

HSBC Bank Malaysia Berhad (“HSBC”) Specific Terms & Conditions for Commercial Banking

(November 2019 Edition)

EFFECTIVE DATE:

- ▶ 27 November 2019 for all new and existing customers of HSBC

These Specific Terms & Conditions are applicable to Commercial Banking accounts and services (other than Corporate Cards) opened with or provided by HSBC and should be read together with the Generic Terms & Conditions. Please take the time to read them as they are binding on you. Please take the time to read them as they are binding on you.

These Specific Terms & Conditions are available on request and on HSBC’s website at www.hsbc.com.my (these Specific Terms & Conditions are uploaded on 27 November 2019).

Please contact your nearest HSBC branch if you require any clarification.

Thank you for banking with HSBC.

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

Specific Terms & Conditions For Commercial Banking

(November 2019 Edition)

ACCOUNTS

1. Business Vantage/Current Account

- a. Credit balances do not earn any interest.
- b. The Customer confirms that it has not been reported by any bank to the credit bureau set up by Bank Negara Malaysia, and acknowledges that the Bank has the right to close the account if the Customer is so reported.
- c. The Customer agrees to check that:
 - it has received the correct number of cheque books;
 - each cheque book has the correct number of cheque leaves;
 - account details printed are correct; and
 - to read and carry out all the instructions printed on the inside front cover of the cheque book; and if the Customer fails to do any of it, the Bank shall not be liable for any loss suffered by the Customer.
- d. The Customer agrees that it has the following responsibilities:
 - to keep the cheque book secure and under its sole control at all times, failing which the Bank shall not be liable for any loss suffered by the Customer; and
 - not to write cheques in a way which may allow the cheque to be tampered with or facilitates fraud, and to take precautionary measures such as:-
 - using only non-erasable ink (not erasable ballpoint pens, pencils, electronic typewriter or any other instruments);
 - not leaving signed or unsigned cheques unattended;
 - not pre-signing cheques in blank; and
 - destroying completely spoilt cheques.
- e. The Customer agrees not to:
 - write any notations on the face of a cheque, and if any are written, the Bank has the right to ignore the notations without being liable to the Customer;
 - make any changes on a cheque, and the Bank has the right to dishonour and return a cheque which the Bank views as having any changes, even if countersigned by the authorised signatories; and
 - not to issue cheques when there are insufficient funds in the account otherwise penalty charges for returned cheques due to insufficient funds will be charged and debited to the account.
- f. The Customer acknowledges that a stop payment instruction may only be carried out if the cheque has not been presented for payment, and once carried out, cannot be reversed and:
 - the words "stop payment" will be stamped on the cheque;
 - re-presentation of the cheque is not allowed; and
 - handling fees and penalty charges (if the account has insufficient funds for the cheque) will be charged and debited to the account.
- g. Protected by Perbadanan Insurans Deposit Malaysia (PIDM) up to RM250,000 for each depositor.

2. Term Deposit Account

- a. Deposits will earn simple interest, unless otherwise stated in writing by the Bank.
- b. Interest at half the contracted rate will be paid on deposits which are withdrawn before maturity date provided it has been placed for more than 3 months. No interest is payable on deposits which are withdrawn before maturity date and placed for 3 months or less. Any payment of interest shall be on the maturity date, or at periodic intervals at the Bank's discretion.
- c. All deposits plus interest earned shall be automatically renewed for the same period on maturity date, unless written instructions from the Customer is received by the Bank beforehand. The Customer has the right to give and/or to amend any instructions up to the maturity date.
- d. If the maturity date falls on a non-banking day, it will be automatically adjusted to the next banking day.
- e. Placement of funds by cheque is subject to clearance of the cheque.
- f. Protected by Perbadanan Insurans Deposit Malaysia (PIDM) up to RM250,000 for each depositor.

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FOREIGN CURRENCY ACCOUNTS

The Customer should first open or have a Ringgit account.

3. FOREIGN CURRENCY CURRENT ACCOUNT

- a. A minimum initial deposit as determined by the Bank is required. Account credit balances do not earn any interest, no cheque book will be issued and no overdrawing is allowed. Cash deposit/withdrawal is not allowed.
- b. For withdrawals/deposits at the counter, the Customer must check the debit/credit transaction advice to ensure that the correct entry has been made, and if the Customer fails to do so, the Bank shall not be liable for any loss suffered by the Customer.
- c. All cheques and other monetary instruments accepted for deposit are credited subject to payment. The Bank reserves the right to debit the account with the same amount credited earlier if the relevant cheque or monetary instrument is subsequently returned unpaid.
- d. The Customer acknowledges that foreign currency deposits in currency other than USD, GBP, HKD, SGD and EUR will receive value 2 banking days after the date of deposit.
- e. The Customer acknowledges that the amount deposited cannot be assigned, transferred or charged either by endorsement or otherwise except with the prior written consent of the Bank.
- f. The Customer agrees that the operation of the account is subject to the prevailing exchange control regulations, and that if the amount deposited exceeds any limit prescribed by the exchange control regulations:
 - the Bank may debit the account, convert the excess into Ringgit at the Bank's prevailing spot buying rate and credit the Customer's Ringgit account with the Bank; or
 - if the Customer does not have a Ringgit account with the Bank, the Bank shall pay, retain and/or process the excess in such manner as the Bank sees fit.
- g. Protected by Perbadanan Insurans Deposit Malaysia (PIDM) up to RM250,000 for each depositor.

4. Foreign Currency Time Deposit Account

- a. A minimum initial deposit as determined by the Bank is required. Cash deposit/withdrawal is not allowed.
- b. Deposits will earn simple interest payable at maturity.
- c. Deposits may not be withdrawn before maturity date but if exceptionally allowed, no interest is payable on the deposits and the Customer shall compensate the Bank for the total replacement costs, penalty charge and any loss calculated at prevailing market interest rates.
- d. The Customer acknowledges that foreign currency deposits in currency other than USD, GBP, HKD, SGD and EUR:
 - will receive value 2 banking days after the date of deposit; and
 - written disposal instructions must be received by the Bank 2 banking days before maturity date, otherwise the deposit (plus any interest earned/less interim interest) will be automatically renewed for the same period on maturity date.
- e. The Customer acknowledges that the amount deposited cannot be assigned, transferred or charged either by endorsement or otherwise except with the prior written consent of the Bank.
- f. Protected by Perbadanan Insurans Deposit Malaysia (PIDM) up to RM250,000 for each depositor.

