

TERMS & CONDITIONS GOVERNING BOC PAYROLL AND COLLECTION SERVICES

1. APPLYING FOR BOC PAYROLL AND COLLECTION SERVICES

- 1.1 In applying for BOC Payroll and Collection Services (“**PCS**”), the Customer agrees to be bound by and comply with these terms and conditions (the “**Terms**”) together with the terms and conditions set out in the PCS Application Form. These Terms are to be read in conjunction with the General Terms and Conditions Governing Accounts, the Terms and Conditions Governing Electronic Banking Services and such other terms and conditions as may be expressly stated in these Terms. Unless otherwise stated, in the event of any inconsistency between these Terms and any other terms in relation to the PCS, these Terms shall prevail.
- 1.2 In order to use the PCS, the Customer must first open or maintain an Account with the Bank and be a valid user of the BOC Corporate Online Banking service or such other Electronic Banking Service(s) prescribed by the Bank from time to time through which the PCS can be carried out.

2. DEFINITIONS & INTERPRETATION

- 2.1 “**Account**” means a valid and active corporate account (other than a corporate fixed deposit or loan account) opened by the Customer with the Bank.
- 2.2 “**Bank**” or “**BOC**” means Bank of China Limited, Singapore Branch.
- 2.3 “**Customer**” means a corporate entity such as a company, limited liability partnership, society, association or other organisation who is a customer of the Bank.
- 2.4 “**Customer Instructions**” means any request or instruction in relation to the PCS given or purportedly given by the Customer to the Bank.
- 2.5 “**Designated Account**” means the Account which the Customer shall open or designate from among its existing Account(s) with the Bank in the PCS Application Form in connection with the PCS, and to and from which fees, costs, charges, expenses and interest that the Bank may impose from time to time in connection with the PCS may be charged and deducted, including without limitation, any subscription fees and/or additional fees for selected transactions/services, or for which the Bank may require in relation to the maintenance of any prescribed minimum amount of funds.
- 2.6 “**PCS Application Form**” means the application form(s) prescribed by the Bank and such other document(s) as may be required by the Bank from time to time in relation to the application for the PCS.
- 2.7 “**PCS Batch Tool Software**” means the computer software (whether stored in compact disc or any other form or medium) licensed or sub-licensed by the Bank to the Customer for use in connection with the PCS, including but not limited to any digital certificate relating thereto and any other software which authenticates the identity of the Customer.
- 2.8 In these Terms, words importing the singular include the plural and vice versa and words importing a gender include every gender. Headings used are for ease of reference only and shall not affect the interpretation of these Terms.

3. PCS BATCH TOOL SOFTWARE

- 3.1 The Customer undertakes to properly install, maintain and use the PCS Batch Tool Software (where applicable) in accordance with all applicable license(s) or sub-license(s). The Bank may in its discretion assist the Customer in the installation of the PCS Batch Tool Software for a fee.
- 3.2 The Customer undertakes to notify the Bank immediately if the PCS Batch Tool Software is defective, lost or stolen or if any unauthorised person has accessed and/or used the PCS Batch Tool Software. Until receipt of such notification and/or after such time that the Bank has taken all relevant action in accordance with its prevailing practice in response to such notification, the Customer shall remain responsible for any Customer Instructions received by the Bank (whether authorised or not).
- 3.3 The PCS Batch Tool Software and any documentation relating to the PCS Batch Tool Software (including any PCS user guide) provided to the Customer by or through the Bank shall remain the exclusive property of the Bank at all times. The Bank grants to the Customer a non-exclusive, non-transferable licence to use the PCS Batch Tool Software only for the purposes of or in connection with the PCS.
- 3.4 The Customer shall ensure that only persons authorised by it are allowed to access and use the PCS Batch Tool Software (or any documentation relating thereto), and that no other party other than the Customer (or its authorised persons) may access the PCS Batch Tool Software (or any documentation relating thereto) without the prior written consent of the Bank.
- 3.5 The Customer undertakes not to make unauthorised copies of the PCS Batch Tool Software (or any documentation relating thereto) or to distribute, disseminate or sell the PCS Batch Tool Software (or any documentation relating thereto). The PCS Batch Tool Software or any part thereof shall not be disassembled or reverse engineered, copied (save for back-up copies allowed under law), removed, modified, transferred, adapted or translated in any form. The Customer undertakes to return to the Bank the PCS Batch Tool Software (and all documentation relating thereto) immediately upon request by the Bank.
- 3.6 The Bank shall not be liable to the Customer for any loss or damage whatsoever incurred by the Customer (including any loss or damage to any database, information or statement in the Customer's computer systems) that may arise, directly or indirectly, from the installation, maintenance or use of the PCS Batch Tool Software. The Customer shall only use the PCS Batch Tool Software for the purposes of or in connection with the PCS. If the Customer installs or uses any other software in connection with the PCS, the Customer shall indemnify the Bank in full against any loss or damage incurred by the Bank arising out of or in connection with the Customer's installation of or use of such software.
- 3.7 If newer or different versions of the PCS Batch Tool Software or web browser or other software necessary for the operation of the PCS become or made are available, the Bank reserves the right not to support any prior versions thereof. If the Customer fails to upgrade or use the enhanced version of the relevant PCS Batch Tool Software, web browser or such other software necessary for the operation of the PCS, the Bank may reject any Customer Instruction submitted by the Customer and terminate the Customer's use of the PCS without prior notice or liability to the Customer forthwith.

