

## Conditions of Issue of Octopus

### 1. **Conditions of Issue**

These Conditions of Issue are effective from 3 November 2008 for all customers.

### 2. **Introduction**

2.1 These Conditions of Issue are a contract between you, our customer, and us, Octopus Cards Limited, the issuer of the Octopus card or product ("product" means a consumer item incorporating our technology such as watch, phone cover, keyring etc.) which we will refer to as *Octopus* below, in respect of the use of your *Octopus*. By using the *Octopus*, you agree to be bound by these Conditions of Issue.

2.2 These Conditions of Issue explain our obligations to you and yours to us. While they apply to all our main services, they may be complemented or changed by particular terms and conditions for certain services which you may use.

2.3 There are a few terms we used in these Conditions of Issue which we should explain:

- (a) "Authorised Add Value Service Provider" is a Service Provider or financial services company that we have authorised to offer the service of adding value to your *Octopus* in return for cash or other consideration;
- (b) "Authorised Distributor" is an entity that we have authorised to issue an *Octopus* to you;
- (c) "Authorised Service Centre" is an entity that we have authorised to service an *Octopus* on our behalf;
- (d) "Personalised *Octopus*" means an *Octopus* the holder of which has his/her personal data stored in the electronic format of that *Octopus* which may or may not be printed on the card surface; and
- (e) "Service Provider" is any transport operator, retailer, sports facilities provider, building access control provider 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.

### 3. **General**

3.1 (a) We offer two types of *Octopus*:

- (i) "*On-Loan Octopus*" is an *Octopus* which we lend to you and which we will require you to pay a deposit (see Condition 5.2). Subject to Condition 12.1, you may return your *On-Loan Octopus* for a refund; and
- (ii) "*Sold Octopus*" is an *Octopus* which you can buy from our Authorised Distributors or receive from a third party under Condition 4.1(c). You are not required to pay a deposit for buying a *Sold Octopus* but you may not return the *Sold Octopus* except in the case of card malfunction as described in Condition 11.

(b) A bank or financial services company authorised by us may offer you a "*Bank Issued Octopus*". This is a card or product with Octopus function issued by that bank or financial services company incorporating banking and/or payment functionality offered by that bank or financial services company. Each *Bank Issued Octopus* may

have separate additional terms and conditions which you should read and agree to before use.

A *Bank Issued Octopus* may be offered with or without any of our services (for example, Personalised *Octopus* service (Condition 14), Automatic Add Value Service (Condition 8), Lost *Octopus* service (Condition 15). The issuing bank or financial services company will clarify which of these services will be offered on your *Bank Issued Octopus*.

In case you want to return the *Bank issued Octopus*, you should return it to the issuing bank or financial services company and not to us, our Authorised Distributor or Authorised Service Centre.

- 3.2 We operate the Octopus payment system and will ensure that the system is operated with reasonable care, skill and diligence. If you discover any discrepancies in the usage of your *Octopus*, you should contact us as soon as possible.
- 3.3 The Octopus payment system provides you, if you are a holder of a valid *Octopus*, with the ability to pay for certain goods and services using the value stored on your *Octopus* where you see the Octopus acceptance logo at one of our Service Providers.
- 3.4 Some of the Service Providers may provide you with a service, such as entry to a building, and may not make use of the payment functions of your *Octopus*. In this case, if you are eligible for such service, your *Octopus* will enable you to gain access to the premises.
- 3.5 A Service Provider can be identified by their clear display of the Octopus acceptance logo. Please contact the Service Provider or us if the Service Provider does not accept your *Octopus* as payment for their goods/services.
- 3.6 The Service Providers are responsible for all aspects of the goods and/or services they provide to you. In using their services and/or facilities you should abide by their rules, regulations and by-laws. We have no responsibility for the Service Providers' goods and/or services and you should direct any enquiries relating to these matters to the relevant Service Provider.
- 3.7 Under normal circumstances, we will make reasonable efforts to ensure that the Octopus payment system is operating, but we cannot guarantee that a Service Provider will be able to accept an Octopus payment as this depends on the Service Provider's own systems and operations as well as network, electrical, climatic and other conditions or circumstances which are beyond our control.
- 3.8 We reserve the right to charge a reasonable fee for any of the Octopus payment service and other services we provide to you.

