

Standard Trade Terms

HSBC Bank (Uruguay) S.A.



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STANDARD TRADE TERMS (THESE TERMS)

1. APPLICATION

1.1 These Terms shall apply to any Trade Service which HSBC may agree to make available or procure at the request of the Customer and shall include any relevant Country Conditions.

1.2 These Terms shall, where applicable, be subject to other terms and conditions in relation to services provided by HSBC to the Customer (including any banking service or account operating agreement) from time to time. In relation to any Trade Service, where any conflict arises between these Terms and any other applicable terms and conditions, the terms and conditions shall apply in the following order of priority:

- (a) the Application;
- (b) the Facility Agreement (if any) and/or any applicable Security Agreement;
- (c) the Country Conditions (if any);
- (d) these Terms; and
- (e) such other terms.

1.3 HSBC does not offer any advice to the Customer in relation to any Trade Service. Whilst HSBC may provide information or express opinions from time to time, such information or opinions are not offered as advice. Before applying for, or accepting, any Trade Service, the Customer shall make such enquiries and assessments as the Customer considers appropriate and the Customer should place no reliance on HSBC to give advice or make recommendations. If the Customer is in doubt of any Trade Service, the Customer should seek independent professional advice.

1.4 Each Trade Service is separate and independent from the Trade Transaction to which such Trade Service relates and HSBC is in no way concerned with, subject to, or bound by, the terms of such Trade Transaction, even if a reference is included in any document relating to that Trade Service.

1.5 HSBC may name, instruct or procure any correspondent bank (including any HSBC Group member) to be the issuing, advising, nominated or confirming bank in respect of any Trade Service (and may restrict such correspondent bank to an HSBC Group member or a correspondent bank acceptable to HSBC) and is authorised to issue a counter-guarantee or counter-SBLC in such form and content as determined by HSBC in favour of the correspondent bank. HSBC may pay to, or receive from any correspondent bank, charges, commissions, fees or other payments.

1.6 Nothing in these Terms shall oblige HSBC to enter into or provide any Trade Service at any time.

SECTION 1 – TRADE SERVICES

2. ICC RULES

2.1 Unless the Customer otherwise requests (and HSBC agrees with such request):

(a) all Documentary Credits issued by HSBC will be issued subject to the Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600 (UCP600) and, if required by HSBC, the Uniform Customs and Practice for Documentary Credits (UCP600) Supplement for Electronic Presentation (eUCP);

(b) all SBLCs issued by HSBC will be issued subject to the International Standby Practices 1998, ICC Publication No. 590 (ISP98);

(c) all bonds and guarantees issued by HSBC will be issued subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758 (URDG 758); and

(d) all Collections will be undertaken subject to the Uniform Rules for Collections 1995, ICC Publication No. 522 (URC 522) and, if required by HSBC, the Uniform Rules for Collections (URC 522) Supplement for Electronic Presentation (eURC),

(e) in each case, as may be revised from time to time (together the ICC Rules), and the rights and obligations of the Customer will be subject to the applicable ICC Rules in addition to these Terms.

2.2 If there is any conflict between any ICC Rule and these Terms, these Terms shall prevail.

3. DOCUMENTARY CREDITS

3.1 The terms in this Clause 3 apply to any Documentary Credits.

3.2 The Customer:

(a) undertakes to examine the customer copy of each Documentary Credit issued by HSBC in order to check its consistency with the relevant Application; and

(b) agrees to give immediate notice to HSBC of any objection to its contents.

Imports

3.3 HSBC is authorised to honour and pay any Claim made under a Documentary Credit which appears on its face to comply with its terms and/or any Documents drawn (or purporting to be drawn) and presented under such Documentary Credit in accordance with its terms, without reference to or further authority from the Customer or any other party, and without enquiring whether any Claim has been properly made, and notwithstanding that the validity of any such Claim, or the amount of it, may be in dispute. The Customer accepts any such Claim as conclusive evidence that HSBC was liable to honour and pay it, and any payment made, or any steps taken by HSBC in good faith under or in connection with it, shall be binding on the Customer.

3.4 The presentation of any Documents under a Documentary Credit shall be deemed to be in compliance with the terms of the Documentary Credit if HSBC determines that they appear to be in order and, taken as a whole, conform with the requirements of the Documentary Credit. The Customer waives all claims against

HSBC for any delay that may result in examining such Documents or any failure to identify any discrepancies that may exist.

3.5 Notwithstanding any contrary instruction from the Customer, HSBC may reject any Claim which HSBC determines does not comply with the terms of the relevant Documentary Credit. HSBC is not obliged to notify the Customer or to seek the Customer's waiver of any discrepancy before refusing the Claim. Where HSBC does seek a waiver in respect of any discrepancy, the taking of such action does not oblige HSBC to seek a waiver of any discrepancy at any other time.

3.6 If HSBC notifies the Customer of a discrepancy with respect to a Claim and the Customer requests HSBC and/or its correspondent bank or its agent to:

(a) effect payment under the Documentary Credit, notwithstanding the discrepancy; or

(b) countersign or issue any guarantee or indemnity covering the discrepancy,

the Customer confirms that its reimbursement obligations and the indemnity set out in Clause 9 (*REIMBURSEMENT AND INDEMNITY*) shall apply to such Claim and/or any such guarantee or indemnity.

3.7 HSBC may at any time amend or insert additional terms and conditions into a Documentary Credit as HSBC may consider appropriate, provided that any such amendment or additional terms and conditions shall not increase the Customer Liabilities in relation to such Documentary Credit. HSBC may, subject to the beneficiary's consent, cancel the whole or any unused balance of a Documentary Credit.

3.8 Notwithstanding any instruction in an Application, HSBC may restrict the availability of any Documentary Credit, or any advising or confirming, to its own offices or to any correspondent bank or agent of its choice and, in such case, HSBC may refuse to honour, or make payment for, any Document drawn or purporting to be drawn on any office, bank or other person other than such office, correspondent bank or agent.

3.9 If HSBC effects payment under a Documentary Credit prior to the maturity date of such Documentary Credit:

(a) (in the case where the Documentary Credit beneficiary bears interest) the Customer shall be liable to pay to HSBC the full amount of the Documentary Credit on the maturity date, even if HSBC only paid a discounted amount under the Documentary Credit; and

(b) (in the case where the Customer is required to bear interest under the Documentary Credit pursuant to any other agreement with HSBC) the Customer shall, on the maturity date of such Documentary Credit or such earlier date as may be demanded by HSBC, pay to HSBC the full amount of the Claim together with interest accruing on such Claim for the period from and including the date of HSBC's payment to and including the maturity date, such interest payable in accordance with Clause 15 (FEES, COMMISSION, INTEREST AND CHARGES).

3.10 If the terms of a Documentary Credit (whether expressly or impliedly) permits payment to be effected to the beneficiary prior to receipt of the Documents required to be delivered under such Documentary Credit, the Customer shall, on the maturity date

of such Documentary Credit or such earlier date as may be demanded by HSBC, pay to HSBC the full amount of the Claim (whether or not the Documents subsequently delivered are compliant with the terms of the Documentary Credit) together with interest accruing on such Claim for the period from and including the date of HSBC's payment to and including the maturity date, such interest payable in accordance with Clause 15 (*FEES, COMMISSION, INTEREST AND CHARGES*).

3.11 If any Documentary Credit stipulates that certain specific Documents be forwarded by the beneficiary directly to the Customer at or prior to the time the beneficiary makes any Claim, all remaining Documents must be produced to HSBC in respect of any Claim under such Documentary Credit. If the Customer uses the Documents forwarded directly to it to obtain possession of the Goods, HSBC is authorised to accept all Documents presented under such Documentary Credit and pay or accept upon presentation and pay at maturity all Documents drawn in respect of the Goods, notwithstanding any discrepancy or any other matter or thing that might otherwise have relieved or affected the Customer's or HSBC's obligations. The Customer confirms that its reimbursement obligations and the indemnity set out in Clause 9 (*REIMBURSEMENT AND INDEMNITY*) shall apply to any amount paid by HSBC in respect of such Documentary Credit.

3.12 If any Documentary Credit stipulates that the Goods be insured under insurance policies/certificates containing "Institute Cargo Clauses" or other industry standard clauses, HSBC may accept insurance policies/certificates which contain "American Institute Cargo Clauses" or any other industry standard clauses that HSBC determines appropriate.

3.13 HSBC will not be bound at any time to release any Documents or Goods to the Customer unless the Customer has fully discharged its Customer Liabilities in respect of the Documentary Credit relating to such Documents or Goods.

3.14 If HSBC issues a Documentary Credit back-to-back (a **Back-to-Back Documentary Credit**) to another Documentary Credit (a **Master Documentary Credit**) the Customer:

- (a) acknowledges that its Customer Liabilities in respect of the Back-to-Back Documentary Credit are not dependent or conditional on the performance of the Master Documentary Credit;
- (b) unconditionally and irrevocably assigns or transfers absolutely to HSBC all of its payment rights in the Master Documentary Credit;
- (c) shall not amend or accept any amendment to the Master Documentary Credit without the consent of HSBC or take any action which might result in HSBC not receiving the full amount under the Master Documentary Credit; and
- (d) authorises HSBC to use the Documents presented under the Back-to-Back Documentary Credit to make a Claim under the Master Documentary Credit irrespective of any discrepancies or irregularities in the Documents presented.

3.15 HSBC is not obliged to notify the Customer of any incompatibility between the terms of a Back-to-Back Documentary Credit and the relevant Master Documentary Credit.

Exports

3.16 If HSBC confirms a Documentary Credit or SBLC (whether on a disclosed or undisclosed basis) and payment in full or part is not received by HSBC from the relevant issuing bank, the Customer is only required to reimburse HSBC for amounts not received if the non-payment was due to a Recourse Event. Such reimbursement by the Customer is payable immediately upon HSBC's demand together with any interest payable in accordance with Clause 15 (*FEES, COMMISSION, INTEREST AND CHARGES*) and the Customer shall reimburse HSBC for any loss or damage suffered by HSBC as a result of the non-payment.

3.17 HSBC will not be bound by a confirmation (whether on a disclosed or undisclosed basis) and will not be obliged to negotiate a Documentary Credit or SBLC if it is amended without HSBC's consent, the Documents presented do not fully comply with the terms of the Documentary Credit or SBLC, the original Documentary Credit or SBLC is different from the copy of the Documentary Credit or SBLC upon which HSBC based its confirmation, the Customer does not comply with any of its obligations under this Clause 3, or if payment in full or part is not received by HSBC (or cannot be accepted by HSBC) from the relevant issuing bank as a result of a Recourse Event.

3.18 If HSBC confirms a Documentary Credit or SBLC on an undisclosed basis, the Customer shall not make a presentation in respect of the Documentary Credit or SBLC to any person other than HSBC and shall promptly provide to HSBC the original Documentary Credit or SBLC, any operative documents and any amendments issued by the relevant issuing bank.

3.19 If HSBC confirms a Documentary Credit or SBLC (whether on a disclosed or undisclosed basis), the Customer:

- (a) unconditionally and irrevocably assigns or transfers absolutely to HSBC all of its payment rights in such Documentary Credit or SBLC; and
- (b) shall not take any action which might result in HSBC not receiving the full amount under the Documentary Credit or SBLC.