4. OPERATION OF THE PCS

(I) Customer Instructions

- 4.1 Customer Instructions to effect transactions through the PCS shall be given to the Bank through the BOC Corporate Online Banking service or such other Electronic Banking Service(s) prescribed by the Bank from time to time, by email to the Bank's designated email address, or by any other mode(s) and/or manner(s) prescribed by the Bank from time to time at its sole discretion. In the event that the Customer is required (whether by system breakdown or otherwise) to deliver any Customer Instruction to the Bank by hand, the Customer shall also provide the Bank with the particulars of the relevant person(s) so authorised to make such delivery to the Bank. Customer Instructions shall not be deemed to have been received or executed by the Bank until the Bank's confirmation of such receipt or execution.
- 4.2 The Customer shall ensure that any Customer Instruction in respect of a payment via the PCS is submitted in accordance with the Bank's stipulated deadlines for interbank fund transfers (including FAST, GIRO and telegraphic transfers), and the Customer shall be solely responsible for the consequences of, or any loss or damage arising from, any late submission of such Customer Instruction.
- 4.3 Customer Instructions shall be deemed irrevocable and binding on the Customer upon transmission by the Customer. The Customer shall notify the Bank immediately upon receipt of any incomplete, garbled or inaccurate data or information from the Bank or information which is not intended for the Customer, and shall delete all such data or information from the Customer's computer system immediately.
- 4.4 The Bank may in good faith regard any Customer Instruction received by it in accordance with these Terms as authentic and duly authorised by the Customer, and shall be under no obligation to investigate the authenticity or authority of persons sending or purporting to send such Customer Instruction on behalf of the Customer or verify the accuracy and completeness thereof, and may treat such Customer Instruction as valid and binding on the Customer, notwithstanding any conflict with any other Customer Instruction given to the Bank. The Bank shall not be responsible or liable for any loss or damage incurred by the Customer arising out of or in connection with any error, fraud or negligence in the issue of any Customer Instruction.
- 4.5 The Bank shall be under no obligation to effect any Customer Instruction and shall not incur any liability whatsoever if :-
- a) the funds in the Designated Account are insufficient to meet any payment instructions;
 - b) the funds in the Designated Account are insufficient to pay any fee, cost, charge, expense or interest that the Bank may from time to time impose on the Customer for the use of the PCS;
 - c) the Designated Account is frozen or closed and a new or other existing Account has not been opened or selected as the Designated Account;
 - d) the execution of such Customer Instruction will cause the balance in the Designated Account to exceed the Customer's credit limit; or
 - e) the Bank knows or has reason to believe that a breach of security, fraud, criminal act, offence or violation of any law or regulation has been or will be committed.
- 4.6 Where the total value of the transactions in the Customer Instructions exceeds the credit balance in the Designated Account, the Bank shall be entitled at its sole and absolute discretion to determine whether or not to execute the Customer Instructions and if so, whether in whole or in part, irrespective of the dates or times of submission and/or receipt of the Customer Instructions.

