

J TRUST ROYAL TRADE TERMS

August 2019



J TRUST ROYAL BANK TRADE TERMS

1. INTRODUCTION

1.1 Terms applying

These J Trust Royal Bank Trade Terms (the **Terms**) apply to all Trade Products used by, or provided by the Bank to, a Customer unless agreed otherwise in writing by the Bank.

1.2 Applications and forms

- (a) The Customer will apply or request to use a Trade Product by delivering to the Bank an application or request (as applicable):
- (1) in a format specified or approved by the Bank from time to time;
 - (2) completed to the satisfaction of the Bank; and
 - (3) signed or made by one or more Authorised Representatives.
- (b) The Customer will also execute and deliver to the Bank any other documents the Bank may require in relation to a Trade Product.
- (c) The Bank will promptly notify the Customer if it will not accept and act upon an application or request of the Customer to use a Trade Product.

1.3 Uncommitted

Unless agreed otherwise in writing by the Bank, all Trade Products are provided to the Customer on an uncommitted basis and nothing in any Trade Agreement, the satisfaction of all or any requirements in it or any negotiations between the parties before the Trade Product is utilised obliges:

- (a) the Customer to use any Trade Product;
- (b) the Bank to accept and act upon the Customer's request to use a Trade Product or give the Customer any reasons for refusing to do so; or
- (c) the Bank to continue to make any Trade Product available to the Customer, and the Bank or the Customer may, at any time, give the other notice in writing immediately terminating the provision of the Trade Product.

1.4 Exchange rate movements

- (a) If the Customer uses a Trade Product in one currency and the Customer's receivables are in another currency and the exchange rate of the currencies fluctuates, the Customer may be exposed to exchange rate risk.
- (b) The Customer is solely responsible for monitoring and managing exchange rate risk and protecting itself against adverse exchange rate movements.
- (c) The Customer will, if required by the Bank, provide extra security or payment (including by way of cash cover) or reduce the drawn amount of the Trade Product if exchange rate fluctuations have caused the value of security provided or a payment made to the Bank to fall or actual or contingent payment obligations owed to the Bank to increase relative to the drawn amount of or limit provided for the Trade Product.

2. IMPORT CREDITS

2.1 Issuance

- (a) Each Import Credit will be irrevocable and issued subject to UCP and may be issued subject to URR and otherwise in a form and substance acceptable to the Bank.
- (b) The Bank is not obliged to check or ensure the accuracy of any information supplied to it for inclusion in any Import Credit.
- (c) The Bank will send a copy of each Import Credit to the Customer as soon as is practical after it is issued.
- (d) The Customer is solely responsible for ensuring that the terms of an Import Credit meet its requirements.

- (e) The Customer must notify the Bank of any objection to the Import Credit terms within 2 Business Days after receiving its copy. If it does not do so, that will be conclusive evidence that it is completely satisfied with the terms of the Import Credit and it waives any right to raise objections to, or exercise any defence related to the validity, accuracy, and enforceability of the terms of the Import Credit and the Bank will be free from all claims in respect of those terms.

2.2 Third Party Import Credits

The Bank may issue, at the Customer's request, an Import Credit to facilitate the business transactions of another party with the beneficiary and with that other party named as the applicant or contracting party in that Import Credit. If the Bank does so, the Customer's reimbursement obligations to the Bank will still apply.

2.3 Correspondent Bank

The Bank may choose the Advising bank and Nominated bank for the Import Credit even if the Customer requests otherwise in the application.

2.4 Separate transaction

The Customer acknowledges that an Import Credit is by its nature a separate transaction from any contract between the Customer and any other party on which the Import Credit may be based. As such, the Bank is not required to:

- (a) notify the Customer that a presentation has been received or prior to honouring an Import Credit;
- (b) make reference to, enquiry into or to take account of statements or instructions from the Customer or any other party or any defence or claims the Customer may have against the Presenter; or
- (c) notify the Customer that a presentation is not compliant prior to dishonour.

2.5 Compliant presentation

- (a) The Bank will honour all presentations complying with the terms of the Import Credit.
- (b) If the Bank has restricted the negotiation of the Import Credit to its Correspondent Bank, the Bank may accept and pay all drafts drawn or purported to be drawn on that Correspondent Bank.

2.6 Non-compliant presentation

- (a) The Bank may refuse to honour any non-complying presentation under the Import Credit.
- (b) If the Bank notifies the Customer of discrepancies, the Customer must promptly notify the Bank in writing of whether or not it waives them. If the Customer does not do so, the Bank may at any time within 21 days of notifying the Customer of the discrepancies return the Trade Documents to the Presenter.
- (c) Any decision by the Bank to seek instructions from the Customer regarding discrepancies at any time does not oblige the Bank to seek instructions at any other time in respect of any other discrepancies.
- (d) The Bank may reject a non-compliant presentation under the Import Credit even if the Customer has instructed the Bank to waive all discrepancies advised to the Customer.
- (e) If the Customer requests the Bank to authorise the release or delivery of the Goods to it notwithstanding any discrepancies that may appear in the presentation, the Bank may treat that release or delivery of Goods as if it was a payment made by the Bank under the Import Credit and the Customer must reimburse the Bank in accordance with these Terms.

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2.7 Responsibility

The Bank, its Correspondent Banks and agents are not liable or responsible for, nor will the Customer's obligations under these Terms or in relation to any Import Credit be reduced, terminated or affected in any way by:

- (a) the shippers' charges on the Goods;
- (b) any failure to obtain any governmental authorisation, licence or permit necessary or appropriate in connection with these Terms and or the Import Credit;
- (c) any impossibility or illegality in performance of these Terms or the Import Credit or any other agreement as result of any act of any Authority or court, or any Law, affecting these Terms or the Import Credit; or
- (d) any variations in the instructions agreed to by the Bank or any other bank relating to the Import Credit necessitated by the Law and/or commercial practice of the country in which any draft is negotiated or presented for acceptance or for payment.

2.8 Insurance

- (a) If it is the Customer's responsibility to insure the Goods or cause the Goods to be insured, the Customer will insure them or cause them to be insured for loss and damage and for an amount that a prudent and reasonable owner of the Goods would effect and maintain with a reputable insurance company.
- (b) The Customer will give a copy of the insurance policy and all receipts for current premiums to the Bank within 3 Business Days of being requested by the Bank to do so.
- (c) If the Customer fails to take out or maintain any insurance in accordance with these Terms or give the Bank a copy of the insurance policy, the Bank may take out and maintain, at the Customer's expense, insurance considered appropriate by it.

2.9 Reimbursement

- (a) The Customer will pay to the Bank an amount equal to and in the same currency as all amounts paid by the Bank in connection with an Import Credit, on the day on which the Bank makes or is required to or deemed to make that payment.
- (b) If the Bank specifies, the Customer will, on or shortly before the date on which the Bank makes (or is likely to make) a payment under an Import Credit, pay to the Bank a sum equal to such payment. The Bank may hold all or part of such sum in an account in the Bank's name, under the Bank's sole control and/or apply all or part of such sum against the Customer's reimbursement obligations to the Bank.

3. IMPORT COLLECTIONS

3.1 ICC rules

Each Collection (either documentary or clean) will be subject to URC.

3.2 Collecting bank

If the Bank acts as a collecting bank in respect of import Collections and Drafts for acceptance or payment:

- (a) The Bank may hold the Trade Documents until acceptance or reimbursement of the relevant Drafts, or payment, by the Customer; and
- (b) The Bank will outline in the correspondence to the Customer attached to the import Collection any additional terms applicable to any import Collection.

3.3 Guarantee (Aval)

- (a) The Bank may, at the Customer's request, add its guarantee (aval) to a Draft which the Customer has first accepted.
- (b) The Customer must pay the Bank the face value amount of the guaranteed (avalised) Draft on its maturity date.
- (c) If the Customer dishonours the Draft, the Customer must pay the Bank interest at an interest rate reasonably determined by

the Bank from the time of dishonour until payment by the Customer of the face value amount of the Draft to the Bank and all charges incurred by the Bank.

- (d) The Customer must hold the Bank indemnified against, and pay to the Bank on demand, any Loss which the Bank may incur in guaranteeing payment of, or adding its aval to, the Draft.
- (e) The Customer absolutely, irrevocably and unconditionally authorises the Bank to pay immediately on demand by the exporter (and without any prior notice to the Customer) any money demanded by the exporter under or pursuant to any guaranteed (avalised) Draft on its maturity date. The Bank will not be under any obligation to enquire whether any claim, demand or drawing by the exporter is properly made or whether the Customer disputes the validity of any such claim by the exporter. Any action taken by the Bank in good faith pursuant to this clause will bind the Customer in respect of such action.

4. IMPORT CREDITS AND COLLECTION– PLEDGE AND TRUST RECEIPT

4.1 Pledge

The Customer pledges in favour of the Bank, as continuing security for payment and discharge on demand to the Bank of the Import Obligations, the Pledged Assets.

4.2 Risk

The Customer will hold all risk in any Pledged Asset. The Bank is not responsible for any Pledged Asset and will not be liable for any Loss in relation to, or depreciation in the value of, any Pledged Asset.

4.3 Pledge obligations

The Customer must:

- (a) have good title to each Pledged Asset and ensure that no person (other than the Bank) at any time has any Encumbrance or other interest in (or claim over) any Pledged Assets while the Pledge over that Pledged Assets exists;
- (b) deal with the Pledged Assets in accordance with any instructions the Bank may give the Customer from time to time;
- (c) take any step that the Bank reasonably requests which the Bank considers necessary or desirable to constitute, preserve or perfect the Pledge;
- (d) not sell or dispose of any Pledged Asset or its right, title or interest in any Pledged Asset unless permitted under these Terms or as otherwise agreed by the Bank in writing;
- (e) pay all costs and expenses in relation to any Pledged Assets, including the cost of insuring, storing or transporting them;
- (f) ensure that all Pledged Assets are kept separate from any other goods and are clearly marked as belonging to the Bank; and
- (g) ensure that any person who is in actual possession of any Pledged Assets acknowledges to the Bank in writing that they are held to the Bank's order.

4.4 Authority to perfect and dispose

The Customer irrevocably authorises (but does not oblige) the Bank (acting reasonably) and its agents and nominees to execute all documents and do all other acts and things the Bank considers necessary or desirable, to perfect the Pledge or to effect any disposal of any Pledged Assets, or to enforce any rights to which the Customer or the Bank is entitled in connection with any Pledged Assets.