4. INSTRUMENTS

4.1 The terms in this Clause 4 apply to any SBLC, demand guarantee (including an avaluation, co-acceptance or acceptance of a Document), bond, counter-guarantee, counter-SBLC, or similar independent payment obligation (including any extension, renewal or amendment of the same)(each an **Instrument**) issued, confirmed or provided by HSBC.

4.2 The Customer:

- (a) undertakes to examine the customer copy of each Instrument issued or entered into by HSBC in order to check its consistency with the relevant Application; and
- (b) agrees to give immediate notice to HSBC of any objection to its contents.

4.3 HSBC is authorised to accept, pay or honour any Claim made under any Instrument which appears on its face to comply with its terms, without reference to or further authority from the Customer or any other party, and without enquiring whether any such Claim on HSBC has been properly made, notwithstanding that the validity of any such Claim, or the amount of it, may be in dispute. The Customer accepts any such Claim as conclusive evidence that HSBC was liable to pay or comply with it, and

any payment made, or any steps taken by HSBC in good faith under or in connection with it, shall be binding upon the Customer.

4.4 The presentation of any documents under an Instrument shall be deemed to be in compliance with the terms of the Instrument if HSBC determines that they appear on their face to be in order and, taken as a whole, conform with the requirements of the Instrument. The Customer waives all claims against HSBC for any delay that may result in examining such documents or any failure to identify any discrepancies that may exist.

4.5 Notwithstanding any contrary instruction from the Customer, HSBC is entitled to reject any Claim which HSBC determines does not comply with the terms of the relevant Instrument. HSBC is not obliged to notify the Customer or to seek the Customer's waiver of any discrepancy before refusing the Claim. Where HSBC does seek a waiver in respect of any discrepancy, the taking of such action does not oblige HSBC to seek a waiver of discrepancy at any other time.

4.6 If HSBC notifies the Customer of a discrepancy with respect to a Claim and the Customer requests HSBC and/or its correspondent bank or its agent to:

- (a) effect payment under the Instrument, notwithstanding the discrepancy; or
- (b) countersign or issue any guarantee or indemnity covering the discrepancy,

the Customer confirms that its reimbursement obligations and the indemnity set out in Clause 9 (*REIMBURSEMENT AND INDEMNITY*) shall apply to such Claim and/or any such guarantee or indemnity.

4.7 HSBC may at any time amend or insert additional terms and conditions into an Instrument as HSBC may consider appropriate, provided that any such amendment or additional terms and conditions shall not increase the Customer Liabilities in relation to such Instrument. HSBC may, subject to the beneficiary's consent, cancel the whole or any unused balance of an Instrument.

4.8 Notwithstanding any instruction in an Application, HSBC may restrict the availability of any SBLC, or any advising or confirming, to its own offices or to any correspondent bank or agent of its choice and, in such case, HSBC may refuse to honour, or make payment for, any Document drawn or purporting to be drawn on any office, bank or other person other than such office, correspondent bank or agent.

4.9 If the terms of an SBLC (whether expressly or impliedly) permits payment to be effected to the beneficiary prior to receipt of the documents required to be delivered under such SBLC, the Customer shall, on the maturity date of such SBLC or such earlier date as may be demanded by HSBC, pay to HSBC the full amount of the Claim (whether or not the documents subsequently delivered are compliant with the terms of the SBLC) together with interest accruing on such Claim for the period from and including the date of HSBC's payment to and including the maturity date, such interest payable in accordance with Clause 15 (*FEES, COMMISSION, INTEREST AND CHARGES*).

4.10 Notwithstanding the foregoing, if the Customer has requested HSBC to issue or arrange for the issuance of an Instrument by a correspondent bank for which a counter-guarantee or counter-SBLC must be issued by HSBC, HSBC may include such terms in the counter-guarantee or counter-SBLC that HSBC considers are

required to support the issuance of such Instrument. Without limitation, the validity period and Claim period (if applicable) of the counter-guarantee or counter-SBLC shall be longer than the validity period and Claim period (if applicable) of the Instrument and other terms may be added to reflect the laws under which the Instrument is governed.

4.11 If any Instrument contemplates renewal or extension and the Customer does not advise HSBC at least 5 Business Days prior to the time required for HSBC to provide notice of cancellation as required by the Instrument, HSBC may renew or extend for an additional year or such other term as HSBC may so select. HSBC shall however be under no obligation to issue, extend or renew any Instrument and may at any time:

- (a) cancel or revoke any Instrument without prior notice to or authorisation from the Customer if such Instrument or the beneficiary of such Instrument permits cancellation or revocation; or
- (b) pay any Instrument without prior notice to or authorisation from the Customer if the Instrument or any relevant law permits or requires payment to be made if such Instrument is cancelled, withdrawn, not extended or not renewed.

4.12 Any cancellation, payment or revocation by HSBC of any Instrument at any time shall be without prejudice to the rights and obligations of HSBC and the Customer under these Terms.

4.13 Unless an Instrument expressly provides that the original Instrument must be presented to HSBC to support a Claim, HSBC may pay and/or comply with any Claim, whether or not the original of the Instrument is presented to HSBC.

4.14 Notwithstanding that the Customer may claim that an Instrument has been reduced, cancelled or terminated, HSBC may determine that, due to the governing law of the Instrument, it has not been reduced, cancelled or terminated, or HSBC may determine that it is necessary to obtain or require the relevant beneficiary's confirmation of the reduction, release or discharge of HSBC's and/or any correspondent bank's liabilities under such Instrument. Subject to such determination, or until such confirmation is received by HSBC, such Instrument shall not be treated or deemed as reduced, cancelled or terminated.

5. COLLECTIONS

5.1 The terms in this Clause 5 apply to any Collection transaction.

5.2 If HSBC is requested by the Customer to handle a Collection as the remitting bank, HSBC shall be under no obligation to make any payment to the Customer in respect of the Collection until HSBC has received full payment from the collecting or presenting bank.

5.3 HSBC is not obliged to check the Documents before sending them to the collecting or presenting bank.

5.4 HSBC is not obliged to check the Documents that it receives from a remitting bank.

6. FINANCE

6.1 The terms in this Clause 6 apply where HSBC Finances any Document or Documentary Credit.

6.2 Upon HSBC Financing a Document or Documentary Credit, the Customer unconditionally and irrevocably:

(a) transfers ownership of the Document or Documentary Credit to HSBC and undertakes to endorse the relevant Document in favour of HSBC (if not already endorsed in favour of HSBC as a condition to such Finance) and deliver the original endorsed Document to HSBC;

(b) assigns or transfers absolutely to HSBC all of its rights to receive the proceeds of such Documentary Credit or Document; and

(c) assigns or transfers absolutely to HSBC all of its rights, title and interest in the associated underlying receivable (and related rights and proceeds) (if any) arising from the underlying Trade Transaction,

and where the amount of the Finance was calculated by applying an advance rate to the face value of the Document or Documentary Credit, upon receipt by HSBC of any proceeds of that Document or Documentary Credit in excess of the amount of the Finance, HSBC shall pay those proceeds to the Customer (after deducting any outstanding Customer Liabilities).

6.3 If HSBC has Financed a Document or Documentary Credit and payment in full or part is not received by HSBC for any reason (or cannot, for any reason whatsoever, be accepted by HSBC) from the relevant issuing bank, confirming bank, collecting bank, presenting bank, drawee or obligor (as applicable), then unless otherwise agreed in writing by HSBC:

(a) such Trade Service is provided with full recourse against the Customer; and

(b) the Customer is required to reimburse HSBC for amounts not received.

Such reimbursement is payable immediately upon HSBC's demand together with any interest payable in accordance with Clause 15 (*FEES, COMMISSION, INTEREST AND CHARGES*) and the Customer shall reimburse HSBC for any loss or damage suffered by HSBC as a result of the non-payment.

6.4 If HSBC has agreed to Finance a Document or Documentary Credit on a non-recourse basis and payment in full or part is not received by HSBC (or cannot be accepted by HSBC) from the relevant issuing bank, confirming bank, collecting bank, presenting bank, drawee or obligor (as applicable), the Customer is only required to reimburse HSBC for amounts not received if the non-payment was due to a Recourse Event. Such reimbursement is payable immediately upon HSBC's demand together with any interest payable in accordance with Clause 15 (*FEES, COMMISSION, INTEREST AND CHARGES*) and the Customer shall reimburse HSBC for any loss or damage suffered by HSBC as a result of the non-payment.

6.5 Where HSBC has Financed a Document or Documentary Credit, HSBC may at its discretion:

- (a) take conditional acceptances and/or acceptances for honour and/or to extend the due date for payment in relation to any such Document or Documentary Credit;
- (b) accept payment from any drawee or acceptor before maturity under rebate or discount;
- (c) accept part payment before maturity and deliver a proportionate part of the Goods to any drawee or acceptor of such Document or Documentary Credit or the consignee of the related Goods;
- (d) at the request of any drawee, delay presentation of such Document or Documentary Credit for payment or acceptance without affecting the liability of the Customer to HSBC in respect of such Document or Documentary Credit;
- (e) give an indemnity against any loss arising from any discrepancies in order to obtain acceptance or payment of a Document and the Customer confirms that its reimbursement obligations and the indemnity set out in Clause 9 (*REIMBURSEMENT AND INDEMNITY*) shall apply to any such indemnity; and
- (f) institute proceedings and take steps for the recovery from the acceptors or endorsers of any such Document or Documentary Credit of any amount due in respect of such Document or Documentary Credit, despite HSBC having debited the bank account of the Customer with the amount of such Document or Documentary Credit.

7. TRADE FINANCE LOANS

7.1 The terms in this Clause 7 apply to any Trade Finance Loans which HSBC may provide to the Customer from time to time.

7.2 Subject to the terms of any applicable Facility Agreement which may apply, any Trade Finance Loan which HSBC provides to the Customer shall be on an uncommitted basis and HSBC may terminate or cancel such Trade Finance Loan at any time without providing reasons to the Customer.

7.3 Interest shall accrue on the Trade Finance Loan and shall be payable in accordance with Clause 15 (*FEES, COMMISSION, INTEREST AND CHARGES*).

7.4 The Customer shall repay each Trade Finance Loan together with accrued interest and any outstanding fees, commissions, charges and expenses incurred by HSBC on demand unless HSBC agrees otherwise in writing. In any event the Customer shall repay a Trade Finance Loan no later than:

- (a) its maturity date;
- (b) if it is for financing goods or services, the date on which the Customer receives the proceeds of sale of those goods or services (in full or part); and/or
- (c) if it is for the financing of a debt owed to the Customer, the date on which the Customer receives payment of the debt (in full or part),
- (d) and, upon the request of HSBC, the Customer will arrange for all monies payable to the Customer under or in connection with the relevant Trade Transaction to be paid directly to a bank account as specified by HSBC to be used towards the repayment of that Trade Finance Loan and any other outstanding Customer Liabilities.