(II) Countermand of Customer Instructions

4.7 The Bank is not obliged to cancel or amend any payment made or to be made pursuant to any Customer Instruction and shall not incur any liability therefor. If the Bank agrees to the Customer's request for any amendment or cancellation, the Bank shall be entitled to a reasonable period of time to execute such request, and shall not be liable for any loss or damage incurred by the Customer arising out of or in connection with the Bank effecting any Customer Instruction, or in respect of any cancellation or amendment not being effected in time. The Bank shall not be deemed to have received or been given notice of any countermand of Customer Instructions until the Bank has informed the Customer in writing that the countermand has been received or the Bank has taken action in connection with such countermand or amendment, whichever is earlier.

(III) Hashing of Data

4.8 The Bank makes no representation or warranty as to the security of any information or Customer Instruction transmitted to the Bank through email or any other electronic mode(s) of transmission, and shall not be responsible for any loss of security or information regarding the Customer's Account(s) that may occur during such transmission.

4.9 The Customer may opt to hash its data before transmitting such data to the Bank via email or any other electronic mode(s) of transmission as may be prescribed by the Bank in connection with the PCS. In opting for the hashing feature, the Customer fully understands that this hashing feature is provided as an added safety option to help ensure that the Customer's data will not be tampered with during transmission and shall be kept confidential. The hashing algorithm issued by the Bank (as may be amended from time to time) shall be kept confidential and must not be disclosed to anyone. The Bank shall not be held responsible for any consequences of or any loss or damage sustained by the Customer arising from the Customer's use of the hashing feature.

4.10 If the Customer opts not to hash its data before transmitting such data to the Bank, the Customer acknowledges that such data may be tampered with during transmission. The Customer undertakes to indemnify the Bank against all and any loss, damage, expense, liability, claim or cost (including all legal costs on an indemnity basis) that the Bank may incur or sustain in the event that the Customer's data is tampered with during transmission.

(IV) Payroll Service

4.11 Customer Instructions may be provided for one-time payments, schedule ad-hoc payments in advance or arrange for instalment payments at regular intervals, subject to system constraints. The Customer may cancel or change any such Customer Instruction at any time provided that the Customer complies with the Bank's instructions, procedures and directions in respect of any Customer Instruction, including but not limited to the relevant cut-off times and specified notice periods relating to the transmission of such Customer Instruction.

4.12 In respect of any list of payees that the Bank may provide in respect of whom payment may be made through the PCS, the Bank retains absolute discretion to amend such list of payees or delete any payee(s) therefrom, and may do so without prior notice or incurring any liability.

4.13 The Bank shall not be liable for any claim, demand, action, proceeding, damage, liability, loss or expense which may be incurred by or made against the Customer arising out of or in connection with:-

- a) any late or non-payment due to the Customer's non-compliance with these Terms or the Bank's instructions, procedures and directions for effecting such payments through the PCS; or
- b) any refusal or failure by the Bank to effect any payment by reason of an order of court or a notice, request, directive or order issued pursuant to any statute, regulation, or bye-law (whether or not having the force of law).

(V) Collection Service

4.14 The provisions of the General Terms and Conditions Governing Accounts and the Terms and Conditions Governing Electronic Banking Services applicable to collections processed through the Interbank GIRO system will apply *mutatis mutandis* in connection with all PCS transactions including (but not limited to) the following:-

- a) each direct debit authorisation form submitted by the Customer's counterparties to the Bank in connection with such collections shall be in a format acceptable to the Bank;
- b) the Customer shall be responsible for ensuring that all information contained in each direct debit authorisation form submitted by its counterparties to the Bank (including all bank account numbers provided therein) is true, accurate and complete;
- c) all unsuccessful collections will be returned to the Customer's relevant counterparty and where applicable, the Customer's Designated Account will be debited accordingly;
- d) if the Customer's Designated Account is over-credited or under-debited in respect of any collection for whatever reason, the Bank reserves the right to recover the over-credited/under-debited amount by debiting the Customer's Designated Account accordingly; and
- e) the Customer agrees that any claim or dispute with any counterparty shall be resolved between the Customer and such counterparty directly, and the Bank shall not be involved in such claim or dispute in any way.

