

# **TERMS AND CONDITIONS GOVERNING UNIT TRUSTS**

(Reference to “Bank” in this Form will be to the Bank selected above.)

## **1. DEFINITIONS**

- 1.1 **“Application price”** means the price at which units in any of the Funds are to be purchased, invested in or issued in accordance with the meaning as given in the respective Funds’ Trust Deed.
- 1.2 **“Bank”** refers to HSBC Bank Malaysia Berhad (Company No. 198401015221 (127776-V)) (“HSBC Bank”) or HSBC Amanah Malaysia Berhad (Company No. 200801006421 (807705-X)) (“HSBC Amanah”), as selected by the Customer.
- 1.3 **“Banking Day”** means Mondays to Fridays when Bursa Malaysia Securities Berhad is open for trading, and/or banks in Kuala Lumpur and/or Selangor are open for business. Note that some Business Days may be declared as non-Business Days if the jurisdiction where the Fund is feeding into, declares a non-business day or non dealing day for the target fund.
- 1.4 **“Business Day”**, means such a day on which the Bursa Malaysia Securities Berhad is open for trading.
- 1.5 **“Custodian”** refers to HSBC (Kuala Lumpur) Nominees Sdn Bhd or any other custodians appointed by and for the Bank for the purpose of holding, keeping, recording and any other duties required of it for the Services provided herein.
- 1.6 **“EPF”** means the Employees Provident Fund.
- 1.7 **“EPF Investments”** means investments in any of the Funds made by the Customer using the Customer’s EPF moneys.
- 1.8 **“Fund(s)”** means any authorised unit trusts, investment funds, mutual funds or any other collective investment schemes and managed by unit trust management companies (which may not be a member of the HSBC Group) distributed by HSBC.
- 1.9 **“General Investments”** means all the Customer’s investments in any of the Funds but excluding EPF Investments.
- 1.10 **“Manager”** refers to the unit trust management company or the managers of the Fund.
- 1.11 **“Services”** means the services provided by the Bank to the Customer as described in clauses 2.1, 2.2 and 2.3 herein.
- 1.12 **“Switch”** means the withdrawal from one Fund and investing into another Fund of the same unit trust management company.
- 1.13 **“Transfer”** means moving the investment/unit holding of a Customer to that of another Customer.
- 1.14 **“Units”** means in respect of any Fund, units in that Fund.

## **2. SERVICES**

- 2.1 The Customer may give instructions to the Bank to subscribe, Switch, Transfer, or redeem any Fund offered and distributed by the Bank (“Instruction”).
- 2.2 The Bank, may at its discretion:-
  - make available the latest editions of the Funds’ prospectuses (which may be combined in master prospectuses) supplied by the respective Managers or any third party information provider and other materials such as the latest annual reports, semi-annual reports and any other information (if available) in respect of the Customer’s General Investments and/or EPF Investments undertaken with the Bank; and
  - send to Customer all notices or circulars issued by the respective Managers received by the Bank and/or the Custodian
- 2.3 The Bank can by prior notice in accordance to the provision of the Bank’s Generic Terms and Conditions change the scope and type of Services available including:
  - expanding, modifying or reducing the Services at any time;
  - imposing and varying any restrictions on the provision of the Services (for example: the minimum and maximum daily limits any transaction or dealing, or any type of transactions or dealings which the Customer may or is authorized to conduct); and
  - amending the normal service hours or cut-off times for the Services or any transactions.
- 2.4 The Bank may appoint agents or sub-agents for such purposes or functions as the Bank may think fit.
- 2.5 The Customer acknowledges that the Services are offered only where the provision of such Services is lawful within and outside Malaysia. The Services is not intended for US Persons. Any person seeking more information on these Services must provide his/her mailing address/telephone area codes and must declare that he/she is not a US citizen, US resident or US person as defined under Rule 902(k) of Regulation S under the US Securities Act 1933.

- 2.6 By applying for and using the Services, the Customer hereby certifies that:-
- the Customer is not a “US person” or “Canadian person”;
  - the gains from the investments, holding, subscriptions, switching or redemptions of securities including Units in any Fund carried out pursuant to the Services are not effectively connected or related to any US trade or business which the Customer is engaged in or plan to engage in during the calendar year.