5. Foreign Currency Call Deposit Account

- a. A minimum initial deposit as determined by the Bank is required. Cash deposit/withdrawal is not allowed.
- b. Unless otherwise agreed with the Bank in writing, deposits will earn simple interest calculated on a daily basis and payable upon withdrawal subject to any regulatory requirements.
- c. All cheques and other monetary instruments accepted for deposit are credited subject to payment. The Bank reserves the right to debit the account with the same amount credited earlier if the relevant cheque or monetary instrument is subsequently returned unpaid.
- d. The Customer acknowledges that foreign currency deposits in currency other than USD, GBP, HKD, SGD and EUR:
 - will receive value 2 banking days after the date of deposit;
 - written disposal instructions must be received by the Bank 2 banking days before the required withdrawal date; and
 - written disposal instructions must be received by the Bank 2 banking days before maturity date, otherwise the deposit (excluding interest earned) will be automatically renewed for the same period on maturity date.
- e. The Customer acknowledges that the amount deposited cannot be assigned, transferred or charged either by endorsement or otherwise except with the prior written consent of the Bank.
- f. The Customer agrees that the operation of the account is subject to the prevailing exchange control regulations, and that if the amount deposited exceeds any limit prescribed by the exchange control regulations:
 - the Bank may debit the account, convert the excess into Ringgit at the Bank's prevailing spot buying rate and credit the Customer's Ringgit account with the Bank; or
 - if the Customer does not have a Ringgit account with the Bank, the Bank shall pay, retain and/or process the excess in such manner as the Bank sees fit.
 - the Bank's ATM Centre (outside office hours) by telephone, followed promptly by a written confirmation.
- g. Protected by Perbadanan Insurans Deposit Malaysia (PIDM) up to RM250,000 for each depositor.

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SERVICES

6. Business ATM Card (BAC)

a. Definitions

- (i) **"ATM"** means the Bank's automated teller machine and any other automated teller machine operated or owned by other financial institutions which accepts BAC.
- (ii) **"ATM Account"** means the account (other than the Primary Account) specified by the Customer for cash withdrawals using BAC. The ATM Account is to be funded from the Primary Account through Customer's standing instruction. For security reasons, cheque deposits to the ATM Account are not allowed and will be re-deposited to the Primary Account.
- (iii) **"Authorised Delegate(s)"** means any person(s) nominated and authorised by the Customer to receive and use a BAC.
- (iv) **"BAC"** (or **"Business ATM Card"**) means a card issued by the Bank for the purpose of withdrawing cash from the ATMs and includes any replacement card.
- (v) **"PIN"** means the personal identification number issued by the Bank to an Authorised Delegate for a BAC and includes any replacement number.
- (vi) **"Primary Account"** means the Customer's main operating account with the Bank, and if so desired by the Customer, can also be the account for cash withdrawals using BAC.
- (vii) **"Unauthorised Person"** means any person other than the relevant Authorised Delegate.

b. All Authorised Delegates are agents of the Customer when using BAC, and the Customer will ensure that each Authorised Delegate is aware of and complies with these BAC Terms & Conditions.

c. The Customer shall be liable for all transactions carried out through BAC, whether or not carried out by the Customer or the Authorised Delegates.

d. The Customer agrees :

- (i) that BAC and/or PIN may be sent to the Customer by courier or registered post (not AR registered) at the Customer's risk and the Bank shall not be liable for any loss suffered by the Customer if it is not in fact received by the Customer;
- (ii) that BAC and/or PIN may be collected by a person authorised by the Customer, and delivery by the Bank to a person identifying himself as the relevant Authorised Delegate or person authorised to collect the BAC and/or PIN shall be taken as delivery to the Customer and a good discharge to the Bank;
- (iii) that BACs are not transferable and shall only be used by the relevant Authorised Delegate;
- (iv) to give the Bank such documents and information on the Authorised Delegates, Primary Account, ATM Account and BACs when requested by the Bank; and
- (v) to give full co-operation to the Bank if there is any investigation or legal proceedings relating to BAC or its use.

e. The maximum number of BACs per customer is 4. Any BAC that has not been used in a span of 1 year will become invalid, without affecting the rest that are being used. The Customer will have to apply for a replacement BAC and replacement charges will be debited to the account for which the replacement BAC is issued.

f. If a BAC is lost, stolen or used by an Unauthorised Person or a PIN is disclosed to an Unauthorised Person, the Customer shall immediately notify:

- the Manager of the Bank's branch of account for the Primary or ATM Account (during office hours); or
- the Bank's ATM Centre (outside office hours); by telephone, followed promptly by a written confirmation.

The Bank is not obliged to check that the person making the telephone notification is in fact an authorised representative of the Customer. A telephone notification once given, cannot be withdrawn and the Bank's record of the time of the telephone notification shall be conclusive evidence.

Upon receiving the telephone notification, the Bank will cancel the relevant BAC without waiting for written confirmation. The Customer remains liable for unauthorised transactions carried out before cancellation of the BAC by the Bank.

g. In situations other than paragraph (f) above, the Customer must notify the Bank in writing if it requires the Bank to cancel a BAC.

h. The Bank may at any time with notice to the Customer:

- withdraw, suspend or cancel any BAC; and/or
- change the daily withdrawal limit for BAC; and shall not be liable for any loss suffered by the Customer.

i. If a BAC is used after it has been withdrawn, suspended or cancelled, it will be automatically withheld by the ATM and not returned to the Customer.

j. All new and/or replacement BACs requested by the Customer shall be issued at the Bank's discretion. The Bank may charge and debit the issuance or replacement charges to the Primary or ATM Account or any other account with the Bank.

k. The Customer acknowledges that any advice slip issued by the ATM on withdrawal using BAC represents what is purportedly withdrawn and cannot be taken as a conclusive statement of the account balance.