4.5 Action on default

- (a) If the Customer fails to pay or discharge any of the Import Obligations when due or is otherwise in breach of its obligations under these Terms, the Bank may deal with and take any action in relation to any Pledged Assets, including selling, disposing, transporting, warehousing, landing or insuring any Pledged Assets or making a claim on any insurance policy.

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- (b) The Customer must reimburse the Bank on demand in relation to any reasonable cost or expense the Bank incurs in relation to the Bank dealing with or taking action in relation to any Pledged Asset.
- (c) The Bank is not liable for any Loss suffered by the Customer as a consequence of that action.
- (d) The Customer will remain liable for and must pay any deficiency that may remain owing to the Bank after the sale or disposal of the Pledged Assets.

4.6 Trust Receipt

If, prior to the payment in full of the Import Obligations, the Bank releases any Pledged Assets to, or to the order of, the Customer, whether or not a Trust Receipt is signed and delivered to the Bank for that release the Customer will hold those Pledged Assets and any proceeds of their sale on trust for the Bank and failing that will hold them as the Bank's fiduciary and/or agent and in each case for the Bank's sole benefit (unless otherwise agreed by the Bank in writing) and the Customer agrees that:

- (a) those Pledged Assets are pledged to the Bank upon the terms of these Terms and that the Pledge will continue notwithstanding the release of those Pledged Assets by the Bank to the Customer;
- (b) those Pledged Assets are held at all times to the order of the Bank but at the expense and at the risk of the Customer; and
- (c) it has no claim, lien or set-off of any kind in respect of anything which the Customer holds on trust for the Bank and the Goods will remain the property of the Bank until sold or otherwise disposed of, and undertakes:
 - (d) if the Bank requests, to execute a Trust Receipt in respect of those Pledged Assets before they are released;
 - (e) to deal with those Pledged Assets with the sole purpose of the sale of the Pledged Goods comprising those Pledged Assets to buyers approved by the Bank, unless otherwise agreed with the Bank in writing;
 - (f) not to sell or otherwise dispose of any of those Pledged Assets on deferred terms (other than normal trade credit) or for any non-monetary consideration or for less than current market value;
 - (g) pending the sale of any Goods that form part of those Pledged Assets, to maintain the Goods in sellable condition, keep those Goods stored in the name of the Bank in warehouses approved by the Bank, separate from other goods and generally under conditions satisfactory to the Bank;
 - (h) insure the Goods against fire and any other risks that the Bank may reasonably require to their full insurable value and hold the policies on behalf of the Bank and in case of loss pay the insurance moneys to the Bank in the same manner as proceeds of sale and make good any deficiency;
 - (i) to hand to the Bank any warrants, receipts and documents (other than documents that are already pledged) relating to those Pledged Assets promptly on receipt;
 - (j) upon sale of any of those Pledged Assets:
 - (1) to promptly get in, recover and receive the sale proceeds in accordance with the contract of sale and remit to the Bank all sale proceeds immediately on receipt without set-off or deduction and without intermingling those proceeds with other moneys; and
 - (2) to hold all rights, title and interest in, and claims for payment under, the contract of sale and the proceeds from receipt until payment to the Bank in trust for the Bank and failing that will hold them as the Bank's fiduciary and/or agent and in each case for the Bank's sole benefit;

- (k) not to permit the Goods to be processed or altered or incorporated in any other goods without the Bank's written consent which if given may be conditional; and
- (l) to notify the Bank immediately of any change, occurrence or circumstance affecting the value, state, condition, quality or quantity of any of those Pledged Assets.

4.7 Pledge and Trust Receipt Customer Obligations

- (a) The Customer will give the Bank periodical reports and other particulars concerning the Goods or the Trade Documents as the Bank may require from time to time in a manner satisfactory to the Bank.
- (b) The Bank may, at any time and without notice to the Customer, enter any premises for the purpose of inspecting or taking possession or custody of the Goods and also to take such steps as the Bank considers necessary or desirable to protect its interest in the Goods. The Bank will act reasonably in exercising its rights under this Clause.

5. SHIPPING GUARANTEE/INDEMNITY AND AIRWAYBILLS

5.1 Issuance

- (a) The Customer may request the Bank to provide a Carrier with a Shipping Guarantee or authority to facilitate the release by the Carrier of any Goods or the issuance of a duplicate set of the original Bills of Lading.
- (b) If the Bank agrees to provide a Shipping Guarantee to a Carrier, the Bank will only do so if the form of Shipping Guarantee required by the Carrier is in a form acceptable to it.

5.2 Release

The Customer must ensure that the relevant Carrier releases the Bank from the Shipping Guarantee in a manner satisfactory to the Bank and that the Bank's liability under the Shipping Guarantee is extinguished as soon as possible.

5.3 Trade Documents

If the Bank agrees to provide a Shipping Guarantee to a Carrier, the Customer:

- (a) must accept all import and other documents relating to the relevant goods regardless of any discrepancy or irregularity;
- (b) must waive all discrepancies or irregularities under the related Import Credit even if the discrepancy has not been notified, the required Trade Documents have not been presented or the Import Credit has expired;
- (c) authorises the Bank to honour any relevant drawings without examining the presented Trade Documents and will reimburse any payment made by the Bank under the relevant Import Credit irrespective of discrepancies that may appear on the Trade Documents; and
- (d) must comply with the terms of any Trade Documents and any undertaking to pay given to the Bank regardless of any dispute with its supplier or any third party.

5.4 Reimbursement

- (a) The Customer will pay to the Bank an amount equal to and in the same currency as all amounts paid by the Bank in connection with a Shipping Guarantee or authorising the release of Goods on the day on which the Bank makes or is required to or deemed to make that payment.
- (b) If the Bank specifies, the Customer will, on or shortly before the date on which the Bank makes (or is likely to make) a payment under a Shipping Guarantee, pay to the Bank a sum equal to such payment. The Bank may hold all or part of such sum in an account in the Bank's name, under the Bank's sole control and/or apply all or part of such sum against the Customer's reimbursement obligations to the Bank.

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6. BACK-TO-BACK/FRONT-TO-BACK IMPORT CREDITS

6.1 Matching terms

- (a) The Customer must ensure that a BtB Import Credit and FtB Import Credit contains terms matching or compatible with the related Master Credit.
- (b) The Bank will notify the Customer of any mismatch or incompatibility between the BtB Import Credit or FtB Import Credit and the Master Credit.

6.2 Amendment

- (a) If the Master Credit is not advised by the Bank, the Customer will promptly notify the Bank upon becoming aware of any amendment proposed to the Master Credit and will not accept or reject any amendment to any Master Credit without the prior written consent of the Bank.
- (b) The Bank may, in its sole discretion, accept an amendment to the BtB Import Credit or FtB Import Credit. If it does, any amendment will not take effect until the Bank receives written consent from all other relevant parties to the BtB Import Credit or FtB Import Credit.

6.3 Full recourse

The Customer's liability to the Bank under any BtB Import Credit or FtB Import Credit is not dependent upon whether payment can or cannot be obtained under the Master Credit and the Bank retains full recourse to the Customer in respect of that liability.

6.4 Sufficiency of documents

If the Bank pays a drawing under any BtB Import Credit or FtB Import Credit that payment will not constitute any warranty or representation by the Bank that the Trade Documents received by the Bank under the BtB Import Credit or FtB Import Credit, with or without the substitution of invoices and possibly other documents supplied by the Customer, are sufficient to form a set of fully compliant Trade Documents for the purpose of obtaining payment under the Master Credit.

6.5 No assignment

The Customer will not assign the proceeds of any Master Credit to any other person without the prior written consent of the Bank.

6.6 Bank is Presenting bank

- (a) The Customer irrevocably appoints the Bank as its presenting bank regarding the Master Credits.
- (b) After Trade Documents are presented under the BtB Import Credit or FtB Import Credit, the Customer must on the Bank's demand deliver to the Bank its invoice and any other document required to facilitate a complying presentation under the Master Credit.
- (c) The Bank may take any action in respect of the Master Credit including presenting the Trade Documents to obtain payment under the Master Credit and Financing the Master Credit.
- (d) The Bank may apply the proceeds under any drawing or collection under or Financing of the Master Credit to:
 - (1) pay the corresponding drawing under the BtB Import Credit or FtB Import Credit irrespective of any discrepancies in any document presented under the BtB Import Credit or FtB Import Credit; or
 - (2) discharge the Customer's obligations and liabilities (actual or contingent) in respect of any advance or loan provided by the Bank in connection with the BtB Import Credit or FtB Import Credit as the Bank thinks fit,in each case without first crediting those proceeds to the Customer's account with the Bank.

6.7 Authority

The Bank is authorised in respect of the Master Credit to (but need not):

- (a) execute, sign and/or complete any document, instrument or instruction; and
- (b) do any acts and things whatsoever which may, in the Bank's opinion, be necessary for the presentation and Financing of the Trade Documents under the Master Credit including the preparation, completing, dating and signing of any relevant Trade Documents in order to give effect to the appointment and authorities given to the Bank under this Clause 6.

7. EXPORT CREDITS

7.1 ICC rules

Any Financing of any Trade Document relating to an Export Credit will be subject to the version of UCP stated in the Export Credit. The presentation of any Trade Document for Collection will be subject to URC.

7.2 Advising

Upon receipt of an Export Credit from the Issuing bank, the Bank will advise its terms to the Customer in accordance with the Issuing bank's instruction and on the terms in UCP.

7.3 Payment Undertakings

Offer and acceptance and fees

- (a) The Customer may from time to time request the Bank to provide Payment Undertakings for Export Credits.
- (b) When the Bank receives the Customer's acceptance of the Bank's offer to provide a Payment Undertaking and/or the Bank and the Customer agree in writing the fees to be paid by the Customer in respect of the Payment Undertaking, the Export Credit has the benefit of the Payment Undertaking.

Payment Undertaking

- (c) If the Bank does not Finance an Export Credit in respect of which it has provided a Payment Undertaking:
 - (1) the Bank will pay the Customer the drawing amount when funds are received from the Issuing bank and the Confirming bank (if any) in accordance with the Export Credit reimbursement terms; or
 - (2) if the Issuing bank and the Confirming bank (if any) does not honour a complying presentation, the Bank will credit the account nominated in writing by the Customer with the drawing amount on the maturity date of the Export Credit drawing,

less any unpaid fees or charges due and payable to the Bank on the maturity date of the Export Credit drawing.

