

Subscriber Agreement for Bank-Cert



Date: 30 January 2003

SUBSCRIBER AGREEMENT FOR BANK-CERT

IMPORTANT: READ CAREFULLY

THIS SUBSCRIBER AGREEMENT (THIS "AGREEMENT") IS ENTERED INTO BY YOU THE SUBSCRIBER AND THE POSTMASTER GENERAL AS REPRESENTED BY THE HONG KONG POST OFFICE. BEFORE SUBMITTING THE BANK-CERT APPLICATION, YOU MUST FIRST READ AND ACCEPT THE TERMS OF THIS AGREEMENT BY SIGNING AND DATING THE APPLICATION FORM IN THE SPACES PROVIDED IN THIS APPLICATION FORM. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, THE BANK-CERT APPLICATION WILL NOT BE ACCEPTED AND A BANK-CERT WILL NOT BE ISSUED.

In consideration of the payment of the fees charged for the issue of the Bank-Cert and of the terms and conditions set out below, the Postmaster General as represented by the Hong Kong Post Office ("HKPost") and you the Subscriber, intending to be legally bound, agree as follows:

HKPost

1. The Postmaster General is a recognized Certification Authority ("CA") for the purposes of the Electronic Transactions Ordinance, Cap. 553 (the "Ordinance"). Under the Ordinance the Postmaster General may perform the functions and provide the services of a CA by the officers of the Hong Kong Post Office. Accordingly, the Postmaster General, for the purposes of this Agreement, is represented by the Hong Kong Post Office, and is identified herein as **HKPost**.

Bank-Cert CPS

2. HKPost has published for public knowledge a Certification Practice Statement ("**the Bank-Cert CPS**") dealing with each type, class or description of Bank-Cert it issues as a CA. This Agreement sets out the terms upon which HKPost will issue Bank-Certs in conformity with the Bank-Cert CPS.

Registration Authority

3. Under the Ordinance HKPost may appoint agents to carry out some or all of its operations as a CA. In relation to certain of its functions as a CA in respect of the issuing and revocation of Bank-Certs, HKPost has appointed certain financial institutions as its agents. These agents are called **Bank-Cert Registration Authorities**. A complete list of such Bank-Cert Registration Authorities appears in Appendix E to the Bank-Cert CPS. The Bank-Cert Registration Authority for the purposes of this Agreement is the Registration Authority to whom the Subscriber applied for the Bank-Cert, namely [**RA's Name**] and is referred herein as "the RA".

The RA is not a party to this Agreement, nor does it accept any duty of care to the Subscriber in respect of the issue or revocation of any Bank-Cert or otherwise in connection with any Bank-Cert. However, the RA is authorised to act on behalf of HKPost in respect of this Agreement, including, without limitation, the enforcement of the terms of this Agreement (unless and until the Subscriber is notified that such authority is withdrawn).

Bank-Cert Registration Authorities may choose which types or classes of Bank-Certs in respect of which they will act on behalf of HKPost.

Types of Bank-Cert

4. There are two types of Bank-Cert:
- (i) Bank-Certs (Personal) – which are issued to individuals who have a Hong Kong identity card and who are 18 or over; and
 - (ii) Bank-Certs (Corporate) – which are issued to organisations that hold a valid business registration certificate issued by the Government of the Hong Kong SAR and statutory bodies of Hong Kong whose existence is recognized by the laws of Hong Kong (a “Subscriber Organisation”) and to members or employees of a Subscriber Organisation whom that Subscriber Organisation has duly authorised to use that Bank-Cert (Corporate) (the “Authorised Users”).

Bank-Certs (Corporate) may only be used for the Authorised Applications (as defined in the Bank-Cert CPS) for that particular type of Bank-Cert (Corporate).

Subscribers

5. Subscribers means organizations, statutory bodies or individuals that procure the creation and issuance of a Bank-Cert in return for their agreement to be bound by all the terms and conditions of this Agreement and who have agreed to be bound by the terms of this Agreement by having signed this Agreement either personally or by their duly authorised representative (their “Authorised Representative”). The Subscriber agrees to be liable to HKPost for the performance of this Agreement.