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6. Business ATM Card (BAC) (continued)

- l. If any of the following take place, the Bank has the right to immediately terminate all BAC(s) and the Customer must return all BAC(s) to the Bank:
 - (i) any petition is presented or order is made by a court or resolution is passed for bankruptcy, winding-up or dissolution or appointment of liquidator, receiver manager, trustee or similar official of the Customer; or
 - (ii) any distress or execution is enforced on any of the Customer's assets; or
 - (iii) the Primary or ATM Account is closed.
- m. Any notice or communication given by the Customer to the Bank relating to BAC must be confirmed in writing and delivered or sent by prepaid post to the Bank's branch of account for the Primary or ATM Account and in situations other than paragraph (f) above, shall take effect only on the Bank's receipt of the written confirmation.
- n. The use of BACs is subject to the Generic Terms & Conditions and the applicable Specific Terms & Conditions. If there is any inconsistency among the applicable Specific Terms & Conditions, they shall prevail in the following order:
 - (i) these BAC Terms & Conditions; and
 - (ii) the applicable Specific Terms & Conditions for the Primary or ATM Account.

7. Business SMS Alert (BSA)

- a. Definitions
 - (i) **"BSA"** (or **"Business SMS Alert"**) means the service of providing Information to the Customer through SMS.
 - (ii) **"Information"** means information and data made available to the Customer through BSA, supplied either by the Bank or an Information Provider, including but not limited to account information and Paid Information.
 - (iii) **"Information Provider"** means a third party provider of the Information including the party from whom it obtains any information.
 - (iv) **"Nominated User"** means any person nominated and authorised by the Customer to use BSA.
 - (v) **"Paid Information"** means the Bank's directory of branch locations, commercial banking telephone hotlines, Bursa Malaysia stock prices and such other information as may be included from time to time.
 - (vi) **"SMS"** means short messaging service using mobile phone.
- b. A Nominated User is an agent of the Customer when using BSA, and the Customer will ensure that the Nominated User is aware of and complies with these BSA Terms & Conditions.
- c. Subject to paragraph (j) below, the SMS notification will be broadcast as follows:
 - on the same day, for transactions carried out during normal banking hours;
 - on the next banking day, for transactions carried out after normal banking hours;
 - on the next available banking day, for transactions carried out after normal banking hours, where the next day is/are non-banking day(s).A **"banking day"** and **"normal banking hours"** are with reference to the Bank's main branch at No. 2, Leboh Ampang, 50100 Kuala Lumpur, Malaysia.
- d. SMS notification will only be sent for the types of transactions stated in the BSA application form (cash transactions are specifically excluded).
- e. The Customer may request to receive Paid Information through BSA, subject to the Bank's charges including charges by the mobile network operator.
- f. Due to the nature of BSA and circumstances beyond the Bank's control, the Bank is unable to guarantee that the SMS notification and/or Information provided through BSA (particularly Bursa Malaysia stock prices from an Information Provider) is accurate. The Bank shall not be liable for any loss suffered by the Customer due to the use of BSA or reliance on the SMS notification and/or Information.
- g. Information provided through BSA shall not be taken as an offer or invitation by the Bank to buy or sell any goods, services or securities nor an offer of investment, legal, accounting, tax or financial advice.
- h. The Customer can terminate the use of BSA by giving the Bank 30 days prior written notice.
- i. The Customer and the Nominated User shall comply with these BSA Terms & Conditions and the Bank's instructions and/or procedures for the use of BSA, and if they fail to do so, the Bank shall:
 - (i) not be liable for any loss suffered by the Customer or the Nominated User; and
 - (ii) have the right to suspend or terminate the use of BSA.
- j. The Customer acknowledges that the Nominated User may receive a significant number of SMS messages transmitted at any time, and agrees not to bring any action against the Bank for nuisance relating to the receipt of the SMS messages.
- k. The Bank shall not be liable for any loss suffered by the Customer in connection with BSA due to:
 - breakdown or malfunction of computer, terminal connection lines, data processing system or transmission lines; or
 - any circumstances beyond the Bank's control; or
 - any other reasons (save and except for any gross negligence or wilful misconduct on the part of the Bank, in which case the Bank's liability is limited to actual and direct losses suffered, excluding any incidental, special, consequential or exemplary damages or any loss of use, revenue, profits or savings, business disruption, loss of data, lost goodwill).

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7. Business SMS Alert (BSA) (continued)

- l. The Customer agrees to indemnify the Bank against all actions, claims, demands, liabilities, losses, damages, costs and expenses of whatever nature which the Bank may sustain, suffer or incur as a result of the BSA and/or acting on any instruction or authorisation received through BSA which purportedly came from the Customer or the Nominated User. This indemnity shall continue in spite of the termination of BSA and/or closure of account.
- m. The Customer agrees to give such information as the Bank may reasonably require from time to time for the purpose of BSA.
- n. The Customer agrees to immediately notify the Bank in writing to terminate the Nominated User's access to BSA when:
 - the Customer suspects any impropriety on the part of the Nominated User; or
 - the Nominated User ceases to be the Customer's agent.
- o. The Customer acknowledges that the Bank is not obliged to verify the identity of the person receiving the SMS notification and/or Information other than to ensure that it is sent to the correct mobile phone number (stated in the BSA application form or as updated by the Customer from time to time).
- p. Each account with BSA is subject to a monthly service charge as stated for the time being in the Bank's Tariff and Charges on the Bank's website at www.hsbc.com.my. The Customer authorises the Bank to debit any account of the Customer with the monthly service charge.
- q. The Bank reserves the right to introduce new features for BSA subject to supplementary terms to be notified to the Customer.
- r. The Bank reserves the right to appoint agent(s) to provide all or any part of BSA, and references in these BSA Terms & Conditions to **"the Bank"** covers such agent(s) including in limitation of liability clauses.
- s. In addition to what is stated in the Generic Terms & Conditions under the "Notices" clause, notices to the Customer under these BSA Terms & Conditions may be given by the Bank electronically or through BSA, and shall be taken to have been received immediately after transmission to the facsimile number, telex number, email address or mobile phone number last notified in writing by the Customer to the Bank.
- t. The Bank and the Customer agree to comply with all applicable data protection and other similar purpose laws in all relevant jurisdictions. The Customer acknowledges that it is the Customer's responsibility to get an appropriate written consent from employees and other persons before their personal and/or other data is transmitted, processed or handled through BSA. The Customer agrees to give the Bank copies of such consents when requested. The Customer agrees to indemnify the HSBC Group against all costs, penalties, damages and other losses incurred as the result of any breach of by the Customer of this requirement. This indemnity shall continue in spite of any termination of BSA and/or closure of account.
- u. The use of BSA is subject to the Generic Terms & Conditions and the applicable Specific Terms & Conditions. If there is any inconsistency among the applicable Specific Terms & Conditions, they shall prevail in the following order:
 - (i) these BSA Terms & Conditions; and
 - (ii) the applicable Specific Terms & Conditions for the account.