If any of the conditions above change(s) or appears likely to change the Customer will notify the Bank in writing as soon as reasonably practicable and in any event within 30 days from such change or of the Customer becoming aware of the likelihood of such change.

- 2.7 The Customer shall open unit trust account(s) to use the Services.

### **3. INVESTMENT INSTRUCTIONS AND RELATED TRANSACTIONS**

#### **Instructions by Customer**

- 3.1 The Customer agrees that:
- The Customer shall use the investment instruction form, or any other form prescribed by the Bank to effect any Instruction to the Bank. A Customer who wishes to effect any Instruction to invest or subscribe to a Fund will be given a prospectus or master prospectus for the Fund and such investment or subscription shall be made pursuant to the terms and conditions of the prospectus or master prospectus.
  - The Bank may at its discretion record telephone instructions in writing and/or by tape recording and/or any other method and the Bank’s record of any such instructions shall be conclusive and binding.
  - The Bank shall be entitled to refuse to execute or complete any instructions which in the opinion of the Bank are unclear or ambiguous or which might cause the Bank to contravene any law or regulation (whether or not having legal and binding effect). The Bank shall not incur any liability to the Customer as a result of its refusal to act in such circumstances.
  - Instructions received after the cut-off time shall be deemed to be an Instruction received on the next Business Day or Banking Day as the case may be.

#### **Placement of orders**

- 3.2 The Bank:
- may aggregate and consolidate the Customer’s Instructions and/or the Customer’s Instructions with any other instructions received from other customers, if any, for submission or action;
  - will use all reasonable endeavours to place the orders or requests on an aggregated or consolidated basis with the relevant Manager or Fund on the same Business Day if payment for the investments or subscriptions is received in transferable cleared funds on the same day before cut-off time; but
  - if such order or request is not or cannot be carried out on the same Business Day for any reason the Bank shall be entitled to place or carry out such order and request on the next Business Day or the date when the fund for the payment is in transferable cleared funds (whichever is later) and any such transactions shall be binding on the Customer.
- 3.3 When the Bank places an order (consolidated or otherwise) on behalf of the Customer:-
- the Manager or Fund will issue and register the relevant Units in the name of the Custodian;
  - the Units issued will be allocated among the relevant applicants in any order or manner as the Bank shall determine.
  - the Units issued will be based on the amount paid nett of any fees and charges or expenses incurred (if any) in connection with the subscription instructions.
- 3.4 The Customer acknowledges and agrees that:-
- any orders and placement for investments or subscriptions will be made in the name of the Custodian and the Customer’s identity will not be disclosed to the Managers or Fund;
  - any transaction or confirmation statements issued will be delivered directly to the Custodian and such investments or subscriptions will be held by the Custodians for and on the Customer’s behalf
- 3.5 The Customer also acknowledges that:
- any Fund or Manager which receives the Instruction orders or placement from the Bank is not obliged to accept the order or placement in part or whole;
  - the Bank is not liable or responsible for any action or rejection on the part of any Fund or Manager in respect of any such orders; and
  - the Bank or the Custodian is not responsible or liable for ensuring that the relevant Fund or Manager allots the Units or for any losses including any loss of investment opportunity which the Customer may suffer or incur as a result of any refusal to accept or delay in accepting such orders, or allotment of Units by the Fund or Manager.

## **Payments and Withdrawals**

### Payment by way of direct debit

- 3.6 The Customer shall pay for the Units subscribed and/or the Services from available and transferable cleared funds in the Customer's account/s with HSBC Bank and/or HSBC Amanah.
- 3.7 The Bank is entitled but not obligated to put a hold on all transferable cleared funds in the Customer's account/s with HSBC Bank and/or HSBC Amanah for the amount required and make such payments for the orders or placements instructed by the Customer on the Customer's behalf as agreed between the Bank and the relevant Fund or Manager.

