

Standard Terms and Conditions [Purchase of Receivables]

1. Definitions and Interpretation

1.1. Definitions

Unless defined in this Standard Terms and Conditions [Purchase of Receivables] ("Standard Terms") or the context otherwise requires, a term defined in the Application [as defined below] has the same meaning in these Standard Terms.

"Application" means the application form for purchase of receivables issued by the Seller to the Bank.

"Bank" means Oversea-Chinese Banking Corporation Limited.

"Business Day" means a day [other than a Saturday, Sunday or a gazetted public holiday] on which banks are open for general business in Singapore, or if on that day a transfer of funds [denominated in a currency other than Singapore Dollars] is required to be made under any Transaction Document, in the financial centre for the currency of such funds.

"Default Interest Rate" shall mean the rate per annum of two per cent [2%] over the Discount as from time to time in force.

"Dispute" means:

- (A) the existence of a Purchased Receivable or any part thereof shall at any time be disputed by the Buyer for any reason, or any controversy or claim relating to the same is raised by the Buyer;
- (B) the Seller shall accept the return of any goods that are the subject of a Purchased Receivable; or
- (C) it is or will become unlawful or illegal in the opinion of the Bank for the Seller or the Buyer to perform or comply or to fulfil any of its respective undertakings or obligations [where such obligations or undertakings are deemed material] contained in any Invoice [provided that for the avoidance of doubt, this is not due to or associated with the credit risk of the Buyer only].

"Eligible Receivable" means, as of any date of determination, each Receivable owing by the Buyer that as of such date satisfies the following eligibility criteria:

- (A) a Receivable that is not due and payable on or prior to the Purchase Date;
- (B) a Receivable that is unconditional and irrevocable, does not contain any voluntary repurchase provisions and does not arise from any consignment sale to the Buyer;
- (C) the goods related to it shall have been shipped or delivered and the services related to it shall have been performed and such Receivable shall have been billed to the Buyer;
- (D) it arose in the ordinary course of business from the sale of goods or services of the Seller;
- (E) it does not contravene any applicable law, rule or regulation and the Seller is not in violation of any law, rule or regulation in connection with it, in each case which in any way renders such Receivable unenforceable or would otherwise impair in any respect the collectability of such Receivable;
- (F) all required consents, approvals, licences, exemptions, filings, registrations, notarisations, authorisations or notifications necessary for the creation and enforceability of such Receivable and the effective assignment and sale thereof by the Seller to the Bank shall have been obtained or made with respect to such Receivable;
- (G) the Seller is not in default in any respect under the terms of the Invoice or any sale contract relating to such Receivable;

(H) it is at all times the legal, valid and binding obligations of the Buyer thereon, enforceable against the Buyer in accordance with its terms;

(I) it is not subject to any withholding taxes of any applicable jurisdiction or political sub-division and is assignable free and clear of any sales, goods and services, value-added or other tax, impost or levy;

(J) either:

(a) the Invoice relating to such Receivable does not expressly prohibit, or does not require consent to be obtained from the Buyer in connection with, a sale, transfer, assignment or conveyance of such Receivable;

(b) if such consent is required the Buyer has consented in writing in accordance with the terms of the Invoice and sale contract relating to such Receivable and applicable laws; and

(K) it is denominated and payable only in the Approved Currency.

"Invoice Maturity Date" means, in relation to a Purchased Receivable, the day on which payment is due under the Invoices relating to such Purchased Receivable.

"Invoices" means the invoices which gave rise to or which evidenced the existence of the Purchased Receivables.

"OCBC Group" means the Bank and its subsidiaries.

"Offered Receivables" shall have the meaning ascribed to it in the Application.

"Parties" means the Seller and the Bank.

"Purchase Date" means the date the Bank pays to the Seller the Purchase Price for the Offered Receivables selected to be purchased by the Bank.

"Purchased Receivable" shall have the meaning ascribed to it in Clause 2.1.

