

**The Hongkong and Shanghai Banking Corporation Limited**  
**Offshore Banking Unit Labuan**  
**(Licensed Labuan Bank, Licence No. 910004C) ("HSBC")**

# **Generic Terms & Conditions**

(May 2016 Edition)

## **EFFECTIVE DATE:**

- ▶ 10 May 2016 for new customers of HSBC
- ▶ 01 June 2016 for existing customers of HSBC as at 10 May 2016

These Generic Terms & Conditions are applicable to every deposit account / product / service (including banking & financing facilities) opened with or provided by The Hongkong and Shanghai Banking Corporation Limited, Offshore Banking Unit Labuan ("HSBC"). Please take the time to read them as they are binding on you.

These Generic Terms & Conditions are available on request and on HSBC's website at [www.hsbc.com.my/1/2/offshore](http://www.hsbc.com.my/1/2/offshore) (uploaded on 10 May 2016).

Should you need further clarification, please do not hesitate to contact our office at telephone number (+6) 087-599090

Thank you for banking with HSBC.



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Clause headings are not to affect the interpretation of the clauses.

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## Account Statements

- Where account statements are applicable, they are sent monthly or, at such other intervals as instructed by the Customer or as stated in the applicable Specific Terms & Conditions or account-related documentation.

The Customer agrees to promptly check and reconcile the contents of each account statement and transaction record from the Bank with the Customer's own records to see if there are any errors, omissions, discrepancies or irregularities (collectively "**Irregularities**").

If the Customer does not notify the Bank in writing of any Irregularities **within 60 days from the account statement date**, the contents of the account statement including the Irregularities shall be taken to be in order and conclusively authorised by and binding on the Customer, who shall be taken to have given up any right to object or claim against the Bank for the Irregularities, and the Bank shall not be liable for the Customer's loss, if any.

## Consolidation & Set-Off

- If the Customer owes any debt (whether actual, contingent, present or future) to the Bank and/or any branch of The Hongkong and Shanghai Banking Corporation Limited solely or jointly with any other person including any unpaid withholding tax (collectively "**Indebtedness**"), the Customer agrees that the Bank may do the following:-

- consolidate the credit balances in all the Customer's accounts with the Bank (where balances are in different currencies, the Bank may convert one currency to another using its spot rate of exchange on the day of conversion);
- put a hold on such amount of the credit balances which equals the amount of the Indebtedness;
- after the end of 7 days' prior notice, apply such credit balances (even if it involves uplifting any deposit before maturity date) against the Indebtedness (where the balances and Indebtedness are in different currencies, the Bank may convert one currency to another using its spot rate of exchange on the day of conversion); and
- the remaining credit balances, if any, shall be held on substantially the same terms as before the consolidation or on such other terms as the Bank considers appropriate in the circumstances.

The Bank's right and authorisation under this Clause shall not be affected by the Customer's death, bankruptcy, insolvency, composition with other creditors or any legal proceedings against the Customer.

## Customer's Details

- The Customer agrees to promptly notify the Bank in writing addressed to The Hongkong and Shanghai Banking Corporation Limited, Offshore Banking Unit Labuan, Level 11(B1), Main Office Tower, Financial Park Complex, Jalan Merdeka, 87000 Wilayah Persekutuan Labuan, Malaysia of any changes in the Customer's address, telephone, mobile phone and/or facsimile number, and for a company, limited liability partnership or partnership including any changes in the Customer's name and/or constitution. Pending receipt of such notice, the Bank shall send all communications to the latest address and/or number stated in the Bank's records and shall not be liable for any loss suffered by the Customer.

## Joint Accounts

- For an account opened and maintained in more than one name:-
  - each Customer's liabilities and obligations is joint and several and notice to one Customer shall be taken as notice to all;
  - words indicating singular in these Generic Terms & Conditions shall be read to include plural and vice versa, and reference to Customer's signature shall be read to include each signature of the authorised signatories;
  - a Customer shall remain bound by these Generic Terms & Conditions even if the other Customer(s) is(are) in fact not bound;
  - the Bank has the right to deal with each Customer separately on any matter including discharging any liabilities to any extent without affecting the liabilities of the other Customer(s);

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### Joint Accounts (continued)

- (v) all Customers are jointly and severally liable for the use of any personal identification number (PIN) even if it was applied for by only one of the Customers;
- (vi) in case of death or winding-up of any of the Customers, the Bank shall hold the credit balances in the account to the sole order of the survivor(s) subject to the Bank's prior rights or claims, and payment to the survivor(s) is a complete discharge to the Bank;
- (vii) if any Customer withdraws his/its mandate for the other Customer(s) to operate the joint account, the Bank shall not be liable for any loss suffered by the Customers due to putting a hold on the joint account pending receipt of joint written instructions from all the holders of the joint account; and
- (viii) the operation or closure of the joint account shall be based on the instruction or authorisation given by any one Customer which shall bind all Customers, and amounts payable to or collected for any one Customer may be credited to the joint account.

### Corporate / Partnership Accounts

5. Where the Customer is a company, limited liability partnership or other incorporated body, the mandate given for opening the first account shall apply to subsequently opened account(s) of the same type unless a separate mandate is given for such subsequent account(s).

