

Import Documentary Credits.

Terms and Conditions.



The terms and conditions set out in this document apply in respect to any Import Documentary Credit ("**Credit**") Application from the Customer and subsequently issued by Bank of Melbourne – A Division of Westpac Banking Corporation ABN 33 007 457 141 AFSL 233714 ACL 233714 (the "**Bank**").

1. ICC Rules.

The Credit is issued subject to the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits and the International Chamber of Commerce Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits in each case, current at the time of issuance.

2. Irrevocable.

- 2.1 A Credit is irrevocable. Subject to this clause, it cannot be cancelled or altered without the written agreement of all relevant parties.
- 2.2 The Bank may make alterations to the Customer's requested wording or other information contained in the Credit, including altering the requested Advising and/or Negotiating Bank, if in the Bank's opinion, such alterations will clarify, correct or otherwise improve the wording of or other information contained in the Credit.

3. Goods and Documents.

- 3.1 The Customer agrees that:
- (a) all goods or produce the subject of the Credit (the "**Goods**"); and
 - (b) all documents of title, insurance policies or other documents representing or relating to the Goods (the "**Documents**") now or at any time delivered to or deposited with the Bank have been or will be so delivered or deposited by way of pledge as security for payment on demand to the Bank of all sums of money which now or at any time may become due or owing or may be accruing or become due to the Bank by the Customer together

with, in all cases, interest, on a full indemnity basis, incurred in relation to this security or the enforcement of it (the "**Secured Indebtedness**") and so that interest shall be computed (after as well as before any demand or judgement) according to the usual mode of the Bank in dealing with current accounts.

4. Customer's liability in respect of the Credit.

- 4.1 The Customer must pay to the Bank:
- (a) all amounts paid by the Bank under the Credit on the day on which the Bank makes or is required to make that payment; and
 - (b) all commissions, fees, charges, interest on overdue payments and expenses (incurred or to be incurred) under or in connection with the Credit.
- 4.2 If any amount payable by the Bank under the Credit is payable in a currency (the "**Payment Currency**") other than the currency of the Customer's account from which the Bank is entitled to debit that payment (the "**Account Currency**"), then:
- (a) the Bank will make the payment in the Payment Currency; and
 - (b) the Customer must pay to the Bank an equivalent amount in the Account Currency, determined on the basis of the Bank's ruling selling rate of exchange at the time the Bank is required to make the payment in the Payment Currency or at a rate pre-arranged between the Bank and the Customer by way of a forward exchange contract.
- 4.3 The Customer indemnifies the Bank against, and must pay the Bank on demand the amount of, all direct losses, damages, liabilities, reasonable costs, taxes and expenses (including legal expenses on a full indemnity basis) incurred by the Bank in connection with the Credit, including (but not limited to):
- in relation to any claim that is made or attempted to be made under the Credit; or

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- the Bank acting on any representations made by the Customer to the Bank relating to this Credit; or
- any failure or refusal on the part of the Bank to honour this Credit because of a court order or other similar obligation, or because the Bank is of the view that a transaction to which this Credit relates is tainted by fraud (except to the extent that loss, damage, liability, cost, tax or expense was caused by the negligence, fraud or wilful misconduct on the part of the Bank).

This indemnity shall survive termination or expiration of the Credit.

- 4.4 If the Customer takes delivery of the Goods before advice of negotiation or presentation of drafts or documents, the Customer must pay to the Bank, on demand, an amount equal to the equivalent of the full invoice value of those Goods.

5. Responsibility and liability.

- 5.1 All instructions and correspondence relating to the Credit will be sent at the Customer's risk and the Bank is not responsible for any omissions, errors or delays on the part of postal or teletransmission companies or authorities.
- 5.2 The Customer must comply with all laws, and pay all charges, duties and taxes relating to the Goods and the export or import of Goods as well as freight and other amounts payable under any contract of carriage. The Customer indemnifies the Bank in respect of any costs or liabilities that may arise as a consequence of the importation of the Goods which may be prohibited by law from import into the country of destination.
- 5.3 Neither the Bank or any other bank relating to the Credit are responsible:
- (a) for the genuineness, correctness or validity of the drafts or of any of the documents received by it;
 - (b) in respect of any misrepresentation or breach of condition or warranty by any person as to the description, quantity, quality or value of the Goods;
 - (c) for any detention, loss of, or damage to, the Goods;
 - (d) for the shippers' charges on the Goods; or

- (e) for any variations in the instructions agreed to by the Bank or any other bank relating to the Credit necessitated by the law and/or commercial practice of the country in which any draft is negotiated or presented for acceptance or for payment.