7.4 Financing Export Credit with Payment Undertaking

- (a) When the Customer presents Trade Documents called for under the Export Credit, it may request the Bank to Finance them.
- (b) If the Bank Finances Compliant Trade Documents of an Export Credit in respect of which it has provided a Payment Undertaking, the Bank will pay the Export Credit drawing(s) amount into the Customer's nominated account less:
 - (1) interest agreed in writing by the Bank and the Customer before the Bank Finances (unless the Bank has agreed with the Customer in writing, or the Export Credit states, that interest will be paid separately); and
 - (2) any unpaid fees due and payable to the Bank.
- (c) Any Payment Undertaking provided for an Export Credit will end upon the Customer's account being credited with the

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Financing proceeds for that Export Credit and the Bank will not be obliged to make any other payment to the Customer.

7.5 Financing Export Credit without Payment Undertaking Request

- (a) The Customer may request the Bank to Finance the Trade Documents it presents and credit its account specified in the document presentation form with the proceeds after the Bank:
- (1) determines that the Trade Documents comply with the Export Credit terms (**pre-acceptance Finance**); or
 - (2) receives a Document Acceptance (**post acceptance Finance**).

Interest

- (b) The Customer must agree with the Bank interest for the pre or post acceptance Finance in writing at least 2 Business Days prior to Financing, unless the Bank agrees to a shorter period.

Pre-acceptance Finance

- (c) If the Bank agrees to the Customer's request for pre-acceptance Financing and interest is agreed, the Bank will effect the Financing and credit the Customer's nominated account with the proceeds less interest, fees, costs and expenses owed to the Bank by the Customer under any relevant Trade Agreement.

Post acceptance Finance

- (d) If the Bank agrees to the Customer's request for post acceptance Finance and interest is agreed, the Bank will effect the Financing and credit the Customer's nominated account with the proceeds (less interest, fees, costs and expenses owed to the Bank under any relevant Trade Agreement) not later than the Business Day following receipt of the Document Acceptance.

7.6 Recourse

Payment Undertaking with subsequent Financing

- (a) If the Bank provides a Payment Undertaking for, and then Finances the Compliant Trade Documents of that Export Credit, both the Payment Undertaking and subsequent Financing are provided on a **without recourse** basis only if the Issuing bank and the Confirming bank (if any) fail(s) to, or is/are unable to, make payment because any one or more of the following situations has/have arisen:

- (1) Political Risk(s) in the country(ies) of the Issuing bank and the Confirming bank (if any);
- (2) Transfer and Economic Risk(s) in the country(ies) of the Issuing bank and the Confirming bank (if any);
- (3) Credit Risk(s) of the Issuing bank and the Confirming bank (if any); or
- (4) Documentary Risk.

- (b) The Customer agrees that the without recourse arrangement specified above only applies if any one or more of the situations specified in Clause 7.6(a) occurs but not otherwise. In all other situations, including if any Recourse Event occurs, the Customer irrevocably agrees that:

- (1) if the Bank has not paid the Customer under the Payment Undertaking or having agreed to Finance the Bank has not yet advanced funds, the Bank does not have to pay the Customer and the relevant Payment Undertaking and commitment to Finance is cancelled; or
- (2) if the Bank has paid under the Payment Undertaking or advanced funds under the Financing, it has full recourse against the Customer on demand for an amount referred to in clause 7.6(d) and the Bank may refuse to provide further Payment Undertakings and subsequent Finance of Exports Credits for the Customer.

Financing without Payment Undertaking

- (c) If the Bank has not provided a Payment Undertaking:

- (1) any Financing of an Export Credit is with full recourse to the Customer in all circumstances (unless the Bank agrees otherwise in writing);
- (2) the Customer will provide the Bank with the necessary funds on demand and in any event not later than the maturity date of the relevant Export Credit or Draft to reimburse the Bank in full for the Financing provided to the Customer, any unpaid interest and fees and reasonable costs and expenses which the Bank may incur or be liable for in connection with the Financing provided to the Customer; and
- (3) If the Bank agrees in writing to provide Financing to the Customer on a without recourse basis, the Bank always retains limited recourse to the Customer if a Recourse Event occurs for the amount referred to in clause 7.6(d) and the Bank may refuse to provide further Financing of Exports Credits for the Customer.

Recourse Amount

- (d) If the Bank has recourse to the Customer under clauses 7.6(b)(2) or 7.6(c)(3) the Bank has full recourse against the Customer for, and the Customer must pay the Bank on demand, an amount equal to:

- (1) all amounts paid by the Bank to the Customer or to the Customer's order in connection with the Export Credit;
- (2) any unpaid interest on those amounts; and
- (3) any losses, damages, fees and reasonable costs and expenses the Bank suffers or incurs as a result of the Recourse Event occurring.

- (e) The Customer will notify the Bank promptly in writing if the Customer is aware that a Recourse Event has occurred or is likely to occur and the details of that Recourse Event.

7.7 Payment Undertaking and/or Finance Conditions Conditions

- (a) The Customer agrees that any Payment Undertaking for, and/or Financing of, an Export Credit is subject to the following terms and conditions :
- (1) The Issuing bank, the Confirming bank (if any) and all the terms and conditions (including the availability) of the Export Credit are (both in form and substance) at the sole discretion of the Bank acceptable to the Bank.
 - (2) All Trade Documents presented for the drawing of each Export Credit must be Compliant Trade Documents and must be sent to and received at the Bank address provided for processing within the validity of the Export Credit.
 - (3) The Customer is the beneficiary of the Export Credit and the Export Credit is subject to UCP.
 - (4) If the Export Credit is available by:
 - (a) sight payment – the Bank is the nominated paying bank or the Export Credit is available with any bank by sight payment;
 - (b) negotiation – the Bank is the nominated negotiating bank or the Export Credit is available with any bank by negotiation;
 - (c) deferred payment – the Bank is the nominated deferred payment undertaking bank or the Export Credit is available with any bank by deferred payment; and
 - (d) acceptance – the Bank is the nominated accepting bank or the Export Credit is available with any bank by acceptance, in each case with draft(s) drawn on the Bank.

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- (5) The Bank may, at its absolute discretion, refuse to accept the above nomination without giving any reason.
- (6) Neither the Bank, the Issuing bank nor the Confirming bank, if any, is prohibited or prevented for any reason whatsoever from providing Financing and/or making payment under the Export Credit whether arising from statute, judgment, order, allegation of fraud, misrepresentation, falsification of document, misconduct or any other reasons.
- (7) If the Bank consents to an amendment which, in the Bank's opinion, increases the value or extends the validity of the Bank's existing commitment, the Customer must on written demand pay the Bank any further fees calculated on such increase and/ or extension.
- (8) The Bank has received the original Export Credit and all amendments, if any.
- (9) The Customer has not previously received a Payment Undertaking for, or drawn and/or received any amount under, any Export Credit from any person including the Bank which is the subject of a Payment Undertaking and/or Financing made under these Terms.
- (10) The Customer has complied with all other additional terms and conditions imposed by the Bank from time to time.
- (11) The Customer will pay the Bank's standard or incidental fees, charges and out-of-pocket expenses relating to Payment Undertakings for, and Financing of Export Credits.
- (12) The Customer will pay to the Bank all applicable fees even if the Customer does not present Compliant Trade Documents to the Bank.
- (13) If the original Export Credit presented to the Bank contains details that are different from the details provided to the Bank at the time of the Payment Undertaking request, the Bank may renegotiate the fees agreed with the Customer or cancel the Payment Undertaking for that Export Credit.
- (14) The Customer must provide the Bank with any additional documents or information relating to the underlying trade transaction which the Bank may require.
- (15) Notwithstanding anything to the contrary, the Bank is not obliged to provide a Payment Undertaking for an Export Credit or Finance the Compliant Trade Documents of that Export Credit unless all the terms and conditions relating to Exports Credits in these Terms are duly observed by the Customer.

Representations, warranties and undertakings

- (b) The Customer represents, warrants and undertakes whenever a Payment Undertaking or Financing is requested or given and on each day that money is actually or contingently owing to the Bank that:
 - (1) the Customer is duly incorporated and validly existing under the laws of jurisdiction of its place of incorporation and there is no order, petition, application or the like is outstanding for the winding-up of the Customer;
 - (2) the presented Trade Documents are genuine, valid, bona fide, properly authorised and executed by the relevant parties;
 - (3) the goods, specifications, quantity, quality, packing, shipping, insurance and all other terms conform with all requirements of the underlying contract relating to the Export Credit;
 - (4) the Customer or the applicant has obtained all import and export licenses and other government authorisations or approvals whatsoever of any jurisdiction that are required for the underlying transaction (including sale, shipment and delivery of the goods to the applicant and payment for the same), and the transaction does not violate any applicable Law;
- (5) immediately prior to the Bank issuing a Payment Undertaking or Financing for the Export Credit, the Customer has good and marketable title to any and all the presented Trade Documents and all rights to the proceeds of the Export Credit free and clear of any Encumbrance;
- (6) the Customer will sign, complete and/or deliver to the Bank any documents and do such acts and things and/or execute any instruments as the Bank will require whether to enable the Bank to obtain the proceeds of any Export Credit or otherwise in connection with these Terms;
- (7) the Customer will not, except with the written consent of the Bank create or agree to create any Encumbrance over any Export Credit and/or any interest in the proceeds of any Export Credit or accept or reject any amendment to any Export Credit once the Customer has accepted an offer;
- (8) the Customer must arrange for each Export Credit and every amendment to it to be delivered to the Bank for the Bank's retention promptly upon its receipt of the same;
- (9) if the Customer receives any payment from the Issuing bank, the Confirming bank (if any) or any other person in respect of any amounts payable under the Export Credit, the Customer will immediately inform the Bank of the same and to the extent that they relate to amounts the Bank has already paid the Customer, remit them to the Bank promptly and in the meantime hold them on trust for the Bank absolutely and failing that as the Bank's fiduciary and/or agent;
- (10) all payments by the Customer, the Issuing bank and/or the Confirming bank (if any) to the Bank will be made without set-off, counterclaim, deduction or condition of any kind and will be made in immediately available funds and the currency designated by the Bank except those expressly provided in an Export Credit;
- (11) the Customer will do all things necessary on the Bank's behalf to claim and obtain payment of all sums and/or damages due under the Export Credit and/or its Trade Documents, including:
 - (a) directing any bank to make payment under the Export Credit and/or its Trade Documents to the Bank; and
 - (b) in accordance with the Bank's instructions, commencing and continuing legal proceedings in the Customer's name or allowing the Bank to bring those legal proceedings in the Bank's name or the Bank's and the Customer's joint names (as the Bank may choose) and the Customer will fully co-operate with the Bank in the pursuit of any such claims and proceedings;
- (12) the Customer will co-operate with the Bank fully at the Bank's expense in anything that the Bank may lawfully do in order to:
 - (a) obtain payments under the Export Credits including to file any claims or take any legal actions or proceedings (either in the Bank's own name or the Bank's and the Customer's name jointly) against the Issuing bank, the Confirming bank (if any) or any other parties; and
 - (b) resolving any discrepancies alleged by the Issuing bank in any of the presented Trade Documents or any other disputes regarding such payment; and
- (13) the Customer will pay the Bank any other incidental fees and charges referred to in any applicable the Bank trade and supply chain tariffs or fees brochure in effect from time to time and as otherwise agreed in writing between the Customer and the Bank, when the Bank asks for them, unless the Export Credit states fees and charges are for the account of the applicant and all fees paid are non-refundable