Where the Customer is a partnership or other unincorporated body of persons, the liability of all partners or all office-bearers shall be joint and several, and the mandate given shall remain in force until revoked in writing even if there is any change in the name of the partnership or in the constitution of the partnership by death, bankruptcy, retirement, resignation or admission of new partner(s). The Bank has the right to treat the surviving or remaining partner(s) as having full power to carry on business and to deal with the partnership assets as if there had been no change in the partnership.

### Operation of Corporate / Partnership Accounts

6. The Customer shall give the Bank the names and specimen signatures of all the authorised signatories on the Bank's specimen signature cards. In case of changes to the authorised signatories, the Customer agrees to promptly notify the Bank in writing by giving a certified true copy of the relevant resolution. The Customer acknowledges that such changes shall take effect after the Bank confirms in writing that its records have been updated.

The Customer agrees that the Bank has the right to reject instructions and communications with signature(s) which do not match the specimen signature(s) on record, but that the Bank also has the right to act on the same if the Bank has reasonable grounds to believe that it did in fact come from the Customer.

### Amendment of Terms & Conditions

7. These Generic Terms & Conditions, the Specific Terms & Conditions and any of the Bank's products or services (including its features or limits) may be changed, added to, deleted, terminated or suspended (without affecting liabilities for any prior breaches) by way of :
- (i) notice on any of the Bank's internet websites;
  - (ii) notice in the account statement;
  - (iii) notice at the Bank's premises;
  - (iv) sending a notice to the Customer's address according to Clause 3 and Clause 4(i) above, such notice to take effect on the 3rd day after posting even though the notice may later be returned undelivered; or
  - (v) any other mode the Bank views suitable.

Changes or additions which:-

- impose or increase charges; or
- increase the Customer's liability for losses;

for electronic fund transfers via telegraphic transfers, shall take effect after 30 days' prior written notice to the Customer.

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### Amendment of Terms & Conditions (continued)

The Customer shall be taken to have accepted the change(s), addition(s), deletion(s), termination or suspension unless the Customer takes positive action to close the account or terminate the service before the end of the relevant notice period. The Customer remains liable for all transactions before the closure or termination.

All other notices from the Bank can also be given in the above manner.

### Financial Crime Risk Management Activity

8. The terms in this Clause shall continue to apply even after the Bank ceases to provide any accounts, products and/or Services to the Customer. *(Please refer to Clause 35 for the definitions applicable to this Clause.)*

- (i) The Customer acknowledges that the holding of accounts and use of products and/or Services provided by the Bank are subject to the laws of Malaysia and other relevant jurisdictions, and to the supervisory authority of Labuan Financial Services Authority and other applicable Authorities in Malaysia and other relevant jurisdictions.
- (ii) The Bank and members of the HSBC Group are required, and may take any action to meet Compliance Obligations relating to or in connection with the detection, investigation and prevention of Financial Crime ("Financial Crime Risk Management Activity"). Such action may include, but is not limited to: (1) screening, intercepting and investigating any instruction, communication, drawdown request, application for any accounts, products and/or Services, or any payment sent to or by the Customer, or on the Customer's behalf, (2) investigating the source of or intended recipient of funds, (3) combining Customer Information with other related information in the possession of the HSBC Group, and/or (4) making further enquiries as to the status of a person or entity, whether they are subject to a sanctions regime, or confirming the Customer's identity and status.
- (iii) Exceptionally, such Financial Crime Risk Management Activity may lead to the Bank delaying, blocking or refusing the making or clearing of any payment, the processing of the customer instructions or application for any accounts, products and/or Services or the provision of all or part of any accounts, products and/or Services. To the extent permissible by law, neither the Bank nor any member of the HSBC Group shall be liable to the Customer or any third party for any loss (however it arose) that was suffered or incurred by the Customer or a third party, caused in whole or in part in connection with the undertaking of such Financial Crime Risk Management Activity.
- (iv) In certain circumstances, such Financial Crime Risk Management Activity may prevent or cause a delay in the processing of certain information. Therefore, neither the Bank nor any member of the HSBC Group warrants that any information on the Bank's systems relating to any payment messages or other information and communications which are the subject of any action taken pursuant to such Financial Crime Risk Management Activity is accurate, current or up-to-date at the time it is accessed, whilst such action is being taken.
- (v) Where the Bank or a member of the HSBC Group has suspicions regarding Financial Crime or an associated risk, the Bank may:
  - (a) be unable to provide new, or continue to provide all or part of, the accounts, products and/or Services to the Customer and reserve the right to terminate the banking relationship with the Customer;
  - (b) take actions necessary for the Bank or a member of the HSBC Group to meet the Compliance Obligations; and/or
  - (c) block or close the Customer's account(s).

### Suspension / Closure of Account

9. The Customer acknowledges that the Bank has absolute discretion:-

- (i) not to carry out any instructions or suspend the use of an account if the Bank doubts its authenticity or considers it appropriate to do so; or in the event of any dispute between the joint account holders, authorised signatories, partners or directors of a company; or if the Bank were to receive conflicting instructions from the foregoing persons; or if the Customer fails to pay any fees and charges imposed by the Bank; and/or

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### Suspension / Closure of Account (continued)

(ii) to close an account by giving 2 weeks' written notice to the Customer at the Customer's address or facsimile number according to Clause 3 and Clause 4(i) above by:

- (a) personal delivery and shall be taken to have been received at the time of delivery;
- (b) ordinary / registered post (either AR or non-AR registered) or courier and shall be taken to have been received on the 3rd day after posting or the 3rd day after despatch to the courier service provider, as the case may be, even though it may later be returned undelivered, or the Bank is not in receipt of the signed AR card or the Customer's acknowledgement of receipt; or
- (c) facsimile and shall be taken to have been received at the time of transmission.