8. Business Cheque Report (BCR)

- a. Definitions
 - (i) **"BCR"** (or **"Business Cheque Report"**) means the service of providing BCR Information to the Customer through Encrypted E-mail sent to the Nominated User(s).
 - (ii) **"BCR Information"** means data relating to cheques payable to the Customer which are deposited for collection through QSM, and are cleared and paid into the Customer's account with the Bank.
 - (iii) **"Encrypted E-mail"** means encrypted electronic mail sent and/or received through a specific internet website hosted on a HSBC group entity's servers located either within or outside of Malaysia.
 - (iv) **"Nominated User"** means any person(s) nominated and authorised by the Customer to receive BCR Information through BCR.
 - (v) **"Password"** means the password used by the Nominated User for access to the Encrypted Email.
 - (vi) **"QSM"** means the Bank's automated cheque deposit machine.
 - (vii) **"Unauthorised Person"** means any person other than the Nominated User.
- b. All Nominated Users are agents of the Customer when using BCR and the Customer will ensure that each Nominated User is aware of and complies with these BCR Terms & Conditions.
- c. The BCR Information will be sent through BCR to the Nominated User on the next banking day after clearing and payment into the Customer's account with the Bank. A "banking day" is with reference to the Bank's main branch at No. 2, Leboh Ampang, 50100 Kuala Lumpur, Malaysia. All time and date references stated in the Encrypted E-mail are to Malaysian time and date unless otherwise specified by the Bank.
- d. The Customer and each Nominated User agree to the use of the Encrypted E-mail and consent to the servers being located outside of Malaysia.
- e. The Customer agrees to ensure that the Nominated User's access to BCR shall be through a computer with up-to-date anti-virus and anti-spyware software, and that the Nominated User keeps the Password secure at all times and takes precautionary measures diligently to prevent access by any Unauthorised Person.

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8. Business Cheque Report (BCR) (continued)

- f. The Customer can terminate the use of BCR by giving the Bank 30 days prior written notice.
- g. The Customer and the Nominated User shall comply with these BCR Terms and Conditions and the Bank's instructions and/or procedures for the use of BCR, and if they fail to do so, the Bank shall:
 - (i) not be liable for any loss suffered by the Customer or the Nominated User; and
 - (ii) have the right to suspend or terminate the use of BCR.
- h. The Customer acknowledges that BCR is accessed through the internet which is a public system over which the Bank has no control, and that no warranty is given by the Bank or any entity within HSBC group that BCR is free from computer viruses which may adversely affect the hardware or software used by the Customer and/or the Nominated User.
- i. The Bank shall not be liable for any loss suffered by the Customer and/or the Nominated User in connection with BCR, including but not limited to:
 - (i) incorrect BCR Information;
 - (ii) loss of or damage to data, software, hardware, computer networks, telecommunications or other equipment;
 - (iii) unavailability, delay or interruption of BCR caused by any circumstances beyond the Bank's control, such as power failure, breakdown or malfunction of equipment, facilities, computer systems, data processing systems, telecommunications or data communications network, terminal connection lines or transmission lines; or
 - (iv) any other reasons (save and except for any gross negligence or wilful misconduct on the part of the Bank, in which case the Bank's liability is limited to actual and direct losses suffered, excluding any incidental, special, consequential or exemplary damages or any loss of use, revenue, profits or savings, business disruption, loss of data, lost goodwill).
- j. The Customer agrees to indemnify the Bank against all actions, claims, demands, liabilities, losses, damages, costs and expenses of whatever nature which the Bank may sustain, suffer or incur as a result of the Customer's usage of the BCR. This indemnity shall continue in spite of the termination of BCR and/or closure of account.
- k. The Customer agrees to give such information as the Bank may reasonably require from time to time for the purpose of BCR.
- l. The Customer agrees to immediately notify the Bank in writing to terminate the Nominated User's access to BCR when:
 - (i) the Customer suspects any impropriety on the part of the Nominated User; or
 - (ii) the Nominated User ceases as the Customer's agent.
- m. The Customer acknowledges that the Bank is not obliged to verify the identity of the person receiving the BCR Information through BCR other than to ensure that it is sent to the correct electronic mail address (stated in the BCR application form or as updated by the Customer from time to time).
- n. Each account with BCR is subject to a monthly service charge as stated for the time being in the Bank's Tariff and Charges on the Bank's website at www.hsbc.com.my and the Customer authorises the Bank to debit any account of the Customer with such monthly service charge.
- o. The Bank reserves the right to introduce new features for BCR subject to supplementary terms to be notified to the Customer.
- p. In addition to what is stated in the Generic Terms & Conditions under the "Notices" clause, notices to the Customer under these BCR Terms & Conditions may be given by the Bank electronically or through BCR, and shall be taken to have been received immediately after transmission to the facsimile number, telex number, email address or mobile phone number last notified in writing by the Customer to the Bank.
- q. The Bank and the Customer agree to comply with all applicable data protection and other similar purpose laws in all relevant jurisdictions. The Customer acknowledges that it is the Customer's responsibility to get an appropriate written consent from employees and other persons before their personal and/or other data is transmitted, processed or handled through BCR. The Customer agrees to give the Bank copies of such consents when requested.