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Assignment to Bank

- (c) Without prejudice to the Banks's rights to act as a Nominated bank under any Export Credit including to provide Financing under any Export Credit:
- (1) The Customer agrees to assign absolutely to the Bank all the present and future rights, title, interests and benefits of the Customer in and to the receivables and proceeds payable to the Customer under or in connection with each Export Credit (**Rights**).
 - (2) The assignment is an outright assignment and will automatically take effect with respect to an Export Credit without further act at the time when the Bank provides a Payment Undertaking and/or Finance in respect of the relevant Export Credit.
 - (3) If the ownership of all or any of the Rights fails to vest in the Bank, the Customer declares that until the date upon which they do vest in the Bank, the Customer will hold them on trust for the Bank and failing that will hold them as the Bank's fiduciary and/or agent and in each case for the Bank's sole benefit.
 - (4) The Customer will pay to the Bank, on demand, any stamp duties or other duties or charges payable (if any) in respect of the assignment.
 - (5) The Bank is entitled to, at any time without notice to the Customer, notify the persons liable in respect of the Export Credits of the Bank's interest in the Export Credits and give payment directions to such persons in respect of the Export Credits, including issuing notices to the Issuing banks (and/or the Confirming banks and/or the transferring banks, if applicable). The Customer will provide assistance to the Bank for the notifications and comply with all formalities, including executing any documents, which such persons may request.

Branches are separate banks

- (d) The Bank's branch may provide a Payment Undertaking, confirm under UCP, honour or Finance as Nominated bank under a Documentary Credit issued by another the Bank's branch without adversely affecting in any way, or extinguishing, the rights, liabilities and obligations under the Documentary Credit or the Customer's liability to the Bank in respect of that honouring or Financing of the Documentary Credit in accordance with these Terms.

7.8 Export Credit - Collection without honour or Finance

- (a) The Customer may present Trade Documents under an Export Credit and request the Bank to dispatch those Trade Documents to the Issuing bank for payment without honour or Finance by the Bank.
- (b) If the Bank accepts and acts upon the Customer's request, it will credit proceeds to the Customer's account specified in the request when it is satisfied it has actually received payment from the Issuing bank.

7.9 Transfer of Export Credits

UCP

- (a) The relevant provisions of UCP which govern transferable Documentary Credits will apply in relation to the transfer of the Export Credit the Customer has requested the Bank to transfer.

Authorities

- (b) If not already allowed, the Customer, as the first beneficiary, authorises the Bank to seek approval from the Issuing bank to allow the Bank to act as Transferring bank.
- (c) The Customer authorises the Bank to advise the second beneficiary of the terms of the Export Credit and the instructions in the application to transfer the Export Credit.

Format and delivery

- (d) The Customer will ensure that the Export Credit to be transferred is in a form acceptable to the Bank.
- (e) The Customer represents and warrants that the details of each Export Credit and the terms of the transfer specified in its application are true and correct.
- (f) If not already held by the Bank, the Customer will deliver to the Bank the original transferable Export Credit and any amendments the Customer receives.

Amendment

- (g) The Customer will not inform the Issuing bank or the second beneficiary of its acceptance of any amendment to the original transferable Export Credit without the prior written consent of the Bank.
- (h) If all the rights under the Export Credit are transferred, the Customer authorises the Bank to advise the second beneficiary of any amendments.

Transfer of rights

- (i) The Customer waives in favour of the second beneficiary its rights and interests as the beneficiary of the Export Credit to the extent those rights and interests have been transferred to the second beneficiary pursuant to the transfer.

Substitution of documents

- (j) The Customer will present at the counters of the relevant the Bank Office its own invoice and Draft which may be needed to substitute for any of those of the second beneficiary as soon as they are available and at latest on a date which the Bank determines will allow it to process all required Trade Documents within the validity of the Export Credit.
- (k) Unless the Customer instructs the Bank to the contrary in its application, the Bank will:
- (1) substitute the Customer's Drafts and invoices for those presented by the second beneficiary; and
 - (2) deliver to the Customer the invoices of the second beneficiary together with the Bank's payment advice for the amount by which the Customer's Drafts exceed the amount of the Drafts of the second beneficiary, less any fees, expenses or charges due to the Bank.
- (l) If the Customer fails to deliver its invoice and Draft to the Bank in conformity with the terms of the Export Credit, the Bank is authorised to forward the Trade Documents accompanying the Drafts of the second beneficiary without any responsibility on the Bank's part to pay the Customer the difference between the amount of the second beneficiary's Drafts and the amount authorised to be paid under the Export Credit.
- (m) If the Customer has transferred all of its rights in the transferable Export Credit to a second beneficiary, the Customer will not require substitution of Trade Documents and will permit the second beneficiary to present Trade Documents directly to the Issuing bank of the transferable Export Credit.

Payment

- (n) For a transferable Export Credit that has been transferred and for which the Bank has not provided a Payment Undertaking, the Bank will:
- (1) only pay the Customer and the second beneficiary if the Bank receives the corresponding payment from the Issuing bank; and
 - (2) upon receiving that payment will pay the second beneficiary the amount of the presentation and the Customer the remaining amount under the transferred Export Credit.
- (o) For a transferable Export Credit that has been transferred and for which the Bank has provided a Payment Undertaking, the Bank will:

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- (1) pay the second beneficiary the amount of its presentation under the transferred Export Credit in accordance with the tenor of the Export Credit upon presentation of Compliant Trade Documents if the Issuing bank fails to pay; and
- (2) upon the Customer's substitution and presentation of compliant Trade Documents under the transferred Export Credit, the Bank will pay the Customer the remaining amount under the transferred Export Credit in accordance with the tenor of the Export Credit if the Issuing bank fails to pay.

Responsibility

- (p) The Customer accepts full responsibility for the transfer of the Export Credit.
- (q) The Bank, its Correspondents Banks and agents will not be responsible for the description, quantity, quality or value of the Goods shipped and/or the Services performed under the transferred Export Credit or for the correctness, genuineness or validity of the Trade Documents.

8. EXPORT COLLECTION

8.1 ICC rules

The Bank will handle the collection of:

- (a) Trade Documents not under an Export Credit (either documentary or clean) under URC (even if URC is not referred to in the Customer's collection instructions); and
- (b) discrepant Trade Documents under an Export Credit under UCP.

8.2 Remitting bank

The Bank may (but need not) agree to the Customer's request to act as the remitting bank in respect of any Trade Documents to be sent on Collection.

8.3 Collecting or presenting bank

- (a) The Bank may instruct any Correspondent Bank of its choice to undertake a Collection even if the Customer requests otherwise in the application.
- (b) The Bank is not responsible for any act, omission or default on the part of any collecting or presenting bank involved in handling or processing a Collection.

8.4 No checking

The Bank is not obliged to check the documents before sending them to the collecting bank, Issuing bank or Confirming bank. If the Bank does agree to check documents, it will do so without any liability including if the Bank fails to identify any discrepancy or irregularities of any kind.

8.5 Proceeds payment

- (a) The Bank will only pay the Customer proceeds of a collection which have actually been received by the Bank from the collecting bank (or Issuing bank or Confirming bank (if any)) and will not be liable if it receives late advice of payment.
- (b) If payment or acceptance is not received from the relevant drawee within 60 days after the Bank receives the first Trade Documents from the Customer, the Bank is discharged from all further obligations under the Collection.

8.6 Advances, negotiation or finance

The Bank may, at the request of the Customer, provide advances against a Draft or other Trade Documents sent on Collection or negotiate the Customer's Draft or otherwise finance a drawing under an Export Credit notwithstanding discrepancies in the Trade Documents.

8.7 Full Recourse

If the Bank has advanced funds, negotiated or provided finance and on presentation the Draft is dishonoured or the Bank's claim under the Export Credit is not honoured or in respect

of which payment has not been duly made to the Bank on the maturity date for any reason, the Customer must provide the Bank with the necessary funds on demand and in any event not later than the maturity date of the relevant Draft or Export Credit to:

- (a) reimburse the Bank in full for the advance, negotiation or financing provided to the Customer;
- (b) pay the Bank any unpaid interest and fees; and
- (c) pay the Bank any costs, charges and expenses which the Bank may incur or be liable for in connection with the advance, negotiation or financing provided to the Customer.

8.8 Interest and fees

Without affecting the Customer's obligation to pay the Bank, the Bank may deduct from advances all interest agreed with the Customer and any charges, commissions, fees or expenses incurred or suffered by the Bank or any Correspondent Bank relating to the Collection and pay the net proceeds to the Customer.

8.9 Supporting documents

The Customer must provide the Bank with any additional documents, including bills of lading, sales contracts, purchase orders and commercial invoices, relating to the underlying Trade Transaction which the Bank may require.

8.10 Representations and warranties

The Customer represents and warrants to the Bank that:

- (a) Trade Documents to be sent on Collection and/or financed or negotiated:
 - (1) are not and will not be encumbered in any way to any person other than the Bank; and
 - (2) relate to a genuine sale of the Goods or the provision of Services as described in those Trade Documents; and
- (b) the Goods are being shipped or have been shipped and delivered to, or the Customer has fully performed the Services for, the buyer.