#### **4. Obtaining and Using your Octopus**

- 4.1 To use our service you will need to lawfully obtain a valid *Octopus* from:
  - (a) one of our Authorised Distributors which will ask you to either buy the *Octopus* or pay a deposit for the *Octopus* we are lending to you (see Condition 5.2);
  - (b) a bank or financial services company authorised by us to issue you *with a Bank issued Octopus*;
  - (c) a third party authorised by us which, in some circumstances, may choose to provide you with an *Octopus*. That *Octopus*, in this case, will be a *Sold Octopus* and we will treat you as the owner for that *Octopus* as if you had bought that *Octopus*; or
  - (d) an existing holder of a valid *Octopus*, whether that *Octopus* has been bought by the existing holder or lent by us to the existing holder. In this case, we will treat you, the current holder of such an *Octopus*, as the new holder and our customer for the purpose of these Conditions of

Issue. By using the *Octopus*, you agree to be bound by these Conditions of Issue. However, the existing holder should not transfer the *Octopus* to you if the *Octopus* has been personalised (see Condition 14) or has a service the terms of which do not allow transfer (such as the Automatic Add Value Service (see Condition 8)).

- 4.2 If you buy or receive a *Sold Octopus* (as described in Conditions 4.1(c) or 4.1(d)) or have been issued with a *Bank Issued Octopus* (as described in Condition 4.1(b)), we will not own that *Octopus*, but we will retain the right to manage the software and data loaded on that *Octopus*.
- 4.3 If we have lent an *Octopus* to you or you hold an *Octopus* that was lent by us but transferred to you as described in Condition 4.1(d), the *Octopus* card or product will remain our property and we retain the right to recover from you the *Octopus* card or product, as well as managing the software and data loaded on your *Octopus*, at our sole discretion.
- 4.4 A valid *Octopus* means a genuine *Octopus* card or product:
  - (a) which is of a specific fare category for which you are eligible in accordance with the conditions of issue, rules, regulations and/or by-laws of a particular Service Provider (e.g., child, elder or student status);
  - (b) which has not been tampered with; and
  - (c) which you have lawfully obtained.
- 4.5 If there is a positive remaining value in your *Octopus*, but the remaining value is insufficient for an intended transaction, your *Octopus* may still be used for one transaction of a defined type, which will be communicated by us from time to time, provided that the resulting negative value in your *Octopus* does not exceed a maximum amount as determined and announced by us from time to time. The negative value feature on any *Octopus* is provided at our option and sole discretion and we will notify you at the time of issue if your *Octopus* is not provided with this feature.

## **5. Paying a Deposit when we lend you an *Octopus***

- 5.1 If we lend an *Octopus* to you, it will remain our property and the Authorised Distributor will collect a deposit (“Deposit”) from you on our behalf, which we will hold as security for your *Octopus*.
- 5.2 The amount of the Deposit shall be of such reasonable amount as determined and announced by us from time to time to cover the cost of the card, the costs we incur in issuing you the card, the costs of maintaining the *Octopus* payment system for your use and for providing a negative value feature (if applicable).

## **6. Adding Value to your *Octopus***

- 6.1 In order to be able to make payments using the *Octopus* payment system, you will need to add value to your *Octopus* by presenting cash or other accepted payment to an Authorised Add Value Service Provider or by way of the *Octopus* Automatic Add Value Service (see Condition 8) or by such other means as determined and announced by us from time to time. We may charge you a reasonable fee for the provision of the add value services. Authorised Add Value Service Providers will only offer to add value to your *Octopus* above a minimum amount and in multiples of an amount which will be determined and announced by us from time to time.
- 6.2 A genuine Authorised Add Value Service Provider will not offer you a discount to add value to your *Octopus* unless as part of an official promotion authorised by us. You should not attempt to add value if you have any suspicion that the Authorised Add Value Service Provider may not be genuine. We will not honour value that is added to your *Octopus* by an unauthorised add value service provider or through unlawful means.