7.5 If a Trade Finance Loan is due for repayment on a day when the Customer is entitled to make a drawing under another Trade Finance Loan, HSBC may require:

- (a) the amount of the Trade Finance Loan that is to be repaid to be deducted from the amount of the drawing to be made; and
- (b) only the difference in amounts (if any) to be paid to the Customer.

7.6 Where the Customer requests a Trade Finance Loan and it is to be backed by a Documentary Credit or a confirmed purchase order, pro-forma invoice or such other supporting document specified in the Application, the Customer shall, at or before the time when the Customer submits the Application for that Trade Finance Loan, lodge with HSBC the original Documentary Credit (including all amendments (if any)) or a copy of the confirmed purchase order, pro-forma invoice or other such supporting document referred to in the Application (as applicable), in each case in the format required by HSBC (the **Supporting Document**).

7.7 Where HSBC provides to the Customer a Trade Finance Loan backed by a Supporting Document, the Customer shall:

- (a) only use the proceeds of that Trade Finance Loan for the purpose of purchasing, producing, processing, manufacturing, storing, insuring and/or preparing for the sale or shipment of the Goods referred to in the Supporting Document;
- (b) not accept any amendment to or cancellation of the Supporting Document without HSBC's prior written consent;
- (c) promptly notify HSBC if the value of the relevant Goods or the proceeds due under the Supporting Document at any time falls below the amount of the Trade Finance Loan;
- (d) promptly notify HSBC if the relevant Goods are not shipped in accordance with the terms of the Supporting Document;
- (e) where the Supporting Document is a Documentary Credit, present all Documents to HSBC in strict compliance with the terms and conditions of the Documentary Credit before the expiry of the time limit(s) prescribed in the Documentary Credit; and
- (f) where the Supporting Document is not a Documentary Credit, promptly following shipment of the relevant Goods, provide HSBC with the invoice and other documents evidencing that the relevant Goods have been supplied to the relevant buyer in accordance with the terms and conditions of the relevant sales contract.

7.8 Where HSBC provides to the Customer a Trade Finance Loan backed by a Documentary Credit and HSBC presents the required Documents to the issuing bank for payment or approval and/or HSBC Finances that Documentary Credit or any Document presented under that Documentary Credit, HSBC is authorised to apply the proceeds of the Documentary Credit or the amount of the Finance towards the repayment of that Trade Finance Loan and any other outstanding Customer Liabilities (including accrued interest).

8. APPLICATIONS FOR RELEASE OF GOODS, SHIPPING GUARANTEES AND LETTERS OF INDEMNITY

8.1 The terms in this Clause 8 apply to any Application for the release of Goods, shipping guarantee or letter of indemnity.

8.2 If the Customer requests HSBC to sign or countersign any letter of indemnity or shipping guarantee or (as the case may be) sign, endorse or release any air waybill, bill of lading, parcel post receipt or delivery order (collectively, the **Transport Documents**) to facilitate the release of Goods:

- (a) HSBC is authorised (but not obliged):
 - (i) to honour any Claim (including the acceptance of any Document presented) made under any Documentary Credit, Collection or Document relating to any released Goods and to pay the invoiced amount of the Goods or the value of the Goods (whichever is higher) without examining any of the presented Documents and whether or not aware of any discrepancies; and
 - (ii) to utilise any Transport Documents in HSBC's possession for the redemption of any letter of indemnity or shipping guarantee; and
- (b) the Customer shall promptly accept any Document presented for the payment of the relevant Goods (whether discrepant or not) and shall indemnify HSBC and each other Indemnified Party in accordance with Clause 9.2 (*REIMBURSEMENT AND INDEMNITY*).

8.3 Goods and/or Documents are released to the Customer for the purpose of taking delivery of and selling the Goods.

8.4 HSBC may compromise, settle, pay or resist any Claim arising from or in connection with the issuance of any letter of indemnity or shipping guarantee or HSBC signing, endorsing or releasing any Transport Document in such manner as HSBC determines appropriate, without releasing the Customer's obligation and liability to reimburse and indemnify HSBC hereunder.

8.5 The Customer shall redeem and deliver each letter of indemnity or shipping guarantee (if any) to HSBC for cancellation immediately upon receipt of the relevant original Transport Documents.

8.6 The Customer agrees that its Customer Liabilities in respect of a letter of indemnity or shipping guarantee shall continue and shall not be reduced until such letter of indemnity or shipping guarantee has been returned to HSBC and HSBC has been released from all its liabilities under such letter of indemnity or shipping guarantee.

SECTION 2 – REIMBURSEMENT, INDEMNITY AND OTHER RIGHTS

9. REIMBURSEMENT AND INDEMNITY

9.1 The Customer shall upon demand reimburse or pay to HSBC all sums paid (in whatever manner) or due to be paid by HSBC to any person in respect of any Trade Service and shall upon demand pay to HSBC all sums owing at any time by the Customer to HSBC including any principal, interest, commissions, fees, Increased

Costs, taxes, customs duties and charges in respect of such Trade Services and any costs and expenses incurred by HSBC in connection with providing such Trade Services.

9.2 The Customer shall indemnify HSBC, each HSBC Group member, and their officers, employees and delegates (each, an **Indemnified Party**) on demand against all direct, indirect and consequential liabilities and losses, payments, damages, demands, claims, expenses and costs (including legal fees and fees, claims, demands and liabilities from a beneficiary or any other person on a full indemnity basis), proceedings, actions and other consequences (collectively, the **Losses**) which any Indemnified Party may suffer, sustain or incur under or in connection with any Trade Service and the enforcement of its rights under these Terms (except where any such Loss is caused by the Indemnified Party's fraud, gross negligence or wilful misconduct). The Customer shall on demand pay to the Indemnified Party the full amount of the Losses.

9.3 The Customer shall, upon request by any Indemnified Party, forthwith appear and defend at the Customer's own cost and expense any action which may be brought against such Indemnified Party in connection with any Trade Service and to provide such assistance as such Indemnified Party may reasonably require.

9.4 HSBC may, at any time and without notice, debit from any bank account which the Customer holds with any HSBC Group member, or deduct from any proceeds held or received by HSBC which are due to the Customer, any Customer Liabilities outstanding at that time (even if such debit or deduction would cause the relevant bank account to become overdrawn).

9.5 The indemnities contained in these Terms shall not be in any way discharged or diminished, nor shall the liability of the Customer be affected by reason of HSBC or any person from time to time, varying, realising or releasing any of the same, or granting any time, indulgence or concession or compounding with any person, or concurring in accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment, or determining, varying, reducing or extending the terms of any Trade Service, or by anything done or omitted which, but for this provision, might operate to discharge or otherwise exonerate the Customer.

10. CASH COLLATERAL

10.1 The Customer shall upon demand pay to such bank account as HSBC may direct cash cover in an amount sufficient to cover the Customer Liabilities or such lesser amount if agreed by HSBC (such amount paid, being **Cash Collateral**).

10.2 If required by HSBC, the Customer will grant to HSBC, in form and substance satisfactory to HSBC, a security interest which is customary in the Governing Jurisdiction in respect of the bank account and such Cash Collateral, and the Customer shall undertake any filing, registration, recording or enrolment of such security interest for it to be perfected and enforceable against the Customer and shall pay any related fees.

10.3 HSBC may, at any time without notice or demand, apply (whether by way of set-off, transfer or otherwise) any or all Cash Collateral towards the payment of any

Claim, the repayment of any Trade Finance Loan and/or the satisfaction of any or all other Customer Liabilities.

10.4 Unless HSBC otherwise agrees:

- (a) Cash Collateral shall not constitute a debt owed by HSBC to the Customer or any other person and shall not be repayable or refundable (in whole or in part) by HSBC to the Customer or any other person, in each case, until and unless HSBC is satisfied that all the Customer Liabilities have been unconditionally and irrevocably paid and discharged in full; and
- (b) no interest shall accrue on Cash Collateral.

10.5 The Customer shall not create or permit to subsist any mortgage, charge, pledge, lien or other security interest or encumbrance over the Cash Collateral, or any bank account in which such Cash Collateral is held (except for any security in favour of HSBC) or assign, transfer or otherwise deal with the same.

11. PLEDGE

11.1 The Customer will pay to HSBC on demand all Customer Liabilities.

11.2 The Customer hereby, to the extent permissible, pledges to HSBC as a continuing security for the Customer Liabilities all Documents and Goods which are at any time in actual or constructive possession or control of HSBC or held on trust for, or to the order of, HSBC whether for custody, collection, security, the making of a Claim or any other reason and whether or not in the ordinary course of banking business and whether in the Governing Jurisdiction or elsewhere.

11.3 To the extent required by HSBC, the Customer shall do all acts (including entering into such further documents) to create, evidence and give the full effect of a pledge over the Documents and Goods as security for the Customer Liabilities.

11.4 If, in the Governing Jurisdiction a pledge (or its equivalent) is required to be registered, filed or otherwise publicly recorded for it to be enforceable, upon request of HSBC the Customer shall take all reasonable action to so register, file and/or record such pledge (including making payment of any related fees).

11.5 Any restriction on the right of consolidating securities shall not apply to the pledge under this Clause 11.

11.6 The risk in any Documents and Goods pledged shall remain with the Customer and neither HSBC nor any other HSBC Group member shall be responsible for any loss or damage or depreciation in value of any Documents or Goods held by HSBC as security.

11.7 If:

- (a) the Customer fails to pay any Customer Liabilities when due or demanded;
- (b) the Customer does not comply with any other provision of these Terms;
- (c) any representation made by the Customer under these Terms is or proves to have been incorrect when made or deemed to have been made;

(d) the Customer is unable or admits inability to pay its debts as they fall due or the Customer is or is deemed to be insolvent or bankrupt under the laws of its jurisdiction of establishment and/or incorporation (as applicable); or

(e) the Customer enters into or becomes subject to a reorganisation, a composition or other arrangement with one or more creditors, a winding-up, or any other form of bankruptcy or insolvency process or proceeding,

11.8 HSBC may enforce its pledge and may, without demand, notice, legal process or any other action with respect to the Customer or any other person, realise, sell, negotiate or otherwise dispose of all or some of the Documents and the Goods at any time and in any way which it deems expedient free from any restrictions and claims and HSBC shall not be liable for any loss arising out of such realisation, sale, negotiation or disposal.

11.9 All monies received, recovered or otherwise realised by HSBC following the enforcement of the pledge may be credited to a separate interest-bearing suspense account for so long as HSBC determines in order to preserve HSBC's rights towards discharge of the whole of the Customer Liabilities.

12. TRUST RECEIPTS

12.1 Whilst any Customer Liabilities remain outstanding in respect of any Trade Service provided in relation to any Documents or Goods, if any such Documents or Goods are held by or released to the Customer or to its order, the Customer:

(a) will hold such Documents and Goods (and the proceeds of sale and/or any insurance) on trust for HSBC (or, if a trust is not recognised and enforceable, hold to the order of HSBC) exclusively for the purpose agreed between HSBC and the Customer from time to time in respect of the Trade Service being provided;

(b) will keep such sale and/or insurance proceeds, and store such Goods, separate from any other property of the Customer and capable of being identified;

(c) confirms that such Documents and Goods will continue to be subject to the pledge in Clause 11 (*PLEDGE*) but at the risk of the Customer;

(d) will, at the request of HSBC, execute and deliver to HSBC trust receipts in form and substance satisfactory to HSBC together with any other documentation HSBC may require;

(e) will comply promptly and fully with any instructions or request which HSBC may give to the Customer in relation to such Documents and Goods;

(f) will, upon receipt, promptly pay to HSBC the proceeds of sale and/or insurance of the Goods; and

(g) acknowledges that HSBC may at any time take possession and dispose of the Goods, Documents and/or sale and/or insurance proceeds of the Goods.