"Receivable" means the indebtedness and payment obligations [including obligations evidenced by an account, note, instrument, contract, security agreement, chattel paper, general intangible or other evidence of indebtedness or security] of the Buyer to the Seller, arising from the sale of goods or services by the Seller [and shall include:

(A) such indebtedness and payment obligations as may be evidenced by any invoice issued as a re-invoicing or substitute invoicing of an original invoice relating to the same payment obligations; and

(B) the right to payment of any interest, sales tax, goods and services tax, value added tax or similar Tax, finance charges, returned cheque or late charges and other obligations of the Buyer with respect thereto].

"Security" means a mortgage, charge, assignment, pledge, lien, hypothecation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature [including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same].

"Transaction Documents" means the Application [including the annexure] and this Standard Terms.

1.2. Construction

(A) Unless a contrary indication appears, any reference in this Standard Terms to:

- (1) any Transaction Document or any other agreement or instrument is a reference to each of the same as amended, supplemented, extended, restated or novated; and
 - (2) a “person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality).
- (B) Clause headings are for ease of reference only and references in this Standard Terms to Clauses are to clauses of this Standard Terms.
 - (C) Unless otherwise specified, words importing the singular include the plural and vice versa.
 - (D) Save as provided in Clause 9 [Other Indemnities], a person who is not a party to the Transaction Documents has no right under the Contracts (Rights of Third Parties) Act [Chapter 53B of Singapore] to enforce or enjoy the benefit of any term of the Transaction Documents.

2. **Acceptance of Offer**

- 2.1. If the Bank wishes to accept the purchase of all or any of the Offered Receivables, it shall convey its acceptance by paying to the Seller the Purchase Price for the Offered Receivables selected to be purchased by the Bank on the Purchase Date [after deducting any applicable interest, fees and/or charges owing by the Seller], following which the Bank shall deliver to the Seller an advice notifying the Seller of the Purchase Price paid and specifying the Offered Receivables purchased (the “Purchased Receivables”).
- 2.2. The Parties intend that the transactions contemplated under the Transaction Documents shall be, and shall be treated as, a purchase by the Bank and a sale by the Seller of the Purchased Receivables and not a lending transaction. Nothing in any Transaction Document shall be construed as giving rise to any registrable charge.
- 2.3. Any payment is at the sole and absolute discretion of the Bank for regulatory and other reasons and the Bank is under no obligation or commitment to make any payment. All purchases of the Purchased Receivables by the Bank are subject to the Discount.

3. **Recourse**

- 3.1. The Seller shall repay the Bank an amount calculated in accordance with this Clause 3.1 in respect of the Purchased Receivables if the Buyer does not pay any amount when due under or in connection with any Purchased Receivables and such failure is caused by any of the following events in relation to such Purchased Receivables, unless expressly waived by the Bank in writing (each, a “**Recourse Event**”):
 - (A) any Purchased Receivable ceases to be an Eligible Receivable or proves not to have been an Eligible Receivable at the date of the Application or the Purchase Date of that Receivable;
 - (B) fraud, illegality or unauthorised act in relation to the execution of any Transaction Document and any other documents referred to in the Transaction Documents committed by the Buyer or the Seller;
 - (C) a Dispute;
 - (D) any representation or warranty made by the Seller pursuant to Clause 4 (Representations and Warranties) is or proves to be incorrect or misleading when made, or the Seller fails to comply with any of its undertakings under Clause 5 (Undertakings) (whether or not such misrepresentation, breach of warranty or failure to comply was known to the Bank on the Purchase Date); or
 - (E) it is established by a competent court that the Seller’s right, title and interests in the Purchased Receivable is null, invalid and/or unenforceable arising from the Seller’s default or negligent act or omission.