6. Making payments under the Credit.

- 6.1 The Bank is entitled to pay any amount under the Credit that it believes in good faith to have been properly demanded under the Credit.
- 6.2 The Customer acknowledges that the Credit is by its nature a separate transaction from any contract between the Customer and any other party on which the Credit may be based. As such, the Customer acknowledges that the Bank is not obliged to notify the Customer prior to making a payment or accepting drafts, claims or drawings under the Credit. The Customer further acknowledges that the Bank is entitled to make any payment or accept any draft, claim or drawing under the Credit if it determines that the Documents comply with the terms of the Credit notwithstanding notice from the Customer of any claim or defence the Customer may have against the beneficiary of the Credit.
- 6.3 If the Bank determines that any Documents do not appear on their face to be in compliance with the terms and conditions of the Credit, the Bank may refuse the Documents by notice to the Negotiating Bank or Nominated Bank. The Customer acknowledges that the Bank is not obliged to notify the Customer of any such determination or refusal or to seek the Customer's waiver of any discrepancies before refusing the Documents. The Customer further acknowledges that any decision by the Bank to seek a waiver at any time does not oblige the Bank to seek a waiver at any other time in respect of any other discrepancies.
- 6.4 The Customer agrees that the Bank is entitled, at its discretion and at the Customer's cost:
- (a) to request any Negotiating Bank to notify the Bank by teletransmission or other expeditious means, of the amount negotiated; and
 - (b) to pay such amount under the Credit on receipt of such notice.

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6.5 If the Customer requests the Bank to authorise release or delivery of the Goods to the Customer, the Customer agrees that the Bank may treat such a release as if it was a payment made by the Bank under the Credit.

6.6 The Customer acknowledges that the Bank may disclose information about the Customer to any person making a claim under the Credit.

7. Funding.

7.1 The Customer authorises the Bank, without prior notice, to debit at any time from any account held by the Customer with the Bank:

- (a) all amounts paid by the Bank under the Credit on the day on which the Bank makes or is required to make that payment; and
- (b) all commissions, fees, charges, interest on overdue payments and expenses (incurred or to be incurred) under or in connection with the Credit, as and when incurred.

7.2 The Customer must ensure that sufficient funds are available in the Customer's accounts held with the Bank (either as available credit funds or as approved or available overdraft funds) so that the debits authorised under this clause can be made on time.

7.3 If at the time there are insufficient funds available in the Customer's accounts held with the Bank to allow the debits authorised under this clause to be made on time, the Customer:

- (a) authorises the Bank to advance the Customer an amount equal to any shortfall; and
- (b) agrees to pay interest on the amount so advanced from (and including) the day on which the advance is made to (but excluding) the day on which that amount is paid (plus accrued interest) in full, at the current interest rate applicable to such advances.

8. Remedy on default.

If the Customer fails to observe any of its obligations in respect of the Credit, the Bank may, without notice to the Customer (and without prejudice to any of its other rights and remedies), cause the Goods (or any part thereof) to be landed, stored, insured and/or sold (or sold without landing) or otherwise disposed of on such terms and for such consideration, as the Bank considers appropriate, in which circumstance:

- (a) the Bank is not liable for any loss suffered by the Customer as a consequence of such action;
- (b) the Customer must pay to the Bank, on demand, an amount equal to:
 - (i) the Customer's liability to the Bank in respect of the Credit; and
 - (ii) the costs and expenses incurred by the Bank in respect of any actual or attempted landing, storage, insurance, sale or disposal of the Goods, less the net proceeds (if any) of any sale or disposal of the Goods; and
- (c) the Customer must do any thing which includes endorse, assign, sign, execute and deliver any transfers, deeds or documents (or arrange any such matters) which the Bank requires in order to perfect the Bank's title to the Goods or to otherwise give effect to any proposed landing, storage, insurance, sale or other disposal.

9. Banking Code of Practice.

The Bank has adopted the Banking Code of Practice, issued by the Australian Banking Association (**Banking Code**). The Banking Code sets out the standards of practice and service for Australian banks to follow when dealing with certain customers.

If the Bank provides the Customer with a "banking service" and the Customer are an "individual" or a "small business" or their "guarantor" (each term as defined in the Banking Code), the relevant provisions of the Banking Code will apply in addition to, and will prevail to the extent of any inconsistency with, these terms and conditions.

The Customer can obtain a copy of the Banking Code from our website. Information on current standard fees and charges and interest rates is available on request.

10. Sanctions/Anti-Money Laundering and Counter-Terrorism Financing Obligations.

Please be advised that in order for the Bank to meet its regulatory and compliance obligations relating to anti-money laundering, counter financing of terrorism and economic and trade sanctions, the Bank will be increasing the levels of control and monitoring it performs.