Bank-Cert (Personal) certificate Subscribers If you are applying for a Bank-Cert (Personal) certificate and are the person whose details are to appear upon the certificate, then you may become a Subscriber and a certificate will be issued if you agree to and sign your consent to this Agreement.

Bank-Cert (Corporate) certificate Subscribers If you are applying for a Bank-Cert (Corporate) certificate and it is intended that the details of the Authorised User will appear on the certificate, a certificate will be issued ONLY if (i) The Authorised User is (and you hereby warrant that the Authorised User is) a member or employee of the Subscriber Organisation concerned and he/she is authorised by the Subscriber Organisation to hold and use the Bank-Cert (Corporate) certificate; AND (ii) the Subscriber Organisation concerned, by the Authorised Representative referred to in the application form, signs and impresses the Subscriber Organisation’s chop upon this Agreement and the Subscriber Organisation thereby becomes a Subscriber and agrees to undertake and perform all the terms of this Agreement and all the obligations of a Subscriber in relation to the certificate. The Authorised Representative will not become a Subscriber unless he/she applies separately for a Bank-Cert (Corporate) certificate.

Relying Parties

6. Under the Bank-Cert CPS there are two types of end entities: Subscribers and Relying Parties. Subscribers are individuals, statutory bodies or organisations who have procured the issuance of any class or category of Bank-Cert from HKPost. Relying Parties are entities that have accepted any class or category of Bank-Cert for use in a transaction. This Agreement governs the relationship between HKPost and Subscribers in their capacity both as Subscribers and Relying Parties in relation to all classes and categories of Bank-Cert issued by or on behalf of HKPost as a CA. **This may well mean (and it is the intention of this Agreement) that your rights against HKPost as a Relying Party may be limited under this Agreement in a way that they would not be if you were not a**

Subscriber bound by its terms IF YOU DO NOT ACCEPT THIS, THEN DO NOT SIGN YOUR CONSENT TO THIS AGREEMENT.

Recognition and Incorporation of the Bank-Cert CPS

7. **The Bank-Cert CPS is a VERY IMPORTANT DOCUMENT because the entirety of the Bank-Cert CPS is incorporated into this Agreement. The Bank-Cert CPS also contains IMPORTANT LIMITATIONS AND EXCLUSIONS on HKPost's liability to you (including limitations and exclusions which relate to negligence) which are intended to become binding upon you if you enter into this Agreement. The Bank-Cert CPS is available on HKPost's web site at www.hongkongpost.gov.hk or at the RA's web site at [RA's Website] or at any Hong Kong Post Office and you should read the Bank-Cert CPS before entering into this Agreement.** By accepting the terms of this Agreement, you ACKNOWLEDGE that you as the Subscriber under this Agreement has had **FULL AND COMPLETE NOTICE of the obligations of Subscribers and Relying Parties set out in the Bank-Cert CPS and of the limitation and exclusion clauses set out therein (including those relating to negligence).** You further agree to be bound by the provisions in the Bank-Cert CPS applicable to you the Subscriber, both as a Subscriber and a Relying Party as described in the Bank-Cert CPS, all the terms and conditions of which, including those **limiting and excluding HKPost's liability**, are hereby incorporated into this Agreement as if set out word for word herein. Some but not all of the obligations of you the Subscriber and of HKPost are set out below for your convenience. **IF YOU DO NOT UNDERSTAND THE BANK-CERT CPS, YOU SHOULD NOT SIGN YOUR CONSENT TO THIS AGREEMENT AND SHOULD NOT PARTICIPATE IN THE PUBLIC KEY INFRASTRUCTURE INITIATIVE IN RESPECT OF BANK-CERTS.**

Subscriber Acknowledgement of Understanding of the Bank-Cert CPS

8. By accepting the terms of this Agreement, you acknowledge:
- (i) an awareness of the operation of a public key infrastructure system;
 - (ii) an understanding of the limits of such a system; and
 - (iii) an understanding of the necessity of maintaining the security of the private key related to the public key named in your digital certificate.