7. **Maximum Amount of Stored Value**  
Your *Octopus* can store up to a maximum amount which we may notify you from time to time.
8. **Octopus Automatic Add Value Service**  
We, in association with a number of participating banks and financial services companies, offer an automatic add value service ("Automatic Add Value Service") which you may separately apply for through one of these banks or financial services companies or which you may be offered when a bank or financial services company offers you a *Bank Issued Octopus*. Each Automatic Add Value Service offered by the participating banks and financial services companies may have separate, additional terms and conditions which you should read and agree to before using this service.
9. **Your Obligations in Using your Octopus**
- 9.1 You should take good care of your *Octopus* to prevent it from damage or from being tampered with. If we have lent the *Octopus to you*, we may charge you a reasonable fee to cover the cost of the damage upon return of the *Octopus* to us if it is damaged or altered through delamination, bending, cutting, breaking, graffiti or attachment of materials and/or objects on the *Octopus* by any means.
- 9.2 You must not use, or allow anyone to use, your *Octopus* for any illegal purposes.
- 9.3 You should only present your *Octopus* when you see the Octopus acceptance logo. You must not present your *Octopus* at readers that do not show the Octopus acceptance logo as this may cause damage to the *Octopus* or injury to yourself.
- 9.4 You must not tamper with the *Octopus* (including, but not limited to, the software and the data recorded on the *Octopus*) in any way. Tampering with the data on your *Octopus* may be a criminal offence. We shall not honour transactions, or refund any remaining value or the Deposit, if applicable, if your *Octopus* has been tampered with.
- 9.5 We have the right to recover reasonable costs, expenses, losses and damages suffered or incurred by us as a result of your altering or interfering, or allowing a third party to alter or interfere, with the data on your *Octopus*.
- 9.6 We will ask you to co-operate with us and, if appropriate, the police, in recovering your *Octopus* if it is lost or stolen or if we have reasonable grounds to suspect suspicious behaviour.
- 9.7 Our staff and authorised representatives of our approved Service Providers shall have the right to inspect your *Octopus*, including the data in that *Octopus*, at any reasonable time.
10. **Proper Use of your Octopus**
- 10.1 You should not carry more than one *Octopus* together, if you do so, it will be at your own risk. We shall not be responsible for any damage to electronic devices the functions of which have been affected in connection with the use of your *Octopus*. Any request for a refund of an amount that has been deducted incorrectly as a result of your carrying more than one *Octopus* together will not be paid.
- 10.2 We shall not be responsible for any personal injury and/or property loss or damage caused as a result of your inappropriate or unauthorised use of your *Octopus*.
11. **Malfunction**

If your *Octopus* malfunctions due to no fault of yours and you have not damaged or tampered with it in any way, you should:

- (a) return your *Octopus* to our Authorised Service Centre if you hold an *On-Loan Octopus* or if you have bought a *Sold Octopus* from our Authorised Distributors. We will arrange refund of the remaining value, if any, and a temporary replacement if your *Octopus* is an *On-Loan Octopus*, or a refund of the remaining value, if any, on your *Sold Octopus* (see Condition 12.1); or
- (b) if you have obtained your *Octopus* from a third party as described in Condition 4.1(c), you should contact that third party; or
- (c) if you have bought an *Octopus* with a limited time warranty, you should contact the warranty provider; or
- (d) if you have been issued with a *Bank Issued Octopus*, you should contact the issuing bank or financial services company which, under normal circumstances, will issue you with a replacement *Bank Issued Octopus*. In case there is any positive or negative remaining value on the *Octopus* function, this will be managed by the issuing bank or financial services company.

## **12. Return or Cancellation of your Octopus card or product**

12.1 You may return your *Octopus*:

- (a) if it malfunctions, as described in Condition 11; or
- (b) if we have lent you an *Octopus*, at your option, to an Authorised Service Centre.

When you return an *Octopus* and apply for a refund, the Deposit, if applicable, and the remaining value, if any, will be refunded to you in full except in the following situations when we may deduct a reasonable amount to cover:

- (i) any negative remaining value on your *Octopus*;
- (ii) a handling fee (depending on how long we have lent you that *Octopus*) to cover the costs incurred by us, including those charged by the Authorised Service Centre for providing this return and refund service;
- (iii) the cost of repairing any damage to your *Octopus*, if applicable;
- (iv) any outstanding payment from the Automatic Add Value Service; and
- (v) any other amounts including fees outstanding for *Octopus* services.

12.2 You may return your *Sold Octopus* for cancellation and we will disable your *Sold Octopus* and refund to you any remaining value stored on your *Sold Octopus*. However, we will not refund the cost, if any, of your *Sold Octopus* to you. If you cancel your *Sold Octopus*, you may not re-activate your *Sold Octopus* subsequently.

12.3 You or the issuing bank or financial services company may request for cancellation of your *Bank Issued Octopus* as permitted under the cardholder agreement between you and the issuing bank or financial services company and in accordance with the provisions therein. In case of such cancellation, if there is any positive or negative remaining value on the *Octopus* function, this will be managed by the issuing bank or financial services company.