The Customer should be aware that:

- transactions may be delayed, blocked or refused where the Bank has reasonable grounds to believe that they breach Australian or international law or sanctions, or where the Bank needs to obtain further information to assist its compliance process;
- where transactions are delayed, blocked, frozen or refused, the Bank and its correspondents are not liable for any loss the Customer suffer (including consequential loss);
- the Customer must not initiate or conduct a transaction that may be in breach of Australian or international law or sanctions.

The Customer should also be aware that:

- the Bank may from time to time require additional information from the Customer to assist the Bank in its compliance process;
- where legally obliged to do so, the Bank will disclose the information gathered to regulatory and/or law enforcement agencies, other banks, other members of the Westpac Group, service providers or to other third parties.

The Customer provides the Bank with the following undertakings and indemnifies the Bank against any losses arising from any breach by the Customer of such undertakings:

1. the Customer will not initiate, engage in or effect a transaction that may be in breach of Australian law or sanctions (or the law or sanctions of any other country); and
2. any activity underlying any transaction does not breach any Australian law or sanctions (or the law or sanctions of any other country).

11. Tax Reporting Obligations.

The Bank is required under domestic and international laws to collect and report financial and account information relating to individuals and organisations who are, or may be, foreign tax residents. The Bank may ask the Customer whether the Customer or any shareholder, beneficiary, settlor or controlling person are a foreign tax resident from time to time, such as when the Customer opens an account with the Bank, or if the Customer's circumstances change. If the Customer does not provide this information to the Bank, including information about the foreign tax identification number for all countries you or any shareholder, beneficiary, settlor or controlling person are a foreign tax resident of, the Bank may be required to limit the services the Bank provides to the Customer. This could include not opening your Product, or limiting functions or services of your Product, or closing it.

Unless the Customer tells the Bank otherwise, by completing any application for products covered by these terms and conditions, the Customer certifies that the Customer, any shareholder, named beneficiary, settlor or controlling person is not a foreign tax resident. The Customer must tell the Bank if the Customer, or any shareholder, named beneficiary, settlor or controlling person is, or becomes, a foreign tax resident (unless an exemption applies, such as for shareholders of listed companies). Where there are no named beneficiaries (e.g. for beneficiaries identified only as a class) the Customer must tell the Bank if a beneficiary is a foreign tax resident immediately when any decision is made to identify such beneficiary and, in any case, before such distribution is to be made to them. The Customer may contact the Bank may contact us to provide foreign tax residence information by calling 1300 725 863. The Bank cannot give tax advice, so please contact your independent tax advisor if you need help finding out whether any person is a foreign tax resident.

12. Privacy Statement.

All personal information and credit-related information (if applicable) the Bank collects about the Customer is collected, used and disclosed by the Bank in accordance with our Privacy Statement which is available at bankofmelbourne.com.au/privacy/privacy-statement or by calling us on 13 22 66.

Our Privacy Statement also provides information about how the Customer can access and correct their personal information, and make a complaint. The Customer does not have to provide the Bank with any personal information or credit information (if applicable) but, if the Customer doesn't, the Bank may not be able to process an application or a request for a product or service.

Where individuals engage with the Bank in relation to products and services for our business, corporate or institutional customers (for example, as representative, administrator, director, corporate officer, signatory, beneficiary or shareholder of one of our customers) our Privacy Statement will be relevant to those individuals where the Bank collects and handles their personal information. For example, where the Bank collects their personal information to verify their identity or collects their signature as a signatory on a corporate account.

13. Privacy Obligations.

To the extent that it applies to the Customer, the Customer must comply with the *Privacy Act 1988* (Cth) in relation to any personal information you provide to the Bank in connection with this Agreement, and if the Customer engages in activities in a jurisdiction other than Australia, the Customer must comply also with the applicable privacy laws in that jurisdiction.

14. External service providers.

The Bank may subcontract any of our rights and obligations to another person in Australia or overseas.

The Bank may disclose or share any information the Customer provides to the Bank with any such person. With respect to any personal information, details of the countries where the overseas recipients are likely to be located is contained in our Privacy Statement which is available at bankofmelbourne.com.au/privacy/privacy-statement (as updated from time to time).

Accessibility support.

Visit [Bank of Melbourne Accessibility](#) for further information on our accessible products and services for people with disability, who are neurodivergent or where English is a second language.

Westpac acknowledges the Traditional Owners as the custodians of this land, recognising their connection to land, waters and community. We pay our respects to Australia's First Peoples, and to their Elders, past and present.