8.11 Preservation of rights

Nothing done or omitted to be done by the Bank in respect of any advance, negotiation or financing in respect of Drafts or other Trade Documents after being dishonoured for payment or acceptance or not duly taken up on presentation will in any way prejudice the Bank's right of full recourse or, if agreed in writing by the Bank, the Bank's right of limited recourse to the Customer.

9. STANDBY LETTERS OF CREDIT AND GUARANTEES

9.1 Issuance

- (a) Unless the Bank agrees otherwise in writing:
 - (1) each standby letter of credit will be issued subject to ISP or UCP; and
 - (2) each demand guarantee, bond or undertaking to pay any person (other than the Customer) issued by the Bank will be subject to the URDG.
- (b) The Bank may issue an Instrument itself or arrange for the Instrument to be issued by its Correspondent Bank and may issue a counter-indemnity, on terms acceptable to the Bank, in favour of that Correspondent Bank in return for it doing so.
- (c) Each Instrument will be irrevocable and issued in form and substance acceptable to the Bank and, if applicable, its Correspondent Bank.
- (d) The Bank and its Correspondent Banks are not obliged to check or ensure the accuracy of any information supplied to it for inclusion in any Instrument.
- (e) The Customer is solely responsible for ensuring that the terms or requirements in an Instrument are effective, valid and enforceable and meet its requirements. The Bank and its

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Correspondent Banks are not responsible and have no duty whatsoever to advise the Customer on such issues.

- (f) The Bank may issue, at the Customer's request, an Instrument to facilitate the business transactions of another party with the beneficiary and with that other party named as the applicant or contracting party in that Instrument. If the Bank does so, the Customer's reimbursement obligations to the Bank under these Terms will still apply.

9.2 Customer copy

- (a) The Bank will send a copy of each Instrument to the Customer as soon as is practical after it is issued.
- (b) The Customer must notify the Bank of any objection to any terms of the Instrument within 2 Business Days after receiving its copy. If it does not do so, that will be conclusive evidence that it is completely satisfied with the terms of the Instrument and it waives any right to raise objections to, make a claim or exercise any defence related to the validity, accuracy, and enforceability of the terms of the Instrument and the Bank will be free from all claims in respect of those terms.

9.3 Separate transaction

The Customer acknowledges that an Instrument is by its nature a separate transaction from any contract between the Customer and any other party on which the Instrument may be based. As such, the Bank is not required:

- (a) unless the terms of an Instrument states otherwise, to notify the Customer when it receives a demand or prior to paying a demand or accepting drafts, claims or drawings under the Instrument;
- (b) to make reference to, enquiry of or to take account of statements or instructions from the Customer or any other party;
- (c) to make any investigation or inquiry into, or raise or exercise, any defence or argument whether such defences or arguments relate to the Bank or the Customer or relate to the validity, accuracy, and enforceability of any provision under an Instrument or its underlying contract; or
- (d) to notify the Customer that a demand or document is not compliant prior to dishonour.

9.4 Examination of Demands

- (a) All demands and documents must be presented at the counters of the Bank Office or Correspondent Bank issuing the Instrument.
- (b) The Bank and its Correspondent Banks will examine a demand and documents on their face alone, without further investigation or enquiry, to determine whether or not there has been a complying presentation under the Instrument.
- (c) The Bank and its Correspondent Bank are not responsible for the genuineness, correctness or validity of any demands, notices, instructions or other documents received by it.

9.5 Compliant demands

- (a) The Bank and its Correspondent Banks will pay all demands complying with the terms of the Instrument.
- (b) The Bank may make any payment or discharge any liability under an Instrument by way of an actual cash payment, book entry, transfer of funds or otherwise as determined by the Bank and a reference to 'pay' or 'payment' in these Terms is a reference to such payment.

9.6 Reimbursement obligation

- (a) The Customer will pay to the Bank an amount equal to and in the same currency as all amounts paid or discharged by the Bank in connection with an Instrument, on the day on which the Bank makes or is required to make that payment or discharges its liability.

- (b) If the Bank specifies, the Customer will on or shortly before the date on which the Bank makes (or is likely to make) a payment under an Instrument pay to the Bank a sum equal to such payment. The Bank may hold all or part of such sum in an account in the Bank's name, under the Bank's sole control and/or apply all or part of such sum against the Customer's reimbursement obligations to the Bank.

9.7 Non-compliant demand

- (a) The Bank may refuse to pay and may reject any demand or document presented to the Bank under the Instrument, if any such demand or document does not comply with the Instrument terms.
- (b) The Bank does not have to seek the Customer's waiver of any discrepancies before refusing to pay the demand. Any decision by the Bank to seek a waiver of discrepancies does not oblige the Bank to seek a waiver of other discrepancies at any other time.
- (c) The Bank may reject a non-compliant demand under the Instrument even if the Customer has instructed the Bank to waive all discrepancies advised to the Customer.

9.8 Payment without demand

The Bank may, at any time, discharge all its obligations under an Instrument by paying, whether or not the Bank has received a demand, the undrawn amount of the Instrument (or such lesser amount that the beneficiary requires) to the beneficiary and the Customer's reimbursement obligations to the Bank will still apply.

9.9 Assignment

If the Bank consents to a transfer of the rights under the Instrument to another person, the Customer's reimbursement obligations to the Bank will still apply in all respects to that Instrument as transferred.

9.10 Branches

If a branch of the Bank is the beneficiary of an Instrument issued by another branch of the Bank, the branches will be treated as separate legal entities.

10. TRADE FINANCE LOANS

10.1 Purpose

If the Bank agrees to the request of the Customer for a trade finance loan, those loans may finance:

- (a) Import Credits, import Collections or import invoices (including against the trust receipt provisions);
- (b) export invoices on an insured or uninsured basis (including freight, pre-shipment (packing) and post shipment loans); or
- (c) the Customer's other trade commitments as agreed with the Bank in writing.

10.2 Open account

If the Bank finances open account Trade Transactions:

- (a) the Customer must deliver evidence of the underlying Trade Transaction to the Bank of a type and in terms satisfactory to the Bank, including bills of lading, sales contracts, purchase orders and commercial invoices; and
- (b) unless the Bank agrees in writing otherwise, for pre-shipment financing the Bank will remit any proceeds of that financing direct to the Customer's seller or its order.

10.3 Representations and warranties

The Customer warrants and represents (on a continuing basis) and undertakes to the Bank that:

- (a) the Trade Documents when provided to the Bank with the trade finance loan application or documents presentation form and, when made, while they are the subject of a trade finance loan:

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- (1) are not and will not be encumbered in any way to any person other than the Bank; and
 - (2) represent a genuine sale and delivery of Goods and/or Services originated in the ordinary and usual course of the Customer's business, in good faith and without actual or alleged fraud, illegality or unauthorised act committed by any person; and
- (b) the Goods are being shipped or have been shipped and delivered to, or the Customer has fully performed the Services for, the buyer.

10.4 Prepayment

If the Customer wants to prepay all or any part of a trade finance loan it will:

- (a) notify the Bank in writing of the amount and the Business Day on which it will make the prepayment at least 1 Business Day before the prepayment date, unless otherwise agreed in writing by the Bank; and
- (b) make the prepayment on the day specified in the notice together with accrued interest on the amount prepaid (if any) and break funding costs or early repayment fees, if any, determined by the Bank and notified in writing to the Customer.

10.5 Repayment

The Customer will repay the trade finance loan in full together with unpaid interest and fees and reasonable costs and expenses on the maturity date of the trade finance loan in accordance with its repayment election in the relevant trade finance loan application or other Trade Agreement.

10.6 Full Recourse

The Bank has full recourse to the Customer in all circumstances for an amount equal to the sum of all trade finance loans made together with interest on such amount from and including the date or dates on which the Bank paid such amounts to the Customer and any unpaid interest, fees, costs and charges.

10.7 Incoming payments

Without affecting the Customer's obligation to pay the Bank, the Customer must ensure that any amount which is due to it by any person under or relating to the underlying Trade Transaction financed by the Bank is paid directly to the Bank and the Customer agrees to:

- (a) give an irrevocable payment instruction to that person if the Bank requests it to do so; and
- (b) provide all assistance the Bank requires to allow it to collect that amount.

10.8 Rollover

- (a) The Customer may apply to rollover all or part of an existing trade finance loan on its existing maturity date.
- (b) If the Bank agrees to make a new trade finance loan, accrued interest on the existing trade finance loan must be paid by the Customer to the Bank on the existing maturity date of the trade finance loan.

11. TRADE PRODUCTS - GENERAL TERMS AND CONDITIONS

11.1 Terms applying

Unless a contrary indication appears, Clause 11 applies to all Trade Products.

11.2 Interpretation and definitions

- (a) In these Terms, unless the context otherwise requires, terms will be interpreted in accordance with the interpretation provisions of the relevant Trade Agreement.
- (b) Unless the Bank notifies the Customer otherwise, any future revision of any ICC Rules will automatically apply when it is stated by the ICC to come into effect.

- (c) Terms not otherwise defined in the relevant Trade Agreement or applicable ICC Rules have the following meanings:

Affiliate means, in relation to any person, a subsidiary of that person or any holding company of that person or any other subsidiary of any such holding company and any joint venture, partnership or similar arrangement in which it holds a direct or indirect interest.

AML/ETS Laws mean any anti-money laundering, counter-terrorism financing or economic or trade sanctions laws or regulations.

Authority means any local or foreign regulatory, administrative, government, quasi-governmental, law enforcement, supranational, judicial person or supervisory body, authority, court or tribunal and includes any self-regulatory organisation whether or not established under statute or any stock exchange.

Authorised Representative, in respect of a Customer, means a person whose identity has been verified to the satisfaction of the Bank who the Customer nominates from time to time to act on its behalf in giving Communications and in relation to whom the Bank has not received notice that the appointment has been revoked and includes any persons who are authorised by the Customer to use the Electronic Channel.

Bank means J Trust Royal Bank Ltd.

Bank Office means the branch or office of the Bank that provides the Trade Product to the Customer. Generally, this will be specified in a Trade Agreement or the application completed by the Customer in relation to a Trade Product.

BtB Import Credit means a back-to-back Import Credit issued at or about the same time as a Master Credit, both Documentary Credits covering the same Goods purchased from a supplier and on sold to a buyer by the Customer.

Business Day means a day (other than a statutory or public holiday, a Saturday or Sunday) on which banks are open for general banking business in the Governing Jurisdiction and, in relation to any date for payment or purchase of funds, in the principal financial centre for the currency of those funds or the location in which the products are provided.