The Bank is not obliged to give its reasons for exercising its discretion to close the account.

### Collection, Processing and Sharing of Customer's Information

10. The terms in this Clause shall continue to apply even after the Bank ceases to provide any accounts, products and/or Services to the Customer. (Please refer to Clause 35 for the definitions applicable to this Clause.):

- (i) The Bank and other members of the HSBC Group may collect, use and share Customer Information. Customer Information may be requested by the Bank or on the Bank's behalf or that of the HSBC Group, and may be collected from the Customer directly, from a person acting on the Customer's behalf, from other sources (including from publically available information), and it may be generated or combined with other information available to the Bank or any member of the HSBC Group.
- (ii) Customer Information will be processed, transferred and disclosed by the Bank and/or members of the HSBC Group in connection with the following purposes (the "Purposes"):
  - (a) considering, at the Customer's request, whether to provide the Customer with any account, product and/or Services;
  - (b) the provision of any accounts, products and/or Services and to approve, manage, administer or effect any transactions requested or authorised by the Customer;
  - (c) meeting Compliance Obligations;
  - (d) conducting Financial Crime Risk Management Activity;
  - (e) collecting any amounts due and outstanding from the Customer;
  - (f) conducting credit checks and obtaining or providing credit references;
  - (g) taking any adverse action against the Customer, enforcing or defending the Bank's rights, or those of a member of the HSBC Group;
  - (h) for any legal process (whether by way of judicial proceedings or any other form of proceedings recognised in law) initiated by or served on, the Bank (whether or not the Bank is a party);
  - (i) for the Bank's internal operational requirements or those of the HSBC Group (including credit and risk management, system or product development and planning, insurance, audit and administrative purposes);
  - (j) maintaining the Bank's overall relationship with the Customer (including, if the Customer has not objected, marketing or promoting financial services or related products and market research);
  - (k) improving and furthering the provision of accounts, products and/or Services by the Bank and any member of the HSBC Group to the Customer generally; and/or
  - (l) any other purposes as may be in accordance with the Bank's general policy on disclosure of Personal Data as set out in statements, circulars, notices or other terms and conditions (including, without limitation, the Notice to Customers relating to the Personal Data Protection Act, 2010) made available by the Bank to the Customer from time to time.
- (iii) By using any of the accounts, products and/or Services provided by the Bank, the Customer agrees that the Bank may, as necessary and appropriate for the Purposes, transfer and disclose any Customer Information to the following recipients globally (the "Recipients") (who may also subsequently process, transfer and disclose such Customer Information for the Purposes):
  - (a) any member of the HSBC Group which:
    - (1) provides group management oversight of the Bank and/or global and regional support, or
    - (2) carries on business within the financial services industry, or
    - (3) is a provider of services to other members of the HSBC Group;
  - (b) any sub-contractors, agents, service providers (including but not limited to professional advisers, solicitors and auditors), or associates of the HSBC Group (including their employees, directors and officers);

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### Collection, Processing and Sharing of Customer's Information (continued)

- (c) any Authorities, in response to their requests;
  - (d) persons acting on the Customer's behalf, payment recipients, beneficiaries, account nominees, intermediary, correspondent and agent banks, clearing houses, clearing or settlement systems, market counterparties, upstream withholding agents, swap or trade repositories, stock exchanges, securities central depositories or depository agents, companies in which the Customer has an interest in securities (where such securities are held by the Bank or any member of the HSBC Group for the Customer);
  - (e) any party to a transaction acquiring interest in, or assuming risk in, or in connection with, the accounts, products and/or Services provided by the Bank;
  - (f) other financial institutions, credit reference agencies, credit reporting agencies registered under the Credit Reporting Agencies Act 2010 (as listed on the Bank's website at [www.hsbc.com.my/1/2/offshore](http://www.hsbc.com.my/1/2/offshore)) or credit bureaus (including those established by Labuan Financial Services Authority or any of its subsidiaries, or by any other Authorities), for the purposes of obtaining or providing credit information and/or credit references;
  - (g) any third party fund manager who provides asset management services to the Customer;
  - (h) the Association of Labuan Banks (ALB);
  - (i) any debt collection agencies that may be appointed by the Bank;
  - (j) any governing or regulatory authority of the Customer;
  - (k) any present or prospective guarantors or security providers of the Customer;
  - (l) any person the Bank believes in good faith to be tendering payment on the Customer's behalf; wherever located, including in jurisdictions which do not have data protection laws that provide the same level of protection as Malaysia. Whether it is processed in Malaysia or overseas, in accordance with data protection legislation, Customer Information will be protected by a strict code of secrecy and security which all members of the HSBC Group, their staff and third parties are subject to. The Customer understands that the Bank or any of the Recipients will be obliged to disclose Customer Information if legally compelled to do so by any Laws.
- (iv) If the Customer has a joint account, the Bank may also disclose to any of the co-account holders, Customer Information provided to the Bank in relation to the account.
- (v) If the Customer is a company, limited liability partnership, conventional partnership, association or society, the Bank is authorised to provide in its sole discretion, any Customer Information on or relating to the Customer's account or any Services provided to the Customer, to any one or more of the directors, partners, office bearers, or such other persons of whom the Bank is satisfied as being members of the governing body of the Customer as the case may be irrespective of whether such persons are the authorised signatories and if they are, irrespective of their signing authority under the Customer's account or any Services provided to the Customer.
- (vi) The Customer confirms and warrants that every Connected Person whose information (including Personal Data or Tax Information) the Customer (or any other person on the Customer's behalf) provided, or will from time to time provide, to the Bank or a member of the HSBC Group, has been notified of and agreed to the provision, processing, disclosure and transfer of their information as set out in this Clause 10 before their information is provided. The Customer must at the same time advise them that they have rights of access to, and correction of, their Personal Data.
- (vii) The Customer agrees to inform the Bank promptly, and in any event, within 30 days in writing if there are any changes to Customer Information supplied to the Bank from time to time, and to respond promptly to any request from the Bank.
- (viii) Where:
- (a) the Customer fails to provide promptly Customer Information that the Bank reasonably requested; or
  - (b) the Customer withholds or withdraws any consents that the Bank may need to process, transfer or disclose Customer Information for the Purposes (except for purposes connected with marketing or promoting products and Services to the Customer); or
  - (c) the Bank or a member of the HSBC Group has suspicions regarding Financial Crime or an associated risk; the Bank may:
    - (1) be unable to provide new, or continue to provide all or part of, the accounts, products and/or Services to the Customer and reserve the right to terminate the banking relationship with the Customer;