12.4 We reserve the right to recover, cancel or suspend your *Octopus* or any of our services at any time without specifying the reasons, but we will take reasonable steps to minimise any inconvenience caused to you. You may be required to present your *Octopus* for replacement in the manner as may be notified by us. We will refund to you the Deposit, if applicable, and remaining value, if any.

12.5 In determining the Deposit and/or the remaining value to be refunded to you, the records held by us shall be treated as conclusive evidence of the amount of the Deposit and/or the remaining value except for any manifest error on our part.

12.6 *Octopus* is provided for use in payment and related services, it is not provided as a medium for the exchange or transfer of money. We reserve the right to request information (including personal data), investigate (for which we may charge a reasonable fee) and decline at our sole discretion multiple, high value or repeated purchase / refund requests from an individual or organisation.

**13. Inactive Octopus cards or products**

Your *Octopus* has been issued to you for your regular use. If you have not added value to your *Octopus* for a period announced by us from time to time, we will, for your own and our protection, deem your *Octopus* to be no longer in use, and we will deactivate your *Octopus*. If you want to re-activate your *Octopus* subsequently, we may charge you a reasonable fee for the re-activation.

**14. Personalised Octopus Service**

14.1 You may choose to have your identity associated (“Personalised”) with a particular *Octopus* by applying to have a Personalised *Octopus* issued by us. We will charge you a reasonable fee for both producing and, if requested, handling the return of your Personalised *Octopus*.

14.2 A bank or financial services company that offers a *Bank Issued Octopus* may provide you with our Personalised *Octopus* service. Any fees or charges will be notified to you by the issuing bank or financial services company.

14.3 Once you have Personalised your *Octopus*, you should notify us promptly in writing of any changes to your name, address, telephone or email address.

14.4 Once you have Personalised your *Octopus*, you should not allow your *Octopus* to be used by another person. If your Personalised *Octopus* is found in the possession of a person other than yourself, we and/or the Service Providers on our behalf, shall have the right, but are not obliged, to repossess your Personalised *Octopus* from such a person.

14.5 If you have a Personalised *Octopus* issued by us and wish to return such *Octopus* to an Authorised Service Centre, you should present your *Octopus* in person, or if the cardholder of that Personalised *Octopus* has died, a personal representative of the deceased cardholder should present the Personalised *Octopus* together with proof of death, in order to claim a refund of the Deposit, if applicable, and/or any remaining value as described in Condition 12.

**15. Lost Octopus Service**

15.1 If you are the holder of a Personalised *Octopus* or user of the Automatic Add Value Service, you will automatically be provided with our lost *Octopus* service. This lost *Octopus* service may not apply to our other services unless it is clearly stated in the terms and conditions of that service.

15.2 If you are provided with our lost *Octopus* service, you should notify us immediately if your *Octopus* has been lost or stolen except in the case of a *Bank Issued Octopus*, you should notify the issuing bank or financial services company. We will then cancel and disable your *Octopus* after a specified period of time (“Notification Period”) following receipt of your report. The Notification Period shall be determined and announced by us from time to time. Once cancellation of your *Octopus* is effected, it cannot be reversed.

15.3 The lost *Octopus* service described in Condition 15.2 will protect you from the loss of the remaining value and any value added through the Automatic Add Value Service on your *Octopus* after the expiry of the Notification Period.

15.4 We will refund you the Deposit, if applicable, and the remaining value, if any, on your *Octopus* as recorded in our system at the end of the Notification Period. We may charge you a reasonable fee for providing this lost *Octopus*

service, which will be deducted from the refund of the remaining value on your *Octopus*, if any, or payable by you.