### Payments via other modes other than by way of direct debit

- 3.8 If the Customer wishes to make payment for the investment or subscription by cheques, cashiers order, bank draft or any other negotiable instruments, then the following applies:
- The effective date of payment and the date of investment or subscription shall be the date when such instrument is cleared and full payment is received by the Bank.
  - The Bank may at its discretion determine that the date of investment or subscription as the date on which such instrument is presented with the investment instruction form and to deem the fund to be freely transferable cleared funds.
  - Where such instrument is returned unpaid for any reasons, the Customer agrees to indemnify and pay the Bank for the default and for any expenses incurred.
  - Alternatively, the Customer further irrevocably authorises the Bank to sell the Units back to the Manager or Fund and also to indemnify the Bank the shortfall (if any) and all expenses and losses (if any) incurred.

### Withdrawal or Redemption Proceeds

- 3.9 The Customer agrees that the Application and Withdrawal prices are determined:
- by the Managers in accordance with the relevant Deed; or
  - through prescribed procedures on the Business Day

and any price or value of any Unit given by the Bank is only an indicative price or value provided for the Customer's information and is not final and binding. The Bank accepts no responsibility or liability for the indicative price or value given.

- 3.10 Upon receipt of the proceeds from any withdrawal or redemption, the Bank shall pay the Customer in accordance with the instructions specified in the investment instruction form.
- 3.11 The withdrawal or redemption proceeds will be paid nett of any fees and charges or expenses incurred (if any) in connection with the withdrawal or redemption.
- 3.12 Any payment made by the Bank pursuant to any Instructions signed or made or purported to be signed or made by the Customer shall be a complete discharge and the Bank will not be liable for any loss damage or claim from the Customer or any other party, unless it is due to the Bank's gross negligence or wilful breach of duty (or default or fraud).
- 3.13 In case of death of any of the Customers for a unit trust account opened and maintained in more than one name, the joint unit holders agree and authorise the Bank to:
- (i) hold all the units to the sole order of the surviving unit trust holder(s);
  - (ii) take instructions solely from the surviving unit trust holder(s), including instructions to redeem the units; and
  - (iii) pay the redemption proceeds to the surviving unit trust holder(s), subject to the Bank's prior rights and claims.

Payment to the survivor(s) under this survivorship clause is a complete discharge to the Bank and the Bank shall be released from all demands or claims by the executors, administrators or estate of the deceased Customer.

### Miscellaneous

- 3.14 If the Customer makes a payment for any investment, subscription, switching or transfer of Units in a currency other than the currency in which the Fund is denominated, the Bank is entitled to convert, at the exchange rate determined by the Bank, such moneys to the currency in which the Fund is denominated to make the necessary payment for the transaction.
- 3.15 If the Bank receives a payment in respect of any withdrawal or redemption of Units by the Customer in a currency other than the currency in which the Fund is denominated, the Bank shall be entitled to convert, at the exchange rate determined by the Bank, such moneys to the currency in which the Fund is denominated to make the necessary payment to the Customer.
- 3.16 The Bank shall be entitled to charge, retain or deduct a commission, bank charges, collection charges and other costs and expenses for any receipt or payment for Services made in foreign currency notes.
- 3.17 The Customer will receive transaction or confirmation statements from the Custodian or the Bank as the case may be, in respect of any Instructions for any Services carried out by the Bank on the Customer's behalf. Where applicable, the Customer's Unit holding may be indicated in the Customer's consolidated statements.

- 3.18 The Bank will reinvest any income distributions (if any) declared by the Fund or Manager in the Fund as authorised and indicated by the Customer in the investment instruction form, except for Funds which are specifically cash dividend or distribution classes.
- 3.19 The Customer shall be entitled to receive subsidiary income tax certificate issued by the Bank or tax vouchers issued by the Fund or Manager and endorsed by the Bank or Custodian or Sub-Custodian as the case may be, in respect of the distribution of income (if any) declared by the Fund or Manager.