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### Collection, Processing and Sharing of Customer's Information (continued)

- (2) take actions necessary for the Bank or a member of the HSBC Group to meet the Compliance Obligations; and/or
- (3) close the Customer's account(s).
- (ix) The Customer acknowledges that, from time to time, the Bank may be requested to provide banker's reference to other financial institutions or other third parties about the Customer and the Customer authorises the Bank to provide such banker's reference should the Bank in its absolute discretion decide to do so, provided however that nothing herein shall be taken to impose any obligation on the Bank (whether contractual or otherwise) to provide such banker's reference.
- (x) The Bank may use, analyse and assess Customer Information held about the Customer and the Customer's account, including the nature of the Customer's transactions, to give the Customer, information about products and Services from members of the HSBC Group and those of selected third parties which the Bank thinks may interest the Customer via telephone, mobile phone, electronic media, post or other means. The Bank may pass this information to other members of the HSBC Group so that they may do the same unless the Customer has objected to such disclosure for purposes of cross-selling.

The Customer may, at any time, choose not to receive direct marketing information. The Customer needs to write to **Direct Mailing Exclusion Coordinator at Level 11(B1), Main Office Tower, Financial Park Labuan, Jalan Merdeka, 87000 Wilayah Persekutuan Labuan, Malaysia** with the Customer's request and the Bank will delete the Customer's name from its direct marketing mailing lists without charge.

- (xi) Depending on the type of data, including but not limited to Personal Data and information pertaining to the Customer's account, and where it is held, the Customer may be entitled to request details (including copies) of the information that the Bank holds about the Customer and to require the Bank to correct any inaccuracies. The Bank may charge a fee for the providing of any data. Requests for further information should be addressed to:

#### Personal Data Protection Officer

The Hongkong and Shanghai Banking Corporation Limited,  
Offshore Banking Unit Labuan  
No.2, Leboh Ampang  
50100 Kuala Lumpur  
Tel : +603 2075 3000  
Email : pdpo@hsbc.com.my

### Tape Recording

- 11. The Bank may choose (but is not obliged) to record the Customer's verbal instructions and/or communication with the Bank. Such recordings, being the sole property of the Bank, shall be conclusively binding on the Customer and the Bank reserves the right to destroy the recordings after such period of time it sees fit.

### Document Management

- 12. The Customer acknowledges that the Bank is not obliged to provide copies of any receipts, confirmations, advices, vouchers, documents, recordings or other items (collectively, "**Documents**") relating to any type of account:-
  - after the Bank has completed the relevant transaction;
  - after microfilming, scanning or storing in whatever medium; or
  - after the account has been closed by the Customer or by the Bank.

The Customer agrees that the Bank shall not be liable for any loss suffered by the Customer due to the unavailability of the Documents which have been dealt with by the Bank according to the Bank's document retention policy.

### "Know Your Customer"

- 13. (i) The Customer acknowledges that the Bank is required to carry out a due diligence to identify and to find out the background of its customer. The Customer agrees to sign such declarations, do such acts and/or provide such documents requested by the Bank for this purpose within the required time period, and that not doing so may result in the Bank suspending, closing or limiting the usage of the account including but not limited to disallowing any transfer of funds to third

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### "Know Your Customer" (continued)

parties. If the account is to be closed, the Bank reserves the right to return the funds in the account to the source from where it came.