5. NO WARRANTY

5.1 The Bank makes no express, implied or statutory warranties relating to the PCS, the PCS Batch Tool Software or any other direct access software, service or browser including but not limited to any warranty of merchantability, fitness for a particular purpose or non-infringement of third party proprietary rights or that it is free of errors unless disclaiming such warranties is prohibited by law.

5.2 The Bank does not warrant the security or confidentiality of any information in connection with the PCS transmitted through any electronic media including the internet, network system or such other equivalent system in any jurisdiction.

5.3 Where the Bank provides the Customer with any third party information in connection with the PCS, the Customer acknowledges and agrees that the Bank does not warrant the accuracy or completeness of such information.

6. AVAILABILITY OF PCS

6.1 The Bank reserves the right at any time to limit, cancel or suspend the service or operation of PCS in whole or in part, or to vary, add or withdraw any feature of, or transaction that may be carried out through, the PCS, in each case without prior notice or incurring any liability to the Customer.

6.2 The hours of operation of the PCS are subject to change without prior notice. The Bank may use reasonable endeavours to ensure that the PCS will be available during the times set out in the relevant PCS user guide or as otherwise notified to the Customer PROVIDED that nothing herein shall be considered or be deemed as a warranty by the Bank that the PCS will be available (whether uninterrupted or available at all) during such specified times.

6.3 The Bank may at any time, in its discretion and without prior notice, be entitled to temporarily suspend the operations of the PCS for updating, maintenance and upgrading purposes or any other purposes that the Bank deems fit, without incurring liability for any loss, cost, expense, delay, inconvenience or otherwise that may be incurred, suffered or sustained thereby.

7. FEES, CHARGES AND RIGHT OF DEBIT

- 7.1 The Customer shall pay the Bank all fees and other costs, charges and expenses in connection with the use of the PCS as the Bank may determine from time to time, including without limitation, any subscription fee relating to the use of the PCS or any payment fee in respect of any payment transaction thereunder.
- 7.2 All other agreements between the Customer and the Bank for the payment of fees, costs, charges, expenses and interest shall continue to be in force and be in addition to and not affected by the agreement under these Terms to pay all fees, costs, charges, expenses and interest in relation to the PCS.
- 7.3 All fees, costs, charges, expenses, interest and other amounts payable to the Bank under these Terms shall be in Singapore dollars unless otherwise specified.
- 7.4 All fees, costs, charges, expenses, interest and other amounts which are payable to the Bank or recoverable from the Customer under these Terms will be charged to and/or deducted from the Designated Account at such times as the Bank may determine. If there are insufficient funds in the Designated Account, the Bank may (but is not obliged to) debit the Customer's other Accounts without prejudice to the Bank's right of refusal to carry out any unperformed Customer Instructions and/or to terminate the Customer's use of the PCS under these Terms.

8. TERMINATION

- 8.1 The Bank may in its absolute discretion terminate the Customer's use of the PCS, or de-activate or revoke the PCS at any time without prior notice or incurring any liability to the Customer. Without prejudice to the foregoing, the Bank shall be entitled (but is not obliged) to terminate the Customer's use of the PCS upon the termination or closure of any of the Designated Account. The Customer may only terminate the Customer's use of the PCS upon the giving of one (1) month's prior notice in writing to the Bank.
- 8.2 The Customer's obligation to pay all fees, costs, charges, expenses and amounts accrued up to the date of termination shall survive the termination of the Customer's use of the PCS, or the de-activation or revocation of the PCS. For the avoidance of doubt, the Customer shall be obliged to pay such fees, costs, charges, expenses and amounts incurred in connection with all Customer Instructions received by the Bank prior to the termination of the Customer's use of the PCS but effected by the Bank on or after such date of termination in accordance with these Terms.
- 8.3 The Customer undertakes to return to the Bank all PCS Batch Tool Software or such other software or equipment supplied by the Bank in connection with the PCS, to destroy any copies thereof in the Customer's possession, and to permanently erase all copies of the PCS Batch Tool Software or such other software supplied by the Bank in the Customer's computer system in connection with the PCS, immediately upon termination of the Customer's use of the PCS.