Carrier means any owner of a vessel, aircraft or other conveyance, forwarder, charterer and includes their agent, representatives or any person purporting to act on their behalf.

Communication means any instruction, notice, consent, request, approval, acceptance, confirmation, information or document.

Correspondent Bank means any bank (including any branch or office of the Bank) which provides any banking or other services in connection with a Trade Product to the Bank.

Compliant Trade Documents means Trade Documents under an Export Credit which, in the Bank's sole and absolute opinion, are in strict compliance with the Export Credit terms, provided that discrepant documents may, at the Bank's sole discretion and subject to such additional terms as the parties may agree, be treated as Compliant Trade Documents if the Issuing bank has waived all such discrepancies and/or has accepted the relevant documents or draft(s).

Credit Risk means, in relation to the Issuing bank and the Confirming bank (if any), the inability to effect payments due to insolvency of the Issuing bank and the Confirming bank (if any), such as winding up, dissolution, administration or re-organisation of the Issuing bank and the Confirming bank (if any) or the appointment of receivers, receivers and managers, liquidators, administrators, custodians, trustees or similar officers of any or all of the assets of the Issuing bank and the Confirming bank (if any).

Customer means any person or entity that applies for, and is issued or provided with, any Trade Product covered by these Terms and includes a reference to a Borrower in any Trade Agreement.

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Document Acceptance means, in relation to an Export Credit an authenticated SWIFT message or tested telex from the Issuing bank to the Bank confirming unconditional acceptance of the Documents and at maturity funds will be remitted according to the Banks's instructions.

Customer Information means information held or acquired by the Bank relating to the Customer, any Trade Agreement or a transaction under or relating to a Trade Product and includes Personal Information but does not include publicly available information.

Documentary Credit means an irrevocable documentary credit that is subject to UCP and includes all extensions, renewals, amendments, modifications, replacements and variations to the documentary credit.

Documentary Risk means the non-compliance of any Trade Documents presented to the Bank with the terms of an Export Credit after the Bank has ascertained and certified that the Trade Documents do comply with the terms of that Export Credit.

Draft means a bill of exchange or other written payment instruction by one person (**drawer**) to another person (**drawee**) to pay the drawer or a third person (**payee**).

Electronic Channel means any internet/online or similar channel established by the Bank or a third party which enables the Customer to use any Trade Product and/or give any Communication.

Electronic Communication means a Communication sent by facsimile, E-mail or any other electronic way of sending, receiving and retrieving data now or in the future, whether provided by the Bank or any third party.

E-mail means information transmitted electronically over the internet or other electronic networks which is both delivered to an email or other electronic address and recovered or downloaded from that address using a post office protocol, internet message access protocol or similar system.

Encumbrance means any mortgage, charge, assignment, pledge, lien, rights of set-off, arrangements for retention of title or hypothecation or trust arrangement for the purpose of, or which has the effect of, granting or conferring security.

Exchange Rate means the rate for converting one currency into another currency determined by the Bank in its usual business and in accordance with its standard procedures for currency conversion at the time the Bank wants or is required to make the conversion (that determination to be conclusive and binding on the Customer) or the rate pre-arranged between the Bank and the Customer.

Export Credit means a Documentary Credit issued in favour of the Customer which the Bank advises, honours, negotiates, purchases, presents, transfers, collects, finances, discounts, commits to pay and/or confirms to, for or at the request of the Customer.

Financing means Negotiation, purchase of a draft accepted by the Bank (under an acceptance Export Credit) or prepayment of a deferred payment undertaking incurred by the Bank (under a deferred payment Export Credit), and the term **Finance** will be construed accordingly.

Force Majeure means any event beyond the Bank's reasonable control, including any:

- (a) fire, flood, earthquake, storm or other natural event, strike or other labour dispute or war, insurrection, terrorism or riot;
- (b) acts of or failure to act by any Authority and changes in Law or any order of any Authority;
- (c) restriction or impending restriction on the availability, credit or transfer of foreign exchange;

- (d) failure, disruption or interference failures of any telecommunications, electricity supply and other utilities;
- (e) technical failure, disruptions, corruption or interference to any computer system; or
- (f) failure or disruption of or interference with any product or service provided by any third party, including Correspondent Banks or the acts of or failure to act of that third party.

FtB Import Credit means a front-to-back Import Credit issued before (and within a period which is acceptable to the Bank) a Master Credit, both Documentary Credits covering the same Goods purchased from a supplier and on sold to a buyer by the Customer.

Goods mean the goods or produce described in a relevant Documentary Credit, invoice or sales contract.

Governing Jurisdiction means, unless otherwise agreed in writing between the Bank and the Customer, the jurisdiction in which the Bank Office is located.

ICC means the International Chamber of Commerce.

ICC Rules means any ICC rule published by the ICC relating to a Trade Product, including UCP, URR, URC, ISP and URDG.

Import Credit means a Documentary Credit issued by the Bank for or at the request of the Customer.

Import Obligations means, in relation to an Import Credit or import Collection, all present and future indebtedness and liabilities due, owing or incurred by the Customer to the Bank (in each case whether alone or jointly, or jointly and severally, with any other person, whether actual or contingent or whether as principal, surety or otherwise).

Indirect Tax means any goods and services tax, consumption tax, value added tax, stamp duty, transaction tax or tax of a similar nature.

Instrument means any kind of standby letter of credit, demand guarantee, bond or undertaking to pay any person (other than the Customer) and any counter-indemnity issued by the Bank in favour of its Correspondent Bank to facilitate the issuance of the Instrument in a particular jurisdiction and any amendment or replacement of any of them.

ISP means the ICC International Standby Practices in effect from time to time.

Law means any law, statute, rule, regulation, directive, code or standard of any Authority.

Loss means any losses, liabilities, costs and expenses (including legal costs on a full indemnity basis and taxes), claims, proceedings or damages of any kind arising out of contract, tort, statute or otherwise and whether foreseeable or not.

Master Credit means an Export Credit issued either at or about the same time as a related BtB Import Credit or after (and within a period which is acceptable to the Bank) a related FtB Import Credit.

Negotiation means the purchase by the Nominated bank of Compliant Trade Documents, by advancing or agreeing to advance funds to the Customer under an Export Credit on or before the Business Day on which reimbursement is due to the Nominated bank, and the term **negotiate** will be construed accordingly.

Payment Undertaking means, in respect of an Export Credit, the commitment to pay or honour as set out in Clause 7.3 (which includes, without limitation, a confirmation under UCP) subject to these Terms.

Personal Information means information about an individual which identifies an individual.

Pledge means any pledge security interest the Customer grants to the Bank over any Pledged Assets as contemplated in these Terms.

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Pledged Assets means all Trade Documents and Goods which belong to the Customer and are at any time in the Bank's or the Bank's agent's, trustee's or representative's possession or where the Bank has issued an Import Credit, in the possession of a Nominated bank, where any such possession may be actual or constructive.

Political Risk means any extraordinary political events occur which prevent payments or procurement of funds and covers events such as acts of war, revolutions, change of government or political system, riots or civil unrest or the like in the country(ies) of the Issuing bank and the Confirming bank (if any).

Post means the input into the Electronic Channel by the Customer or the Bank and the initial processing of such input by the Electronic Channel so that the input is visible in the Electronic Channel.

Recourse Event means any one of the following events occurring in connection with an Export Credit:

- (a) a fraud, forgery, illegality or unauthorised act is or is alleged to have been committed by any person (other than the Bank);
- (b) the Bank is not paid in full or the Bank is required to reimburse any person for moneys received by it from any person as a result of:
 - (1) a commercial dispute between the Customer and any other person upon which that person or another person relies or purports to rely to deny payment or require reimbursement (whether or not subsequently settled); or
 - (2) any applicable Law, injunction, stop order or other court order (whether or not subsequently discharged);
- (c) the Customer is in breach of any of its representations, warranties, undertakings or obligations;
- (d) it is or is likely to become unlawful in any jurisdiction for the Bank to perform its obligations or enforce its rights; or
- (e) at any time there is a breach of any AML/ETS Laws.

Services means the services described in the Documentary Credit, Instrument or other document which are performed, supplied or provided by the Customer to the beneficiary of the Documentary Credit, Instrument or other document.

Shipping Guarantee means a guarantee or indemnity to be issued or a shipping guarantee signed by the Customer and to be endorsed or countersigned by the Bank and given to a Carrier to enable the Customer to obtain replacement bills of lading and/ or delivery of Goods.

Trade Agreement means any agreement, document, letter, schedule, booklet, brochure, flyer, manual, instruction, notice or application containing terms relating to any Trade Product, including any facility agreement or letter of offer (and any applicable trade specific terms) entered into by the Bank and the Customer and these Terms.

Trade Documents mean any Documentary Credit, any Draft, any sale and purchase agreement, any bills of lading and all other documents of title and transport documents and any other insurance policies, invoices, certificates, reports, receipts, warrants or other documents in relation to a Trade Transaction, whether in a paper or electronic format.

Trade Product means any trade related product, Service, functionality or facility requested or applied for by the Customer and provided by the Bank to the Customer.

Transfer and Economic Risk means the inability to effect payments or to effect payments in the currency of the Export Credit as a consequence of any foreign exchange control in the country(ies) of the Issuing bank and the Confirming bank (if any) or the country of the Export Credit's currency.

Trade Transaction means the transaction (or related transactions) in connection with Goods and/or Services which is the subject of any Trade Product the Bank provides and includes the Financing, advances or other financial accommodation which the Bank makes available in relation to any such transaction.

Trust Receipt means a trust receipt in a format specified by the Bank.

UCP means the ICC Uniform Customs and Practice for Documentary Credits in effect from time to time.

URDG means the ICC Uniform Rules for Demand Guarantees in effect from time to time.

URC means the ICC Uniform Rules for Collections in effect from time to time.

URR means ICC Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits in effect from time to time.

11.3 Trade Agreements and inconsistency

- (a) The Trade Products applied for by the Customer will be provided by the Bank in accordance with and subject to these Terms and any other relevant Trade Agreement.
- (b) If these Terms and the terms in any applicable ICC Rules are inconsistent or conflict, these Terms will prevail.
- (c) If these Terms are inconsistent with any Trade Agreement, Trade Agreement will prevail.