13. SET-OFF

13.1 HSBC may, at any time and without notice, combine or consolidate all the bank accounts of the Customer held with HSBC and/or set-off any Customer Liabilities against any obligation owed by HSBC to the Customer (including in respect of any Cash Collateral, or proceeds received or held by HSBC), regardless of the place of payment, booking branch or currency of either obligation.

13.2 To effect any set-off HSBC may convert to a currency any amount which is in a different currency at the relevant Exchange Rate.

13.3 If any Customer Liabilities are unliquidated or unascertained, HSBC may apply or set off an amount estimated by it in good faith to be the amount of that liability.

14. SUPPLEMENTARY RIGHTS

14.1 HSBC's rights under these Terms are to be in addition to and are not to be in any way prejudiced or affected by any one or more other indemnities, guarantees, securities or other obligations which HSBC may now or subsequently hold whether from the Customer or any other person.

14.2 HSBC may enforce its rights under these Terms or in respect of any other indemnities, guarantees, securities or other obligations which HSBC may now or subsequently hold whether from the Customer or any other person in any order it chooses and the Customer waives any rights it may have which provide otherwise.

SECTION 3 – FEES AND PAYMENTS

15. FEES, COMMISSION, INTEREST AND CHARGES

15.1 Unless otherwise agreed in writing with the Customer:

(a) fees and other charges (other than interest and commission) shall be payable by the Customer to HSBC in respect of each Trade Service at the rates, in the amounts, and at the times agreed in the relevant Application, Facility Agreement or Tariff Book or as otherwise in accordance with HSBC's standard practices;

(b) interest shall be payable by the Customer to HSBC upon demand in respect of any Trade Finance Loan or Finance, shall accrue on the amount of such Trade Finance Loan or Finance for the period from the date HSBC provides such Trade Finance Loan or Finance to the date such Trade Finance Loan or Finance is repaid or settled in full, and shall be calculated by reference to the rates agreed in the relevant Application, Facility Agreement or Tariff Book or as otherwise in accordance with HSBC's standard practices;

(c) interest shall be payable by the Customer to HSBC upon demand in respect of any Claim paid by HSBC, shall accrue on the amount of the Claim for the period from the date HSBC pays such Claim to the date the Customer Liabilities resulting from such Claim are reimbursed in full, and shall be calculated by reference to the rates agreed in the relevant Application, Facility Agreement or Tariff Book or as otherwise in accordance with HSBC's standard practices; and

(d) commission shall be payable by the Customer to HSBC upon demand in respect of any Documentary Credit or Instrument and shall be calculated by reference to the face value of such Documentary Credit or Instrument and the rates agreed in the relevant Application, Facility Agreement or Tariff Book or as otherwise in accordance with HSBC's standard practices.

15.2 Any fee, interest or commission accruing in respect of a Trade Service will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in any case where the market practice in the relevant Governing Jurisdiction differs, in accordance with that market practice.

15.3 Any fee, commission, interest or charge payable by the Customer to HSBC is non-refundable.

15.4 If the Customer fails to pay any amount payable by it under these Terms on its due date, default interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the rate agreed in the relevant Application, Facility Agreement or Tariff Book or as otherwise in accordance with HSBC's standard practices.

16. PAYMENTS

16.1 Payments by the Customer shall be made to HSBC in immediately available, freely transferable, cleared funds and as specified by HSBC, without any set-off, counterclaim, withholding or conditions of any kind unless compelled by law.

16.2 All amounts paid or payable to HSBC in respect of any Trade Service are expressed on a Tax-exclusive basis. The Customer must pay any relevant Tax (as necessary) on any amount that the Customer is required to pay HSBC.

16.3 If any deduction or withholding is required by law (including on account of any Tax), the Customer must:

(a) increase the sum payable so that, after making the minimum deduction or withholding required, HSBC will receive and be entitled to retain a net sum at least equal to the sum that HSBC would have received had that deduction or withholding not been made; and

(b) within 30 days of such payment, forward to HSBC the confirmation in writing from the relevant tax authority evidencing receipt by the relevant tax authority of that deduction or withholding.

16.4 Unless HSBC agrees otherwise, each payment by the Customer to HSBC shall be made in the currency of the relevant Customer Liability for which that payment is being made and the Customer waives any right it may have in any jurisdiction to pay such payment in another currency. If HSBC receives a payment from the Customer or any other person in a currency which is not the currency in which that payment was due or if any Cash Collateral needs to be converted into another currency so that HSBC may apply it to satisfy any outstanding Customer Liabilities in another currency, HSBC shall undertake that conversion using the relevant Exchange Rate (or, if applicable, pursuant to the terms of any hedging agreement that the Customer and HSBC may have entered into for these purposes). Where HSBC undertakes any currency conversion permitted by these Terms, the Customer shall indemnify HSBC for any cost, loss or liability incurred by HSBC in undertaking the conversion.

16.5 If any payment due from the Customer, or any order, judgment or award given or made in relation to any payment due from the Customer, has to be converted into another currency for the purpose of making or filing a claim or proof against the Customer or any other person, or obtaining or enforcing an order, judgment or award, the Customer shall indemnify HSBC against any cost, loss or liability arising out of or as a result of the conversion.

16.6 Any notice from, or determination by, HSBC of a rate or amount under these Terms, a Trade Service or any document referred to in these Terms shall (unless it contains an obvious error) be conclusive evidence of that rate or amount. In any legal

proceedings connected with these Terms and/or a Trade Service, the account entries of HSBC are prima facie evidence of the matters to which they relate.

16.7 Any moneys paid to HSBC in respect of the Customer Liabilities may be applied in or towards satisfaction of the same or credited to a separate suspense account for so long as HSBC determines in order to preserve HSBC's rights towards discharge of the whole of the Customer Liabilities.

16.8 Moneys received by HSBC shall be applied by it (unless otherwise mandatorily required by law):

- (a) first, in discharging all costs, fees and expenses (including legal fees) owing by the Customer to HSBC;
- (b) second, in or towards the discharge of any interest or other amounts (not being principal) owing to HSBC; and
- (c) thirdly in or towards the discharge of any principal owing by the Customer to HSBC.

16.9 If any moneys paid to HSBC in respect of the Customer Liabilities are required to be repaid by virtue of any law relating to insolvency, bankruptcy or liquidation or for any other reason, HSBC may enforce these Terms and the relevant Trade Service as if such moneys had not been paid.

16.10 Any sums that would fall due on a day other than a Business Day will be due on the next Business Day. In such event, interest and commission calculations will be adjusted accordingly.

16.11 If any amount to be paid by the Customer to HSBC in connection with a Trade Service is calculated by reference to a published benchmark interest rate (such as a central bank reference rate) and that rate is less than zero per cent at the time of calculation, such rate shall be deemed to be zero per cent.

SECTION 4 – REPRESENTATIONS, UNDERTAKINGS AND SANCTIONS

17. REPRESENTATIONS AND WARRANTIES

17.1 In addition to other representations and warranties made by the Customer to HSBC, the Customer represents and warrants to HSBC that:

- (a) it is duly established and/or incorporated under the laws of its jurisdiction of establishment and/or incorporation (as applicable), is validly existing and has full power to carry on its business as now being conducted, to own its assets and to enter into and perform its obligations under these Terms, and shall promptly notify HSBC of any change to its constitution or existence;
- (b) the obligations expressed to be assumed by it in these Terms and in each Trade Transaction which it may enter into from time to time are legal, valid, binding and enforceable obligations;
- (c) all authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations or registrations required or desirable to enable it lawfully to enter into, exercise its rights and comply with its obligations under these Terms and

each Trade Transaction have been obtained or effected and are in full force and effect;

(d) these Terms and each Trade Transaction which it may from time to time enter into do not and will not conflict with its constitutional documents or any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument;

(e) each Trade Service requested by or for the Customer relates to a genuine Trade Transaction as described in the documents pertaining to such Trade Transaction and all documents and information (including in any Application) provided by the Customer to HSBC in relation to each Trade Service or these Terms is/are complete, accurate, genuine and valid;

(f) it has not taken any corporate action, or any other steps and no legal proceedings have been commenced for its liquidation, judicial management, receivership, or any similar or analogous proceedings or for the appointment of a receiver and manager, judicial manager, liquidator or similar officer of it or of all or any material part of its assets or revenues;

(g) any Documents, Goods or proceeds of sale in which HSBC has or is purported to have an interest are free from any security interest(s) and encumbrance(s) (other than in favour of HSBC) and the Customer is the sole and beneficial owner of any such Documents, Goods or proceeds of sale;

(h) as at the date HSBC provides Finance to the Customer in respect of a Document or Documentary Credit, it is not aware of any dispute (actual, pending or threatened) in respect of that Document or Documentary Credit or the relevant Trade Transaction; and

(i) as at the date HSBC provides Finance to the Customer in respect of a Document or Documentary Credit or provides a Trade Finance Loan to the Customer, it has not received any financing in respect of that Document, Documentary Credit or the relevant Trade Transaction from any person other than HSBC.

17.2 All representations and warranties in these Terms are deemed to be made on each day (a) an Application is made and is being processed, (b) any Trade Service is outstanding and (c) any Customer Liabilities remain outstanding.

17.3 The Customer acknowledges that HSBC will rely on any representations and warranties made by the Customer including when HSBC assesses whether or not to provide a Trade Service to the Customer.

17.4 The Customer shall promptly notify HSBC on becoming aware of any representation or warranty becoming untrue, or the Customer being unable to make any representation or warranty when repeated.

18. UNDERTAKINGS

General Undertakings

18.1 The Customer shall at the request of HSBC:

(a) provide HSBC with such information concerning a Trade Transaction (including copies of sale contracts, purchase order and invoices), Documents and Goods and any proposed sale of Goods as HSBC may require and promptly notify

HSBC if any Trade Transaction is cancelled or terminated for any reason or if any material dispute arises in respect of a Trade Transaction;

(b) provide HSBC with such information regarding the financial condition, assets and operations of the Customer and its affiliates as HSBC may reasonably require;

(c) provide HSBC with any information required by HSBC to satisfy its "*know your customer*" or similar identification procedures;

(d) keep HSBC informed of the whereabouts of the Goods and of any change in the condition, quality or quantity of the Goods;

(e) co-operate fully with HSBC and render to HSBC all assistance it requires in the collection and enforcement of any payments under or in connection with any Trade Service whether by legal proceedings or otherwise; and

(f) promptly do all such acts or execute all such documents at its own cost as HSBC may specify:

(i) for the purpose of the creation, perfection, protection or maintenance of any interest conferred or intended to be conferred on HSBC by, pursuant to or in connection with these Terms (including in respect of any Cash Collateral, Documents, Goods or sale proceeds);

(ii) for the exercise of any rights, powers and remedies of HSBC provided by, pursuant to or in connection with these Terms or by law; and

(iii) to facilitate the realisation by HSBC of any Documents or Goods in which HSBC is, or is intended to be, interested.

