

## TERMS AND CONDITIONS FOR PHYSICAL PRECIOUS METAL

These terms and conditions ("Terms and Conditions") govern the purchase of the Physical Precious Metals from Bank of China (Malaysia) Berhad ("the Bank"). It is important that you read and understand these Terms and Conditions and retain them for future reference. By giving your instruction to the Bank for the purchase of the Physical Precious Metal, you agree to be bound by these Terms and Conditions contained herein.

### 1. PURPOSE

You may from time to time purchase the Physical Precious Metals from the counter at any of the Bank's branches nationwide during any business hours, in accordance with the Terms and Conditions set out below. For the purpose of this Terms and Conditions, business hours means 9.30am to 4pm, Monday to Friday except public holidays.

### 2. PURCHASE OF PHYSICAL PRECIOUS METAL

2.1 You may purchase the Physical Precious Metal from the Bank subject to the following:-

- i. the Bank has ready stocks available;
- ii. you have submitted a complete Purchase Application Form to the Bank;
- iii. you have made full payment and no cancellation is allowed once the payment has been made;
- iv. the collection of Physical Precious Metal ("Collection") will be at pre-determined branches; and
- v. the Collection must be done within 14 business days from the completion of purchase transaction, failing which the Bank shall be entitled to levy relevant and reasonable fees and charges including but not limited to storage and insurance charges for holding the Physical Precious Metal upon the expiry of the aforesaid 14 business days. In addition, the Bank has the right to withhold the Physical Precious Metal until you have settled all the charges in due.

2.2 The Bank has the liberty to refuse or reject any purchase order made by you.

2.3 In submitting an application for purchase of the Physical Precious Metal, you represent and warrant that:

- a) You are eighteen (18) years old or above and are of sound mind;
- b) You have full rights, power and authority to make purchases of the Physical Precious Metal and to enter into and exercise your rights and perform your obligations under these Terms and Conditions;
- c) The obligations created hereto are valid, legally binding and enforceable against you;
- d) All actions, conditions and things required to be taken, fulfilled and done (including the obtaining of all necessary consents, if any) in order to enable you to lawfully enter into, exercise your rights and perform and comply with your obligations under these Terms and Conditions have been taken, fulfilled and done; and your entry into exercise of your rights and/or performance of or compliance with your obligations under these Terms and Conditions do not and will not violate:
  - i. any law to which you are subject to; or
  - ii. any of the documents constituting it; or
  - iii. any other agreement to which you are a party to;
- e) No litigation, arbitration or administrative proceeding is current, pending, threatened or anticipated which could:-
  - i. restrain your entry into, performance of or compliance with or enforcement of your obligations under these Terms and Conditions, and/or any Physical Precious Metal purchase transaction; or
  - ii. have a material adverse effect on your performance or compliance with or enforcement of your obligations under these Terms and Conditions.

### 3. BANK'S SELLING PRICE AND PAYMENT

- 3.1 Each purchase of the Physical Precious Metal shall be at the selling price in MYR per gram or per oz as quoted by the Bank at the point of time during the transaction.
- 3.2 The selling price quoted by the Bank is at the Bank's sole and absolute discretion.
- 3.3 The settlement of payment will be done via direct debit of your designated Current or Savings Account maintained with the Bank ("Designated Account"). You shall ensure that your Designated Account is active and you have sufficient amount in your Designated Account prior to your placing of an order to purchase the Physical Precious Metal.

### 4. DECLARATION

You hereby declare that

- a) You have full legal capacity, rights, power and authority to enter into contracts for the purchase of the Physical Precious Metal.
- b) You understand that the Physical Precious Metal price fluctuates and hereby agree to bear any losses arising from the fluctuation in the price of the Physical Precious Metal
- c) You recognize and acknowledge that the returns on your investment in the Physical Precious Metal are uncertain and there is a possibility that you risk earning no returns and/or may incur losses. You hereby confirm that you have read and understand the content of these Terms and Conditions and the decision to purchase the Physical Precious Metal is based on your own judgment and/or on independent advice obtained without relying on any material provided or advice given by the Bank or its representatives. You acknowledge further that market brief and any analysis provided by the Bank (if any) are for reference only and you shall exercise your own judgment over such market brief and analysis provided by the Bank.
- d) You agree that the Bank shall not have any responsibility or liability whatsoever to you for any depletion or diminution in the value of the Physical Precious Metal purchased from the Bank and for any other losses, damages, cost or expenses incurred or suffered by you including but not limited to the incurrence of any tax and/or other levy (if any) with respect to the purchase and the physical delivery of the Physical Precious Metal.
- e) You recognize and aware that the Physical Precious Metal is not a principal protected product or an interest bearing account.