11.4 Currencies

- (a) If the currency requested by the Customer for a Trade Product is not available to the Bank after exercising reasonable endeavours to obtain it, the Bank:
 - (1) is not obliged to, and will not, provide the Trade Product in that currency. If possible and practical, the Bank and the Customer may agree an alternative currency in which the Trade Product will be provided; and
 - (2) will not be responsible for any loss or liability which the Customer may suffer or incur by reason of or in connection with non-availability to the Bank of the relevant currency for the purpose of providing any Trade Product to the Customer.
- (b) Unless otherwise agreed in writing with the Bank, all payments to the Bank under any Trade Agreement must be made in the same currency as the drawing or obligation to which it relates (**Payment Currency**).
- (c) If the Bank determines that the Payment Currency is unavailable to the Customer, the Bank will notify the Customer in writing of an alternative currency and amount which the Customer must pay the Bank to satisfy its payment obligation. The Customer will pay that currency and amount to the Bank within 2 Business Days of the date of the notice.
- (d) If the Customer pays the Bank, or monies to discharge the liability of the Customer to the Bank are received or available to be applied by the Bank against that liability, in a different currency from that of the Payment Currency, the Bank will convert the amount paid, received or applied into the Payment Currency using the Exchange Rate applicable on the date of receipt or application. The Customer must pay the Bank on demand for any shortfall arising from the conversion. The Customer acknowledges that it may be necessary for the Bank to purchase one currency with or through another currency.
- (e) An equivalent amount in one currency (**first currency**) to an amount in another currency (**second currency**) will be that amount in the first currency converted into the second currency at the Exchange Rate at the time the Bank determines the equivalent amount.

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11.5 Foreign exchange Laws

- (a) The Customer will keep itself informed of and comply with all applicable foreign exchange Laws and any relevant regulatory and policy requirements and restrictions relating to the currency requested and its use of the Trade Product in that currency. The Bank is not responsible and has no duty to inform or advise the Customer on those issues.
- (b) The Bank may terminate, revise or cancel any Trade Product in consultation with the Customer, in order to comply with any applicable foreign exchange Laws and any relevant regulatory and policy requirements and restrictions relating to the currency requested or in which a Trade Product is drawn.
- (c) The Customer will keep and maintain accurate records and documents relating to each Trade Product and its use of that product.
- (d) If requested by the Bank, the Customer will promptly provide to the Bank complete and accurate documents and/or information required to comply with any foreign exchange Laws applicable to the Trade Product used by it and authorises the Bank to provide those documents and that information to any relevant Authority.
- (e) Without limiting any other consent that the Customer has given or may give the Bank, the Customer agrees that the Bank may disclose any Customer Information relating to it (including, for example, customer transaction data and details relating to any facility) to relevant Authorities, clearing or settlement banks or agents, professional bodies and other third parties in any country having functions or responsibilities in connection with the currency in which the Trade Product is provided to the Customer.
- (f) The Customer will pay the Bank on demand any amount the Bank may be required to expend on account of any foreign exchange Laws applicable to the Trade Product used by the Customer.
- (g) The Bank will not be liable in any way to the Customer and the Customer will on demand reimburse the Bank the amount of any Loss it may suffer or incur relating to any requirements imposed by, or the exercise of or conditions imposed under any applicable foreign exchange Laws by any Authority.

11.6 Laws, licences, permits and authorisations

- (a) The Customer will, at all times, while any obligation is outstanding in respect of a Trade Product, hold all licences, permits and other authorisations relating to the Goods (including for the import and/or export of Goods) and/or Services.
- (b) If the Bank needs to inspect any such licence, permit or authorisation, the Customer will provide the original of that licence, permit or authorisation to the Bank at the time of making application for the relevant Trade Product. Otherwise, the Customer will promptly provide a copy (certified as a true and correct copy in a manner acceptable to the Bank) of any such licence, permit or authorisation to the Bank if requested to do so.
- (c) The Customer will comply with: (1) in all material respects, all Laws binding on it and (2) the terms of any licence, permit or authorisation relating to the Goods and/or Services and the export or import of Goods.

11.7 Double use

When the Customer applies to use a Trade Product it warrants and represents (on a continuing basis) and undertakes to the Bank that the underlying Trade Transaction has not previously been, and will not while the subject of the requested Trade Product be, the subject of another Trade Product provided by the Bank (unless agreed by the Bank in writing) or a trade product (whether of the same or a similar effect or not) provided by any other person.

11.8 Payments generally

- (a) The Customer must make all payments to the Bank under each Trade Agreement in immediately available, freely transferable funds to the accounts with the banks and in the currency as the Bank may notify to it, without any set-off, counterclaim, deduction or withholding of any kind including, to the extent permitted by Law, tax.
- (b) If any deduction or withholding (including in respect of tax) is made to a payment to the Bank, whether from the Customer or another person, the Customer:
 - (1) will pay the Bank, when the payment is due if the payment is from the Customer and on demand if the payment is from another person, whatever additional amount is needed so that the amount that the Bank actually receives, after taking into account the deduction or withholding, is the amount the Bank would have been entitled to receive if no deduction or withholding had been made; and
 - (2) must provide the Bank with any evidence the Bank may require (including certified copies of receipts) that payment in full of the amount of the deduction or withholding has been made to the relevant Authority.

11.9 Interest

- (a) If the Bank negotiates, finances, discounts or advances or lends money to or for the Customer in connection with a Trade Product, the Customer will pay interest on that amount at the rate and margin and paid in advance or arrears as specified in the relevant Trade Agreement or as otherwise agreed with the Bank.
- (b) Interest will be calculated from (and including) the day on which the amount is credited or advanced up to (but excluding) the maturity date of the advance or day upon which the Bank anticipates receiving payment from the party responsible for making the payment (and interest may be adjusted by the Bank, and is payable by the Customer on demand by the Bank, if the actual payment date is different from the anticipated payment date).
- (c) Interest accrues daily on the basis of either a 360 or 365 day year (depending on the currency) as determined by the Bank and may be fixed or variable for the drawing term and paid in advance or in arrears.

11.10 Late payment

- (a) Unless otherwise stated in a Trade Agreement, on any amount the Customer does not pay the Bank on the due date, the Customer must pay the Bank an overdue fee calculated at a rate being the aggregate of the cost to the Bank of that amount remaining unpaid from the due date until the date it is paid to the Bank (as determined by the Bank and expressed as a percentage per annum) and 4%, unless the Bank agrees in writing otherwise.
- (b) The overdue fee:
 - (1) is payable on demand or if the Bank does not make any demand, on the first Business Day of each month and on the date the overdue amount is paid;
 - (2) accrues daily for the period it remains unpaid; and
 - (3) if unpaid, may be compounded by the Bank weekly intervals or, if an applicable Law provides otherwise, at the minimum period allowed by that Law.

11.11 Fees, commissions, charges and expenses

- (a) The Customer will pay the Bank all fees, commissions and charges in respect of each Trade Product as stated, from time to time, in any relevant Trade Agreement.

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- (b) The Customer will pay to the Bank, on demand, all commissions, fees, charges and expenses which are incurred or suffered by the Bank or levied on the Bank by any third party (including any Correspondent Bank or negotiating bank or its agent) in connection with any Trade Product.
- (c) The Customer will pay all:
 - (1) charges, duties (including stamp, documentary and transaction duties) and taxes (including Indirect Taxes) payable in connection with the Goods and/or Services, the export or import of Goods, any Trade Product, any assignment and any Trade Agreement; and
 - (2) freight and other amounts payable under any contract of carriage or otherwise in relation to a Trade Product.
- (d) All fees, commissions and charges paid to the Bank are non- refundable unless agreed otherwise in writing by the Bank.
- (e) The Customer will pay, on demand, all commissions, fees, charges and reasonable costs and expenses which are incurred or suffered by the Bank's Correspondent Bank in connection with any Trade Product.

11.12 Application of funds

The Bank may apply any amount received by it on the Customer's behalf or for the Customer's account from any person against any amount the Customer actually or contingently owes it, without prejudice to the rights of the Bank to recover any shortfall from the Customer. Any such application by the Bank will override any appropriation instruction given by the Customer.

11.13 Authority to debit

- (a) If the Customer has an account with the Bank, the Customer irrevocably authorises the Bank to debit the account with any amount payable by it under any Trade Product or Trade Agreement, including under any indemnity, although the Bank does not have to do so.
- (b) The Customer must still pay all amounts owing to the Bank under the Trade Product or Trade Agreement when due.
- (c) If the Bank requires the Customer to provide the Bank with authority to debit an account it holds with another financial institution with any payment or cost, the Customer will execute any document that the Bank requires to authorise the Bank to debit that account.

11.14 Cash cover

- (a) If the Bank requests, the Customer must pay the Bank a sum up to or equal to the Bank's contingent or unmatured liability (as determined by the Bank) under or in relation to any or all Trade Products.
- (b) The Bank can hold such sum in an account in the Bank's name, under the Bank's sole control, and may use such sum to satisfy the Customer's reimbursement obligations to the Bank under any Trade Agreement.
- (c) The Bank is not obliged to refund any cash cover unless the Customer's contingent or unmatured liability(ies) cease to exist before they mature or do not mature in full.
- (d) Unless the Bank agrees in writing otherwise, no interest will accrue on any such sum.

11.15 Drawing against funds

If the Bank permits the Customer to draw against funds to be collected or transferred from any account(s), the Customer will on demand by the Bank reimburse the Bank in full the amount so drawn if the Bank does not receive the funds in full at the time when the Bank ought to have received the same or if, after the Bank has accepted the transfer, the Bank is prevented from collecting or freely dealing with the funds in accordance with usual banking practice.

11.16 Payment not final

- (a) If the Bank receives payment from any person in connection with a Trade Product which is not final and the Bank is subsequently required to repay that person or any third party all or any part of that payment:
 - (1) that payment will be deemed not to have discharged the liability of the person under the Trade Documents or applicable Trade Agreement; and
 - (2) despite any payment, release or any other settlement or discharge which may have been given on the faith of that payment, the Bank may exercise all the rights it was entitled to exercise prior to that payment being made, as if the payment had not been made and any payment, release and any other settlement or discharge had not been given.
- (b) The Customer will reimburse the Bank for any Loss and taxes suffered or incurred by the Bank as a result of the payment not being final.

11.17 Inadvertent payments

- (a) The Customer will immediately pay the Bank any moneys meant for the Bank which it inadvertently or otherwise receives or recovers in connection with a Trade Product.
- (b) Until the Customer makes that payment, those moneys will be kept separate from its other moneys and held by it on trust for the Bank and failing that as the Bank's fiduciary and/or agent and in each case for the Bank's sole benefit.