The Procedure for Issuing, Checking and Accepting Bank-Certs

9. The procedure for application for a Bank-Cert is set out in the application form for that type of Bank-Cert. HKPost will via the RA aim to complete the process of an application within a reasonable period of time. The RA, on behalf of HKPost, will authenticate the identity of each Subscriber. The key pair generation and Bank-Cert creation will be carried out by HKPost on behalf of the Subscriber. This is done in a trustworthy system and environment within HKPost's premises to ensure that the private key will not be tampered with. During the process, the Subscriber will be given the opportunity to check that the contents of the Bank-Cert are accurate and true since he/she will be notified in writing of the approval of an application and requested to confirm the certified content in a printed form. Each Subscriber promises that this check will be done properly. If the Subscriber confirms the accuracy and truth of the contents of the Bank-Cert, the Subscriber **accepts the Bank-Cert** and the system will generate the key pair and create the Bank-Cert. The private key and Bank-Cert will then be stored on a floppy disk. HKPost fully reserves the right to store the private key and the Bank-Cert on alternative technological storage medium to the floppy disk as and when suitable technology is available. HKPost will not make or keep a copy of the private key. The disk or alternative storage medium will then be delivered to the Subscriber in the secure manner specified in the application form. Subscribers agree that

they are fully accountable for the safe custody of the private key upon receipt of the disk or alternative storage medium and agree that they will be responsible for any consequences under any circumstances for the compromise of the private key.

Consequences of Acceptance

10. By accepting a Bank-Cert issued under the Bank-Cert CPS, each Subscriber warrants (promises) to HKPost and represents to all other relevant parties (including any Relying Parties) that during the operational period of the Bank-Cert the following facts are and will remain true:
 - (i) No person other than the Subscriber of Bank-Cert (Personal) certificate and the Authorised User of Bank-Cert (Corporate) certificate has had access to the Subscriber's private key;
 - (ii) Each digital signature generated using the Subscriber's private key, which corresponds to the public key contained in the Subscriber's Bank-Cert, is the digital signature of the Subscriber;
 - (iii) All information and representations made by the Subscriber included in the Bank-Cert are true;
 - (iv) Bank-Certs will be used exclusively for authorised and legal purposes consistent with the Bank-Cert CPS and, in the case of Bank-Cert (Corporate) will be used only by Authorised Users for the Authorised Applications;
 - (v) The information supplied in the Bank-Cert application process does not infringe or violate in any way the trademarks, service marks, trade name, company name, or any intellectual property rights of any third party; and
 - (vi) Bank-Cert (Corporate) certificates are to be used only by the Authorised Users and for the Authorised Applications stipulated in the Bank-Cert CPS.
11. By accepting the Bank-Cert each Subscriber undertakes an obligation to keep the Subscriber's private key secret and to protect its confidentiality and integrity by using reasonable precautions to prevent its loss, disclosure, or unauthorised use. This will include treating any password or other access control device related to the use of the private key as confidential information and not disclosing any access control device to anyone else.
12. **Subscriber's Liability** Each Subscriber (see Section 5) acknowledges that if the above warranty set out in Section 10 to HKPost is broken, or the representations set above are or become false, or the obligation referred to above in Section 11 is broken, each Subscriber is or may become liable under this Agreement and/or in law to pay HKPost and/or in law, other persons damages in respect of liabilities or loss and damage they may incur or suffer in consequence.