#### **4. MONTHLY INVESTMENT PLAN**

- 4.1 The Customer may apply for a monthly investment plan of any Fund offering such a plan as long as the Customer complies with the terms in the Fund's prospectus or master prospectus, including compliance with the minimum initial investment amount and the minimum subsequent investment amount as is required.
- 4.2 Payment for Monthly Investment Plan
- The Customer's account with the Bank shall be debited on a monthly basis to pay for the monthly investment plan, and such payment shall be effected 1 Banking Day before the due date each month.
  - The due date shall be determined by the Manager or by the Bank as the case maybe.
  - If the due date falls on a non-banking day, payment shall be made the following Banking Day.
  - If payment cannot be made from the Customer's account/s with the Bank on the due date for any reason, no Instruction of the relevant Fund for monthly investment plan shall be effected for that month.
- 4.3 The monthly investment plan shall continue automatically until:-
- the expiry of the standing instruction;
  - the Bank receives a written notice from the Customer to terminate the plan;
  - the Bank terminates the standing instruction at any time, by written notice to the Customer; or
  - there has been 3 consecutive failed monthly attempts to debit the Customer's account with the Bank;
- whichever is earlier.

#### **5. CUSTODIAN AND CUSTODY OF INVESTMENTS**

- 5.1 The Customer acknowledges and agrees that the Bank shall appoint a Custodian to hold the Customer's General Investments for the Customer.
- 5.2 The Bank shall be entitled and can also authorise the Custodian to appoint, without the Customer's further consent, any bank, trust company or member firm of any securities exchange to act as:-
- a Sub-Custodian on the Customer's behalf pursuant to these terms; and/or
  - an administrator to assist the Bank or the Custodian to perform their obligations on such terms as the Bank may consider appropriate.
- The Customer agrees that the Bank shall not be liable for any loss suffered by the Customer for any acts or omissions of the Sub-Custodian in the case where the Sub-Custodian has been properly and lawfully appointed, save and except where such loss or damage was directly attributable to the Bank's gross negligence or wilful default.
- 5.3 The Custodian and/or Sub-Custodian (as the case may be) so appointed shall be entitled to:
- receive and hold all income distributions (including interest/profit from the Bank, dividends) and other payments, rights and similar securities issued to the Customer;
  - hold all stock dividends, rights and similar securities issued with respect to the Customer's investments, holdings and subscriptions for the Customer's unit trust account;
  - exchange interim receipts or temporary securities for definitive securities;
  - complete and deliver any ownership certificates related to the Customer's investment, holding or subscription as required by law;
  - pay out any moneys (collected or received as proceeds of the Customer's redemption of investment, holding or subscription)
  - collect any monies payable to the Customer in more than one currency, in such currency as permitted by law or as the Bank and/or Custodian may decide;
  - present for payment, where the Bank or Custodian has actual notice of such payment requirement, any calls, redemption, coupons or moneys payable to the Customer.
- 5.4 The Customer agrees to be bound by all the terms and conditions which binds the Bank, the Custodian and/or the Sub-Custodian in undertaking the Customer's investments and related transactions.

- 5.5 The Bank, the Custodian and/or Sub-Custodian is not obliged to attend or make arrangements to attend any meetings, or to vote on any matters relating to any securities or Fund purchased by the Customer.
- 5.6 On the Customer's request, and upon the Customer providing the required indemnity for costs and liability as required by the Bank, the Bank shall execute or procure the Custodian and/or any Sub-Custodian to execute any certificates, reports or affidavits reasonably required under the laws of any jurisdiction to confirm ownership of the General Investments/EPF Investments for the Customer's fiscal or tax purposes (including applying for or securing any tax privileges).

## **6. FEES, CHARGES AND EXPENSES**

- 6.1 Fund's/Manager's Fees, Charges & Expenses:
- The Customer agrees to pay the Fund's or Manager's fees, charges and expenses (including all costs and out-of pocket expenses, taxes, duties or levies) which includes any revision which may be made known to the Customer from time to time via the Fund prospectus, master prospectus, marketing material or other means.
- 6.2 Bank's Tariff & Charges:
- The Customer acknowledges that the Bank's applicable fees and charges are found in the Bank's Tariff and Charges on the Bank's website at [www.hsbc.com.my/www.hsbcamanah.com.my](http://www.hsbc.com.my/www.hsbcamanah.com.my) (as updated from time to time) and forms part of the Universal/Generic Terms & Conditions binding on the Customer.
  - The Bank reserves the right to impose and/or revise from time to time such fees and charges, including any fees, commissions, charges payable to any Custodian/Sub-Custodians or agents/sub-agents as may be required in order to continue to provide the Services to Customer with reasonable prior notice, and to debit any account of the Customer with the applicable fees and charges.
- 6.3 The Customer agrees that the Bank, Custodian and/or Sub-Custodian may retain for themselves (without obligation to account to the Customer) all or any part of the commission, discount, fees or otherwise which the Bank, Custodian and/or Sub-Custodian may receive from any Fund or Manager or other persons in connection with the Services or other transactions done or carried out for or on behalf of the Customer.

