

Terms and Conditions For Handling of Documents Under Letter of Credit

1. In consideration of you agreeing to negotiate, advance, finance or otherwise handle at our request our drafts and/or documents under this Letter of Credit, we hereby declare and confirm that we have agreed with you that this Letter of Credit together with all documents representing or related to the Goods including without limitation, bills of exchange, invoices and carriage documents, and all other documents enclosed with our request and the Goods, shall at all times be held by you by way of pledge as continuing security for the payment of all moneys, obligations and liabilities whatsoever, whether actual or contingent, now or hereafter, due, owing to or incurred by you from or by us on any account.
2. We hereby record the terms of such pledge to you and undertake to and agree with you as follows:
 - (a) you may, at your option insure the Goods in respect of which you hold the documents against all risk and at our costs but you shall not be responsible for any loss or damage resulting from your omission to insure. We also agree to pay and keep you fully indemnified against all insurance and other charges incurred in respect of the pledged Goods from time to time;
 - (b) you, your agents and nominees are hereby irrevocably authorised to act as our agent to execute all documents and do all other acts and things whatsoever which you may consider necessary or desirable to perfect its security or to effect any sale of any of the pledged Goods or to enforce any rights to which we or you are entitled in connection with the pledge;
 - (c) you shall have the right of recourse to us if the issuing/confirming bank does not pay to you any amount(s) due under the bill or expressed to be payable under the terms of any Letter of Credit or if there is any delay in payment for any reason, and we will reimburse you for any amount paid to us by you, and for any loss or damage suffered by you as a result of non-payment or delay in payment, together with interest from: (i) the date of non-payment by the issuing/confirming bank; (ii) the date from which you advance payment to us; or (iii) the date upon which you incur such loss or damage, as the case may be;
 - (d) you shall have the right of recourse upon the Goods or any part thereof in priority to any other claims thereon and to sell such Goods or part thereof as may be necessary for payment of freight, insurance, warehouse, dock and other charges, without prejudice to our obligation to repay any outstanding amount due to you from such proceeds of sale;
 - (e) any financing is with recourse to us under all circumstances, notwithstanding that all the terms and conditions of the Letter of Credit may not have been complied with or that one or more of the documents called for in the Letter of Credit is not presented, that any one or more of the documents presented do not conform with the terms of the Letter of Credit, whether or not as identified or advised by you.
 - (f) in the event of financing, to pay you for any shortfall in amount received by you;
 - (g) to pay all commissions, fees and charges incurred or charged by you or your correspondents or agents;
 - (h) not to hold you or your correspondents or agents liable in the event that the documents or some of the documents are lost, destroyed or delivered wrongly by the courier service company selected by you or wrongly delivered by the post office;
 - (i) that you are not under a duty or responsibility to check the bill(s)/documents enclosed herein and we shall not hold you responsible nor is your right of recourse prejudiced in any way in the event that the documents are found by a court of law or tribunal to contain discrepancies or in the event that any discrepancies are not identified by you, your servants, employees or agents, whether or not as a result of a wilful or negligent act or omission;
 - (j) you may land and store the Goods at any wharf, warehouse, godown or store or other places as you shall from time to time in your absolute discretion decide, and/or re-ship the same to any other port and at our cost. We agree to pay and keep you fully indemnified against all storage, rent, insurance, removal, transportation and other charges incurred in respect of the pledged Goods from time to time and abide by any terms, conditions and regulations for the storage, removal or transportation of the pledged Goods as required by the wharf, warehouse, godown or store or other service providers as if such terms, conditions and regulations were made with or imposed on us except that you shall have the sole right to instruct, release and conduct other dealings with the pledged Goods;
 - (k) you may accept full or proportionate payment before maturity from the drawees and/or acceptors of any bills, or the consignees of the Goods, against delivery of the Goods (or a proportionate part thereof) and/or documents;
 - (l) all costs, charges and expenses incurred by you (including, without limitation, all legal costs and disbursements including those incurred due to legal proceedings instituted by or against you) in relation to this request or our liabilities or pledged Goods shall be reimbursed by us to you on demand on a full indemnity basis, including but not limited to those liabilities relating to or arising from any and all discrepancies that may exist between the documents as called for in the terms of the Letter of Credit and the documents enclosed with this request, regardless of whether such discrepancies are identified or advised by you; until so reimbursed, shall carry interest from the date of payment by you to date of reimbursement by us to you at such rate as you may prescribe from time to time;