Key pairs for HKPost and Subscribers are generated through a procedure such that the private key cannot be accessed by anyone other than the authorized user of the key pair unless there is some compromise of the procedure by the authorized user. **Using central key pair generation by HKPost on behalf of the Subscriber, HKPost's system will immediately delete the private key from its system once it is embedded into a floppy disk or alternative storage medium as mentioned in paragraph 9. HKPost will not make or keep a copy of the private key.**

13. **HKPost's Liability for Accepted but Defective Bank-Certs**

If, after acceptance of the Bank-Cert, a Subscriber finds that, in respect of a Bank-Cert, because of any error in the private key or public key of the Bank-Cert, no transactions contemplated by the PKI can be completed properly or at all then the Subscriber must notify the RA of this immediately to permit the Bank-Cert to be revoked and (if desired)

re-issued. If such notification has occurred within 3 months of the acceptance of the Bank-Cert and the Subscriber no longer wants a Bank-Cert, the RA (on behalf of HKPost), on being satisfied of the existence of any such error in the private or public key, will refund the fee. If the Subscriber waits longer than 3 months after acceptance before notifying the RA of any such error, the fee will not be refunded as of right, but only at the discretion of the RA (acting on behalf of HKPost).

Reporting

14. **Reporting Changes in Information on Bank-Cert** Each Subscriber agrees to notify HK Post or the RA of any change in the information in the Bank-Cert provided by the Subscriber IMMEDIATELY on each occasion of becoming aware of any such change during the period in which the Subscriber's Bank-Cert is valid and, upon being notified by the RA, HKPost will suspend or revoke the Bank-Cert in accordance with the Bank-Cert CPS procedures.

Reporting Loss or Compromise of Private Key Each Subscriber agrees to report to HKPost or the RA any loss or compromise of the Subscriber's private key IMMEDIATELY upon discovery of the loss or compromise (a compromise is a security violation in which information is exposed to potential unauthorised access, such that unauthorised disclosure, alteration or use of the information may have occurred) and upon being notified by the RA, HKPost will suspend or revoke the Bank-Cert in accordance with the Bank-Cert CPS procedures.

Reporting Grounds for Revocation The further grounds upon which HKPost and/or the RA on HKPost's behalf, may revoke a Bank-Cert are set out below. Each Subscriber (or in the case of the death, his personal representatives or other persons responsible in law for the affairs of the deceased Subscriber or the authorised user or the authorised representative of the Subscriber Organisation) shall notify HKPost or the relevant RA IMMEDIATELY of any fact which may give rise to HKPost and/or the RA on HKPost's behalf, upon such further grounds, having the right to revoke the Bank-Cert for which the Subscriber is responsible under this Agreement.

15. **Subscriber's Liability for not Reporting** If the reporting obligations set out above are not complied with properly or at all, then:
- (i) HKPost accepts no liability for any consequences, especially not for any loss or damage that may result to the Subscriber or anyone else; and
 - (ii) each Subscriber is or may become liable to pay HKPost (and possibly, under the law, other persons) damages in respect of liabilities incurred or loss and damage suffered in consequence.

Duration

16. **Limitation of Time** Bank-Certs issued under this Agreement are valid for one year. The certificates can (where available) be renewed before expiry of their validity in accordance with the provisions of the CPS.

Obligations of Subscriber as a Relying Party

17. Each Subscriber agrees that, when they use the public key infrastructure system and become Relying Parties in relation to Bank-Certs of whatever class, category or description, they are solely responsible (as between themselves and HKPost) for:-
- (i) Relying on such Bank-Certs only when reliance is reasonable and in good faith in

the light of all the circumstances known to the Relying Party at the time of reliance;

- (ii) Before accepting a Bank-Cert determining that the use of the Bank-Cert is appropriate for its purposes under the Bank-Cert CPS in particular in view of the limited duty of care and limited monetary liability that HKPost undertakes to Relying Parties as set out in the Bank-Cert CPS and, in the Bank -Cert and in the case of a Bank-Cert (Corporate), in view of the Authorised Applications for which such a Bank-Cert (Corporate) can be used;
- (iii) Checking the status of the Bank-Cert on the Certificate Revocation List or via a Validation Service prior to reliance upon it; and
- (iv) Performing all appropriate Bank-Cert path validation procedures.

