arranged overdraft facilities granted by the Bank) in the AAVS Account to effect transactions in accordance with OCL's instructions regarding the Customer from time to time. The Customer authorizes the Bank to effect a transaction even if there are insufficient funds in, or insufficient pre-agreed overdraft limit on, the AAVS Account and the Customer shall be liable for the resulting overdraft (including any overdrawn amount which exceeds the pre-agreed overdraft limit) in the AAVS Account.**
- (b) Any overdraft (including any overdrawn amount which exceeds the pre-agreed overdraft limit) shall be subject to the provisions of Bank Accounts and Services Terms and Conditions, and the Customer's rights and obligations shall be determined accordingly.**
- (c) Without prejudice to the generality of Clause 3.3(b):**
  - (i) the Bank is entitled to impose the prevailing overdraft interest and other charges specified in the Bank Charges Schedule made available by the Bank from time to time;**
  - (ii) the Customer shall repay to the Bank upon demand any overdrawn amount on the AAVS Account, together with interest and charges imposed by the Bank; and**
  - (iii) the Bank reserves the right to cancel the DBS Octopus ATM Card without prior notice to or consent from the Customer if the Customer fails to comply with (ii) above.**

- (d) **The Customer is responsible for monitoring the balance on the AAVS Account at all times.** The Bank may (but is not obliged to) inform the Customer of any overdraft on the AAVS Account as a result of use of AAVS by any means as the Bank may consider appropriate.

## **4. Fees and charges**

**The Customer shall pay all fees and charges applicable to the DBS Octopus ATM Card and related services as the Bank may specify in the Bank Charges Schedule from time to time.**

## **5. Personal data**

- 5.1 The Customer confirms that he has read, understood and accepted the provisions of the notice relating to the Personal Data (Privacy) Ordinance made available by the Bank with the applicable application form. The Customer consents to and authorizes the Bank to use and/ or disclose his personal data (whether collected by the Bank via the applicable application form or by other means or otherwise in the possession of the Bank from time to time) for the purposes specified in such notice (including purposes relating to the DBS Octopus ATM Card and related services or otherwise relating to the cooperation arrangement between the Bank and OCL pursuant to which the DBS Octopus ATM Card is issued and administered).
- 5.2 Without prejudice to the generality of Clause 5.1, the Customer consents to and authorizes the Bank to disclose to OCL his personal data (whether collected by the Bank via the applicable application form or by other means or otherwise in the possession of the Bank from time to time). The data that may be provided to OCL include name, gender, date of birth, HKID card number/passport number, contact information and the AAVS Account number of the Customer. The Customer consents to and authorizes OCL to use the relevant personal data for the following purposes:
- (a) processing the Customer's request for Octopus functions and related services (including AAVS) provided by OCL;
  - (b) providing Octopus functions and related services (including AAVS) provided by OCL and such other purposes of use of the personal data in accordance with the Conditions of Issue published by OCL, but, in any event, OCL shall not use such personal data for the purpose of direct marketing; and
  - (c) purposes otherwise relating to the cooperation arrangement between the Bank and OCL pursuant to which the DBS Octopus ATM Card is issued and administered.

The Customer should refer to the documents specified in paragraphs (c) to (d) of Clause 2.2 for details on use of the relevant personal data by OCL.

## **6. Lost card and card termination**

- 6.1 The Customer should inform the Bank as soon as reasonably practicable after becoming aware (a) that his DBS Octopus ATM Card is lost, stolen, or captured by any ATM for whatever reasons or (b) of any unauthorized transactions on his DBS Octopus ATM Card. The Customer shall be liable for any loss arising from the unauthorized use of the Octopus functions during the first three hours after report of abovementioned (a) is received by the Bank. Where AAVS of the Customer's DBS Octopus ATM Card has been activated by the Bank at the time of card issuance but the DBS Octopus ATM Card has not been acknowledged or used by the Customer

via designated channels specified by the Bank from time to time, the Bank shall be liable for any loss arising from the unauthorized use of the Octopus functions on the DBS Octopus ATM Card (including AAVS) unless the Customer has acted fraudulently or been grossly negligent. The relevant provisions of the Bank Accounts and Services Terms and Conditions applicable to loss, theft or capture of ATM Cards shall apply with respect to the DBS Octopus ATM Card, and the Customer's rights and obligations shall be determined accordingly.

