

Bank of China (Hong Kong) iGTB Services

TERMS AND CONDITIONS FOR ERP CLOUD SERVICES

1. Scope of Application

- 1.1 These Terms apply to the ERP Cloud Services which are ancillary to and provided to complement and as part of the Electronic Services.
- 1.2 These Terms form an integral part of the agreement between you and the Bank relating to the Electronic Services. These Terms shall be read together with the Electronic Services Terms and the iGTB Services Terms. The provisions of the Electronic Services Terms and the iGTB Services Terms shall apply to the ERP Cloud Services to the extent that they are not inconsistent with the provisions of these Terms.
- 1.3 By activating or using the ERP Cloud Services, you will be taken as having accepted and will be bound by these Terms. The Bank may amend these Terms from time to time and make the up-to-date version available in such manner and by such means as the Bank may consider appropriate, including on the Bank's website or display in banking halls. You shall read the latest version of these Terms made available by the Bank carefully before giving any instruction through or in relation to the ERP Cloud Services. By giving any instruction or maintaining the ERP Cloud Services, you shall be taken as having accepted the latest version of these Terms.

2. Definitions and Interpretation

- 2.1 In these Terms, unless the context requires otherwise:

"Account" means any account maintained by you with the Bank or any other Bank Group Member which is used in relation to the Electronic Services and includes, where the context requires or permits, any account registered by you and accepted by the Bank for the Electronic Services;

"Authorised Person" means, in respect of the Customer or a Related Party, each individual to whom it confers authority to give instructions to the Bank in relation to the Electronic Services, including an authorised signatory, a Primary User, a Delegate User and any other authorised user of the Electronic Services from time to time as the context requires or permits in each case;

"Authority" means any regulatory authority, court or judicial body, governmental agency, tax authority, law enforcement agency, central bank, exchange, clearing house, or industry or self-regulatory body;

"Bank" means Bank of China (Hong Kong) Limited, and its successors and assigns;

"Bank Group Members" means collectively, the Bank, any holding company of the Bank and any subsidiary, associated or affiliated company of the Bank;

"Customer" means a person to which the Bank provides any Electronic Services and includes each of its Authorised Persons where the context requires or permits;

"Delegate User" means each individual appointed by the Customer with specified authority to use and/or operate specified Electronic Services and/or Accounts, and accepted by the Bank as such;

"Electronic Channels" is defined in the Electronic Services Terms;

"Electronic Services" is defined in the Electronic Services Terms and includes the ERP Cloud Services;

"Electronic Services Terms" means the terms and conditions governing the Electronic Services, whether in the form of contract, terms and conditions, or any other form;

"ERP Cloud Services" means the services, facilities and arrangements which the Bank may provide from time to time pursuant to Clause 3 which are ancillary to and provided to complement and as part of the Electronic Services;

"Hong Kong" means the Hong Kong Special Administrative Region of the People's Republic of China;

"iGTB Services" means any and all of the transaction banking services, products, facilities and arrangements which the Bank may provide from time to time to its commercial banking customers, including the Electronic Services and the Electronic Channels;

"iGTB Services Terms" means the terms and conditions governing the respective iGTB Services and/or Transactions, whether in the form of contract, terms and conditions, or any other form;

"Non-Service Jurisdiction Entity" and **"Related Party"** are each defined in the Electronic Service Terms;

"Primary User" means each individual appointed by the Customer with full authority to obtain, use and/or operate the Electronic Services, and accepted by the Bank as such;

"Regulatory Requirements" means any and all of the following requirements whether applicable in or outside Hong Kong to which you or the Bank is subject or with which you or the Bank is expected to comply from time to time:

- (a) any law, rule, regulation, ordinance, statute, subsidiary or subordinate legislation, court or judicial order having the force of law (including any rule of civil law, common law or equity), or any embargo or sanction regime; and
- (b) any guideline, code, policy, procedure, direction, request, condition or restriction issued by any Authority;

"Transactions" means any and all transactions which the Bank may arrange for or effect with or for you from time to time in connection with or through the Electronic Services;

"you" means the Customer and/or a Related Party, as the context may require; and

"Your Information" means all information, except personal data of your employees, relating to you, your Accounts, Transactions, Authorised Persons and activities held by the Bank from time to time, including information provided by or on your behalf to the Bank and information collected or compiled by the Bank.