Revocation

- 18. Each Subscriber may revoke the Bank-Cert for which they are responsible under this Agreement at any time for any reason by following the revocation procedure set out in the Bank-Cert CPS.
- 19. HKPost or the RA, on behalf of HKPost, may revoke a Bank-Cert in accordance with the procedures in the Bank-Cert CPS whenever HKPost and/or the RA:
 - (i) knows or reasonably suspects that a Subscriber's private key has been compromised;
 - (ii) knows or reasonably suspects that any details upon a Bank-Cert are not true or have become untrue or that the Bank-Cert is otherwise unreliable;
 - (iii) determines that a Bank-Cert was not properly issued in accordance with the Bank-Cert CPS;
 - (iv) determines that the Subscriber had failed to meet any of the obligations set out herein or in the Bank-Cert CPS;
 - (v) is required to do so by any regulation, or law applicable to the Bank-Cert; or
 - (vi) knows or has reasonable cause to believe that the Subscriber or the Authorised User whose details appear on the Bank-Cert:-
 - (a) has, in the case of a Bank-Cert (Corporate), ceased to be a member or employee of the Subscriber Organisation;
 - (b) is dead or has died;
 - (c) is or has become an undischarged bankrupt or has entered into a composition or scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) within 5 years preceding the date of revocation; or
 - (d) has been convicted in Hong Kong or elsewhere of an offence for which it was necessary to find that the person acted fraudulently, corruptly or dishonestly or committed an offence under the Ordinance.

and where a Subscriber is an organisation that :-

- (i) the Subscriber is in liquidation, or a winding up order relating to the Subscriber has been made by any Court of competent jurisdiction;
- (ii) the Subscriber has entered into a composition or a scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap.6) within 5 years preceding the date of

- intended revocation;
 - (iii) a director, officer or employee of the Subscriber Organisation has been convicted of an offence for which it was necessary to find that person acted fraudulently, corruptly or dishonestly or committed an offence under the Electronic Transactions Ordinance; or
 - (iv) a receiver or administrator has been appointed over any part of the Subscriber Organisation's assets within 5 years preceding the date of revocation.
- 20. HKPost, will exercise reasonable endeavours to see that within 2 working days of (1) receiving a revocation request or final confirmation of revocation from either the Subscriber directly or RA or (2) in the absence of such a request, the decision by HKPost and/or the notification from RA of a decision by the RA on HKPost's behalf, to suspend or revoke the Bank-Cert, the suspension or revocation is posted to the Certificate Revocation List. However, the Certificate Revocation List is not published in the directory for access by the public following each Bank-Cert suspension or revocation. Only when the next Certificate Revocation List is updated and published will it reflect the suspended or revoked status of the Bank-Cert. Certificate Revocation Lists are published daily and are archived for 7 years.

For the avoidance of doubt, Sundays, public holidays and days on which a tropical cyclone and rainstorm warning signal is hoisted, are not working days for the purpose of this paragraph.

- 21. A Subscriber must not use a Bank-Cert in a transaction:
 - (i) after such Subscriber becomes aware of any ground upon which HKPost or the RA could revoke such Bank-Cert;
 - (ii) after such Subscriber has made a revocation request or been notified by HKPost or the RA on HKPost's behalf of the intention of HKPost or the RA on HKPost's behalf to suspend or revoke such Bank-Cert.

and notwithstanding any other provision of this Agreement or the Bank-Cert CPS if a Subscriber makes use of a Bank-Cert in breach of sub-paragraph 21(i) or (ii) above HKPost shall be under no liability to such Subscribers in respect of any such transactions.