**6.2 Without prejudice to the Bank's right to terminate ATM Cards or ATM functions and related services under the Bank Accounts and Services Terms and Conditions, the Bank reserves the right to terminate the DBS Octopus ATM Card at its discretion upon:**

- (a) the Bank becoming aware of any abnormal activities or transactions involving the DBS Octopus ATM Card; or**
- (b) accumulation of an overdraft amount on the AAVS Account with no pre-arranged overdraft facilities; or**
- (c) accumulation of an overdraft amount on the AAVS Account in excess of existing pre-arranged overdraft facilities; or**
- (d) the Customer's failure to perform DBS Octopus ATM Card acknowledgment or use the DBS Octopus ATM Card within the designated period set by the Bank; or**
- (e) termination for any reason of the cooperation arrangement between the Bank and OCL pursuant to which the DBS Octopus ATM Card is issued and administered.**

## **7. Others**

**7.1 The Bank reserves the right to accept or reject any application for the DBS Octopus ATM Card at its discretion.**

**7.2 The Customer should not transfer his DBS Octopus ATM Card to, or allow it to be used by, any person other than the Customer.**

**7.3 The Bank reserves the right at its discretion to add, delete or otherwise change any of the functions or services relating to the DBS Octopus ATM Card (as well as the relating operational and other requirements, if appropriate) and/or these Terms and Conditions from time to time. Where such changes increase the charges payable by the Customer and/or the liabilities and obligations of the Customer, the Bank shall give at least 30 days' notice to the Customer unless such changes are not within the Bank's control. In other cases, reasonable notice shall be given by the Bank. Such notice may be given by such means as the Bank at its discretion sees fit. Any Customer who does not cancel his DBS Octopus ATM Card upon receiving of such notice shall be deemed to have agreed to such changes.**

**7.4 The value stored pursuant to the Octopus stored value function on the DBS Octopus ATM Card is not a protected deposit and is not protected by the Deposit Protection Scheme in Hong Kong.**

**7.5 These Terms and Conditions shall be governed by and construed in accordance with the laws of Hong Kong. The Customer irrevocably submits to the non-exclusive jurisdiction of the courts of Hong Kong.**

**7.6 If there is any inconsistency between the English and Chinese versions of these**



Terms and Conditions, the English version shall prevail.

## B) Octopus Automatic Add Value Agreement

(For Octopus Automatic Add Value Service linked to bank accounts maintained with, or credit cards issued by Financial Institutions in Hong Kong)

**YOUR ATTENTION IS DRAWN TO THE PERSONAL INFORMATION COLLECTION STATEMENT AT CLAUSES 33-40**

1. This Agreement is effective from 13 November 2016 and is only applicable to selective *Octopus* that are enabled with Automatic Add Value Service linked to bank accounts maintained with or credit cards issued by Financial Institutions. For Automatic Add Value Service linked to bank accounts maintained with or credit cards issued by other entity(ies), please refer to other applicable agreement(s) as determined by us from time to time.

### Introduction

2. This Automatic Add Value Agreement is a contract between you, the user of our Automatic Add Value Service (whether as an *Octopus* Holder or as an AAVS Account Holder), and us, Octopus Cards Limited, the issuer of the *Octopus*, in respect of the use of our Automatic Add Value Service.
3. This Agreement explains our obligations to you and yours to us when applying for and using our Automatic Add Value Service.

### Definitions and General Provisions

4. There are a few terms we use in this Agreement that we should explain:

**“AAVS Account”** means the account to which your Automatic Add Value Service is linked, as defined or specified in the relevant Application Form or such other account as notified to us by the Financial Institution or by the AAVS Account Holder from time to time;

**“AAVS Account Holder”** means the holder(s) of the AAVS Account;

**“Application Form”** means an application for the Automatic Add Value Service whether this is (i) an Octopus Automatic Add Value Service Application Form, (ii) a Personalised Octopus Application Form or (iii) any other form containing an application for this service;

**“Automatic Add Value Service”** means the service whereby we or our Service Providers, on our behalf, will automatically add a certain amount of value (as determined by us from time to time) to the Float on the *Octopus* if the Float stored on the *Octopus* has reached a certain minimum level as determined by us from time to time;