The Customer agrees to indemnify the HSBC Group against all cost, penalties, damages and other losses incurred as the result of any breach of by the Customer of this requirement. This indemnity shall continue in spite of any termination of BCR and/or closure of account.
- r. The use of BCR is subject to the Generic Terms & Conditions and the applicable Specific Terms & Conditions. If there is any inconsistency among the applicable Specific Terms & Conditions, they shall prevail in the following order:
 - (i) these BCR Terms and Conditions; and
 - (ii) the applicable Specific Terms and Conditions for the account.

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9. Business Telephone Banking (BTB)

a. Definitions

- (i) **“Authorised Delegate”** means any person nominated and authorised by the Customer to use BTB.
- (ii) **“BTB”** (or **“Business Telephone Banking”**) means the channel of communication with the Bank using push button tone telephone to give instructions for banking transactions and to receive information from the Bank.
- (iii) **“PBN”** (or **“Personal Banking Number”**) means the unique identifier issued to each Authorised Delegate for BTB.
- (iv) **“PIN”** (or **“Personal Identification Number”**) means a sequence of numbers issued to or adopted by any Authorised Delegate for using BTB.
- (v) **“Unauthorised Person”** means any person other than the relevant Authorised Delegate.

b. BTB

- (i) The Bank has the right to end or change from time to time, any part of BTB including but not limited to:
 - expanding or reducing BTB;
 - imposing or changing any restrictions on the use of BTB such as minimum and maximum daily limits for any banking transactions through BTB; and
 - setting or changing the service hours for BTB and any applicable daily cut-off time. Instructions received by the Bank after the relevant daily cut-off time may be processed by the next banking day.
- (ii) The Customer agrees to comply with these BTB Terms & Conditions, and to ensure that BTB is used with care and good faith. An Authorised Delegate is an agent of the Customer when using BTB, and the Customer will ensure that the Authorised Delegate is aware of and complies with these BTB Terms & Conditions.
- (iii) If the Bank is of the view that the Customer or the Authorised Delegates have breached the BTB Terms & Conditions, the Bank shall:
 - not be liable for any loss suffered by the Customer or the Authorised Delegate; and
 - have the right to suspend or terminate the use of BTB.

c. Registration Procedure, PBN and PIN

- (i) Each Authorised Delegate will be given a PBN and PIN.
- (ii) The PBN and PIN:
 - shall be sent separately, either by post or any other manner decided by the Bank, to the Customer or the Authorised Delegate at the Customer's risk; or
 - may be collected by a person authorised by the Customer or the Authorised Delegate, and delivery by the Bank to a person identifying himself as the relevant Authorised Delegate or person authorised to collect the PBN and/or PIN shall be taken as delivery to the Customer or the Authorised Delegate and a good discharge to the Bank.
- (iii) The Bank shall not be liable for any loss suffered by the Customer or the Authorised Delegate if the PBN and/or PIN is not in fact received.
- (iv) The Customer and each Authorised Delegate shall use care and good faith to keep the PBN and PIN secure at all times, and shall not at any time disclose the PBN and/or PIN to any Unauthorised Person.
- (v) The Customer shall bear the risk of any disclosure of the PBN and/or PIN to any Unauthorised Person and the Bank shall not be liable for any loss suffered by the Customer.
- (vi) If BTB is used by an Unauthorised Person, or the PBN and/or PIN is disclosed to an Unauthorised Person, the Customer shall immediately notify the Bank by telephone (at such telephone number indicated by the Bank for such purpose), followed promptly by a written confirmation.

The Bank is not obliged to check that the person making the telephone notification is in fact an authorised representative of the Customer. A telephone notification once given, cannot be withdrawn and the Bank's record of the time of the telephone notification shall be conclusive evidence.

Upon receiving the telephone notification, the Bank will suspend and/or terminate BTB for the Customer's account(s) and/or cancel the PBN and/or PIN without waiting for written confirmation. The Customer remains liable for unauthorised transactions carried out using BTB before the Bank's actual receipt of such telephone notification.

- (vii) The Customer and/or Authorised Delegate may be given a new PBN and/or PIN at the Bank's discretion.

d. Instructions

- (i) Each Authorised Delegate is required to key-in the PBN and PIN (and/or any other identifiers set by the Bank from time to time) in order to use BTB.
- (ii) The Customer authorises the Bank to treat all instructions received by the Bank through BTB as instructions properly authorised by the Customer, even if they conflict with any existing mandate for the account. Subject to paragraph (d)(i) above, the Bank is not obliged to check the identity or authority of the person giving the instructions.
- (iii) The Bank shall not be liable for any loss or delay suffered by the Customer if the instructions given through BTB are inaccurate, incomplete or ambiguous.

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

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8. Business Telephone Banking (BTB) (continued)

- (iv) Any instructions given through BTB may not be cancelled or changed without the Bank's consent. If the Customer requests the Bank to cancel or change any instruction, the Bank will use reasonable efforts to do so, but the Bank shall not be liable if it is unable to comply with the Customer's request.
- (v) The Customer agrees that all instructions given through BTB shall be carried out subject to the Generic Terms & Conditions, and shall be binding on the Customer once it is carried out by the Bank in good faith.
- (vi) The Bank has the right to debit any of the Customer's accounts with any amount that the Bank has paid or incurred, including service charges and transaction fees, as a result of carrying out an instruction given through BTB.
- (vii) The Bank has the discretion, without being liable, to refuse to carry out or delay carrying out an instruction given through BTB if:
 - it would result in exceeding an applicable limit;
 - the Bank has reason to believe that there is a security breach; or
 - the Bank has terminated BTB for the Customer's account(s) pursuant to paragraph (m) below and the Bank shall inform the Customer of this as soon as practicable.
- (viii) The Customer acknowledges that it may not be possible for a banking transaction to be carried out immediately after the instruction is given through BTB, as some may take time to process or can only be processed during normal banking hours even if BTB can be used outside such hours.