Trade Service Undertakings

18.2 The Customer shall, to the extent applicable to a Trade Service and/or where HSBC has or is purported to have an interest in the relevant Documentary Credit, Documents, Goods or proceeds of sale referred to:

(a) ensure that the Documentary Credit, Documents, Goods or proceeds of sale (as applicable) are free from any mortgage, charge, pledge, lien or other security interest, encumbrance or claim except for any trust, pledge or other form of security in favour of HSBC or which has been expressly permitted by HSBC;

(b) for so long as the Customer has title to the Goods or if as a condition to the Trade Service the Customer is required to procure the insurance of the Goods:

(i) insure the Goods for such value against such insurable risks as is stipulated in the relevant condition or, in the absence of any such condition, as is customary for those Goods;

(ii) promptly following (and in any event within ten days of) the date of the Application for the relevant Trade Service, provide to HSBC copies of the relevant insurance policies; and

(iii) promptly notify HSBC of any claims made on the relevant insurance policies and direct the insurer to pay to HSBC all insurance proceeds in respect of the Goods;

(c) if so requested by HSBC:

- (i) promptly arrange for HSBC's interest in the Goods to be endorsed on any relevant insurance policy; and
- (ii) promptly submit claims in respect of the Goods to relevant insurer;
- (d) promptly pay to HSBC all insurance proceeds received by it in respect of the Goods and, pending payment, hold such proceeds on trust for HSBC (or, if a trust is not recognised and enforceable, hold to the order of HSBC);
- (e) promptly endorse all Documents in favour of HSBC, deposit all Documents with HSBC or to its order and note in its records the interest of HSBC in all Documents and the Goods;
- (f) promptly pay all freight, warehouse, dock, transit and other charges, rent and all other costs of and in connection with the Documents and/or Goods;
- (g) not permit the Goods to be processed or altered without the prior written consent of HSBC;
- (h) not take any action, which might prejudice the value of the Goods or the effectiveness of any pledge or trust under these Terms;
- (i) promptly inform HSBC of any event of which it becomes aware that may adversely affect the liability of a buyer to complete the purchase of the Goods or any change or deterioration in the state or quality or otherwise of the Goods;
- (j) promptly inform HSBC if it becomes aware of any theft, fraud, illegal activity, loss, damage or other misuse of or in relation to any Goods or Documents;
- (k) permit HSBC (or any delegate) access to any premises at which the Goods are stored or located for the purpose of inspecting, taking possession of, or otherwise protecting its interest in the Goods;
- (l) not attempt to factor, transfer, sell, dispose of or otherwise deal with the Documents, Goods or proceeds of sale (as applicable), Documentary Credit (or any confirmation (whether given on a disclosed or undisclosed basis)), except as agreed between HSBC and the Customer from time to time in respect of the Trade Service(s) being provided;
- (m) not present the Documents to any other bank, financial institution or similar type of financing entity or obtain any form of financing and/or borrowing in respect of the same Trade Transaction;
- (n) not agree to any amendment to the Documentary Credit, SBLC or Document without the prior written consent of HSBC; and
- (o) procure the prompt release of HSBC from any guarantee, indemnity or other commitment that HSBC may have provided in respect of the Documents or the Goods;

18.3 and HSBC (or any delegate) is authorised to take such steps and to make any payments, on behalf and at the cost of the Customer, to ship, collect, land, store, insure or inspect the Goods and/or to demand and collect any proceeds of sale.

19. COMPLIANCE WITH LAWS AND SANCTIONS

19.1 The Customer represents and warrants that:

(a) neither the Customer nor any of its subsidiaries, directors, officers, employees, agents, or affiliates is a person or entity that is, or is owned or controlled by any person or entity that is:

(i) the subject of any sanctions issued, administered or enforced by the US Department of the Treasury's Office of Foreign Assets Control, the US Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury, the Hong Kong Monetary Authority or any other sanction issuing or enforcement body that may be applicable to HSBC, the Customer, a Trade Service or a Trade Transaction (the **Sanctions**); or

(ii) located, organised or resident in a country or territory that is, or whose government is, the subject of Sanctions;

(b) any required import or export licenses applicable to each Trade Transaction have been obtained and, if the Customer is aware that HSBC may require an export license or other authorisation for the provision of the relevant Trade Service for the Customer, the Customer will notify HSBC prior to HSBC providing the Trade Service; and

(c) the Customer is compliant in all material respects with foreign and domestic laws and regulations pertaining to each jurisdiction in which it operates and to each Trade Transaction and the subject matter of such Trade Transaction including, if applicable, the shipment and financing of the goods described in such Trade Transaction or the associated documents.

19.2 The Customer acknowledges and agrees that:

(a) HSBC Group and its service providers are required to act in accordance with the laws and regulations of various jurisdictions, including those which relate to Sanctions, export controls and the prevention of money laundering, terrorist financing, bribery, corruption and tax evasion;

(b) at any time, HSBC may require the Customer to immediately provide to HSBC information related to any Trade Transaction, including the underlying contract or other documentation;

(c) HSBC may take, and may instruct other HSBC Group members to take, to the extent it is legally permitted to do so under the laws of its jurisdiction, any action (a **Compliance Action**) which it considers appropriate to act in accordance with Sanctions or domestic and foreign laws and regulations. Such Compliance Action may include:

(i) the interception and investigation of any payment, communication or instruction;

(ii) the making of further enquiries as to whether a person or entity is subject to any Sanctions or export control restrictions; and/or

(iii) the refusal to:

(A) issue, renew, extend, transfer or assign a Trade Service;

(B) make payment of any Claim; or

- (C) process a Trade Service or instruction that does not conform with Sanctions, export controls or domestic and foreign laws or regulations; and
- (d) neither HSBC nor any HSBC Group member will be liable for any loss, damage, delay, or a failure of HSBC to perform its duties under these Terms or a Trade Service:
 - (i) arising out of or relating to any Compliance Action taken by HSBC, its service providers, or any HSBC Group member; and/or
 - (ii) being prevented from paying any Claim in respect of a Trade Service or sending or receiving any message or data or taking any other action in connection with any Trade Service because of an applicable law, regulation or ruling of any governmental agency.

SECTION 5 – INSTRUCTIONS AND ELECTRONIC PLATFORMS

20. INSTRUCTIONS

20.1 HSBC is authorised to accept, act and rely upon, and treat as valid and accurate:

- (a) all communications, demands and instructions (including any Applications) given or purporting to be given by the Customer to HSBC (an **Instruction**);
- (b) all communications and any Claims made or purported to be made by any person; and
- (c) any documents provided to HSBC,

20.2 **including, in each case, those made or given by way of or through a Platform, email, facsimile, telecopier, telex, cable, telephone or such other electronic means (in each case, an Electronic Means) and is under no obligation to enquire as to the authorisation or validity of any such Instruction, communication, Claim or Document.**

20.3 The Customer acknowledges and accepts the risk that communications, Instructions, Claims and documents sent to or from HSBC by Electronic Means may be intercepted, monitored, amended, corrupted, contain viruses or be otherwise interfered with by third parties and acknowledges and agrees that HSBC is not responsible or liable to the Customer or any other person for, and the Customer waives any and all claims in respect of, any Losses arising from the same.

20.4 If the Customer communicates, gives an Instruction, makes a Claim or sends a document by Electronic Means, or instructs HSBC to permit a beneficiary or any other person to do the same, the Customer shall indemnify, and hold HSBC harmless from and against, any and all Losses that HSBC may incur (including in respect of any payment made where the relevant Instruction or Claim was unauthorised).

20.5 Where the Customer has made an Application for any Trade Service to be provided for the benefit of an affiliate of the Customer:

- (a) the Customer agrees (and will procure the concurrent written agreement of its affiliate) that HSBC has no obligation to obtain instructions from the affiliate and HSBC can deal solely with the Customer on behalf of the affiliate;

(b) the definition of "Trade Transaction" shall be construed to refer to such affiliate rather than the Customer, and the definitions of "Documents" and "Goods" shall be construed accordingly;

(c) references in these Terms to the Customer presenting, handling, disposing, transferring, dealing with or using (however so described) the relevant Documents, Goods or proceeds of sale shall include the affiliate undertaking any such action;

(d) the Customer shall procure that the affiliate complies with all undertakings in these Terms in respect of the relevant Trade Transaction, Documents, Goods and proceeds of sale; and

(e) each representation in these Terms made by the Customer shall be made by the Customer for itself and on behalf of the affiliate or, where it can only be made in respect of the affiliate (due to factual circumstances), by the Customer for and on behalf of the affiliate.

20.6 HSBC has no obligation to:

(a) verify the identity or authority of any person communicating, giving an Instruction, making a Claim or providing a document by Electronic Means;

(b) verify the authenticity of any signature(s) (whether electronic or otherwise) on any communication made, Instruction given, Claim made or document provided by Electronic Means; or

(c) seek the Customer's prior approval before acting on any communication made, Instruction given, Claim made or document provided by Electronic Means,

20.7 **however HSBC may, in its absolute discretion, take steps to ascertain the validity, authenticity and origin of any communication, Instruction, Claim or document (including requiring telephone verification of any Instructions) and take any steps that may be mandated by an External Provider and may, where it is unable to ascertain the validity, authority or origin of any communication, Instruction, Claim or document, delay or refuse to act upon any communication, Instruction, Claim or document or suspend or terminate any Trade Service at any time.**

21. PLATFORMS

21.1 The Customer acknowledges and agrees that:

(a) HSBC may rely on External Providers to provide Platforms so that HSBC can perform its obligations under these Terms (or any other applicable terms and conditions) and provide Trade Services;

(b) External Providers are independent from HSBC and may independently charge the Customer fees for use of their Platform and those fees are the sole responsibility of the Customer;

(c) HSBC's obligations under these Terms and any Trade Service shall be subject to HSBC's rights under External Terms and Conditions and the availability of any Platform provided by such External Providers;

(d) HSBC has no obligation to inform the Customer of, or provide the Customer with, any External Terms and Conditions;

(e) HSBC has no control over the electronic processes used by a Platform provided by an External Provider to process, handle and/or send data or messages;

(f) it shall inform HSBC of all External Terms and Conditions applicable to or any charges imposed by any Platform which it uses (or intends to use) in respect of any Trade Service and shall promptly notify HSBC of any changes; and

(g) it shall promptly provide all information concerning any Platform used by the Customer that HSBC may reasonably request.

21.2 HSBC assumes no liability or responsibility to the Customer or to any other person for any loss or damage that is suffered or incurred as a result of:

(a) the unavailability of any Platform to the Customer, HSBC or any other person for any reason whatsoever; or

(b) the Customer's use of or connection with any Platform, any External Provider or the services provided by HSBC or any External Provider to the Customer involving any Platform.