- 22. Upon becoming so aware of any ground upon which HKPost or the RA could revoke the Bank-Cert, or upon making a revocation request or upon being notified of the intention of HKPost or the RA to revoke the Bank-Cert, Subscribers must immediately notify Relying Parties in any transaction that remains to be completed at the time, that the Bank-Cert used in that transaction is liable to be revoked (either by HKPost and/or the RA or at the Subscriber's request) and state in clear terms that, as this is the case, the Relying Parties should not rely upon the Bank-Cert in respect of the transaction. HKPost shall be under no liability in respect of such transactions to Subscribers who fail to notify Relying Parties, and under no liability to Relying Parties who receive such a notification from Subscribers but who complete the transaction despite such notification.
- 23. HKPost shall be under no liability to Relying Parties in respect of the period between decision of HKPost or the RA to suspend or revoke a Bank-Cert (either in response to a request or otherwise) and the appearance of this information on the Certificate Revocation List, unless HKPost has failed to exercise reasonable skill and care and the Subscriber has failed to notify the Relying Party as required by these provisions. Any such liability is limited as set out elsewhere in this CPS. In no circumstances does the RA undertake a duty of care to Relying Parties (the RA is simply discharging HKPost's duty of care) and accordingly, even if negligent, the RA itself cannot be held liable to Relying Parties.

Obligations of HKPost

24. HKPost hereby agrees with each Subscriber to exercise a reasonable degree of skill and care in performing the obligations and exercising the rights it has as a Certification Authority set out herein and in the Bank-Cert CPS. **HKPost does not undertake any absolute obligations to the Subscribers. It does not warrant that the services it provides under this Agreement by itself or by the RA or otherwise howsoever will be uninterrupted or error free or of a higher or different standard than that which should be achieved by the exercise by HKPost, or its officers, employees or agents, of a reasonable degree of skill and care.**

The implications of this are that, if, despite the exercise of a reasonable degree of skill and care by HKPost or by the RA acting on HKPost's behalf, in carrying out this Agreement and in exercising its rights and discharging its obligations under the Bank-Cert CPS, a Subscriber, either as a Subscriber or Relying Party as defined in the Bank-Cert CPS, suffers any liability, loss or damage of whatsoever nature arising out of or in connection with the PKI system as described in the Bank-Cert CPS, including loss and damage consequent upon reasonable reliance upon a certificate of another Subscriber, each Subscriber agrees that HKPost is under no liability of any kind in respect of such liability, loss or damage.

This means, for example, that provided that HKPost or the RA acting of HKPost's behalf, has exercised a reasonable degree of skill and care, HKPost will not be liable for any loss to a Subscriber caused by his reliance upon a false or forged digital signature supported by another Subscriber's Bank-Cert issued by HKPost.

This means, also, that, provided HKPost or the RA acting on HKPost's behalf has exercised a reasonable degree of skill and care to avoid and/or mitigate the effects of matters beyond its control, HKPost is not liable for the adverse effects to Subscribers of any matters outside HKPost's control whatsoever, including (without limitation) the availability of the Internet, or telecommunications or other infrastructure systems or the adverse effects of the acts of God, war, military operations, national emergency, epidemic, fire, flood, earthquake, strike or riots or the negligence or deliberate wrongful conduct of other Subscribers or other third parties.

25. For the avoidance of doubt, this Agreement is not an agreement for the supply of goods of any description or at all. Any and all Bank-Certs issued pursuant to this Agreement remain the property of and in the possession and control of HKPost and no right, title or interest in any such Bank-Cert is transferred to the Subscriber, who merely has the right to procure the issue of a Bank-Cert and to rely upon it and the Bank-Certs of other Subscribers in accordance with the terms of this Agreement. Accordingly this Agreement contains (or is to contain) no express or implied terms or warranties as to the merchantability or fitness of a Bank-Cert for a particular purpose or any other terms or conditions appropriate in an agreement for the supply of goods.