- (ii) If the Customer or a shareholder (whether direct or indirect, legal or beneficial) of the Customer is a company incorporated in a country that permits issuance of bearer shares, the Customer confirms and warrants that neither it nor such shareholder has issued any bearer shares and further undertakes that neither it nor such shareholder will issue or convert any of its shares or such shareholder's shares (as the case may be) to bearer form without the prior written consent of the Bank, failing which the Bank reserves the right to terminate the banking relationship with the Customer.

### Tax Compliance

14. The terms in this Clause shall continue to apply even after the Bank ceases to provide any accounts, products and/or Services to the Customer. *(Please refer to Clause 35 for the definitions applicable to this Clause.)*

- (i) Certain countries may have tax legislation with extra-territorial effect regardless of the Customer's or Connected Person's place of domicile, residence, citizenship or incorporation. Neither the Bank nor any member of the HSBC Group provides tax advice. The Customer is advised to seek independent legal and/or tax advice. Neither the Bank nor any member of the HSBC Group has responsibility in respect of the Customer's tax obligations in any jurisdiction which they may arise including any that may relate specifically to the opening and use of accounts, products and/or Services provided by the Bank and/or members of the HSBC Group.
- (ii) The Customer acknowledges that the Customer is solely responsible for understanding and complying with the Customer's tax obligations (including but not limited to, tax payment or filing of returns or other required documentation relating to the payment of all relevant taxes) in all jurisdictions in which those obligations arise and relating to the opening and use of accounts, products and/or Services provided by the Bank and/or members of the HSBC Group. The Customer confirms and warrants that each Connected Person acting in their capacity as a Connected Person (and not in their personal capacity) also makes the same acknowledgement in their own regard.
- (iii) The Customer agrees to inform the Bank promptly, and in any event, within 30 days in writing if there are any changes to Customer Information supplied to the Bank from time to time, and to respond promptly to any request from the Bank.
- (iv) Where the Customer fails to provide promptly Customer Information that the Bank reasonably requested, the Bank may:
  - (a) be unable to provide new, or continue to provide all or part of, the accounts, products and/or Services to the Customer and reserve the right to terminate the banking relationship with the Customer;
  - (b) take actions necessary for the Bank or a member of the HSBC Group to meet the Compliance Obligations (such as that described in paragraph (v) below); and/or
  - (c) close the Customer's account(s).
- (v) The Customer acknowledges that failure to supply promptly, the Customer's or a Connected Person's Tax Information and accompanying statements, waivers and consents, as may be requested, may result in the Bank making its own judgment with respect to the Customer's status, including whether the Customer is reportable to a Tax Authority, and may require the Bank or other persons to withhold amounts as may be legally required by any Tax Authority and paying such amounts to the appropriate Tax Authority.

### Breach of Terms & Conditions

15. If the Customer does not comply with these Generic Terms & Conditions, the applicable Specific Terms & Conditions or account-related documentation, the Bank shall not be liable for any loss suffered by the Customer.

### Customer's Security Duties

16. In these Generic Terms & Conditions:-

"Available Balance" means funds in the account based on the Bank's records including unused overdraft limits (if any) but excluding any hold on any sums.

Clause headings are not to affect the interpretation of the clauses.

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### Customer's Security Duties (continued)

"PIN" means personal identification number.

The Customer agrees that:-

- (a) It is the Customer's responsibility to keep all PINs, passwords and any other means of obtaining access to accounts secure and under personal control at all times, and if the Customer fails to do so, the Bank shall not be liable for any loss suffered by the Customer. The Customer must take precautionary measures to prevent security breaches such as, but not limited to:-
- not changing the PIN or password to a number and/or name (i) which may be easy to guess such as dates of birth, telephone numbers, names, initials, etc; or (ii) which is a sequence of numbers associated with the account number;
  - not disclosing the PIN or password to anyone (including the Bank's staff) and not stating it in any instructions given to the Bank whether verbally, in writing or by facsimile;
  - never making a record of the PIN or password in a way that might be understood by someone else;
  - never writing the PIN or password on the account statement or anything that is connected with the Bank;
  - promptly destroying any advice from the Bank concerning the PIN after receipt; and
  - informing the Bank immediately if the Customer knows or suspects that someone else knows the PIN or password.
- (b) All transactions carried out using any PIN or password shall be taken as "authorised transactions" if:-
- (i) the corresponding PIN or password was used and the security of the Bank's fund transfer system was fully functional on that day; and
  - (ii) the officers or agents appointed by the Bank were not fraudulent or negligent in carrying out the transaction.

### Inward Remittances

17. The Bank reserves the right:-

- (i) to debit the Customer's account with the same amount credited earlier, when the relevant drafts, instrument, payment order or instruction is subsequently returned unpaid or cannot be presented or cleared due to loss or destruction or misplaced in the process of presenting or, if the amount was wrongly credited in the first place, and the Bank shall not be liable for any loss suffered by the Customer;
- (ii) to amend under advice, the pay-in-slip due to errors, wrong addition, missing items or third party account payee drafts collected in error;
- (iii) to stop any inward remittance in favour of the Customer if the originator's Information received by the Bank is incomplete, and the Bank shall not be liable to the Customer for the delay or rejection of the inward remittance.