9. FORCE MAJEURE

- 9.1 In the event that the Bank is rendered wholly or partly unable to observe or perform its obligations under these Terms by reason of causes beyond its control including (but not limited to) equipment, system or transmission link malfunction, failure or sabotage, fire, flood, explosion, acts of elements, acts of God, accidents, epidemics, strikes, lockouts, power blackouts or failure, labour disputes, acts, demands or requirements of any Government or regulator of competent jurisdiction, or by any other causes which it cannot reasonably be expected to avoid, the performance of the obligations of the Bank as they are affected by such causes shall be excused for the continuance of such causes, and the Bank shall not be liable for any delay, loss, damage or inconvenience whatsoever caused by or arising from or in connection with any one or more of the above-mentioned causes.

9.2 The Bank shall not be liable to the Customer for any delay or non-transmission of any Customer Instruction or any loss or damage arising therefrom attributable to reasons beyond the Bank's control, including but not limited to any mechanical, software, computer, telecommunications or electronic failure.

10. DISCLOSURE OF INFORMATION

10.1 Without prejudice to the Bank's rights under Clauses 20 (*Use of Information and Confidentiality*) and 22 (*Corporate Account Customer's Representations Relating to Personal Data Provided to BOC*) of the General Terms and Conditions Governing Accounts, the Customer agrees and consents to the Bank disclosing any information (including personal data) relating to the Customer or its Account(s) to any party for the purposes of or in connection with the provision of the PCS, including but not limited to the following:-

- a) the Bank's head office, other branches or sub-branches, representative offices, subsidiaries, related corporations, associated companies or affiliates whether in Singapore or elsewhere, or any other person for such purposes as the Bank may consider appropriate, necessary or desirable in connection with the provision of the PCS, including but not limited to the purposes of upgrading or maintenance of the PCS, maintenance of the PCS Batch Tool Software, printing of any documents in connection with the PCS or for effecting or executing any Customer Instructions thereunder;
- b) any person or organisation providing any services in connection with the PCS to the Bank's customers, whether within or outside Singapore, including but not limited to investigating any discrepancies, errors or claims thereunder;
- c) the police, regulators of competent jurisdiction or any public officer conducting investigations in connection with any offence or alleged offence;
- d) credit card companies in connection with credit card enquiries;
- e) banks, financial institutions or credit reference agents for the purpose of assessing the Customer's creditworthiness; and
- f) any person (whether or not related to the Bank) for purposes of that person or entity marketing any product or service to the Customer, whether by electronic means or otherwise.

10.2 The Customer agrees that "BOC's Personal Data Protection Policy" and the "Data Protection Notice" (as may be amended, supplemented and/or substituted from time to time) which are accessible at <http://www.bankofchina.com/sg/bocinfo/bi5/>, are incorporated by reference into and form part of these Terms and shall apply to all personal data provided by the Customer to the Bank or which arises from the Customer's relationship with the Bank.

11. INDEMNITY BY CUSTOMER

11.1 The Customer shall indemnify the Bank from and against all or any loss, damage, expense, liability, claim or cost (including legal costs on a full indemnity basis) that the Bank may sustain or incur directly or indirectly as a result of or in connection the provision of the PCS or the execution, performance or enforcement of these Terms, including but not limited to:

- a) the transmission of any Customer Instruction or other instruction of the Customer in relation to the PCS;
- b) any change in any law, regulation or official directive which may have a material adverse effect on the Bank;
or
- c) any breach by the Customer of any of its obligations under these Terms.