- 16. Personal Information relating to you:**  
**Notice (this “Notice”) relating to the Personal Data (Privacy) Ordinance (the ‘Ordinance’)**
- 16.1 From time to time, in order to use our services, it is necessary for you to provide us with data in connection with obtaining or continuing to use our services.
- 16.2 If you are unable or unwilling to provide such correct data, we may be unable to provide you with some of our services.
- 16.3 You agree that all the personal information and data provided to us and all information relating to the use of your *Octopus* may be used by us for:
- (a) processing an application for one of our services;
  - (b) the normal management, operation and maintenance of the Octopus payment system, including audit;
  - (c) designing new or improving existing services provided by us, our subsidiaries and our affiliates (that is, any other entity which directly or indirectly controls us, is controlled by us, or is under common control with us) for customers’ use;
  - (d) marketing of goods and/or services by us, our subsidiaries, our affiliates or any of our selected business partners. We, our subsidiaries, our affiliates or any of our selected business partners may need to carry out matching procedure (as defined in the Ordinance) to enable us to better understand your characteristics and to provide other services better tailored to your needs (such as offering special birthday promotions to you), to assist us in selecting goods and services that are likely to be of interest to you and to establish whether you already have a relationship with our selected business partners;
  - (e) communication by us to you;
  - (f) investigation of complaints, suspected suspicious transactions and research for service improvement;
  - (g) prevention or detection of crime;
  - (h) disclosure as required by law;
  - (i) as a source of information and data for transport and other services in general; and
  - (j) other related purposes.
- 16.4 Data held by us relating to you will be kept confidential by us, but you agree that for the purposes set out in Condition 16.3, we may transfer or disclose such information to the following parties (whether within or outside the Hong Kong Special Administrative Region (“Hong Kong”)):
- (a) any relevant Service Provider under a duty of confidentiality to us;
  - (b) any agent, contractor or third party service provider under a duty of confidentiality to us who provides administrative, telecommunications, computer, payment, data processing or other services to us in connection with the operation of our business (such as debt collection agencies or credit reference agencies);
  - (c) any other person under a duty of confidentiality to us including our subsidiaries, our affiliates or our business partners; and
  - (d) any person to whom we, our subsidiaries, our affiliates or our business partners in (c) above, is under a binding obligation to make disclosure under the requirements of any law, rule and regulation, including those of countries outside of Hong Kong for data transferred to those countries, but such disclosure will only be made under proper authority.

- 16.5 You have the right to:
- (a) check whether we hold data about you and to have access to that data;
  - (b) require us to correct any data relating to you which is inaccurate;
  - (c) ascertain our policies and practices in relation to personal data and to be informed of the kind of personal data held by us; and
  - (d) request us not to use your personal data for direct marketing purposes as described in Condition 16.3 (d) above, in which case we will cease to do so at no cost to you.
- 16.6 We reserve the right to charge you a reasonable fee for processing any request for access to your personal data.
- 16.7 Any request should be made in writing to:
- The Data Protection Officer  
Octopus Cards Limited  
PO Box 38170  
Hing Fat Street Post Office  
Hong Kong
- 16.8 Nothing in this Notice shall limit your rights under the Ordinance.

**17. Transaction Records**

The transaction records of your *Octopus* will be safely kept by us. Transaction records mean all the transaction data which we receive from our system Octopus readers and/or from other channels in respect of the use of your *Octopus*. We will only disclose any of your transaction records to:

- (a) the relevant Service Providers which are under a duty of confidentiality to us;
- (b) satisfy an order by a competent court of law or a relevant regulatory body that we are required to comply;
- (c) any other parties which are under a duty of confidentiality to us, in order for us to maintain the normal management, operation and maintenance of the Octopus payment system;
- (d) any agents, contractors or third party service providers which are under a duty of confidentiality to us and which provide administrative, telecommunications, computer, payment, data processing or other services to us in connection with the operation of our business; or
- (e) any other person under a duty of confidentiality to us including our subsidiaries, our affiliates or our business partners for the purposes outlined in Condition 16.

**18. New Services**

We may provide you with new services associated with your *Octopus* from time to time, and these new services will be governed by the terms and conditions of the respective services.

**19. Fees and Charges**

Our fees and charges are available on our website or from our Authorised Distributors.

**20. Changes in these Conditions of Issue**

- 20.1 We may amend these Conditions of Issue by publishing a notice of the change(s) in one Chinese and one English language newspaper.
- 20.2 The change(s) shall take effect on a date specified in the notice, which will be no less than 30 days after the date of publishing such notice in the newspapers.
- 20.3 The change(s) will apply to you unless you or the issuing bank or financial services company has cancelled your *Octopus* before the changes take effect.

20.4 A copy of the latest version of these Conditions of Issue will be available on our website or from our Authorised Distributors upon request.

**21. English Version Prevails**

We have provided a Chinese language translation of these Conditions of Issue for reference. If there is any inconsistency between the English and Chinese versions, the English version shall prevail.

**22. Governing Law**

These Conditions of Issue shall be governed by the laws of Hong Kong.