

# **Mandatory and Prohibitory Provisions to be Included in the Trust Agreement of Funds Received by Specialized Electronic Payment Institutions from Users**

## **I. Mandatory Provisions to be Included in the Trust Agreement of Funds Received by Specialized Electronic Payment Institutions from Users**

### **1. (Trustor, trustee, and beneficiary)**

The agreement shall establish the legal relationship between the parties by identifying the specialized electronic payment institution as the trustor and beneficiary, and the trust enterprise as the trustee, and stating the name and address of the parties.

### **2. (Purpose of the Trust)**

The agreement shall describe that the purpose of the trust is to protect the security of funds received from users and uphold the rights and interests of users, indicate that the trustor shall declare trust in full for the stored value cards it issued, which include the funds collected from and repay to the users in advance, the stored funds deposited by users deduct the required

reserve, together with the amount of funds collected/paid as an agent, and that the trustee will manage, make use of and dispose the funds pursuant to the trust agreement.

### 3. (Trust property)

The agreement should indicate the types, names, quantities and values of the trust property.

Trust property means the following amounts deposited into the trust account and interest or other income earned therefrom under the management and utilization of trustee:

- (1) The amount of funds collected/paid as an agent and stored funds deposited by users deduct the required reserve provided in Paragraph 1, Article 21 of the Act Governing Electronic Payment Institutions (hereinafter referred to as the "Act").
- (2) The amount of shortfall made up in accordance with Paragraph 6, Article 22 of the Act.

### 4. (Duration of trust)

The agreement shall describe the term of the trust agreement.

The trustor shall renew the agreement or enter a new agreement

with another trust enterprise two months before the trust agreement expires, and report the information to the competent authority for reference.

5. (Method for management and utilization of trust property)

The agreement shall indicate that the trust property will be put under separate management for utilization, and that the trustee does not have the power to decide how to utilize the trust property.

The method for management and utilization mentioned should include the following particulars:

(1) The trustor may not instruct the trustee to draw on the funds received from users that are declared trust unless for the following purposes:

a. Transfer of funds according to user instruction. The trustor shall, according to the payment instructions of users, notify trustee to carry out transfer of funds without any delay. Except for court judgments or other related regulations, it may not postpone the payment or accept a request from a third party for the suspension of payment or

remittance, or other similar requests.

- b. User withdrawal of payments funds or the funds transferred to a contracted institution; the trustee shall transfer the payment fund, which is set to be withdrawn or be made, into a same-currency deposit account of the user or the contracted institution in financial institutions, providing that it shall not paid in cash.
- c. To make use of the funds according to Subparagraphs 2 hereof.
- d. To dispense interest or other income earned under the preceding item to the beneficiary.

(2) Payment funds declared trust may be utilized in the following manners according to the proportion set out by the competent authority and the criteria set out by the competent authority for certain utilization targets:

- a. Deposit in banks.
- b. Purchase government bonds.
- c. Purchase treasury bills or negotiable certificates of deposit.
- d. Purchase other financial products approved by the

competent authority.

6. (Settlement of trust property and make-up of shortfall)

The agreement shall describe the operations for settlement of trust property and make-up of shortfall.

The trustee shall assess the total value of funds received from users declared trust by trustor and invested by trustee at the end of each month according to the generally accepted accounting principle. Where the assessed amount falls below the original amount of investment, the trustee should notify the trustor to make up the shortfall. The trustor shall, on the next business day following the receipt of such a notice, deposit the shortfall amount in cash into the trust account. Should the trustor fail to make up the shortfall before the specified time period, the trustee shall immediately report the matter to the competent authority.

7. (Periods and methods for the calculation and distribution of trust income)

The agreement should describe the periods and methods for the calculation and distribution of trust income.

The trustee shall dispense the interest or other income earned

from the trust property, less costs, necessary expenses and loss, to the beneficiary in the year of income generation according to the trust agreement after depositing a certain percentage of income as stipulated by the competent authority into the dedicated deposit account opened at a financial institution under Paragraph 4, Article 22 of the Act.

8. (Method for modifying the agreement)

The agreement shall describe the method for modifying the trust agreement.

9. (Causes for revocation or termination of agreement)

The agreement shall describe the causes for revocation or termination of trust agreement.

10. (Disposition of trust property when the trust relationship ends)

The agreement shall describe the ownership of trust property and manner of delivery when the trust relationship ends.

When the trust agreement expires or is terminated early that the trust relationship ends, and the trustor has entered a trust agreement with another trust enterprise, the trust property shall be delivered to the other trust enterprise; or if a full performance

guarantee contract is signed, the trust property shall be returned to the trustor.

11. (The responsibilities of trustee)

The agreement shall describe the responsibilities of the trustee.

12. (Trust-related reports)

Trustor shall periodically deliver detailed schedule of its account operations to the trustee for it to check the deposit, transfer, drawing and utilization of funds declared trust. Trustor shall also periodically file the relevant information on trust property declared trust with the competent authority.

13. (Standard, type and calculation of remuneration to the trustee, and the time and manner of payment)

The agreement shall describe the standard, type and calculation of remuneration to the trustee, and the time and manner of payment.

Trustor shall pay remuneration to trustee with its own funds instead of deducting it from the trust property.

14. (Assumption of expenses and method of payment)

The agreement shall describe the assumption of expenses and

method of payment.

Trustor shall pay the expenses with its own funds instead of deducting the expenses from trust property.

15.(Confidentiality agreement)

The agreement shall indicate that unless it is otherwise provided by law or the competent authority, the trustee has the obligation to keep confidential information on the transactions and dealings of the trustor with users it obtains through the signing of the trust agreement.

16. (Restriction on the transfer of beneficiary rights)

The agreement shall contain clauses that forbid the transfer or pledge of the rights of trust beneficiary.

17. (Avoiding misunderstanding by users)

The agreement shall specify that when the trustor undertakes marketing or advertising activities, solicits business or signs contract with users, the trustor shall inform the targets of marketing, advertisement or business solicitation, or users explicitly that the beneficiary of the trust is the trustor, not the users, and the trustor shall not mislead the users into thinking

that the trust enterprise is managing the trust property on their behalf. Where the trustor enters a contract with a user, the same shall be stated in the contract.

The trustor or the trustee shall, upon the request of a user, provide a copy of the agreement clauses specified in the preceding paragraph, or disclose the information by other means (e.g. the trustor or the trustee discloses the information on their websites).

#### 18. (Counterparts)

The agreement shall indicate the number of counterparts of the agreement and the copies held by the trustor and the trustee respectively.

#### 19. (Agreement execution date)

The agreement shall indicate the date the agreement is executed.

#### 20. (Risk disclosure and others)

The agreement shall inform possible associated risks and contain other items as required by law or the competent authority.

## II. Prohibitory Provisions to be Included in the Trust Agreement of Funds Received by Specialized Electronic Payment Institutions from Users

1. The parties shall not agree that the trustee will guarantee the security of or the minimum return on the trust.
2. The agreement shall not contain clause that may mislead the users or contracted institutions into believing that the trustee manages the trust property on their behalf.
3. The agreement shall not contain any clause that entitles the trustee to the trust benefits, except when the trustee is a co-beneficiary.
4. The agreement shall not contain any other clause that violates the mandatory or prohibitory provisions as provided by law.