12. EXCLUSION OF LIABILITY

12.1 Without prejudice to Clause 18 (*Exclusion of Liability*) of the General Terms and Conditions Governing Accounts and Clause 10 (*BOC's Liability*) of the Terms and Conditions Governing Electronic Banking Services, to the maximum extent permitted under applicable law, the Bank disclaims all liability for all or any losses, damages, costs or expenses arising from or in connection with the use of the PCS, including but not limited to the following:

- a) any loss or damage caused by any equipment, software, transmission channel or internet browser used to access the PCS;
- b) the installation, maintenance or operation of the PCS Batch Tool Software;
- c) any computer or system virus interferences, "Trojan horses" or other harmful components that may interfere with the PCS, the PCS Batch Tool Software or the Bank's or the Customer's computer system;
- d) any breakdown or malfunction of any software or equipment used in connection with the PCS, whether belonging to the Bank or not, including but not limited to any electronic terminal, telecommunication device or any part of the electronic funds transfer system;
- e) any loss, theft or use (whether actual, purported, authorised or unauthorised) of the PCS Batch Tool Software or the PCS;
- f) any destruction or alteration or error in transmission of Customer Instructions or any other instructions, data or information transmitted by the Customer or by the Bank through the PCS;
- g) any failure by the Customer to follow the latest instructions, procedures and directions for using the PCS;
- h) any delay in delivery or non-delivery of any documents or materials in relation to the PCS or pursuant to these Terms; or
- i) any direct, indirect or consequential loss or damage (whether foreseeable by the Bank or not) arising out of or related to the use of the PCS.

13. COMMUNICATION

13.1 All notices and communications to the Customer may be sent by post, personal delivery, cable, facsimile transmission, electronic mail or such other manner as the Bank may in its discretion deem fit, to the Customer's last known address, telex or cable or facsimile number or electronic mail address in the Bank's records.

13.2 All notices and communications sent by the Bank to the Customer shall be conclusively deemed to have been received by the Customer (i) on the day following such posting if sent by post, notwithstanding that the same be returned unclaimed; (ii) upon delivery if delivered personally; and (iii) at the time and day of despatch by the Bank if sent by telex, cable, facsimile transmission or electronic mail, despite any evidence of non-delivery, and to be effective service for the purpose for which such notice, communication and/or other instrument was sent. A written statement by an officer of the Bank confirming the despatch of any notice or communication from the Bank shall be binding and conclusive evidence of this fact as against the Customer.

14. AMENDMENTS

14.1 The Bank reserves the right from time to time and without notice to amend, modify or supplement any of these Terms as the Bank may in its discretion deem fit. The Customer's use or continued use of the PCS after such amendment, modification or supplement shall be deemed to be acceptance of such amendment, modification or supplement.

14.2 Notice of any amendment, modification or supplement to these Terms shall be deemed to have been given to the Customer by displaying a notice thereof on the Bank's premises, an advertising notice thereof in Singapore's main daily English and Chinese newspapers or via radio or television broadcasts or any other media chosen by the Bank, by posting a notice thereof by ordinary mail to the last known address of the Customer in the Bank's records, or by transmitting a notice thereof by electronic mail service to the last known email address of the Customer in the Bank's records.

14.3 The Customer shall be bound by any such amendment, modification or supplement to these Terms from the date determined by the Bank or in the event that no date is specified, from the date of such display, publication, advertisement, broadcast, posting and/or transmission in accordance with this Clause 14.

15. INVALIDITY OF ANY PROVISION

15.1 If any of the provisions of these Terms or any part thereof is deemed invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected.

16. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT

16.1 Unless expressly provided to the contrary in these Terms, a person who is not a party to these Terms shall have no rights under the Contracts (Rights of Third Parties) Act (Chapter 53B) of Singapore to enforce any provision of these Terms. Notwithstanding any term herein, the consent of any third party is not required for any subsequent amendment, modification or supplement to these Terms.

17. GOVERNING LAW AND PROCEEDINGS

17.1 These Terms shall be governed by the laws of the Republic of Singapore, and the Customer irrevocably submits to the non-exclusive jurisdiction of the courts of Singapore.