## **7. RISKS**

- 7.1 The Customer:
- acknowledges that investment or subscription in any securities including Units of the Funds are subject to risks (including, but not limited to market risks and possible loss of capital or the principal amount invested);
  - acknowledges that the Customer will act solely on the Customer's own independent analysis, judgment and decisions or upon seeking independent financial or professional advice with respect to the Services; and
  - represents and warrants that the Customer understands and is fully aware of such risks.
- 7.2 The Customer agrees that the Bank is not liable to the Customer for any error, misstatement or omission in any prospectus or Master prospectus, materials or Information prepared by or issued by any Fund or Manager.
- 7.3 The Bank:
- does not advise or recommend whether or not to invest in any Fund;
  - does not advise on the performance of any Fund; and
  - prohibits its licensed sales staff from directly or indirectly advising, guiding, recommending or making suggestions on the selection of Funds or Manager without performing a suitability assessment on the Customer, and is not responsible or liable to the Customer for the Customer's investment decisions, howsoever obtained. The Bank's obligation to the Customer is to execute and complete the transaction based on the Customer's Instructions only on the terms and conditions herein.

## **8. INDEMNITY**

- 8.1 The Customer agrees to indemnify the Bank, the Custodian and/or the Sub-Custodian and the Bank's/Custodian's/Sub-Custodian's respective personnel against any losses which may be incurred or suffered in carrying out the provisions of the Services or in the enforcement of the Bank's/Custodian's/Sub-Custodian's rights, unless such losses have been incurred as a result of the Bank's/Custodian's/Sub-Custodian's and/or their respective personnel's gross negligence or wilful breach of duty.
- 8.2 The Bank, the Custodian and/or the Sub-Custodian and their respective personnel are not liable to the Customer:
- for any action or omission, or discharge of any duties in connection with the Services rendered unless such losses have been incurred as a result of the Bank's/Custodian's/Sub-Custodian's and/or their respective personnel's gross negligence or wilful breach of duty; or

- for any losses or failure/delay in complying with the obligations under these terms due any actual or attempted acts of terrorism, outbreaks of epidemics, war, natural disaster, industrial disputes, adverse weather conditions, failure of communication/ computer/ electronic systems (whether or not belonging to the Bank/Custodian/Sub-Custodian), acts of God or any circumstances beyond the Bank's/Custodian's/Sub-Custodian's reasonable control.
- 8.3 The Bank, the Custodian, and/or the Sub-Custodian shall not be required to start, defend or maintain any legal action for or on behalf of the Customer. Should the Bank agree to do so, the Customer shall provide an indemnity for all costs and liabilities arising on terms required by the Bank/Custodian/Sub-Custodian.
- 8.4 These terms and indemnity here do not apply to exclude or restrict any liability which are prohibited by the Laws of Malaysia.
- 8.5 No act, delay or omission by the Bank in exercising any rights or powers herein shall be taken as a waiver by the Bank unless the waiver is confirmed by the Bank in writing.
- 8.6 Any terms or conditions herein which are unenforceable shall not affect the remaining terms and conditions within the respective jurisdiction and/or any other jurisdiction where the term or condition is valid.

## **9. AUTHORISATION**

- 9.1 After the Customer's initial authorisation/instruction, the Customer irrevocably authorises the Bank or the Bank's appointed representative, without any further reference to or consent from the Customer, to execute all documents and to do all things required, in the Customer's name and on the Customer's behalf in the provision of the Services.