 - (m) without prejudice to your other rights and remedies, you shall be entitled (but not obliged) in your absolute discretion at any time and without notice to us to debit any of our accounts with you, whether alone or jointly or jointly with any other person, whether in Singapore or elsewhere for all or any moneys due from us hereunder and with the amount of unaccepted or unpaid bills of exchange or of advances against documents of title or other documents for which we are liable to you, or any deficiency arising after realisation of the Goods, and also for principal, interest, default interest, fees, commission, charges, valuation fees, insurance premiums, costs, expenses or any other moneys howsoever owing or payable by us to you. Provided Always that any such debiting shall not constitute nor be deemed to be a payment of any moneys to which it relates except to the extent of any amount in credit in that account, nor shall it be deemed a waiver of any event of default under any other document made between us and you. If such debiting shall cause that account to be overdrawn, interest shall be payable accordingly;
 - (n) that if you for whatever reason are unable or unwilling to negotiate the Letter of Credit against the documents presented to you, you shall be authorised to handle and send the documents to the issuing bank for payment without further reference to or authorization from us. We agree that you shall not be responsible or liable to us for any consequences arising from not negotiating the Letter of Credit.
3. In any of the following events:
 - (a) default of payment of any money or discharge of any obligation or liability on demand;
 - (b) default of acceptance on presentation or of payment on due date or at sight of any bill of exchange (depending on its tenor) or on default of payment of any other sums due hereunder on due date;
 - (c) on any drawee or acceptor of any bill of exchange or consignee of the Goods suspending payment, becoming bankrupt or insolvent, being put under receivership or taking any steps for liquidation or arrangement with creditors; or
- (d) if and whenever you consider it desirable having regard to the market value of the Goods that the Goods should be sold whether or not any contingent or other liability of ours to you has actually matured;
you may, without notice or our further consent or the consent of any other person, sell or dispose of the Goods or any part thereof at such times in such manner and generally on such terms and conditions and for such consideration (whether payable or deliverable immediately or by instalments) as you may in your absolute discretion think fit without being under any responsibility to us for the price obtained thereby, and you may apply the proceeds in or towards the discharge of the costs incurred and of all sums which we are liable to you, whether then due and payable or not and in such order as you may from time to time conclusively determine. If such proceeds are insufficient for such purpose, we undertake immediately to make good such deficiency.
4. The security constituted by the pledge shall be in addition to and shall not be prejudiced, determined or affected by nor operate so as in any way to determine, prejudice or affect any other security or right which you may now or at any time in the future hold for or in respect of all or any part of our liabilities to you, nor shall any prior security held by you over the pledged Goods or any part of them or any other properties merge in the security constituted by the pledge, and the pledge shall remain in full force and effect notwithstanding any intermediate settlement of account as a continuing security until discharged by you.
5. We represent and warrant to you that all documents presented under the Letter of Credit will constitute a complying presentation.
6. We undertake that:
 - (a) we will pay you upon demand, the amount of all sums due under bills of exchange negotiated or indorsed by you at our request which may be dishonoured on presentation for acceptance, or which may not be paid on sight or on the due date according to its tenor;
 - (b) we will reimburse you for all financing or payments made against documents of title or other documents which may not have been duly taken up on presentation to the confirming or issuing bank;
 - (c) we will pay you upon demand the amount of all expenses relating to currency exchange for the respective currency as determined by you at your rate of exchange then prevailing;
 - (d) any and all currency conversions shall be at the Bank's prevailing foreign exchange rate unless otherwise arranged beforehand;
 - (e) we shall pay all interest applicable to any processing which the Bank may undertake pursuant to our request at such rates and for such periods as the Bank may from time to time determine; and
 - (f) we will pay for late payment interests, if any, at your prescribed rate and any shortfall in payment of principal arising from the deduction of charges, commission, fees, costs or expenses, regardless of any terms and conditions of the Letter of Credit stipulating otherwise.