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## Generic Terms & Conditions (May 2016 Edition)

### Outward Remittances

18. (i) The Customer acknowledges that:-

- all applications for outward remittances (e.g. telegraphic transfers) are subject to the Bank's daily cut-off times;
- applications for same day value are also subject to cut-off times based on the geographical location of the recipient;
- applications for outward remittances received after the relevant cut-off time will only be processed on the next banking day; and
- for remittances dependent on other institutions, the Bank will process the application according to the Bank's daily cut-off times and forward the same to the other institution for their processing and the Bank shall not be liable to the Customer for any delay and/or error in processing on the part of the other institution.

(ii) The Customer agrees that:-

- the application for telegraphic transfers will be carried out by the Bank in the same currency in which the Customer pays the Bank, unless the Customer specifically instructs the Bank in writing differently;
- where applicable, if the Bank is unable to give a firm quotation for the rate of exchange, the Bank shall carry out the remittance based on a provisional rate and when the actual rate is known, any difference between the provisional rate and the actual rate shall be debited or credited to the relevant Customer's account; and
- all charges for remittances are to be debited to the relevant Customer's account.

(iii) The Bank reserves the right to draw the telegraphic transfer on a different place from that specified by the Customer if the Bank's operational circumstances require it.

(iv) The Bank has the discretion to send the telegraphic transfer literally or in cipher. The Customer acknowledges that telegraphic transfers are sent at the Customer's sole risk.

(v) The Customer agrees that the Bank shall not be liable to the Customer:-

- for any loss or delay which may take place in the transfer, transmission and/or application of funds; or
- in the case of telegraphic transfers (as instructed by the Customer or deemed necessary by the Bank), for any error, omission or mutilation which may take place in the transmission of the message (literally or in cipher) or for its misinterpretation by the receiving party when received;

and the Customer agrees to indemnify the Bank against any actions, legal proceedings, claims and/or demands that may arise in connection with such loss, delay, error, omission, mutilation and/or misinterpretation.

### Carrying Out Payment / Remittance Instructions

19. (i) The Bank reserves the right to carry out the Customer's payment or remittance instructions by any method the Bank sees fit in spite of any specific instructions from the Customer. The Customer acknowledges that any request for cancellation of a payment or remittance instruction must be made in writing and the Bank has the discretion whether or not to cancel the same.

(ii) If the Customer's payment or remittance instructions need to be carried out via a payment or clearing system operated by a third party, the Customer agrees that the Bank may use any correspondent, agent, sub-agent, agency or any other financial institution (collectively, "Intermediary"), and the Customer consents to the Bank disclosing all necessary information to the same. The Customer acknowledges that such payment or remittance less any applicable charges, shall be credited to the beneficiary's account based solely on the account number given by the Customer.

(iii) The Customer agrees that the Bank or relevant Intermediary shall not be liable for any failures, delays, errors, omissions, interruptions, misinterpretation or any other outcome due to the payment or remittance instructions being sent or received through whatever channels of communication.

(iv) The Customer consents to the Bank disclosing the Customer's name and account number in the transaction details sent to the recipient financial institution and/or the payee.

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### Carrying Out Standing / Periodic Instructions

20. (i) The Customer agrees to notify the Bank in writing or via channels made available by the Bank, of any changes or amendments to the:-
- payment amount or payment limit;
  - method of payment; and/or
  - periodicity of payment;
- for standing or periodic payment instructions, the Customer acknowledges that such changes or amendments shall take effect after 1 week from the Bank's receipt of such notice.
- (ii) The Customer agrees that the Bank has the discretion to terminate the standing or periodic payment instructions with regard to future payments at any time, by written notice to the Customer or after receipt of written confirmation from the payee named in the standing or periodic payment instructions that no further payment is required.
- (iii) The Customer acknowledges that the standing or periodic payment instructions will be carried out provided there are sufficient funds in the account and the Bank shall not be liable to the Customer for any missed payment due to insufficient funds.
- (iv) If the standing or periodic payment instructions are given for a payment limit, the Customer acknowledges that the Bank does not have any responsibility to verify the correctness of the amounts charged by the payee, and any disputes over the amounts are to be settled by the Customer directly with the payee.

### Priority of Payment

21. The Customer agrees that the Bank has full discretion to conclusively determine the order of priority of payment from the funds of the Customer or any standing or payment instructions from the Customer.

### Customer's Instructions

22. The Customer acknowledges that the Customer's instructions may be carried out even though:
- (a) they conflict with or are inconsistent with other instructions or mandates given by the Customer to the Bank; and/or
  - (b) account(s) which are for the time being in credit or overdrawn, may become or remain overdrawn as a result.

In any of the above cases, the Customer shall be liable for any resulting advance or credit facilities created subject to interest at the rate determined by the Bank, and Clause 2 above shall apply. The Customer shall ensure that there are sufficient funds in the Customer's account or prearranged credit facilities to meet all payment instructions.

All instructions by a Customer shall remain effective for the protection of the Bank for payments made or instructions carried out in good faith in spite of death, bankruptcy or winding-up or the revocation of any such instructions by any means by the Customer, until written notice with documents evidencing such death, bankruptcy, winding-up or such revocation is received by the Bank.

### Beyond Bank's Control

23. The Customer shall not hold the Bank responsible for any loss or damage which the Customer may suffer directly or indirectly relating to any service, due to any reason whatsoever including but not limited to breakdown or malfunction of the computer, its terminal connection lines, data processing system or transmission line or any other equipment whether or not belonging to the Bank, attempted or actual acts of terrorism, outbreak of epidemics, acts of God or any circumstances beyond the Bank's control.