LIMITATION OF LIABILITY

26. Each Subscriber acknowledges that the PKI initiative and HKPost's role as a CA within that initiative are new and innovative ventures, in which the sum received by HKPost is modest compared to the burden that could be placed upon HKPost if HKPost were liable without limit for damages under or in connection with this Agreement or the issue by HKPost of Bank-Certs under the public key infrastructure initiative. Accordingly, each Subscriber must agree that it is reasonable for HKPost to limit its liabilities as set out in this Agreement and in the Bank-Cert CPS.

27. In the event of HKPost's breach of this Agreement or of any duty of care, and in particular, of its duty under this Agreement to exercise reasonable skill and care and/or duties that may arise to a Subscriber when any class, category or description of Bank-Cert issued by HKPost under the public key infrastructure initiative is relied upon or used by that Subscriber or anyone else or otherwise howsoever, whether a Subscriber suffers loss and damage as a Subscriber or as a Relying Party as defined by the Bank-Cert CPS or otherwise howsoever, **HKPost shall not be liable for any damages or other relief in respect of (1) any direct or indirect: loss of profits or revenue, loss or injury to reputation or goodwill, loss of any opportunity or chance, loss of projects, or the loss or loss of use of any data, equipment or software or (2) for any indirect, consequential or incidental loss or damage even if, in respect of the latter, HKPost has been advised of the likelihood of such loss or damage in advance.**
28. Subject to the exceptions that appear below, in the event of HKPost's breach of this Agreement or of any duty of care either directly or via the RA, and in particular, of its duty under this Agreement to exercise reasonable skill and care and/or duties that may arise to a Subscriber when any class, category or description of Bank-Cert issued by or on behalf of HKPost under the PKI is relied upon or used by that Subscriber or anyone else or otherwise howsoever, whether a Subscriber suffers loss and damage as a Subscriber or as a Relying Party as defined by the Bank-Cert CPS or otherwise howsoever **the liability of HKPost to any Subscriber, whether as Subscriber or Relying Party as defined by the Bank-Cert CPS or in any other capacity at all, is limited to, and shall not under any circumstances exceed, HK\$200,000 in respect of one Bank-Cert (Personal) certificate or one Bank-Cert (Corporate) certificate**
29. **Hong Kong Post Office, RAs and their Personnel**
Neither the Hong Kong Post Office nor the RA nor any officer or employee or other agent of the Hong Kong Post Office or the RA is a party to this Agreement, and the Subscriber acknowledges to HKPost that, as far as the Subscriber is aware, neither the Hong Kong Post Office nor the RA nor any of their officers, employees or agents, voluntarily accepts or will accept any responsibility or duty of care to the Subscriber in connection with any action or omission done in good faith by any of them in any way connected either with the performance of HKPost of this Agreement or any Bank-Cert issued by HKPost as a CA and each and every Subscriber accepts and will continue to accept that and undertakes to HKPost not to sue or seek any form of recovery or redress by other legal means whatsoever from any of the foregoing in respect of any act or omission done by that person in good faith (whether done negligently or not) in any way connected with either the performance of HKPost of this Agreement or any certificate issued by HKPost as a Certification Authority and acknowledges that HKPost has a sufficient legal and financial interest to protect these organisations and individuals from such actions.
30. **Time Limit For Making Claims** Any Subscriber who wishes either as a Subscriber or Relying Party to make any legal claim upon HKPost arising out of or in any way connected with the issuance, withdrawal or publication of a Bank-Cert must do so within one year of the date upon which that Subscriber becomes aware of any facts giving rise to the right to make such a claim or (if earlier) within one year of the date when, with the exercise of reasonable diligence, they could have become aware of such facts. For the avoidance of doubt, ignorance of the legal significance of those facts is immaterial. After the expiration of this one-year time limit the claim shall be waived and absolutely barred.
31. **Fraud or wilful misconduct, personal injury or death** Any liability for fraud or wilful misconduct, personal injury and death is not within the scope of any limitation or exclusionary provision of this Agreement or the Bank-Cert CPS and is not limited or excluded by any such provision.
32. **Consumers** If you are a Subscriber who has not made this Agreement in the course of a

business or held yourself out as doing so, it is possible that, as a matter of law, some or all of the limitations of HKPost's liability that apply in the event of HKPost's failure to carry out its obligations under this Agreement with reasonable skill and care do not apply to any claim you may have.