- 3.2. On the occurrence of any Recourse Event

- (A) the Seller shall upon written demand by the Bank, repurchase the relevant Purchased Receivables from the Bank for a price calculated on the day that repurchase is made equal to the aggregate face value of such Purchased Receivables less any amount that the Bank has received from the Buyer in respect of the amount of the Purchased Receivables on or before the day of repurchase;
- (B) the Bank shall be deemed to have reassigned and transferred the said relevant Purchased Receivables to the Seller upon payment contemplated under Clause 3.2(A); and
- (C) the Seller shall pay to or reimburse the Bank, on demand, for all reasonable and documented out-of-pocket costs and expenses (including stamp duty, taxes, and any legal costs and expenses incurred by the Bank) arising or incurred in connection with the reassignment of the relevant Purchased Receivables to the Seller pursuant to this Clause 3.2.

4. **Representations and Warranties**

The Seller represents and warrants as follows:

- (A) The Seller:
 - (1) is a corporation, duly incorporated or established and validly existing under the law of its jurisdiction of incorporation or establishment; and
 - (2) has the power to own its assets and carry on its business as it is being conducted.
- (B) The obligations expressed to be assumed by the Seller in the Transaction Documents are legal, valid, binding and enforceable obligations, and the Seller has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents and the transactions contemplated by the Transaction Documents.
- (C) As regards every Offered Receivable both at the date of the Application and at the time such Receivable is purchased by the Bank:
 - (1) the Seller will be the sole legal and beneficial owner of that Receivable free from any Security and that such Receivable will be legally enforceable by the Seller and will remain to be paid in full, and that the particulars of such Receivable in the Letter of Offer will be true and accurate;
 - (2) the invoice under which that Receivable arises has not been paid and the Seller will not have obtained any other financing pertaining to the underlying transaction from any other party; and
 - (3) the Invoice under which that Receivable arises is valid, genuine and [as at the time such Receivable is purchased by the Bank] undisputed, and represents an actual and bona fide sale made in the ordinary course of business and in conformity with the description of the Seller’s business;

Each of the above representations and warranties will be correct and complied with in all respects on each day as if repeated then by reference to the then existing circumstances.

5. **Undertakings**

- (A) The Seller shall comply in all respects with all of its undertakings or obligations contained in any sale contract relating to any Purchased Receivable and the related Invoice.
- (B) The Seller shall not, without the prior written approval of the Bank (1) create or permit the subsistence of any Security over all or any of the Offered Receivables, or (2) enter into, or determine to enter into, any

arrangement for the sale, discounting, factoring or other disposal of all or any of the Offered Receivables in favour of any person other than the Bank.

- (C) The Seller undertakes with the Bank that it shall not vary, amend, supplement or otherwise modify the terms or provisions of any Invoice (including the issue of any credit note) without the prior written consent of the Bank.
- (D) The Seller shall use due care and take all measures to prevent and minimize the loss caused by any actual or prospective non-payment by the Buyer. The Seller agrees to provide the Bank necessary assistance as may be reasonably requested by the Bank to do relevant acts, matters or things which the Bank considers necessary for the protection, preservation or realisation of the Purchased Receivables, to minimise loss and maximise recoveries including without limitation, exercising any rights, powers and discretions arising under the Receivables and making demand on and issuing proceedings against the Buyer.
- (E) The Seller shall execute when requested by the Bank, any document and do such further things as the Bank may require to confer upon the Bank the rights, title, interests and benefits intended to be conferred under the Transaction Documents.
- (F) The Seller shall give the Bank any information or document in relation to the Transaction Documents or a Receivable the Bank requests within a reasonable time and any other information the Bank reasonably requests.