7. We irrevocably agree to assign to you absolutely, by way of transfer, all our rights, title and interest in, and claims for payment under the Letter of Credit and all related documents, Goods and insurances. Without prejudice to the generality of the other terms and conditions herein, where financing is provided to us against the Letter of Credit and documents presented thereunder and/or bills of exchange, pursuant to our request herein, we shall and do hereby assign unconditionally and irrevocably to you all rights, interest, benefits, entitlements, debts, suits and choses in action as are due under the Letter of Credit and/or bill of exchange. We irrevocably authorise you to give notice of such assignment to the issuing bank and all other parties in respect of which our rights, title and interests are hereby assigned. You may, at your absolute discretion, enforce the rights through legal action or otherwise. We agree to execute any documents (including the endorsement of any draft), and to take all steps and provide all assistance that you may request in connection with making claims against any party in respect of the Letter of Credit, on goods and insurances.
8. Your rights against us shall not be prejudiced owing to any such bills not having been noted and/or protested in the event of dishonour by non-acceptance and/or non-payment.
9. If there occurs in relation to negotiation of or advance against the Letter of Credit an event having a material and adverse change in (i) the international financial and capital markets; (ii) any national or international financial, potential or economic conditions; (iii) currency availability; or (iv) exchange rates or exchange controls, you shall have the absolute discretion to receive payment under the Letter of Credit in any alternative currency at such exchange rate as you may determine in your discretion. Any such action shall be binding on us and we shall be liable for any additional loss, damages, costs, charges and/or expenses incurred by you.
10. The Bank shall not be responsible for any act, omission (including any failure to endorse or re-endorse bills of lading), default, suspension, insolvency or bankruptcy of any correspondents or agents, or for any delay in remittance loss in exchange or loss of any documents, item or their proceeds during transmission or in the course of collection, but you shall be responsible only for your own acts.
11. We hereby agree to indemnify you and your agents on demand against all actions, claims, losses, expenses, demands and liabilities whether in contract, tort or otherwise, now or hereafter incurred by you or your agent, officer or employee for anything done or omitted in the exercise or purported exercise of the powers herein contained or relating to the Letter of Credit or the pledged Goods or occasioned by any breach by us of any of our obligations hereunder or relating to the Letter of Credit or the pledged Goods, and you may retain and pay all sums in respect of the same out of the proceeds of sale or other disposal of the Goods.
12. In the event that we instruct you to check the documents and to pay us prior to receipt of the Letter of Credit proceeds from the issuing / confirming / reimbursing bank, you shall only be required to check such documents based on your understanding and interpretation of the Revision of the Uniform Customs & Practices ("UCP"), International Chamber of Commerce ("ICC") Publication stated in the Letter of Credit and international standard banking practice. You shall not be liable to us whether in contract, trust or otherwise should the documents be rejected or payment refused by the issuing or confirming bank on the ground that the documents do not constitute a complying presentation, even if the discrepancies raised by the issuing or confirming banks are not similar to those raised by you or if you determine the documents to be a complying presentation.
13. If we request you to negotiate drafts and/or documents under the Letter of Credit, we may request that the proceeds under the Letter of Credit be advanced to us before or on the banking day on which reimbursement is due to you. If you accede to our request, you shall nevertheless be entitled to advance the proceeds to us on the banking day on which reimbursement is due to you. You shall also assume the rights of a negotiating bank under the Letter of Credit and charge us negotiation commission and other fees as you deem appropriate.
14. Where, for any reason whatsoever, whether with or without legal basis, you do not receive payment of the proceeds under the Letter of Credit or bills of exchange from or the issuing

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- or confirming bank as and when such payment is due or if the issuing or confirming bank seeks reimbursement of any payment made to you and/or reject documents or drafts presented under the Letter of Credit or if one or more of the documents presented under the Letter of Credit is forged or contains any misrepresentation or false factual information known to us, any amount paid by you to us pursuant to such negotiation, advance or finance shall become immediately repayable to you by us and you shall have full recourse against us in respect of such payment as has been made to us earlier.