21.3 The Customer:

(a) shall comply with all security procedures of HSBC and each External Provider and any other reasonable requests HSBC or any External Provider may issue to the Customer regarding the security of any Platform, including instructions on steps to remedy any breach of security; and

(b) acknowledges and agrees that it is the Customer's responsibility to set up, maintain and regularly review all security arrangements concerning access to and use of each Platform and information stored on the Customer's computing and communications systems, and confirms that it has assessed the security arrangements of each Platform and has determined that they are adequate to protect the Customer's interests;

(c) shall take all reasonable precautions to prevent fraudulent or unauthorised use of or access to each Platform;

(d) shall ensure that neither the Customer nor its employees do anything which may result in the security of any Platform or the systems or security of HSBC being compromised; and

(e) shall notify HSBC, as soon as reasonably possible upon becoming aware, of any actual or attempted unauthorised access to any Platform or any unauthorised transaction or attempt to execute an unauthorised Instruction. This notification must be by telephone but must be followed by written notice within forty-eight hours of the telephone call.

SECTION 6 - OTHER

22. LIMITATION ON LIABILITY

22.1 Neither HSBC nor any other HSBC Group member shall be liable for any loss, damages, payments, demands, claims, expenses or costs suffered or incurred by the Customer (or any of its affiliates) arising from or in connection with these Terms or any Trade Service other than where such loss, damage, payment, demand, claim, expense or cost arises as a direct result of HSBC's or such other HSBC Group member's gross negligence or wilful misconduct.

22.2 Notwithstanding Clause 22.1, in no circumstance whatsoever will HSBC or any HSBC Group member be liable to the Customer (or any of its affiliates) for:

- (a) any loss of business, profits or data; or
- (b) indirect, consequential or special loss or damage,

22.3 whether or not HSBC or any HSBC Group member has been advised of the possibility of such loss or damage.

22.4 Without limiting Clauses 22.1 and 22.2, HSBC shall not be responsible or liable for, and the Customer waives all claims against HSBC in respect of:

- (a) any act, omission, loss or delay relating to forwarding documents or payments to any person or correspondent bank, or any suspense, act, omission, insolvency or bankruptcy of any correspondent bank;
- (b) any delay and/or loss in transit of any messages, letters or documents sent by mail, as an electronic communication, through a Platform or a telecommunication channel, or for any delay, mutilation or other errors arising in the transmission or delivery of any communications by third parties and the Customer acknowledges that, notwithstanding any contrary instruction, HSBC may send a document by any method that it considers appropriate;
- (c) any delay in performing or failure to perform any of its obligations under these Terms due to any cause beyond its reasonable control, including, but not limited to, the failure, malfunction or unavailability of telecommunications, data communications and computer systems and services over which HSBC has no control, war, hostilities, invasion, civil unrest, strikes, lock-outs or other industrial action or trade disputes (whether involving HSBC's employees or any other person) or any law or government order (whether or not having the force of law);
- (d) any failure by HSBC to pay a Claim or other HSBC's act or failure to act because of any domestic or foreign law, regulation, ruling or interpretation of any domestic or foreign court or governmental agency;
- (e) the form, sufficiency, correctness, genuineness, authority of any person signing or endorsing (including any person making presentations, demands, giving Instructions (including by Electronic Means) to HSBC purportedly on the authority of the Customer or a beneficiary), falsification, or the legal effect of, any documents if such documents on their face reasonably appear to be in order;
- (f) the source, accuracy, validity, authenticity, falsification or legal effect of any data, documents or statements made, presented or received from any Platform or any party to a Trade Transaction, any related documents, or the description, quantity, weight, quality, condition, packing, delivery, value or existence of the goods, services or other performance to which such data, documents or statements relates, or for the good faith or acts or omissions, solvency, performance or standing of any party to a Trade Transaction, the consignor, carrier, forwarder, consignee, insurer of the goods, or any other person;
- (g) any improper acts of the beneficiary, including breach of contract in respect of a Trade Transaction, in which circumstances the Customer shall assume and undertake all such risks; and
- (h) the Customer acting or relying on any advice received from HSBC whether or not such advice was requested by the Customer.

22.5 If HSBC uses the services of another party, correspondent bank, agent or Platform for the purposes of issuing an Instrument or Documentary Credit, making

payment, handling Goods or Documents or for any other purpose to support the services contemplated by these Terms, HSBC shall do so for the Customer's account and at the Customer's risk and HSBC shall assume no liability or responsibility should any instructions which HSBC gives to any such other party not be carried out even if the choice of such other party was HSBC's. Additionally, HSBC shall not be liable for any act, failure to act, default, suspension, bankruptcy or insolvency of such other party.

22.6 Where HSBC performs a review of any Document at the request of the Customer, such review is indicative only and not final or conclusive and HSBC shall not be responsible or liable for, and the Customer waives all claims against HSBC in respect of, an omission by or failure of HSBC to identify any discrepancies during any such review.

22.7 Where HSBC agrees to advise a Documentary Credit or any Instrument which is not issued by a bank or present any Document in respect of, or otherwise handle, such Documentary Credit or Instrument, the Customer acknowledges and agrees that:

- (a) such Documentary Credit or Instrument may not be an independent third party undertaking and may not guarantee payment by the issuer or applicant;
- (b) the applicable ICC Rules may not address, cover or extend to such type of Documentary Credit or Instrument;
- (c) HSBC may not be able to pursue the issuer for payment in the same manner as it would be able to in respect of a Documentary Credit or Instrument issued by a bank; and
- (d) the Customer should seek independent legal advice,

22.8 **and the Customer assumes all such risks and waives all claims against HSBC for losses, damages, costs, fees, claims, actions or demands with respect to such Documentary Credit or Instrument including any claims that HSBC failed to alert the Customer that it was advising such type of Documentary Credit or Instrument, failed to pay such Documentary Credit or Instrument in the manner of a Documentary Credit or Instrument issued by a bank, or failed to collect payment from the issuer of such Documentary Credit or Instrument.**

22.9 Subject to the provisions above, where any liability of HSBC or any HSBC Group member to the Customer (or any of its affiliates) arises under these Terms or in connection with any Trade Service, such liability shall not exceed USD 1,000,000 in aggregate in any calendar year.

23. DISCLOSURE, CONFIDENTIALITY AND PRIVACY

23.1 Without limiting any other terms between the Customer and HSBC or any HSBC Group member, HSBC is authorised:

- (a) to appoint any other person as its correspondent, nominee or agent in connection with these Terms and any Trade Service and HSBC may delegate any of its powers under these Terms or a Trade Service to such person;
- (b) to notify any other person of its interest in any Documents, Goods or proceeds of sale; and

(c) to transfer and disclose any Customer Information to the following recipients (who may also process, transfer and disclose such Customer Information):

(i) any HSBC Group member and any of its or their officers, directors, employees, professional advisors, insurers, brokers, auditors, partners, sub-contractors, correspondents, nominees, agents, delegates, service providers (including External Providers and Platforms) and associates;

(ii) any Authorities;

(iii) anyone 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, and companies in which the Customer has an interest in securities (where such securities are held by HSBC for the Customer);

(iv) any person or entity who acquires (or may acquire) an interest in or assumes (or may assume) risk in or in connection with any Trade Service;

(v) any other financial institutions, credit reference agencies or credit bureaus, for obtaining or providing credit references; and/or

(vi) any person or entity in connection with any HSBC Group business transfer, disposal, merger or acquisition, wherever located, including in jurisdictions which do not have data protection laws that provide the same level of protection as the jurisdiction in which the Trade Service is supplied,

(d) including where the recipient of any such appointment, notification, transfer or disclosure is located outside of the relevant Governing Jurisdiction.

23.2 HSBC will not be liable for the acts or omissions of any External Provider as to the collection, use or disclosure by that External Provider of Customer Information.

23.3 Where the Customer has given HSBC information about natural persons (such as authorised signatories), the Customer confirms that those natural persons have authorised the Customer to do so (and to receive any data protection notices on their behalf) and have consented to HSBC's collection, use, storage, processing, transfer and disclosure of their Personal Data and data for the purpose of HSBC carrying out any action contemplated by these Terms or providing a Trade Service to or for the Customer.

23.4 The Customer shall ensure that any information that the Customer asks HSBC to forward to third parties is complete, accurate and will not give rise to any claim against HSBC (including any claim in defamation, in relation to privacy, banking secrecy or data protection or for infringement of any other third party rights) and the Customer confirms and represents that it has obtained the requisite consent and/or waiver (where required) for HSBC to forward such information.

24. MISCELLANEOUS

24.1 Other than a Trade Service which has been provided on an irrevocable or committed basis, HSBC may at any time withdraw a Trade Service or refuse to provide a Trade Service in its absolute discretion.

24.2 Any waiver, release or consent by HSBC under or in respect of these Terms or a Trade Service will only be effective if made in writing (which may be made through a Platform).

24.3 HSBC may at any time change these Terms by providing the Customer with at least 30 days' written notice and any Trade Service requested on or after the effective date in such notice shall be subject to the amended Terms.

24.4 HSBC is authorised to take such steps and to make such payments as it considers necessary, at the cost of the Customer, to remedy any default by the Customer in respect of its obligations under these Terms or any Trade Service.

24.5 Neither HSBC's failure to exercise, nor HSBC's delay in exercising, any of its rights or remedies under these Terms or in respect of a Trade Service shall operate as a waiver of any such right or remedy, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise of any other right or remedy.

24.6 The Customer may not assign or transfer any of its rights or obligations under these Terms or a Trade Service. HSBC may assign, transfer or create security over any of its rights under or in respect of these Terms or a Trade Service without restriction or notice.

24.7 Without prejudice to Clause 20 (*INSTRUCTIONS*), any notices by the Customer in connection with these Terms or a Trade Service must be given to HSBC in writing at the address of HSBC most recently advised by HSBC to the Customer. HSBC may give notice to the Customer in person, by telephone or facsimile, by post, through a Platform or, if agreed by the Customer, through another electronic channel at the address or number most recently notified by the Customer to HSBC. A notice sent by post will be deemed to have been received 7 calendar days after posting if within the same country, or 15 calendar days after posting if cross border.

24.8 Each of the provisions of these Terms is severable and distinct from the others and, if one or more of such provisions is or becomes illegal, invalid or unenforceable, the remaining provisions shall not be affected in any way.

24.9 If the Customer includes two or more persons, the obligations and liabilities of these persons under or in respect of a Trade Service and these Terms shall be joint and several.

24.10 Nothing in these Terms shall be deemed to create any partnership, joint venture or relationship of principal and agent between HSBC and the Customer or create or give rise to any fiduciary relationship of any nature.

24.11 To the extent permitted by the laws of the Governing Jurisdiction, the Customer irrevocably waives any right of sovereign immunity from suit, jurisdiction or adjudication (including in respect of pre-judgement interim relief and execution of any judgement) that it may have in the Governing Jurisdiction or otherwise, whether that immunity relates to itself or to any commercial or non-commercial assets (including land, bank accounts or other assets held in the name of a diplomatic mission or otherwise or belonging to the Customer's central bank or other monetary authority).

24.12 These Terms are for the benefit of the Customer, HSBC and each HSBC Group member, and are not intended to benefit any other third party or be enforceable by any

other third party. Any rights of HSBC to bring to an end or change these Terms or any contract to which they form part are not subject to the consent of any other third party.