**“Authorised Service Centre”** is an entity that we have authorised to service an *Octopus* on our behalf;

**“Bank Co-Brand Octopus”** means a card or product issued by a Financial Institution authorised by us with banking and/or payment functionality offered by that issuing Financial Institution incorporating our stored value facility which can be used for making payments via the Octopus payment system and subject to the terms and conditions of the cardholder agreement of that issuing Financial Institution;

**“Conditions of Issue”** means the Conditions of Issue of Octopus published by us as amended from time to time, which can be obtained from us or downloaded from our website at [www.octopus.com.hk](http://www.octopus.com.hk) ;

**“Financial Institution”** means an entity governed by the Banking Ordinance (Chapter 155, Laws of Hong Kong) or licensed under the Money Lenders Ordinance (Chapter 163, Laws of Hong Kong) that manages the AAVS Account, usually a bank, a financial services company or an issuer of credit cards;

**“Float”** means the stored value remaining on an Octopus, excluding SVF Deposit;

**“Hong Kong”** means the Hong Kong Special Administrative Region of the People’s Republic of China;

**“Octopus”** means device-based stored value facility cards and products provided by us as described in the Conditions of Issue;

**“Octopus Holder”** means a user of an *Octopus* who may be an AAVS Account Holder or who has linked his/her *Octopus* to an AAVS Account in the name of one of his/her family members or friends;

**“Octopus payment system”** means the payment system maintained and operated by us;

**“Our Account”** means any bank account specified by us to the Financial Institution from time to time;

**“Service Provider”** means any transport operators, retailers (including but not limited to, supermarkets, convenience stores, restaurants and fast food shops, food, other consumer goods e.g. medicines & cosmetics, books, newspapers, stationery and gifts, accessories shops, shopping malls, wearing apparel, telecommunications), entertainment/recreation/sports facilities providers, educational establishments, government related entities, building access control providers, unattended services (such as vending machines/kiosks/photo booths/telephone booths), online and mobile payment platform providers or other parties which offer their services when you present your *Octopus* and are approved by us. These Service Providers should display the Octopus acceptance logo clearly; and

**“SVF Deposit”** means the deposit paid as security for the *Octopus* as described in the Conditions of Issue.

5. In the event that the AAVS Account Holder and the *Octopus* Holder are different persons, the AAVS Account Holder and the *Octopus* Holder shall be jointly and severally liable to us under this Agreement, including, but not limited to, in respect of all value added to the Float on the *Octopus* by the Automatic Add Value Service, unless the *Octopus* Holder is a minor or otherwise does not have full legal capacity, in which case, the parent or guardian of such *Octopus* Holder and the AAVS Account Holder shall be jointly and severally liable to us.
6. The *Octopus* Holder agrees to be bound by the Conditions of Issue and unless stated otherwise, use of defined terms in this Agreement shall have the same meaning in the Conditions of Issue. If there is any conflict between this Agreement and the Conditions of Issue, this Agreement shall prevail.
7. The Chinese translation of this Agreement is provided for reference only. In case of any discrepancy between the English version and the Chinese translation, the English version shall prevail.

### **Automatic Add Value Service**

8. We shall be entitled to charge a fee to the AAVS Account Holder and/or the *Octopus* Holder for application of the Automatic Add Value Services in respect of their *Octopus*. The fee will be determined and announced by us from time to time.
9. The Automatic Add Value Service is available to any *Octopus* Holder over a minimum age which we will announce from time to time. However, in exceptional cases, we reserve the right to reject any application for the Automatic Add Value Service without giving any reason.
10. The *Octopus* Holder must not transfer his/her *Octopus* to another person once the Automatic Add Value Service has been applied for and has not been cancelled in respect of that *Octopus*.
11. Under normal circumstances, we will make reasonable efforts to ensure that the Automatic Add Value Service is operating, but we cannot guarantee that this will always be the case as it depends on the Financial Institutions' and Service Providers' own systems and operations as well as network, electrical, climatic and other conditions or circumstances which are beyond our control.
12. We reserve the right to cancel or suspend your Automatic Add Value Service without specifying the reasons, but we will take reasonable steps to minimise any inconvenience caused to you.
13. We shall be entitled at our sole discretion to limit the amount of value that may be added to the Float on the *Octopus* by the Automatic Add Value Service in any single day or during any period.
14. We shall take reasonable steps to ensure that our records of the transactions relating to the *Octopus* are true and accurate. Our records shall be conclusive evidence of the value added to the Float on the *Octopus* by means of the Automatic Add Value Service and of any amounts due from the AAVS Account Holder and/or the *Octopus* Holder to us except for any manifest error on our part.