### 5. CUSTOMER'S ACKNOWLEDGEMENT

You hereby expressly acknowledge and agree to the following as express conditions of these Terms and Conditions in relation to any and all of the Physical Precious Metal purchased by you from time to time in accordance with these Terms and Conditions:

- a) You shall be responsible for all taxes and levies (if any) payable for the Physical Precious Metal purchased under this agreement.
- b) You recognize and aware that the Physical Precious Metal is not a principal protected product or an interest bearing account.

The Bank shall not be responsible for any delay in carrying out any of your instruction to purchase any Physical Precious Metal unless such delay was caused directly by the Bank's gross negligence, fraud or willful default.

### 6. INDEMNITY AND LIMITATION OF LIABILITY

- 6.1 You hereby acknowledge and agree that you shall not hold the Bank liable for any loss, cost, charge, liability and expense (whether present or future or actual or contingent) as a result of the Bank's exercising such powers, rights and authority as may be granted by you, under the terms of or otherwise, as contemplated under these Terms and Conditions unless caused directly by the Bank's gross negligence, fraud or willful default.

- 6.2 You hereby agree and undertake to indemnify and keep indemnified the Bank and hold the Bank harmless against all losses, cost, and expenses which may be incurred by you or the Bank with respect to the purchase of the Physical Precious Metal pursuant to the Terms and Conditions hereof unless caused directly by the Bank's gross negligence, fraud or willful default.
- 6.4 You acknowledge and agree that the service in relation to purchase of the Physical Precious Metal may be terminated by the Bank if there is any change of law which prohibits or renders illegal the purchase transaction and you shall not bring any action or claims whatsoever against the Bank to recover any losses or damages as you may suffer as a result of the termination of service.
- 6.5 The Bank reserves the right to refuse or reject any purchase of Physical Precious Metal order at the absolute discretion of the Bank.

## **7. NO WAIVER OR RIGHTS**

No failure or delay by the Bank in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude the Bank from any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

## **8. GOVERNING LAW AND JURISDICTION**

The Laws of Malaysia shall govern and be applicable to the Terms and Conditions herein contained and all transactions in connection therewith. In relation to any legal action or proceedings arising out of or in connection with these Terms and Conditions and all transaction in connection thereto ("Proceedings"), you irrevocably submits to the exclusive jurisdiction of the courts of Malaysia and waives any objection to Proceedings in any such court on the grounds of venue or on the grounds that the Proceedings have been brought in an inconvenient forum.

## **9. NOTIFICATION TO THE CHANGES TO THE TERMS AND CONDITIONS**

- 9.1 The Bank reserves the right to change, amend, alter, modify or delete the Terms and Conditions herein, wholly or in part, at its absolute discretion, at any time or from time to time and such changes shall be notified to you with prior notice of twenty-one (21) calendar days by displaying such changes at the Bank's website at [www.bankofchina.com/my](http://www.bankofchina.com/my) or any other mode of communication as may be determined by the Bank from time to time.
- 9.2 The Bank reserves the right at its absolute discretion to cancel, terminate or suspend the service contemplated under the Terms and Conditions, wholly or in part, at any time with prior notice to you by displaying such notice at the Bank's branches nationwide or via the Bank's website at [www.bankofchina.com.my](http://www.bankofchina.com.my) or any other mode of communication as may be determined by the Bank from time to time. You shall not be entitled to make any compensation against the Bank for any and all losses or damages suffered or incurred by you as a result of or arising from such cancellation, termination or suspension of the service contemplated under the Terms and Conditions by the Bank.