25. GOVERNING LAW AND JURISDICTION

25.1 For the purposes of a Trade Service:

- (a) that Trade Service and these Terms will be governed by the laws of the Governing Jurisdiction; and
- (b) the courts of the Governing Jurisdiction shall have non-exclusive jurisdiction to settle any disputes that may arise out of, or in connection with, that Trade Service and these Terms, their interpretation or any non-contractual obligations arising from or connected with them.

25.2 If a process agent is specified in an Application or Facility Agreement in respect of a Trade Service, service of any legal process on the person whose name and address is specified in such Application or Facility Agreement shall constitute service on the Customer.

25.3 If no process agent has been appointed by the Customer, upon request from HSBC the Customer will, within five Business Days, appoint a process agent (with an office in the Governing Jurisdiction) for service of all legal process relating to these Terms and the relevant Trade Service on the Customer and the Customer will notify the process agent's address to HSBC. If the Customer does not do this, HSBC may appoint a process agent on the Customer's behalf and at its expense and shall, as soon as practicable, notify the Customer of such appointment.

SECTION 7 – DEFINITIONS AND INTERPRETATION

26. DEFINITIONS AND INTERPRETATION

26.1 In these Terms:

Application means an application, instruction or request by the Customer for a Trade Service (whether for itself or for another person) using an application form, or pursuant to the terms of a Facility Agreement or made using a Platform.

Authorities includes any judicial, administrative, public or regulatory body (including any self-regulatory body), any government, any tax authority, any securities or futures exchange, any court, any central bank or law enforcement body, or any of their agents, with jurisdiction (direct or indirect) over any part of the HSBC Group at any time.

Back-to-Back Documentary Credit has the meaning given to it in Clause 3.14 (*DOCUMENTARY CREDITS*).

Business Day means, in respect of a Trade Service, a day on which banks are open for general business in the Governing Jurisdiction.

Cash Collateral has the meaning given to it in Clause 10 (*CASH COLLATERAL*).

Claim means any demand, request for payment or for acceptance and payment, claim, presentation or drawing made in respect of a Trade Service by a beneficiary, the Customer or any other person.

Collection means a collection transaction in respect of the handling of Documents where HSBC may act as either a remitting bank, collecting bank or presenting bank.

Compliance Action has the meaning given to it in Clause 19 (*COMPLIANCE WITH LAWS AND SANCTIONS*).

Country Conditions means HSBC's additional terms and conditions for the country in which the HSBC entity providing the relevant Trade Service is located.

Customer means the person who requests the relevant Trade Service and with whom HSBC contracts with respect to the provision of that Trade Service (and, without limitation, as may be specified in the relevant Application). If HSBC provides a Trade Service to a person that is not a customer of HSBC, references in these Terms to the "Customer" shall apply to that person even though that person is not a customer of HSBC.

Customer Information means any Personal Data, confidential information, and/or Tax Information (including accompanying statements, waivers and consents) of either the Customer, or a person or entity whose information (including any Personal Data or Tax Information) which the Customer provides, or which is provided on the Customer's behalf, to any HSBC Group member in connection with the provision of any Trade Service.

Customer Liabilities means at any time:

- (a) all liabilities of the Customer to HSBC or any HSBC Group member (including arising under or in connection with any Trade Service and these Terms) incurred in any currency and in any capacity and whether present or future, actual or contingent, direct or indirect, or incurred alone or jointly with any other person;
- (b) interest on such liabilities (both before and after any demand or judgment) to the date on which HSBC or any such HSBC Group member receives payment, at the rates payable by the Customer or which would have been payable but for any circumstances which restricts payment;
- (c) any costs and expenses incurred by HSBC or any HSBC Group member in making payment under or in respect of a Trade Service on behalf of the Customer (but without HSBC being under any obligation to do so) as a result of failure by the Customer to make such payment when due or demanded; and
- (d) all costs and expenses (including legal fees on a full indemnity basis) of HSBC or any HSBC Group member in perfecting or enforcing its rights under or in respect of a Trade Service and these Terms.

Documentary Credit means a documentary credit or letter of credit or any commitment to issue a documentary credit or letter of credit (including any extension, renewal or amendment of the same).

Documents means any drafts, bills of exchange, promissory notes, cheques, documents of title, certificates, invoices, statements, transport documents, insurance policies, warehouse warrants, warehouse receipts or any other similar instruments relating to a Trade Transaction in respect of which HSBC has provided Trade Service(s) to the Customer.

Electronic Means has the meaning given to it in Clause 20 (*INSTRUCTIONS*).

Exchange Rate means HSBC's spot rate of exchange (or if HSBC does not have an available spot rate of exchange for the relevant currency, any other publicly available spot rate of exchange selected by HSBC) for the purchase of the required currency in

the relevant foreign exchange market at the relevant time using the currency in which the relevant payment was paid (where any such spot rate of exchange shall be selected by HSBC acting reasonably in the circumstances).

External Provider means a person (other than HSBC) that makes any Platform available to HSBC and/or the Customer.

External Terms and Conditions means any agreement which is entered into between an External Provider and either HSBC or the Customer setting out the terms and conditions applicable to HSBC's or the Customer's use of a Platform.

Facility Agreement means a letter or agreement between the Customer and HSBC pursuant to which HSBC agrees to provide to the Customer a facility in respect of Trade Services.

Finance means discounting, negotiating, purchasing, prepaying, early paying or endorsing a Document (whether or not drawn under a Documentary Credit or Collection) or Documentary Credit and **Financed** and **Finances** shall be construed accordingly. For the avoidance of doubt, **Finance** does not include a Trade Finance Loan.

Goods means the goods or products which are the subject of a Trade Transaction in respect of which HSBC has provided Trade Service(s) to the Customer.

Governing Jurisdiction means the jurisdiction in which the relevant HSBC entity providing the Trade Service is located or such other jurisdiction agreed in writing between the Customer and HSBC or specified in the relevant Country Conditions.

HSBC means the HSBC Group member (or, if applicable, the branch of such HSBC Group member) providing the relevant Trade Service, and its successors and assigns and, where the context permits, includes any person appointed by HSBC under Clause 23.1(a) (*DISCLOSURE, CONFIDENTIALITY AND PRIVACY*).

HSBC Group means HSBC Holdings plc and its subsidiaries and affiliates from time to time.

ICC means the International Chamber of Commerce.

Increased Costs means a reduction in the rate of return from a Trade Service or on HSBC's overall capital, an additional or increased cost or a reduction of any amount due and payable under these Terms or in respect of a Trade Service, which is incurred or suffered by HSBC to the extent that it is attributable to HSBC performing its obligations under these Terms or a Trade Service.

Indemnified Party has the meaning given to it in Clause 9 (*REIMBURSEMENT AND INDEMNITY*).

Instruction has the meaning given to it in Clause 20 (*INSTRUCTIONS*).

Instrument means any SBLC, demand guarantee (including an avalisation, co-acceptance or acceptance of a Document), bond, counter-guarantee, counter-SBLC, or similar independent payment obligation (including any extension, renewal or amendment of the same).

Losses has the meaning given to it in Clause 9 (*REIMBURSEMENT AND INDEMNITY*).

Master Documentary Credit has the meaning given to it in Clause 3.14 (*DOCUMENTARY CREDITS*).

Personal Data means any information relating to an individual from which such individual can be identified, including sensitive personal data, name(s), residential address(es), contact information, age, date of birth, place of birth, nationality, citizenship, personal and marital status.

Platform means any electronic platform (a) used by HSBC, the Customer or any other person for giving or receiving any Instruction, Claim or other communication in relation to any Trade Service, and/or (b) used by HSBC or any other person for issuing or providing any Trade Service, and shall include HSBCnet.

Recourse Event means in respect of a Trade Service:

- (a) any misrepresentation, alleged or actual fraud, illegality or unauthorised act of the Customer and/or any other party to the Trade Transaction;
- (b) any alleged or actual invalidity, non-compliance or unenforceability of the Documentary Credit, SBLC, Document(s) or Trade Transaction (as applicable); or
- (c) any injunction, court order, law, regulation or Sanctions which restrict any payment (whether to or from HSBC and/or not subsequently discharged).

SBDC means a standby documentary credit.

SBLC means a standby letter of credit (which includes an SBDC).

Sanction has the meaning given to it in Clause 19 (*COMPLIANCE WITH LAWS AND SANCTIONS*).

Security Agreement means any document creating security or quasi-security over any of the Customer's rights and/or assets in support of any obligations which the Customer may have to any HSBC Group member from time to time.

Tariff Book means, if applicable in the relevant jurisdiction, HSBC's tariff book setting out HSBC's fees, commissions, interest rates and other rates for Trade Services as is available upon request by the Customer and/or can be accessed online.

Tax includes goods and services tax, value added tax, sales tax, stamp duty or any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding which is levied or imposed by a government agency, and any related interest, penalty, charge, fee or other amount (but does not include tax on the overall net income of HSBC).

Tax Information means any documentation or information (and accompanying statements, waivers and consents) relating, directly or indirectly, to the Customer's tax status and the tax status of any owner, "controlling person", "substantial owner" or beneficial owner of the Customer.

Trade Finance Loan means a loan, advance, credit or other financial accommodation provided by HSBC to the Customer in respect of a Trade Transaction.

Trade Service includes:

- (a) the issue of a Documentary Credit and instructing any advising bank, nominated bank or confirming bank in relation to such Documentary Credit;

- (b) acting as the advising bank, nominated bank or confirming bank (on a disclosed or undisclosed basis) in relation to a Documentary Credit;
- (c) the issue of an Instrument and/or instructing any correspondent bank in relation to, and issuing an counter-guarantee, counter-SBLC or indemnity in respect of, an Instrument;
- (d) acting as the advising bank, confirming bank or correspondent bank in relation to an Instrument;
- (e) the handling of a Documentary Credit, Instrument or Document;
- (f) Collections;
- (g) the provision of any Finance;
- (h) the provision of a Trade Finance Loan;
- (i) the issue of a letter of indemnity or shipping guarantee and/or the signing, endorsement or release of any Transport Document;
- (j) the release of Documents;
- (k) any other service or product relating to a Trade Transaction provided, by HSBC to, at the request of, or in respect of the Customer.

Trade Transaction means a transaction involving the sale or purchase by the Customer of goods or services from/to a third party, and includes any contract(s) on which such transaction may be based.

Transport Documents has the meaning given to it in Clause 8 (*APPLICATIONS FOR RELEASE OF GOODS, SHIPPING GUARANTEES AND LETTERS OF INDEMNITY*).

USD means the lawful currency of the United States of America.