15. Without prejudice to the foregoing, you are entitled to reverse/debit any payment by the issuing or confirming bank to any account we maintain with you, in satisfaction of any outstanding sums owed to you. In addition, you are authorised to debit any or all of our accounts with you by way of payment in advance of all costs, charges, commission, expenses and liabilities which you, your agents or correspondents have incurred or may incur in relation to or in respect of the Letter of Credit. The aforesaid advance payment is an absolute and unconditional payment and you shall not be obliged, under any circumstances whatsoever, to refund the same to us. You shall be at liberty to utilise or otherwise deal with the advance payment in any manner as you deem fit and we confirm that we have no further title, interests, rights or benefits to the monies comprising the advance payment. The abovementioned advance payment shall not discharge or otherwise affect any other claims for reimbursement, repayment, indemnity, interest, expenses and/or costs that you have or will have against us.
16. We hereby appoint you and any person nominated in writing under the hand of any of the Bank's officers as your attorney and in our name and on our behalf, to commence any legal action or proceedings if necessary and that we will co-operate fully with you, including the execution of any documents, affidavits and powers of attorney, in any action or proceedings commenced (whether in our name or not) to enforce or obtain payment from the issuing or confirming bank whether pursuant to this assignment or otherwise.
17. Unless otherwise provided to the contrary in these Terms and Conditions, a person who is not a party to these Terms and Conditions has no right under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore ("the Act") to enforce any terms of these Terms and Conditions. Notwithstanding any term herein, the consent of any third party is not required for any subsequent agreement between the parties hereto to amend or vary (including any release or compromise of any liability) or terminate these Terms and Conditions. Where third parties are conferred rights under these Terms & Conditions, those rights are not assignable or transferable.
18. The expressions "we", "us" and cognate expressions whenever used herein means us and our successors, administrators and legal representatives (as the case may be). The expressions "you", "your" or "the Bank" extend to its successors, administrators, legal representatives and assigns.
19. Handling of documents pursuant to this application shall also be subject to the Uniform Customs and Practice for Documentary Credits, ICC Publication No 600 ("UCP600") or the applicable revision to UCP 600 as stated in the Letter of Credit. In the event of inconsistency between UCP600 (or its applicable revision) and these Terms and Conditions, these Terms and Conditions shall prevail.
20. This application and these Terms and Conditions and the settlement of any dispute arising out of or in connection herewith shall be governed by the laws of Singapore. We hereby irrevocably submit to the non-exclusive jurisdiction of the Singapore Courts.
21. We understand that the Bank shall be entitled to take all actions the Bank considers appropriate in order for the Bank to meet any obligation or requirement, either in Singapore or elsewhere, in connection with the detection, investigation and prevention of financial crime including fraud, money laundering, terrorism financing, bribery, corruption, or tax evasion or the enforcement of any economic or trade sanction ("Financial Crime").
- We understand and agree that if any activities, conduct or circumstances we are involved in (directly or indirectly) may, in the sole and absolute discretion of the Bank, expose the Bank to legal or reputational risk, or actual or potential regulatory or enforcement actions, the Bank shall at any time, without giving any reason or notice to us, have the right to immediately:-
- (a) close all accounts and terminate all services we have with the Bank;
 - (b) delay, block or refuse the making or clearing of any payment, the processing of instructions or the application for services or the provision of all or part of the services;
 - (c) terminate and/or recall any or all advances or loans, credit or other financial or banking facilities (committed or uncommitted), accommodation, financial assistance or services and demand repayment of all sums outstanding; or
 - (d) make reports and take such other actions as the Bank may deem appropriate.
- We undertake that we will not initiate, engage in or effect a transaction (directly or indirectly) that may involve Financial Crime and agree to hold the Bank harmless, indemnify and keep the Bank indemnified from and against any and all liabilities, claims, obligations, losses, damages, penalties, actions, judgments, suits, costs (including, but not limited to, legal costs on a full indemnity basis), expenses and disbursements of any kind whatsoever which the Bank may suffer or incur in connection with or arising from any breach by us of this undertaking.