11.18 Discharge of Bank's liability

If the Bank incurs any liability (including any actual, prospective or contingent or joint and several liability or a liability in any currency) in any country to any person (other than the Customer) on the instructions or otherwise on behalf of the Customer (**Bank's Liability**) then:

- (a) the Customer will pay the Bank at the branch or office of the Bank as the Bank may specify all amounts which the Bank may be liable to pay under Bank's Liability; and
- (b) The Bank may discharge part or all of Bank's Liability (at the Bank's election with or without notice to the Customer) at any branch or office of the Bank in any currency and any such discharge is a discharge of Bank's Liability for which the Customer is liable to the Bank.

11.19 Variations

- (a) Unless otherwise agreed in writing, the Bank may change any of the terms of any Trade Agreement (including changing any, and introducing new, fees and commissions relating to any Trade Product) from time to time by written or Electronic Communication or making the change available on the Electronic Channel as specified in Clause 11.28(d) or by an advertisement in a major or national daily newspaper or by any other method deemed appropriate by the Bank.
- (b) If the changes are specific to the Customer, the changes will take effect by agreement only.

11.20 Anti-money laundering and sanctions

- (a) The Bank does not have to do anything if it considers doing so would breach any AML/ETS Laws applicable to it.
- (b) The Customer must provide to the Bank all information and documents that are within its possession, custody or control reasonably required by the Bank in order for the Bank to comply with any AML/ETS Laws.
- (c) The Customer will exercise its rights and perform its obligations under a Trade Agreement and any transaction related to a Trade Agreement in accordance with all applicable AML/ETS Laws.

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11.21 Liability for Loss

- (a) The Bank will not be liable to the Customer for any Loss suffered or incurred or which may arise directly or indirectly in connection with any Trade Product, Trade Agreement or act or omission of the Bank (including breach of contract) other than to the extent that Loss is caused by the Bank's gross negligence, wilful misconduct or fraud.
- (b) Notwithstanding the above, the Bank will not in any circumstances be liable for any indirect or consequential Loss, including any loss of profit, data, goodwill or business, any interruption to business, any failure to realise anticipated savings, any consequential, indirect, special, punitive or incidental losses, costs or damages.

11.22 Exclusions

To the extent permitted by Law and unless otherwise stated in a Trade Agreement, all terms, conditions, warranties, undertakings, inducements or representations of the Bank whether express, implied, statutory or otherwise relating in any way to the Trade Products are excluded.

11.23 Responsibility

- (a) All instructions and correspondence by the Bank with any person (other than the Customer) relating to any Trade Product will be sent at the Customer's risk.
- (b) The Bank is not responsible and will not be liable for any Loss arising from:
 - (1) a Force Majeure event occurring and continuing;
 - (2) the Bank acting in accordance with:
 - (a) applicable Laws, regulations or rules; and
 - (b) the Bank's agreements with other financial institutions regarding the business dealings with those institutions, notwithstanding that the Customer may have given instructions to the contrary;
 - (3) the acts and omissions of Correspondent Banks;
 - (4) loss of Trade Documents in transit;
 - (5) any detention, loss of, or damage to, the Goods; or
 - (6) the Customer acting on advice received from the Bank whether or not such advice was requested by the Customer.
- (c) The Bank may suspend providing any Trade Product until a Force Majeure event has ended.
- (d) The Bank is not responsible for any Goods, Trade Documents or items in its possession beyond the exercise of reasonable care.

11.24 Indemnity

- (a) The Customer indemnifies the Bank, its Affiliates, agents, employees, officers and servants and will keep them indemnified against, and will pay on demand the amount of, any Loss which any of them may suffer or incur in connection with:
 - (1) the Bank providing the Trade Product to the Customer;
 - (2) the Bank acting and relying on any representations or warranties given by the Customer to the Bank relating to a Trade Product;
 - (3) the Customer's use of the Trade Product, including any act or omission;
 - (4) the failure of the Customer or any agent of the Customer to comply with any Trade Agreement for any reason whatsoever;
 - (5) an Import Credit, Shipping Guarantee or Instrument (**payment instrument**), including any payment or claim made or purported to be made under or in connection with that payment instrument;

- (6) any transfer by the Customer of a Documentary Credit;
 - (7) any determination or decision made to act or refusal to act by the Bank in connection with the Trade Product including because of a court order or other similar obligation (whether or not subsequently discharged);
 - (8) any claim made against the Bank by a third party relating to any Trade Product or Trade Agreement;
 - (9) it being unlawful in any jurisdiction for the Bank to perform its obligations or enforce its rights
 - (10) accepting and acting on any Communication from the Customer;
 - (11) any breach of any AML/ETS Law (other than by the Bank); or
 - (12) any transaction to which a Trade Product relates in any way being tainted by fraud or alleged fraud.
- (b) The Customer's obligations under this indemnity are:
 - (1) continuing, absolute, unconditional and irrevocable obligations, separate and independent from the Customer's other obligations and survive the termination or completion of any Trade Product; and
 - (2) not at any time affected by set-off, deduction, counter claim or defence, suspension or anything which, but for this subclause, might operate to relieve the Customer from all or any part of these obligations.
 - (c) It is not necessary for the Bank to incur expense or make payment before enforcing a right of indemnity under these Terms.

11.25 Trade Product disclosure

The Customer will only disclose the fact that the Bank provides it with a Trade Product or the terms upon which it does so to any other person if it has obtained the Bank's prior written consent or if it is compelled by Law to do so.

11.26 Information disclosure

A party must not disclose information provided by the other party that is not publicly available except:

- (a) to any of its Affiliates and any of its or an Affiliate's officers and employees with a genuine reason to see it;
- (b) to any of its agents, service providers or professional advisers who are under a duty of confidentiality;
- (c) any disclosure the disclosing party reasonably believes is required by any Law or Authority;
- (d) with the non-disclosing party's prior written consent; and
- (e) for the Bank only: (1) to any person with whom the Bank may enter into any transfer, assignment, participation, insurance or other agreement in connection with, or any Trade Product or transaction contemplated under, any Trade Agreement, (2) to any ratings agency, insurance broker or proposed or actual provider of credit protection, security or credit support, (3) to participants in any payment systems (such as financial institutions, correspondent banks, payment clearing entities and associations and SWIFT) and (4) to any regulator if the Bank believes it is necessary or appropriate to do so (even if it is not legally obliged to).

11.27 Communications generally

- (a) Communications must be:
 - (1) sent to the address for the recipient set out in the relevant Trade Agreements or as most recently advised in writing. The Customer must keep its contact details updated;
 - (2) legible and in English or provided with a certified English translation if the original Communication is not in English. If there is a difference between the written Communication and the English translation, the English translation will apply unless the Bank agrees in writing otherwise or if a Law of the Governing Jurisdiction requires otherwise; and

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- (3) signed by an Authorised Representative of the Customer. Communications sent by email are taken to be signed by the named sender. Communications sent by Posting to the Electronic Channel are taken to be signed by the logged in user. If that person is not an Authorised Representative of the Customer, the Bank may ignore that Communication
- (b) A Communication is effective:
 - (1) if sent by facsimile – from the time the transmission report shows it as having been sent successfully;
 - (2) if sent by post – when it is actually received;
 - (3) if sent by E-mail – at the time it is sent unless the sender receives an automated message that the E-mail has not been delivered; and
 - (4) if Posted in the Electronic Channel - at the time of Posting.

Despite the above, if a Communication is received after 5:00pm or on a day which is not a Business Day, it is effective the following Business Day.

11.28 Verbal and Electronic Communications

- (a) If the Customer sends Electronic Communications or gives them verbally in person or by telephone:
 - (1) the Customer acknowledges that there are risks in communicating in this manner and agrees that it is responsible for those risks;
 - (2) the Customer must comply with any security measures agreed with the Bank (**security procedures**);
 - (3) the Bank may accept or reject any verbal Communications; and
 - (4) if the Bank receives a verbal Communication or Electronic Communication it believes to be genuine, complete and which complies with the security procedures (if any): (i) the Bank need not verify the authenticity or completeness of the Communication, even if the Communication instructs the Bank to make a payment; and (ii) any such Communication will be treated as authorised by the Customer and will be binding on it.
- (b) The Bank may give the Customer notice at any time that it will no longer accept any or specified verbal Communications or Electronic Communications. The notice is effective from when it is received by the Customer until the Bank advises the Customer in writing that it will accept verbal Communications or Electronic Communications again.
- (c) If the Law permits, the Bank may record the Bank's telephone conversations with the Customer and use the recorded conversations or transcripts in any dispute in connection with a Trade Product.

- (d) If the Customer has access to the Electronic Channel:
 - (1) the Bank and the Customer may Post Communications in the Electronic Channel relating to a Trade Product accessed using the Electronic Channel;
 - (2) the Bank will promptly E-mail the Customer that the Communication has been Posted and describing what the Communication is unless otherwise agreed in writing; and
 - (3) the Customer may request a paper copy of a Communication Posted on the Electronic Channel at any time within 6 months of the Bank advising the Customer that the Communication had been Posted.

11.29 Assignment

- (a) The Customer must not transfer, encumber or declare a trust over all or any part of its rights under a Trade Product provided to it by the Bank or these Terms without the Bank's prior written consent.
- (b) The Bank may transfer, encumber, declare a trust over, insure, sub-participate or otherwise deal with its interest under a Trade Product provided to the Customer by the Bank or these Terms without the Customer's consent. The Bank may receive fees or payments in connection with such dealings without disclosing them to the Customer.

11.30 Severability

If any provision of these Terms or any other Trade Agreement is or becomes illegal, invalid or unenforceable in a jurisdiction, that term is severed only for that jurisdiction. All other terms continue to have effect in that jurisdiction.

11.31 Further Assurance

The Customer will do all acts, matters and things including executing all agreements, instruments or documents as may be necessary or desirable to give full effect to the provisions of these Terms and the transactions contemplated by them.

11.32 Governing Law

Unless specified otherwise, these Terms and the transactions under or relating to a Trade Product will be governed by and construed in accordance with the Laws of the Governing Jurisdiction.

Any dispute, controversy or claim shall be settled by arbitration in Singapore in accordance with the UNCITRAL Arbitration Rules as at present in force provide however that the Bank at its sole discretion may submit to the jurisdiction of the Courts of that Governing Jurisdiction and of any Courts competent to hear appeals from those Courts.

 J Trust Royal Bank