26.2 Unless contrary indication appears, any reference in these Terms to:

- (a) an **Application** or **Trade Service** (and any reference in an Application to a **Trade Service**) includes (where applicable) the contract created between the Customer and HSBC by HSBC accepting that Application by providing or undertaking that Trade Service;
- (b) the **Customer, HSBC** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under these Terms, an Application, a Facility Agreement or Country Conditions;
- (c) **include** or **including** means include or including "without limitation";
- (d) HSBC making a determination or decision or undertaking an action means that HSBC is making or undertaking, and is permitted to make or undertake, such determination, decision or action in its sole discretion or opinion without reference to, or consent from, the Customer or any other person;
- (e) an authorisation or confirmation by, or instruction from, the Customer means that such authorisation, confirmation or instruction is irrevocable unless waived by HSBC;
- (f) 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);

(g) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

(h) these **Terms** include the Country Conditions;

(i) these **Terms** or any other agreement or instrument is a reference to these Terms or, as the case may be, other agreement or instrument as amended, supplemented, novated and/or replaced from time to time;

(j) the singular shall include the plural and vice versa; and

(k) section and clause headings are for ease of reference only.

26.3 **In addition to these Terms being incorporated into each Application, these Terms may also be incorporated by HSBC into a Facility Agreement or any other document or agreement.**

STANDARD TRADE TERMS
COUNTRY CONDITIONS
URUGUAY

1. APPLICATION

1.1 These Country Conditions are supplemental to, and form part of, the Standard Trade Terms (the Terms) which the Customer has accepted and/or may accept from time to time.

1.2 Any terms defined in, or construed for the purposes of, the Terms have the same meanings when used in these Country Conditions (unless the same are otherwise defined in these Country Conditions).

1.3 These Country Conditions shall apply where the HSBC entity providing the relevant Trade Service is located in New Zealand.

2. Additional/Supplemental terms and conditions

2.1 Instruments

(a) If the Customer requires HSBC to issue an Instrument in a format stating that HSBC is jointly and severally liable for the obligations of the Customer to the beneficiary, the Customer confirms that the Instrument shall be treated as an independent on-demand guarantee, and the Customer acknowledges and accepts that HSBC shall not be obliged to verify the validity of any Claim made by the beneficiary under the Instrument, and the Customer undertakes in all cases to reimburse all amounts paid by HSBC in accordance with the Terms.

(b) The Customer expressly waives its rights arising from Articles 614, 615 and 616 of the Uruguayan Commercial Code [without this waiver affecting any actions that may be applicable to HSBC under the applicable law]

2.2 Documentary Credits and pledge of Documents

(a) Notwithstanding any other guarantees or security that may be granted in favour of HSBC (including, in particular, HSBC's right of withholding and privilege granted under Sections 384 and 385 of the Uruguayan Code of Commerce), the Customer pledges in security all Documents and Goods relating to each Documentary Credit as collateral for the Customer Liabilities now or in the future, until the Customer Liabilities have been paid in full. Where the Customer does not formally deliver any pledged Documents or Goods to HSBC, the Customer agrees that it shall have no entitlement on them and HSBC shall be able to exercise any and all rights of a pledgee, including taking possession of such Documents and Goods until the Customer Liabilities are paid in full, or by in-Court or out-of-Court enforcement in accordance with the applicable laws.

(b) Upon demand by HSBC, the Customer shall grant any additional guarantees or security that HSBC deems necessary.

2.3 Promissory Note with blanks

(a) Promptly following its execution of an Application for a Trade Service, the Customer shall print, execute and send to HSBC a Promissory Note in the form attached to the Application (in respect of a Trade Service, the **Promissory Note**), or execute it in any other manner agreed by HSBC from time to time, with the

maturity date, the default interest rate, the amount applicable to the default interest rate and the aggregate amount owed by the Customer, in each case, in blank. The Promissory Note shall not accrue compensatory interest, but shall have a default interest rate equal to the lowest default interest rate charged by HSBC to the Customer in respect of the Trade Service. Default interest shall be capitalized on a semi-annual basis.

(b) The amount owed by the Customer to HSBC under the Promissory Note shall be the Customer Liabilities in respect of the Trade Service, including the aggregate of any and all obligations due by the Customer to HSBC in respect of the Trade Service and all fees, charges, commissions, expenses and costs incurred by or payable to HSBC and which have not been reimbursed or paid by the Customer to HSBC. Fees, charges, commissions, expenses and costs shall be those notified by HSBC to the Customer upon request.

(c) The maturity date of the Promissory Note shall be the date on which any of the events specified in Clause 2.4 occurs or such later date as HSBC may determine.

(d) Blanks in the Promissory Note are permitted under Section 4 of Law No. 14,701 and the Customer hereby expressly and irrevocably consents to such blanks. The Terms shall serve as the supplementary document referred to in Section 372 of the Financial System's Regulation and Control Rules Compilation of the Central Bank of Uruguay.

(e) Prior to completing the Promissory Note before the competent Courts, HSBC shall notify the Customer (i) that it is proposing to complete the Promissory Note and (ii) of the amount of the Customer Liabilities and the items comprising it. The Promissory Note shall be completed by HSBC within 6 (six) months from its maturity date.

2.4 Acceleration

(a) Notwithstanding the on-demand nature of the Terms, HSBC may only terminate a Trade Service, declare any or all Customer Liabilities be payable on demand, or demand payment of any or all Customer Liabilities before their maturity date, following the occurrence of any of the following events or circumstances:

(i) The Customer fails to pay on its maturity date the amount of any Customer Liability.

(ii) The Customer breaches any of its obligations under the Terms or any agreement incorporating the Terms.

(iii) Any certificate or document delivered by the Customer to HSBC in relation with a Trade Service or the Terms is incorrect or in some way disconnected with reality.

(iv) Any representations or statement made by the Customer in respect of a Trade Service or under the Terms, any agreement incorporating the Terms, or any document delivered under or in connection with the foregoing is or proves to be have been incorrect or misleading when made or deemed to have been made.

(v) Any payment of any debt by the Customer is protested or demanded, or any in-Court or out-of-Court action that may result in the attachment or auction of the Customer's property is taken in respect of or against the Customer, or

any other action is taken that, in the opinion of HSBC, poses a risk to the payment of any Customer Liabilities by the Customer.

(vi) The occurrence of an extraordinary situation or change affecting the Customer that HSBC determines (in its sole discretion) will result in the Customer being unable to comply with its obligations in respect of the Trade Service or under the Terms or any agreement incorporating the Terms.

(vii) The Customer breaches any legal and/or regulatory provisions issued by any competent authority involving the inhibition or impossibility of obtaining bank credits in any of its operating modalities.

(viii) The Customer or any third party fails to comply with its obligations (whether in rem or personal) in any Security Agreement granted in relation to a Trade Service or the Terms.

(ix) The Customer fails to pay or comply with any current or future obligation entered into or contracted with HSBC as well as any event, act or situation assured or guaranteed.

(x) The Customer or any of the companies controlling, controlled by, subsidiaries of or members of the economic group of the Customer fails to pay any debt owed to HSBC or any third party, whether for capital, interest, commissions or others, when it is due (either upon its maturity or, in the case of acceleration, when the debt is claimed), or any breach occurs under any agreement or document relating to those debts, or any event that results in the enforceability of debts continues after any applicable grace period, or any such debt is declared due or payment is demanded prior to its maturity date.

(xi) The Customer fails to comply with any obligation to pay under any final judgment or final court order.

(xii) There is any change in the laws or regulations or the interpretation of any laws or regulations by any governmental entity applicable to financial intermediation institutions that would imply a change in the way HSBC operates, or a substantial change related to the economy in general, or a substantial devaluation of the Uruguayan peso, or a governmental decision imposing conditions or restrictions that adversely affect economic benefits or businesses that imply that the term of the Trade Service or the Terms is detrimental or in some way not beneficial to HSBC.

(b) In addition, insofar as permitted under law, HSBC may deem a Trade Service or the Terms to have been terminated and may immediately demand payment of any or all Customer Liabilities before their maturity date and enforce all its rights under the Terms, without the need for demand, protest, interpellation, notification, or judicial proceedings, if the Customer makes a request for a bankruptcy, insolvency, moratorium or private reorganization agreement, or there is an order by the Customer or any third party for a bankruptcy, judicial settlement or insolvency of the Customer, or a provisional moratorium or a private reorganization agreement is granted in relation to the Customer.

(c) The Customer may declare that a Trade Service or the relevant Terms are terminated if HSBC fails to comply with any of its main obligation in respect of that Trade Service. The Customer shall communicate to HSBC the termination and its grounds, and upon the Trade Service or the Terms having been declared

terminated by the Customer, all Customer Liabilities shall be paid by the Customer to HSBC within three business days, even in respect of any Trade Services that have not been collected or are not yet enforceable.

2.5 **Automatic default**

A default by the Customer shall operate automatically without the need for any demand, protest, interpellation or any proceedings, upon the expiration of any term or due to the performance or omission of any act resulting in any applicable person doing anything contrary to the provisions of the Trade Service, the Terms or any agreement incorporating the Terms.

2.6 **Notices**

(a) Notwithstanding the Terms, any personal communication, request, notice, information and/or notification to be made by HSBC to the Customer in connection with a Trade Service or under the Terms shall be made by either a registered telegram with acknowledgment of receipt, a notarial certificate, a courier service, an e-mail to an e-mail address provided by the Customer to HSBC, or any other similar means agreed by the Customer and HSBC. The Customer hereby agrees that notices may be made through statement accounts or other documentation received by the Customer in connection with any Trade Service or the Terms.

(b) If a communication, notice, information or notification is served to an indeterminate group or to all customers of HSBC, then it may be sent by any means permitted under the applicable regulations, and in particular by (i) the publication of a notice in mass media of national scope, (ii) a notice posted on the main page of HSBC's website for a period of at least (10) ten Business Days, (iii) an e-mail to an e-mail address provided by the Customer to HSBC, or (iv) by such means provided in Clause 2.6(a). The first three channels of communication shall be undertaken jointly unless existing regulations enable HSBC to opt for any of them in an indistinct manner or impose another form of communication.

(c) The addresses specified by the Customer in respect of any Trade Service (and any form related thereto) or HSBC's General Terms and Conditions shall constitute contractual addresses for all in-Court or out-of-Court purposes related to any Trade Service or the Terms.

2.7 **Bank Secrecy**

The Customer hereby authorizes and relieves HSBC of its obligation under Section 25 of Decree-Law No. 15,322, as applicable, to provide each other member of the HSBC Group and its subsidiaries or affiliates with all the information deemed relevant, including information about the Customer's credit relationship.

2.8 **Pricing**

The Customer acknowledges that it has received, prior to the execution of the relevant Trade Service a document with information in respect of the interest rates, charges, commissions, fees, insurance, fines, taxes or other amounts necessary for the provision by HSBC of the Trade Service and the rationale,

amount and periodicity for such amount and whether it is mandatory or optional.

2.9 **Additional interpretation provisions**

(a) The Customer hereby accepts the determination that may be made by HSBC or a correspondent regarding the conformity of any documents presented to or issued by HSBC or such correspondent under a Trade Service, as well as its determination regarding any inconsistencies that may be evidenced. Consequently, any payments, acceptances and negotiations made by HSBC or a correspondent shall be final and governed under applicable international banking practices. Furthermore, the Customer shall consider as implicit provisions of the Trade Service any and all international banking practices that govern these kinds of transactions in any applicable foreign jurisdiction.

(b) Where any amendments are made to a Trade Service or the Terms, the Customer shall be bound by each amendment and the Trade Service and Terms (as applicable) shall continue in full force and effect.