"Normal banking hours" are with reference to the Bank's main branch at No. 2, Leboh Ampang, 50100 Kuala Lumpur, Malaysia.
- (ix) Any exchange rate, indicative profit rate and other information given by the Bank through BTB is for general information only and is not applicable to any specific banking transaction. The rate applicable to a specific banking transaction shall be the rate offered by the Bank and accepted by the Customer for that specific banking transaction.

e. BTB Recordings

- (i) All telephone calls through BTB will be recorded. Such recordings, being the sole property of the Bank, shall be conclusively binding on the Customer and the Bank reserves the right to destroy the recordings after such period of time it sees fit.
- (ii) The Customer agrees not to object to the admission of the recordings as evidence in legal proceedings on the grounds that they are not originals or not in writing.

f. Service Interruption

- (i) The Bank may (but is not obliged to) suspend any service under BTB where the Bank considers it necessary or advisable to do so, including but not limited to, when:
 - the Bank has reason to believe that there is an actual or potential security breach;
 - the Customer does not take care to ensure the security of the use of BTB; or
 - routine, non-routine or emergency maintenance is required.
- (ii) The Bank will use reasonable efforts to inform the Customer if any service under BTB is not available. If the Bank has specifically charged for a particular service which is not available (not referring to the periodic fee charged for BTB as a whole), the Bank will refund the specific charges to the Customer and after doing so, the Bank will not have any further liability to the Customer.

g. Customer's Information

The Customer agrees to give such information as the Bank may reasonably require from time to time for the purpose of BTB.

h. Customer's Security Duties

- (i) The Customer agrees that it is the Customer's responsibility to regularly review security controls for:
 - PBN and/or PIN; and
 - use of BTB.
- (ii) The Customer agrees to ensure that each Authorised Delegate complies with:
 - the security procedures in these BTB Terms & Conditions; and
 - the Bank's instructions or recommendations on telephone banking security.
- (iii) The Customer agrees to ensure that each Authorised Delegate keeps their PBN and PIN secure at all times and takes precautionary measures to prevent use by any Unauthorised Person such as, but not limited to:
 - never making a record of their PBN and PIN in a way that might be understood by someone else;
 - not disclosing their PBN and PIN to anyone (including the Bank's staff);
 - destroying any advice from the Bank on their PBN and PIN promptly after receipt;
 - avoid using PINs which may be easy to guess such as dates of birth, telephone numbers, etc;
 - informing the Bank immediately if they know or suspect that someone else knows their PBN and PIN;
 - using BTB in a secure manner such that no one is overlooking their shoulder, they are not within range of closed circuit TV and no one can identify the keys they are pressing on the telephone;
 - changing their PIN regularly and not alternating between PINs which have been used before; and
 - keeping their PBN and PIN in a safe place at all times.

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

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8. Business Telephone Banking (BTB) (continued)

- (iv) The Customer and/or its Authorised Delegate must immediately notify the Bank and change their PINs to ones which have not been used before if:
- there is actual or suspected use of BTB by an Unauthorised Person; or
 - an Unauthorised Person knows the PBN and/or PIN.

The Customer remains liable for unauthorised instructions carried out before the Bank's suspension of BTB for the Customer's account(s) following the notification.

- (v) The Customer agrees to immediately notify the Bank in writing to terminate the Authorised Delegate's access to BTB when:
- the Customer suspects any impropriety on the part of the Authorised Delegate; or
 - the Authorised Delegate ceases to be the Customer's agent.

i. Customer's Liabilities

- (i) The Customer shall be liable for all consequences resulting from the use of BTB and/or information obtained through BTB.
- (ii) The Customer shall be liable for all losses from unauthorised banking transactions if there is negligence or fraud on the Customer's and/or the Authorised Delegate's part, and negligence includes not complying with the security duties stated in these BTB Terms & Conditions.
- (iii) The Customer agrees to indemnify:
- the Bank;
 - any member of the HSBC Group; and
 - their respective officers and employees;
 - (collectively, "**Indemnified Persons**") against all liabilities, claims, demand, losses, damages, costs, charges and expenses of any kind (including legal fees on a full indemnity basis) which may be incurred, suffered or sustained as a result of:
 - the Customer's usage of the BTB;
 - acting on any instructions received through BTB which purportedly came from the Customer or the Authorised Delegate; and/or
 - the exercise of the Bank's rights under these BTB Terms & Conditions but excluding any direct and reasonably foreseeable loss caused solely by the gross negligence or wilful termination of BTB and/or closure of account.
- (iv) The Customer agrees to fully co-operate with the Bank in fraud investigations. Any failure to do so including withholding information shall be taken as a breach of these BTB Terms & Conditions, and the Bank shall not be liable for any loss suffered by the Customer.