## **10. DISCLOSURE**

- 10.1 The Customer irrevocably consents and permits the Bank to disclose and process the Customer's personal data as per the terms set out in the Bank's Notice Relating To The Personal Data Protection Act 2010 and Clause 10 of the Bank's Generic Term & Conditions ("GTC") on "Collection, Processing and Sharing of Customer Information" that can be found at [www.hsbc.com.my](http://www.hsbc.com.my) / [www.hsbcamanah.com.my](http://www.hsbcamanah.com.my) (as updated from time to time).
- 10.2 These terms and conditions on Disclosure will continue to apply even after termination of this Agreement.

## **11. NOTICES**

- 11.1 The Customer agrees that any statement, notice, communication or demand shall be given to the Customer as provided in the Bank's Generic Terms and Conditions.

## **12. OTHERS**

- 12.1 The Customer is solely responsible for ensuring that all particulars given to the Bank, including information as to the Customer's residency status, are accurate and complete and further agrees to promptly notify the Bank of any change in the Customer's particulars or of the Customer's account and unit trust account with the Bank in writing or via channels made available by the Bank.
- 12.2 Pending receipt of such notice by the Customer, the Bank shall send all communications to the latest address and/or number stated in the Bank's records and shall not be liable for any loss suffered by the Customer.
- 12.3 The Customer agrees that:
- the Bank has the right to vary, add to or delete any of these terms and conditions from time to time with reasonable prior notice; and
  - the Customer is also bound by the Bank's Universal/Generic Terms & Conditions, which can be found on the Bank's website at [www.hsbc.com.my](http://www.hsbc.com.my) / [www.hsbcamanah.com.my](http://www.hsbcamanah.com.my) (as updated from time to time).
- 12.4 If there is any inconsistency between the terms and conditions herein and the Bank's Universal/Generic Terms & Conditions, the terms and conditions shall prevail in the following order:
- these terms and conditions; and
  - the Universal/Generic Terms & Conditions.

### HSBC Amanah

- 12.5 For Services provided by HSBC Amanah, the Customer agrees that HSBC Amanah shall only manage and distribute Shariah-compliant funds/unit trusts/ investments plans (“the Amanah portfolio”).
- 12.6 The Customer further agrees that HSBC Amanah:
- is only acting as a distributor of the Amanah portfolio;
  - is not responsible or liable for the performance or the Shariah-compliant level of the Amanah portfolio; and
  - is only obliged to forward to the Customer such information on the Amanah portfolio as provided by the Manager as soon as is reasonable.

## **13. NON-EXCLUSIVITY**

- 13.1 The Customer agrees that the Services here are provided to the Customer on a non-exclusive basis.

## **14. TERMINATION**

### Termination by either party

- 14.1 Either party may terminate the Services by giving the other party one month’s notice in writing.
- 14.2 Upon termination:
- the Customer shall make arrangements to clear the Customer’s Units from the Custodian’s and/or Sub-Custodian’s account/s before the expiry of the notice period; and
  - where the Customer fails or neglects to do so, the Bank may, at the Customer’s costs and liability, take all steps required to transfer, withdraw or redeem such Units remaining in the Customer’s account/s as the Bank deems fit

### Termination on Manager/Fund’s Direction

- 14.3 The Bank shall notify the Customer and seek the Customer’s instructions on any directions given by the Manager of a Fund to divest, transfer or dispose of any of the Customer’s Units in any Fund based on the terms and conditions governing the operation of such Fund.
- 14.4 If the Customer fails to respond within the time specified by the Bank, the Bank shall, at the Customer’s costs and liability, proceed with the redemption or transfer as directed by the Manager, and where applicable, credit the proceeds received to the Customer’s account with the Bank or by other means.

### Termination Consequences

- 14.5 The Bank shall not be liable for any loss suffered by the Customer arising from Customer’s account termination except where such termination is caused by the Bank’s gross negligence or default.
- 14.6 All rights accruing and liabilities incurred prior to the termination date are not affected by the termination and remain enforceable.

## **15. GOVERNING LAW**

- 15.1 The provision of the Services is governed by Malaysian law and the Customer submits to the non-exclusive jurisdiction of the courts in Malaysia.

*Issued by HSBC Bank Malaysia Berhad (Company No. 198401015221 (127776-V)) /  
HSBC Amanah Malaysia Berhad (Company No. 200801006421 (807705-X))*