MISCELLANEOUS PROVISIONS

Assignment by Subscribers

33. The Subscriber shall not be entitled to assign, transfer, charge or in any way deal in any other manner with this Agreement or any Bank-Cert or any of its rights under this Agreement or Bank-Cert, or purport to do any of the same.

HKPost's Ability to Subcontract

34. HKPost has the right to sub-contract the performance of some or all its obligations under this Agreement but any such sub-contracting shall not relieve HKPost of any of its obligations under this Agreement.

Severability

35. If any terms, or any part of any terms, of this Agreement are found by any court of competent jurisdiction to be illegal, void or unenforceable they shall be severed and deleted, but this shall not affect the validity and enforceability of the remaining terms, or remaining part of any terms, of this Agreement which shall remain in full force and effect.

Governing Law

36. This Agreement shall be governed by and construed in accordance with the laws of the Hong Kong SAR. The parties irrevocably agree to submit any disputes arising out of, relating to or in any way connected with this Agreement (by any common facts or parties or otherwise howsoever) or the legal relationships established by this Agreement to the non-exclusive jurisdiction of the Courts of the Hong Kong SAR.

Entire Agreement

37. This Agreement, including the Bank-Cert CPS which shall be deemed to be incorporated into this Agreement, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous agreements or understanding between the parties regarding the subject matter of this Agreement. The Subscriber acknowledges and agrees that in entering into this Agreement the Subscriber does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement, including the Bank-Cert CPS. Nothing in this Agreement shall, however, operate to limit or exclude any liability for fraud.

Fiduciary Relationships

38. Neither HKPost nor the RA is an agent, fiduciary, trustee, partner or other representative of the Subscriber or Relying Parties. Subscribers have no authority to bind HKPost or the RA by contract or otherwise to any obligation.

Authority to make representations

39. No agent or employee of the Hong Kong Post Office or the RA has authority to make any representations on behalf of HKPost as to the meaning or interpretation of this Agreement.

Variation

40. HKPost has the right to propose variations or additions to this Agreement, and shall do so by giving Subscribers notice in writing of such proposed changes and notice of the methods by which Subscribers may accept them.
41. An employee of the Hong Kong Post Office or the RA may only vary this agreement with the written authority of the Postmaster General.

Retention of title

42. The physical, copyright, and intellectual rights to all information on the Bank-Cert issued under this Agreement are and will remain vested in HKPost.

Interpretation

43. This Agreement, including the Bank-Cert CPS, is drawn up in both English and Chinese language texts. Where there is a conflict of interpretation of wording between the English and Chinese language texts of this Agreement, the English language text shall prevail.

IF YOU AGREE TO THE TERMS OF THIS AGREEMENT, YOU SHOULD (REPRESENTED BY AUTHORISED REPRESENTATIVE IN THE CASE OF APPLYING FOR A BANK-CERT (CORPORATE) CERTIFICATE) SIGN AND DATE THE APPLICATION FORM IN THE SPACES PROVIDED ON THE APPLICATION FORM.

IF YOU, THE SUBSCRIBER, (REPRESENTED BY AUTHORISED REPRESENTATIVE IN THE CASE OF APPLYING FOR A BANK-CERT (CORPORATE) CERTIFICATE) DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT SIGN THE APPLICATION FORM.

THE SIGNING OF THE APPLICATION FORM AND ITS RECEIPT BY HKPOST WILL NOT GUARANTEE THAT YOUR APPLICATION WILL BE ACCEPTED. IF IT IS REJECTED, YOU WILL BE NOTIFIED. IF YOUR APPLICATION IS ACCEPTED YOU WILL BE BOUND BY THE TERMS HEREIN AS WELL AS THOSE SET OUT IN THE BANK-CERT CPS.