j. Bank's Liabilities

- (i) The Bank will take reasonable care to ensure that any information given through BTB correctly reflects the information in the Bank's computer systems.
- (ii) Neither the Bank, any member of the HSBC Group, nor their respective officers and employees (collectively, "**Relevant Persons**") shall be liable for any loss suffered by the Customer due to any of the following, except for any direct and reasonably foreseeable loss (up to the amount of the relevant banking transaction) caused solely by the gross negligence or relevant Persons:
- use of BTB and/or information obtained through BTB by the Customer or any other person (whether or not authorised);
 - disclosure of PBN and/or PIN or any advices on PBN and/or PIN to any Unauthorised Person;
 - breach of these BTB Terms & Conditions or failure to use BTB with care;
 - the Bank acting on any instructions (whether or not authorised) or the Bank misinterpreting any instructions provided that the Bank acted in good faith;
 - any unavailability of BTB, any delay or interruption in transmission of instructions or information caused by circumstances beyond the Bank's control including but not limited to:
 - failure of any telecommunications or data communications network;
 - mechanical or power failure;
 - breakdown or malfunction of equipment, facilities or computer systems;
 - strikes, industrial action or trade disputes (whether or not involving the Bank's employees);
 - civil unrest or government action;
 - act or omission of any third party;
 - any law, regulations, rules, codes, guidelines, directions or orders (whether or not having the force of law);
 - fraud or dishonest conduct of any third party including but not limited to telephone scams;
 - disclosure of the Customer's information to any third party including but not limited to the Central Credit Bureau;
 - the Customer's information being incorrect or misstated due to whatever reason,
 - including but not limited to:
 - negligence (not gross negligence) or default (not wilful default) by the Bank, any member of the HSBC Group, any third party or their respective officers or employees; or
 - delay or interruption in notifying or updating changes to the Customer's information;
 - reliance by the Customer, the Authorised Delegates or any third party on the Customer's information which is incorrect or misstated.
- (iii) The Bank and members of the HSBC Group shall not be liable at all for any incidental, indirect, special, consequential or exemplary damages including but not limited to any loss of use, revenue, profits or savings suffered by the Customer or any other person.

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

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8. Business Telephone Banking (BTB) (continued)

- (iv) The Bank is not obliged to monitor the Customer's use of BTB for any failure to comply with these BTB Terms & Conditions including the Customer's security duties or to notify the Customer of any such failure.
- (v) Continued provision of BTB when the Customer is in breach of these BTB Terms & Conditions (whether or not the Bank is aware of such breach) is not to be taken as a waiver of the Bank's rights under these BTB Terms & Conditions.
- k. Charges, Supplementary Terms, Suspension/Cancellation of BTB
 - (i) The Customer agrees to pay the charges (if any) for BTB as stated for the time being in the Bank's Tariff and Charges on the Bank's website at www.hsbc.com.my. The Customer authorises the Bank to debit any account of the Customer with the charges. The Customer acknowledges that these charges are in addition to any other applicable charges for carrying out the instructions given through BTB.
 - (ii) The Customer acknowledges that the Customer will incur telephone charges when using BTB.
 - (iii) The Bank reserves the right to introduce new features for BTB subject to supplementary terms to be notified to the Customer.
 - (iv) The Bank may at any time with notice to the Customer, suspend or terminate BTB and the Bank shall not be liable for any loss suffered by the Customer.
- l. Authority and Indemnity
 - (i) The Customer authorises the Bank to act upon written instructions concerning the administration of BTB, when signed or purported to be signed by its relevant authorised signatory(ies). Such written instructions include but not limited to:
 - removing or replacing any Authorised Delegate;
 - resetting any PINs; or
 - taking any action for the continued and orderly operation of BTB.
 - (ii) If the written instructions are sent to the Bank by facsimile transmission, the Customer authorises the Bank to act upon it without further authority or confirmation from the Customer. The Bank shall not be liable for any loss suffered by the Customer or any third party due to the facsimile transmission being unauthorised or fraudulent, and the Customer agrees to indemnify the Bank against any claims or demands arising from it.
 - (iii) In spite of paragraph (l)(ii) above, the Bank has the right not to act on any written instructions received by facsimile transmission. The Bank agrees to use reasonable efforts to inform the Customer if the Bank is not acting on such facsimile instructions.
 - (iv) The Bank shall not be liable for any loss suffered by the Customer as a result of any delays when carrying out the written instructions.
- m. Termination
 - (i) The Bank or the Customer can terminate BTB for the Customer's account(s) by giving at least 2 banking days prior written notice to the other.
 - (ii) The Bank or the Customer can terminate BTB for the Customer's account(s) with immediate effect by written notification to the other, if the other party materially breached these BTB Terms & Conditions or becomes insolvent under applicable laws.
 - (iii) Termination will not affect:
 - the accrued rights and remedies or undischarged obligations and liabilities of either party as at the termination date;
 - any part of these BTB Terms & Conditions which are meant or required to apply even after termination.
- n. Agency and Notices
 - (i) The Bank reserves the right to appoint agent(s) to provide all or any part of BTB, and references in these BTB Terms & Conditions to **"the Bank"** covers such agent(s) including in limitation of liability clauses.
 - (ii) All notices and communications under these BTB Terms & Conditions:
 - from the Bank to the Customer; or
 - from the Customer to the Bank shall follow the form and manner of delivery stated in the Generic Terms & Conditions.
- o. Conflict & Order of Priority

The use of BTB is subject to the Generic Terms & Conditions and the applicable Specific Terms & Conditions. If there is any inconsistency among the applicable Specific Terms & Conditions, they shall prevail in the following order:

 - (i) these BTB Terms & Conditions; and
 - (ii) the applicable Specific Terms & Conditions for the account.

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

Specific Terms & Conditions For Commercial Banking

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9. eStatutory Payments (ESP)

a. Definitions

- (i) **"Bulk Payments"** means multiple payments via a single instruction in respect of statutory contributions or deductions from the salaries or wages of employees or workers of the Customer which are payable to the Statutory Body.
- (ii) **"Collection Account"** means the account(s) of the relevant Statutory Body held with the Bank designated for crediting of the Bulk Payments under the ESP.
- (iii) **"Encrypted E-mail"** means encrypted electronic mail sent and/or received through a specific internet website hosted on a HSBC group entity's servers located either within or outside of Malaysia.
- (iv) **"ESP"** (or **"eStatutory Payments"**) means the service of effecting Customer's instruction received by the Bank through Encrypted E-mail to make or transmit Bulk Payments on behalf of the Customer to the relevant Statutory Body.
- (v) **"Nominated Account"** means the Customer's account held with the Bank specified by the Customer for debiting of the Bulk Payments under the ESP.
- (vi) **"Nominated User(s)"** means any person(s) nominated and authorised by the Customer to send or submit Bulk Payments instruction to the Bank through Encrypted E-mail for the purposes of ESP.
- (vii) **"Password"** means the password used by the Nominated User(s) for access to the Encrypted E-mail.
- (viii) **"Statutory Body"** means the relevant governmental body or authority established or constituted as a body corporate under the relevant statute or legislation.
- (ix) **"Unauthorised Person"** means any person other than the Nominated User(s).

b. All Nominated User(s) are agents of the Customer when using ESP and the Customer will ensure that each Nominated User(s) is aware of and complies with these ESP Terms & Conditions.

c. The Bulk Payments instruction will be sent through ESP by the Nominated User(s) to the Bank. Provided that the Bulk Payments instruction is received in order and to the satisfaction of the Bank by the daily cut-off time, the Bank will debit the Nominated Account with such sum of monies as set out in the Bulk Payments instruction and credit the same into the Collection Account on the same banking day.