6. Payment

- 6.1. On each date on which the Seller is required to make a payment under any Transaction Document, it shall make the same available to the Bank for value on the due date at the time and in such funds specified by the Bank as being customary at the time for settlement of transactions in the relevant currency in the place of payment. Payment shall be made to such account in the financial centre of the country and with such bank as the Bank specifies. The Bank may in its sole discretion debit any amount due and payable by the Seller to the Bank under any Transaction Document from the Seller's Designated Account or any other account of the Seller maintained with the Bank.
 - 6.2. Any sums received from the Buyer which are in excess of the Financing Value with respect to the Purchased Receivables shall be held by the Bank in trust for the Seller and paid to the Seller's Designated Account within five Business Days from the later of:
 - (A) the date that such excess sums are received from the Buyer, subject to any of the terms in the Transaction Documents; and
 - (B) the date of settlement of the relevant transactions in respect of the Purchased Receivables
 - 6.3. Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not). For the avoidance of doubt, any interest or other similar charges shall remain payable by the Seller up to the actual payment date.
- ## **7. Non-Payment and Early Payment**
- 7.1. If any amount of a Purchased Receivable remains unpaid on its Effective Maturity Date, interest shall accrue daily on the unpaid amount from the relevant Effective Maturity Date up to the earlier of:
 - (A) the date of actual receipt by the Bank of full payment in respect of such Purchased Receivable; or
 - (B) the date on which any dispute or legal proceeding with the Buyer in respect of such unpaid amount is

finally settled confirming, to the satisfaction of the Bank, the liability of the Buyer for payment of such unpaid amount,

[each such date, a "Final Default Interest Settlement Date"], at a rate of the higher of Default Interest Rate or the default rate of interest (if any) specified in the sales contract for that Purchased Receivable as payable in the event that there is a failure to pay any amount in respect of that Purchased Receivable and will be payable by the Seller on the last Business Day of each month up to and including such earliest Final Default Interest Settlement Date and on such earliest Final Default Interest Settlement Date.

- 7.2. To the extent that the Seller or the Buyer makes full or partial payment in respect of any Purchased Receivable prior to the relevant Effective Maturity Date, the Seller shall within three Business Days of demand, pay to the Bank the Break Costs attributable to such prepayment. For the purposes of this Clause 7.2, "Break Costs" means any amount (as determined by the Bank) required to compensate the Bank for any additional losses, out-of-pocket costs or expenses which it may reasonably incur, including without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or redeployment of deposits or other funds by the Bank attributable to the Seller and/or the Buyer making payments on any other day other than the relevant Effective Maturity Date.

8. Tax Gross-Up and Indemnities

- (A) All amounts payable by the Seller to the Bank under the Transaction Documents and the Purchased Receivables shall be paid free and clear of any and all Taxes whatsoever. If Taxes are applicable, the Seller shall pay additional amounts, so the Bank shall receive the full amount otherwise due. If any Taxes are paid on behalf of or by the Bank, the Seller shall indemnify the Bank for any such Taxes paid by it. If any payment of Taxes is made on behalf of the Bank, the Seller shall deliver a tax receipt to the Bank within 30 days of making the payment.
- (B) The Seller shall pay and, within three Business Days of demand, indemnify the Bank against any cost, loss or liability which the Bank incurs in relation to all stamp duty, registration, goods and services, and other similar Taxes payable in respect of any Transaction Document.

9. Other Indemnities

The Seller shall, within three Business Days of demand, indemnify the Bank, its affiliates, any of its directors, officers and/or employees against any cost, loss or liability incurred by the Bank, its affiliates, any of its directors, officers and/or employees as a result of:

- (A) a failure by the Seller to comply with any obligation under any Transaction Document;
- (B) the Bank receiving any payment under any Transaction Document in a currency other than the currency in which such payment is due;
- (C) funding, or making arrangements to fund, purchase of any Receivables requested by the Seller in the Application but such Receivables are not purchased for any reason whatsoever;
- (D) any claim or counterclaim of whatsoever nature by the Buyer in respect of a Purchased Receivable; and/or
- (E) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

10. Disclosure

The Seller hereby irrevocably permits the Bank, any of its officers and its agents, to give, divulge or reveal, in any manner howsoever, any information whatsoever in connection with

the Seller, the Purchased Receivables, the Buyer and/or any Transaction Document and/or its accounts with the Bank and/or its affiliates (“Disclosure Matters”) to such person as may be determined by the Bank including without limitation:

- (A) the head office, representative, agency or branch offices or associated companies and any affiliates and related corporations of the Bank;
- (B) any government, or any governmental, regulatory, administrative, public or other authority, agency or department, or any semi-governmental, statutory, judicial or quasi-judicial entity or authority (including any stock exchange or any self-regulatory organisation established under statute);
- (C) any prospective participant, assignee or transferee of the Bank in respect of its rights and/or obligations in connection with the Disclosure Matters;
- (D) any rating agency, or direct or indirect provider of credit protection (or any of their agents, brokers or professional advisors);
- (E) any party to any Transaction Document or the Buyer; and/or
- (F) any person to whom the Bank may be liable in connection with the Disclosure Matters.

11. Set-Off

- 11.1. The Bank may, at any time and without notice, set off any obligation due from the Seller under the Transaction Documents (to the extent beneficially owned by the Bank) against any obligation owed by the Bank to the Seller, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. This Clause 11 shall survive and continue notwithstanding the termination of the Transaction Documents.
- 11.2. All payments to be made by the Seller under the Transaction Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

12. Notices

- 12.1. Any communication to be made under or in connection with the Transaction Documents must be in English, shall be made in writing and, unless otherwise stated, may be made by fax or letter or by electronic communication.
- 12.2. The address (and the department or officer, if any, for whose attention the communication is to be made) and email address of each Party for any communication or document to be made or delivered under or in connection with the Transaction Documents is (1) in the case of the Seller, that identified with its name in the Application; and (2) in the case of the Bank, that stated below (or such other address or email address as notified to the Seller by the Bank from time to time):

Address: 65 Chulia Street, OCBC Centre, #11-00,
Singapore 049513

Attention: Supply Chain Finance department

Email: supplychainfinance@ocbc.com

- 12.3. Any communication or document made or delivered by one person to another under or in connection with the Transaction Documents will be effective:
 - (A) if by way of letter, only when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address; or
 - (B) if by way of electronic communication, when actually received in readable form,

and, if a particular department or officer is specified as part of its address details provided under Clause 12.2, if addressed to that department or officer.

13. Miscellaneous

- 13.1. The Seller shall have no right to assign or transfer any of its rights hereunder. The Bank may at any time (without having to obtain any consent from the Seller) assign all or part of its rights, or transfer all or part of its obligations, under any Transaction Document to any person.
- 13.2. Any certification or determination by the Bank of a rate or amount under the Transaction Documents is, in the absence of manifest error, conclusive evidence of the matters to which it relates.
- 13.3. If, for the purposes of any computation or calculation under any Transaction Document, it is necessary to convert an amount from a currency in which that amount is denominated into another currency, the Bank shall be entitled to use any rate of exchange for such conversion as it may determine.
- 13.4. If, at any time, any provision of any Transaction Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 13.5. No failure to exercise, nor any delay in exercising, on the part of the Bank, any right or remedy under any Transaction Document shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Transaction Documents are cumulative and not exclusive of any rights or remedies provided by law.
- 13.6. The Bank may take any action which in its sole discretion considers appropriate so as to comply with any applicable law, regulation or any OCBC Group policy which relates to the prevention of fraud, money laundering, terrorism or other criminal activities or the provision of financial and other services to sanctioned persons or entities. In certain circumstances, such action may delay or prevent the processing of instructions, the settlement of transactions or the Bank's performance of its obligations under the Transaction Documents. The Bank shall not be liable for any loss (whether direct or consequential and including, without limitation, loss of profit or interest) caused in whole or in part by any actions which are taken by the Bank pursuant to this Clause 13.6.
- 13.7. The Application may be executed and delivered in several counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Application.

14. Governing Law and Enforcement

The Transaction Documents are governed by Singapore law. The courts of Singapore have exclusive jurisdiction to settle any dispute arising out of or in connection with the Transaction Documents (including a dispute regarding the existence, validity or termination of any Transaction Document).