### **Direct Debit**

15. For any value added to the Float on the *Octopus* by means of the Automatic Add Value Service, the same amount in Hong Kong dollars shall be due from the AAVS Account Holder and the *Octopus* Holder to us immediately.
16. We shall be entitled to instruct the Financial Institution directly or through any financial institution appointed by us to transfer from the AAVS Account to Our Account the amount of money stated by us to be due from the AAVS Account Holder and the *Octopus* Holder to us at any time, and the AAVS Account Holder shall authorise the Financial Institution to comply with such instructions.
17. We shall not be liable for any fees or charges that the Financial Institution may impose on the AAVS Account Holder and the same shall be borne by the AAVS Account Holder.
18. The AAVS Account Holder and/or the *Octopus* Holder shall ensure that there are always sufficient funds in, or credit facilities available upon, the AAVS Account to enable the Financial Institution to comply with the instructions from us in respect of the AAVS Account.
19. We reserve the right to charge the AAVS Account Holder and/or the *Octopus* Holder a reasonable fee for providing the Automatic Add Value Service.

## Dishonoured Instructions

20. If the Financial Institution fails to comply with our instructions in relation to the AAVS Account because there are insufficient funds in, or credit facilities available upon, the AAVS Account, or for any other reason:-
- (a) the AAVS Account Holder and the *Octopus* Holder shall on demand repay any amount due from the AAVS Account Holder and the *Octopus* Holder to us; and
  - (b) we shall be entitled to charge the AAVS Account Holder and the *Octopus* Holder a reasonable administration fee and to apply the Float on the *Octopus*, if any, in or towards payment of any amount of money due from the AAVS Account Holder and the *Octopus* Holder to us (including the administrative fee).
21. If the Float on the *Octopus* is insufficient to pay the amount of money due from the AAVS Account Holder and/or the *Octopus* Holder to us, we shall be entitled to, in addition to other remedies available, immediately cancel the *Octopus* and the Automatic Add Value Service and forfeit the SVF Deposit, if applicable, without notice to the AAVS Account Holder or the *Octopus* Holder. Once cancellation of the *Octopus* is effected, it cannot be re-activated subsequently.

## Cancellation of the Automatic Add Value Service

22. The AAVS Account Holder and/or the *Octopus* Holder (other than a holder of a *Bank Co-Brand Octopus* who should refer to Clause 22A below) may apply for the cancellation of the Automatic Add Value Service by contacting us or the Financial Institution. If accepted, the AAVS Account Holder and/or the *Octopus* Holder will be required to present the affected *Octopus* for disabling the Automatic Add Value Service on the *Octopus* in accordance with our instructions. If the Automatic Add Value Service on the *Octopus* is not disabled according to our instructions, we shall be entitled to immediately cancel the *Octopus* and the Automatic Add Value Service, and forfeit the SVF Deposit, if applicable, without further notice to the AAVS Account Holder or the *Octopus* Holder. Once the cancellation of the *Octopus* is effected, it cannot be re-activated subsequently.
- 22A. If you hold a *Bank Co-Brand Octopus*, subject to the terms of the cardholder agreement between you and the issuing Financial Institution, you or the issuing Financial Institution may request for cancellation of your *Bank Co-Brand Octopus*. Once notified by the issuing Financial Institution, we will cancel the Automatic Add Value Service on the *Bank Co-Brand Octopus*.
23. The AAVS Account Holder and the *Octopus* Holder shall be jointly and severally liable for all amounts due to us through the use of the Automatic Add Value Service on or before the effective cancellation of such Automatic Add Value Service. We shall be entitled, before and/or after the effective cancellation of the Automatic Add Value Service of an *Octopus*, to instruct the Financial Institution directly or through any financial institution appointed by us to transfer from the AAVS Account to Our Account any amount of money due to us as a result of the Automatic Add Value Service transactions carried out before the effective cancellation of such Automatic Add Value Service.
24. We reserve the right to charge the AAVS Account Holder and/or the *Octopus* Holder a reasonable administration fee for the cancellation of the Automatic Add Value Service.