The Customer and each Nominated User(s) must adhere to the applicable cut-off time as may be specified by the Bank from time to time. Any Bulk Payments instruction received later than the applicable cut-off time will only be processed on the next banking day.

A **"banking day"** is with reference to any day other than a Saturday, Sunday, national and state holiday and bank holiday applicable to Kuala Lumpur on which the Bank's main branch at No. 2, Leboh Ampang, 50100 Kuala Lumpur, Malaysia is open for business. All time and date references stated in the Encrypted E-mail are in relation to Malaysian time and date unless otherwise specified by the Bank.

- d. The Customer and each Nominated User(s) agree to the use of the Encrypted E-mail and consent to the servers being located outside of Malaysia.
- e. The Customer agrees to ensure that the Nominated User(s)' access to ESP shall be through a computer with up-to-date anti-virus and anti-spyware software, and that the Nominated User(s) keeps the Password secure at all times and takes precautionary measures diligently to prevent access by any Unauthorised Person.
- f. The Customer can terminate the use of ESP by giving the Bank 30 days prior written notice.
- g. The Customer and the Nominated User(s) shall comply with these ESP Terms and Conditions and the Bank's instructions and/or procedures for the use of ESP, and if they fail to do so, the Bank shall:
- (i) not be liable for any loss suffered by the Customer or the Nominated User(s); and
 - (ii) have the right to suspend or terminate the use of ESP.
- h. The Customer acknowledges that ESP is accessed through the internet which is a public system over which the Bank has no control, and that no warranty is given by the Bank or any entity within HSBC group that ESP is free from computer viruses which may adversely affect the hardware or software used by the Customer and/or the Nominated User(s).
- i. The Bank shall not be liable for any loss suffered by the Customer and/or the Nominated User(s) in connection with ESP due to any reason, including but not limited to:
- (i) invalid, incomplete, unauthorised or fraudulent Bulk Payment instructions;
 - (ii) loss of or damage to data, software, hardware, computer networks, telecommunications or other equipment;
 - (iii) unavailability, delay or interruption of ESP caused by any circumstances beyond the Bank's control, such as power failure, breakdown or malfunction of equipment, facilities, computer systems, data processing systems, telecommunications or data communications network, terminal connection lines or transmission lines; or
 - (iv) incidental, indirect, special, consequential or exemplary damages or any loss of use, revenue, profits or savings.
- j. The Customer agrees to indemnify the Bank against all actions, claims, demands, liabilities, losses, damages, costs and expenses of whatever nature which the Bank may sustain, suffer or incur as a result of providing ESP. This indemnity shall continue in spite of the termination of ESP and/or closure of account.

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

Specific Terms & Conditions For Commercial Banking

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9. eStatutory Payments (ESP)

- k. The Customer agrees to give such information as the Bank may reasonably require from time to time for the purpose of ESP.
- l. The Customer agrees to immediately notify the Bank in writing to terminate the Nominated User(s)' access to ESP when:
 - (i) the Customer suspects any impropriety on the part of the Nominated User(s); or
 - (ii) the Nominated User(s) ceases as the Customer's agent.
- m. The Customer acknowledges that the Bank is not obliged to verify the identity of the person sending the Bulk Payments instruction through ESP other than to ensure that it is sent from the correct electronic mail address (stated in the ESP application/amendment form or as updated by the Customer from time to time).
- n. The Bank may at any time withdraw, suspend or cancel the ESP with prior reasonable notice and shall not be liable for any loss or damage suffered by the Customer.
- o. If any of the following were to take place, the Bank has the right to immediately terminate the ESP and shall not be liable for any loss or damage suffered by the Customer:
 - (i) any petition is presented or order is made by a court or resolution is passed for bankruptcy, winding-up or dissolution or appointment of liquidator, receiver, manager, trustee or similar official of the Customer; or
 - (ii) any distress or execution is enforced on any of the Customer's assets; or
 - (iii) the Nominated Account is suspended or closed; or
 - (iv) the Collection Account is suspended or closed.
- p. The Bank reserves the right to introduce new features for ESP subject to supplementary terms to be notified to the Customer.
- q. In addition to what is stated in the Generic Terms & Conditions under the "Notices" clause, notices to the Customer under these ESP Terms & Conditions may be given by the Bank electronically or through ESP, and shall be taken to have been received immediately after transmission to the facsimile number, telex number, email address or mobile phone number last notified in writing by the Customer to the Bank.
- r. The Bank and the Customer agree to comply with all applicable data protection and other similar purpose laws in all relevant jurisdictions. The Customer acknowledges that it is the Customer's responsibility to get an appropriate written consent from employees and other persons before their personal and/or other data is transmitted, processed or handled through ESP. The Customer agrees to give the Bank copies of such consents when requested.

The Customer agrees to indemnify the HSBC Group against all cost, penalties, damages and other losses incurred as the result of any breach of by the Customer of this requirement. This indemnity shall continue in spite of any termination of ESP and/or closure of account.
- s. The use of ESP is subject to the Generic Terms & Conditions and the applicable Specific Terms & Conditions. If there is any inconsistency among the applicable Specific Terms & Conditions, they shall prevail in the following order:
 - (i) these ESP Terms and Conditions; and
 - (ii) the applicable Specific Terms and Conditions for the account.