### Telecommunications

24. (i) Subject to Clause 24, at the request of the Customer, the Bank is authorised to release information relating to the Customer's account, exchange rates or interest rates (subject to fluctuation) at its discretion via telephone or facsimile. Information or rates given via telephone shall not be binding on the Bank unless subsequently confirmed by the Bank in writing;
- (ii) The Bank is authorised to rely and act on the instructions received by the Bank from the Customer via telephone, facsimile or other means of telecommunication ("collectively, Telecommunication

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### Telecommunications (continued)

Instructions") and the Customer agrees that the Bank is authorised to treat any Telecommunication Instructions which the Bank in its sole discretion believes came from the Customer (after taking reasonable steps to verify the identity of the person giving or the source of the Telecommunication Instructions) as fully authorised by the Customer and to rely and act on it, and the Bank shall not be liable for any loss suffered by the Customer if such Telecommunication Instructions did not in fact come from the Customer.

In spite of what is stated in this Clause, the Bank is not obliged to accept and act upon Telecommunication Instructions regarding:-

- change in account mandate;
- change of authorised signatories;
- grant of Power of Attorney to another person or entity;
- payment instructions;
- closure of account(s) and transfer of the remaining balance.

(iii) The Customer agrees to indemnify the Bank against all actions, claims, demands, liabilities, losses, damages, costs and expenses of whatever nature which the Bank may sustain, suffer or incur as a result of the Bank acting on the Telecommunication Instructions in good faith, and the Bank is authorised to debit any account(s) of the Customer with such sums and Clause 2 above shall apply. This indemnity shall continue in spite of any revocation of authorisation, termination of any service and/or closure of any account.

(iv) The Bank may at its discretion, introduce further security measures to ensure, as far as possible, that the Telecommunication Instructions have been authorised by the Customer.

(v) The Customer may revoke the authorisation in this Clause 25(i) and/or Clause 25(ii) by written notice signed according to the account mandate and given to the branch of account.

### Indemnity from Customer

25. The Customer shall discharge the Bank from all liabilities and indemnify the Bank against all losses, damages, fees, costs, charges, taxes, duties, imposts and expenses (including legal costs) which the Bank may sustain or incur and which have arisen either directly or indirectly in relation to the circumstances set out below, and the Bank is authorised to debit any account(s) of the Customer with such sums and Clause 2 above shall apply:-

- (a) the maintaining of, use or purported use of the Bank's services, products or facilities and/or PIN or password by the Customer or any other person (the Customer shall be liable for all transactions effected until the PIN has been cancelled by the Bank);
- (b) the Customer's breach of or non-compliance with these Generic Terms & Conditions, the applicable Specific Terms & Conditions, any account-related documentation or any applicable laws and regulations;
- (c) the Customer's negligent acts or omissions;
- (d) the Bank accepting instructions from the Customer or which the Bank believes in good faith to have come from the Customer (whether so authorised or not) and acting or failing to act on the same, unless due to the negligence or fraud of the Bank;
- (e) enforcement by the Bank of its rights under these Generic Terms & Conditions, the applicable Specific Terms & Conditions or any account-related documentation;
- (f) any delay in payment or the debit or credit into the Customer's account as a result of Clause 8 and/or Clause 9(i) above.

This indemnity shall continue in spite of the termination of any service and/or closure of any account.

### Legal Expenses

26. The Customer agrees that:-

- (a) all legal expenses incurred by the Bank for the recovery of any amount from the Customer under any credit facilities or account shall be borne by the Customer; and
- (b) the judgment sum shall carry interest at the existing interest rate(s) applicable to the credit facilities or account from the date of judgment to the date of full payment.

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### Conflict & Order of Priority

27. If there is any inconsistency between these Generic Terms & Conditions, the applicable Specific Terms & Conditions and any account-related/Service-related documentation, the terms and conditions shall prevail in the following order:- (please refer to Clause 35 for the definition of "Services")
- Clauses 8, 9, 10, 14 and 35 of these Generic Terms & Conditions;
  - the account-related/Service-related documentation;
  - the applicable Specific Terms & Conditions; and
  - lastly, all the other clauses of these Generic Terms & Conditions not specified in paragraph (a) above.

### Notices

28. Any statement, notice, communication or demand for which the manner of delivery is not specifically stated in these Generic Terms & Conditions or the applicable Specific Terms & Conditions:-
- that is required to be in writing, may be given by the Bank to the Customer at the Customer's address or facsimile number according to Clause 3 and Clause 4(i) above by:
    - personal delivery and shall be taken to have been received at the time of delivery;
    - ordinary/registered post (either AR or non-AR registered) or courier and shall be taken to have been received on the 3rd day after posting or the 3rd day after despatch to the courier service provider, as the case may be, even though it may later be returned undelivered, or the Bank is not in receipt of the signed AR card or the Customer's acknowledgement of receipt;
    - facsimile and shall be taken to have been received at the time of transmission; or
    - posting on the Bank's website, and shall be taken to have been received immediately after such posting by the Bank.
  - shall be given by the Customer to the Bank in writing by:-
    - delivery; or
    - post;
 to the branch of account, and shall be received on the day of actual receipt by the Bank.