## Indemnity

25. The AAVS Account Holder and the *Octopus* Holder shall jointly and severally indemnify us against all actions, proceedings, liabilities, claims, loss, damages, and

reasonable costs and expenses (including all reasonable legal expenses) which may be taken against us or which we may suffer, sustain or incur (as the case may be) howsoever arising out of or in connection with any instructions given by us to the Financial Institution in respect of the AAVS Account unless the same were caused by any manifest error on our part.

## **Risks and Liabilities**

26. If, except for any manifest error on our part, the Financial Institution transfers from the AAVS Account to Our Account an amount greater than the actual amount due from the AAVS Account Holder and/or the *Octopus* Holder to us, we shall not be liable for any loss or damage arising therefrom. Subject to Clause 41 below, we shall only be liable to refund the amount in excess to the AAVS Account Holder.
27. Subject to Clause 26 above, we shall not be liable for any act, conduct, omission or negligence of the Financial Institution or its employees or agents unless the same is done or omitted to be done in accordance with the specific instructions from us.
28. We shall be entitled to take such action as we think fit for the purpose of enforcing or exercising our rights under this Agreement, and the AAVS Account Holder and the *Octopus* Holder shall be jointly and severally liable to indemnify us in full for all reasonable costs and expenses incurred by us in respect of any such actions including all reasonable legal charges and expenses.
29. We shall be entitled to employ any persons or companies for the purpose of enforcing or exercising our rights under this Agreement and, except in the case of debt collection agencies, shall not be liable or responsible for any act, conduct, omission or negligence of such persons or companies or their employees unless the same is done or omitted to be done in accordance with the specific instructions from us.
30. We shall be entitled to assign or otherwise transfer any debts due to us from the AAVS Account Holder and/or the *Octopus* Holder to any persons or companies ("**Assignees**"), and provided that we comply with all applicable laws, regulations and codes of practice in respect of such assignment(s) in force at the time of the assignment(s), we shall not be liable for actions taken by such Assignees.

## **Lost Octopus**

31. All users of the Automatic Add Value Service are provided with the lost *Octopus* service. If the *Octopus* Holder loses the *Octopus* or if the *Octopus* has been stolen, he/she shall notify us immediately except where your *Octopus* is a *Bank Co-Brand Octopus*, you should contact the issuing Financial Institution. We will then cancel and disable the *Octopus* after a specific period of time ("**Notification Period**") following receipt of the loss report. The Notification Period shall be determined and announced by us from time to time. Once cancellation of the *Octopus* is effected, it cannot be reversed. This lost *Octopus* service will protect the AAVS Account Holder and the *Octopus* Holder from the loss of the Float and any value added to the Float through the Automatic Add Value Service on the *Octopus* after the expiry of the Notification Period.
32. If the *Octopus* is cancelled pursuant to Clause 31 above, we will refund to the *Octopus* Holder the SVF Deposit, if applicable, and the Float, if any, on the *Octopus* as recorded in the Octopus payment system. In the event that there is a negative Float on your *Octopus*, we shall be entitled to set off such negative Float against the SVF Deposit, and debit any negative Float from the AAVS Account, at the end of the Notification Period. We may charge the AAVS Account Holder and/or the *Octopus* Holder a reasonable fee, which will be determined and announced by us from time to time, for providing this lost *Octopus* service. The fee will be deducted from the refund of the Float on the *Octopus*, if any, or charged to the AAVS Account Holder and/or

the *Octopus* Holder, who shall be jointly and severally liable for the payment.

### **Cancellation of AAVS Account**

32A. Upon cancellation, termination or expiration of the AAVS Account for any reason, you shall present the affected *Octopus* for disabling the Automatic Add Value Service on that *Octopus* in accordance with our instructions. If you do not do so, we shall cancel and disable all and any *Octopus* (whether or not the *Octopus* belongs to the AAVS Account Holder) linked to the AAVS Account in question. Once cancellation of the *Octopus* is effected, it cannot be re-activated subsequently.

### **Refund Policy on Cancelled Card**

32B. Upon cancellation of your *Octopus* under Clauses 12, 21, 22, 22A and/or 32A, we shall be entitled to set off any amount due to us from you and refund any unused Float of your cancelled *Octopus* to you.

### **Replacement Card & Transfer of AAVS Account**

- 32C. (a) We may offer you a replacement *Octopus* with Automatic Add Value Service if your *Octopus* is enabled with Automatic Add Value Service and:-
- (i) is reported lost or stolen (as described in Clause 31 above);
  - (ii) malfunctions and is returned to us; or
  - (iii) needs to be replaced for any other reason(s) as specified by us from time to time and is returned to us.
- (b) Any replacement *Octopus* will be linked to the same AAVS Account to which the *Octopus* that is being replaced is linked.
- (c) The AAVS Account Holder agrees and undertakes that he/she shall be responsible and liable for any and all transactions carried out on the replacement *Octopus*.

### **Personal Information Collection Statement relating to you (this “Notice”) in accordance with the Personal Data (Privacy) Ordinance (the “Ordinance”)**

33. The Ordinance governs the collection, holding, processing and use of your personal data and other information that we may collect from the AAVS Account Holder and/or the *Octopus* Holder from time to time (the “Data”). The Data shall include transactional records (meaning the transaction data which we receive from our *Octopus* readers and/or from other channels in respect of the use of *Octopus* by the AAVS Account Holder and/or *Octopus* Holder) to the extent that those transactional records are “personal data” under section 2(1) of the Ordinance. This Data is to enable us to provide the Automatic Add Value Service and other related services to the AAVS Account Holder and/or the *Octopus* Holder. Further information is set out in our Privacy Policy located at: [www.octopus.com.hk](http://www.octopus.com.hk) and this Notice is the basis upon which we collect, hold, process and use the Data.
34. If the AAVS Account Holder and/or the *Octopus* Holder does not provide his/her personal data to us, we may be unable to provide the AAVS Account Holder and/or the *Octopus* Holder with the Automatic Add Value Service.
35. *Purpose:* Each of the AAVS Account Holder and the *Octopus* Holder agrees that his / her Data may be used for the following purposes:-
- (a) processing the application for the Automatic Add Value Service;
  - (b) collecting money due from the AAVS Account Holder and/or the *Octopus* Holder, whether from the AAVS Account or otherwise;
  - (c) verifying any information and records relating to the AAVS Account Holder

- and/or the *Octopus* Holder;
  - (d) management, operation and maintenance of the Octopus payment system, including audit and exercising our rights and the rights of the AAVS Account Holder and/or *Octopus* Holder under the Conditions of Issue and this Agreement;
  - (e) designing new or improving existing services provided by us, our subsidiaries and our affiliates (that is, our direct holding company and its subsidiaries);
  - (f) communication by us to the AAVS Account Holder and/or the *Octopus* Holder;
  - (g) investigation of complaints, suspected suspicious transactions and research for service improvement;
  - (h) prevention or detection of crime; and
  - (i) disclosure as required by law, rules, regulations, codes or guidelines.
36. *Transfer*: Data will be kept confidential by us, but each of the AAVS Account Holder and *Octopus* Holder agrees that for the purpose(s) set out in Clause 35 above, we may transfer or disclose such Data to the following parties within Hong Kong (except that the parties set out in Clauses 36(a) and 36(b) below may be located outside Hong Kong):
- (a) issuers of *Bank Co-Brand Octopus* and Financial Institutions which owe a duty of confidentiality to us and with which the AAVS Account Holder and/or *Octopus* Holder has selected to register;
  - (b) our agents or contractors under a duty of confidentiality to us who provide administrative, telecommunications, computer, anti-money laundering and counter terrorist financing intelligence, payment, data processing or other services to us in connection with the operation of our business (such as professional advisors, call centre service providers or debt collection agencies (in the event of any money due to us by the AAVS Account Holder and/or the *Octopus* Holder), courier, gift redemption centres or data entry companies);
  - (c) our subsidiaries and/or our affiliates which owe a duty of confidentiality to us; and
  - (d) any law enforcement agencies and/or regulatory bodies for compliance with applicable laws, rules, regulations, codes and/or guidelines and/or any person or entity to whom we, our subsidiaries and/or affiliates are under a binding obligation to satisfy a legally enforceable demand for disclosure under the requirements of any law, rule, regulation, code and/or guideline and/or order of any competent court of law, law enforcement agencies and/or regulatory bodies, but such disclosure will only be made under proper authority.
37. *Access*: Each of the AAVS Account Holder and the *Octopus* Holder has the right to:
- (a) check whether we hold Data and to have access to that Data;
  - (b) require us to correct any Data which is inaccurate; and
  - (c) ascertain our policies and practices in relation to Data and to be informed of the kind of Data held by us.
38. We reserve the right to charge the AAVS Account Holder and/or *Octopus* Holder a reasonable fee for complying with any request for access to his/her Data.
39. Any Data access request should be made in writing to:
- The Data Protection Officer  
Octopus Cards Limited  
46/F, Manhattan Place  
23 Wang Tai Road  
Kowloon Bay  
Kowloon  
Hong Kong  
Email: [dpo@octopus.com.hk](mailto:dpo@octopus.com.hk)