### No Waiver & No Assignment

29. (i) No act, omission, failure or delay by the Bank in exercising any power, right or remedy under these Generic Terms & Conditions shall be taken as a waiver by the Bank unless the waiver is confirmed by the Bank in writing. A single or partial exercise by the Bank of any power, right or remedy does not prevent further exercise or the exercise of any other power, right or remedy.
- (ii) The Customer is not allowed to assign or transfer any of the Customer's rights or obligations to any person unless with the Bank's prior written agreement.

### Illegality

30. Any term or condition in these Generic Terms & Conditions which is unenforceable shall not affect the remaining terms and conditions.

### Fraud

31. The Customer agrees to co-operate with the Bank and the police in trying to recover any losses resulting from the Bank acting on instructions which the Customer subsequently informs the Bank were not in fact given or authorised by the Customer. The Customer consents to the Bank disclosing information about the Customer and/or the Customer's account to the police or other third parties including in legal proceedings, if the Bank is of the view that it will help to prevent or recover losses.

### Fees, Charges & Rates

32. The Customer acknowledges that the applicable fees and charges are found in the Bank's Tariff and Charges on the Bank's website at [www.hsbc.com.my/1/2/offshore](http://www.hsbc.com.my/1/2/offshore) (as updated from time to time) and forms part of these Generic Terms & Conditions binding on the Customer, and that the Bank reserves the right to impose and/or revise from time to time such fees and charges as the Bank in its discretion sees fit and to debit any account of the Customer with the applicable fees and charges.

### Jurisdiction

33. The Customer submits to the non-exclusive jurisdiction of the courts in Malaysia.

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## Generic Terms & Conditions (May 2016 Edition)

### Definitions

34. For the purpose of Clauses 8, 10, 14 and 28:-

**"Authorities"** includes any judicial, administrative, public or regulatory body, any government, any Tax Authority, securities or futures exchange, court, central bank or law enforcement body, or any of their agents with jurisdiction over any member of the HSBC Group.

**"Compliance Obligations"** means obligations of the HSBC Group to comply with: (1) Laws or international guidance and internal policies or procedures, (2) any demand from Authorities or reporting, disclosure or other obligations under Laws, and/or (3) Laws requiring the Bank to verify the identity of customers.

**"Connected Person"** means a person or entity (other than the Customer) whose information (including Personal Data or Tax Information) is provided by, or on behalf of, the Customer to any member of the HSBC Group or which is otherwise received by any member of the HSBC Group in connection with the provision of any accounts, products and/or Services. A "Connected Person" may include, but is not limited to, any guarantor or security provider, a director or officer of a company, guarantor or security provider, partners or members of a partnership, any substantial owner", "controlling person", or beneficial owner, trustee, settlor or protector of a trust, account holder of a designated account, payee of a designated payment, representative, agent or nominee of the Customer, or any other persons or entities having a relationship to the Customer that is relevant to the Customer's relationship with the HSBC Group.

**"controlling persons"** means individuals who exercise control over an entity. For a trust, these are the settlor, the trustees, the protector, the beneficiaries or class of beneficiaries, and any other individual who exercises ultimate effective control over the trust, and for entities other than a trust, these are persons in equivalent or similar positions of control.

**"Customer Information"** means (1) Personal Data, (2) confidential information (including information about the Customer, the Customer's accounts, transactions and use of the Bank's products and Services, and the Customer's relationships with the HSBC Group) and/or (3) Tax Information of either the Customer or a Connected Person.

**"Financial Crime"** means money laundering, terrorist financing, bribery, corruption, tax evasion, fraud, evasion of economic or trade sanctions, and/or any acts or attempts to circumvent or violate any Laws relating to these matters.

**"HSBC Group"** means HSBC Holdings plc, its affiliates, subsidiaries, associated entities and any of their branches and offices (together or individually), and "member(s) of the HSBC Group" has the same meaning.

**"Laws"** include any local or foreign law, regulation, judgment or court order, voluntary code, sanctions regime, agreement between any member of the HSBC Group and an Authority, or agreement or treaty between Authorities and applicable to the Bank or a member of the HSBC Group.

**"Personal Data"** means any information relating to an individual from which the individual can be identified including any expression of opinion about the individual.

**"Services"** includes financing and banking facilities, and other banking services.

**"substantial owners"** means any individuals entitled to more than 10% of the profits of or with an interest of more than 10% in an entity either directly or indirectly.

**"Tax Authority"** means local or foreign tax, revenue or monetary authorities.

**"Tax Certification Forms"** means any forms or other documentation as may be issued or required by a Tax Authority or by the Bank from time to time to confirm the tax status of the Customer or of a Connected Person.

**"Tax Information"** means documentation or information about the Customer's tax status and the tax status of any owner, "controlling person", "substantial owner" or beneficial owner of the Customer, that the Bank considers, acting reasonably, is needed to comply (or demonstrate compliance, or avoid non-compliance) with any member of the HSBC Group's obligations to any Tax Authority. "Tax Information" includes, but is not limited to, information about: tax residence and/or place of organisation (as applicable), tax domicile, tax identification number, Tax Certification Forms, certain Personal Data (including name(s), residential address(es), age, date of birth, place of birth, nationality, citizenship).