40. Nothing in this Notice shall limit the rights of the AAVS Account Holder and/or *Octopus* Holder under the Ordinance.

### **Deductions by Mistake**

41. Each of the AAVS Account Holder and the *Octopus* Holder must ensure that the AAVS Account Holder shall:-
- (a) keep himself/herself promptly informed of all transactions relating to the AAVS Account, which will involve examining each statement issued by the Financial Institution in respect of the AAVS Account or, if the Financial Institution does not issue statements in respect of the AAVS Account, updating and examining the passbook for the AAVS Account regularly, unless he/she has some other effective means of monitoring transactions on such account; and
  - (b) notify us within 12 months of the day of any debit from the AAVS Account to Our Account if he/she claims that we were not entitled to debit the relevant amount from the AAVS Account. After such period, neither the AAVS Account Holder nor the *Octopus* Holder shall make any claim that we were not entitled to debit the relevant amount from the AAVS Account unless:-
    - (i) we failed to exercise reasonable skill and care in respect of any such debit; or
    - (ii) any such debit arose from any manifest error on our part.

### **Termination**

42. This Agreement shall terminate when the Automatic Add Value Service is cancelled in accordance with Clauses 12, 21, 22, 22A or 32A above, but such termination shall not affect the rights and obligations of the parties accrued prior to the termination.

### **Rights of Third Parties**

43. This Agreement shall not create or give rise to, nor shall it be intended to create or give rise to, any third party rights. No third party shall have any right to enforce or rely on any provision of this Agreement which does or may confer any right or benefit on any third party, directly or indirectly, expressly or impliedly. The application of any legislation giving rise to or conferring on third parties contractual or other rights (including, but not limited to, the Contracts (Rights of Third Parties) Ordinance) in connection with this Agreement is hereby expressly excluded. For the avoidance of doubt, nothing in this Agreement shall affect the rights of any permitted assignee or transferee of this Agreement.

### **Changes to this Agreement**

44. We may amend this Agreement from time to time. We shall notify the AAVS Account Holder and the *Octopus* Holder by giving them written notice of the change(s) or, as we shall at our absolute discretion determine, by publishing a notice of the change(s) in one Chinese and one English language newspaper in Hong Kong, at least 30 days before such amendments are to take effect. We shall provide the AAVS Account Holder and/or the *Octopus* Holder with a copy of the latest version of this Agreement upon written request. The latest version of this Agreement will also be available on our website at [www.octopus.com.hk](http://www.octopus.com.hk). If the *Octopus* Holder uses the *Octopus* after any amendment to this Agreement shall have taken effect, that amendment shall be deemed to have been accepted by the AAVS Account Holder and the *Octopus* Holder.



## **Governing Law and Jurisdiction**

45. This Octopus Automatic Add Value Agreement shall be governed by the laws of Hong Kong. You and Octopus Cards Limited irrevocably agree that the courts in Hong Kong shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.

**Octopus Cards Limited**  
**Licence Number: SVF0001**