2.2 In these Terms, unless the context requires otherwise:

- (a) a Clause is a reference to a clause of these Terms;
- (b) a person includes an individual, a corporation, company, partnership, sole proprietorship, trust, sovereign body or agency, government or municipal governmental agency, multilateral agency or organisation, or unincorporated body of persons;
- (c) words importing the singular include the plural and vice versa and words denoting a gender includes all genders;
- (d) a business day means a day (other than Saturday or Sunday) on which the banks are open for general business in Hong Kong and a time of a day is a reference to the time in Hong Kong and time is of the essence of these Terms;
- (e) **"including"** or **"includes"** means including or includes, without limitation;
- (f) reference to a Regulatory Requirement is a reference to the relevant Regulatory Requirement as it is in force from time to time; and
- (g) reference to an agreement, document or provision is a reference to the relevant agreement, document or provision as supplemented, extended, restated, amended or replaced from time to time.

2.3 The headings in these Terms are for convenience only and do not affect the interpretation of these Terms.

3. ERP Cloud Services

3.1 The Bank's right to prescribe ERP Cloud Services, conditions and procedures

- (a) The ERP Cloud Services are intended to provide customers of the iGTB Services with an online accounting and book-keeping functionality to facilitate the verification and management of receivables, stocks and other assets, and the payment obligations, of the customer. The ERP Cloud Services include the generation and compilation of financial reports and records relating to the Accounts and Transactions designated by you and other activities contemplated by these Terms. The Bank has the right to set and vary the scope, functions and

details of the ERP Cloud Services, and the conditions and procedures applicable to their availability and use from time to time.

- (b) For setting up, use, operation, variation or termination of the ERP Cloud Services, the Bank may require you to complete further forms, supply further information and follow further procedures and requirements in addition to those prescribed by the Bank for the Electronic Services.
- (c) The Bank has the right to accept or refuse the use of the ERP Cloud Services by you at any time without giving notice or reason. Further, the ERP Cloud Services are provided by the Bank, and shall be used by you, subject to the Regulatory Requirements. In using the ERP Cloud Services, you undertake that you will comply with the Regulatory Requirements including, in particular, any applicable sanction or embargo regime. The Bank has the right to take or refrain from taking any action having regard to the Regulatory Requirements without notice to or consent from you. All decisions made by the Bank accordingly shall be binding on you.

3.2 Equipment and installation for accessing the ERP Cloud Services

- (a) In order to use the ERP Cloud Services, you may be required to install, set up and maintain further hardware, software and/or connection in addition to those prescribed by the Bank for the Electronic Services, at your own cost and expense. You shall ensure that you are properly licensed to use the relevant software, equipment, devices, facilities, systems and connections and your use will not infringe the right or intellectual property of any other person.
- (b) You shall observe any details of the ERP Cloud Services and specifications and operational requirements which may be prescribed by the Bank. You shall access the ERP Cloud Services using such communications format as the Bank may prescribe or permit.

3.3 Limitation of the Bank's liability

- (a) This Clause 3.3 applies to the ERP Cloud Services without reducing or limiting the effect of the provisions of the Electronic Services Terms or the iGTB Services Terms.
- (b) In providing the ERP Cloud Services, the Bank may use the computer software, computer program, services and support supplied by any third party service provider. These third party service providers are not agents of the Bank. The Bank will use reasonable care in selecting these service providers but is not responsible for their acts or omissions.
- (c) The ERP Cloud Services are provided by the Bank to you on an "as is" or "as available" basis. The Bank does not give any warranty or representation of any kind in relation to the ERP Cloud Services, the Bank or any third party service provider, whether express or implied. In particular:

- (i) The Bank does not give any warranty or representation in relation to the performance of the ERP Cloud Services and its functionalities, or their uninterrupted availability, fitness for a particular purpose, non-infringement, accuracy, completeness, timeliness, compatibility, security or freedom from computer virus, ransom-ware or similar destructive properties. You are solely responsible for taking appropriate measures to protect and back up your system, equipment, device and data in connection with the use of the ERP Cloud Services.
- (ii) As an online tool to facilitate financial and accounting functions, there are certain default settings in the ERP Cloud Services including tax rates and/or accounting standards. The Bank does not give any warranty or representation that these tax rates, accounting standards or any other information or settings are applicable or suitable for you, or that they are accurate or up-to-date. You are solely responsible for complying with the legal and regulatory requirements that are applicable to you in all relevant jurisdictions from time to time.

The Bank is not liable to you for any loss, damage or expenses of any kind which may be incurred or suffered by you arising from or in connection with your use of the ERP Cloud Services, unless otherwise specified.

- (d) The Bank may suspend the ERP Cloud Services or any of its functionalities without notice, whether due to routine maintenance or other reasons and, in particular, where the Bank detects or suspects of any security breach, security incident or security risk.

4. Your Responsibility regarding Authorised Persons and Instructions

4.1 Authorised Persons and their authority

- (a) The provisions of the Electronic Services Terms and the arrangements relating to the Authorised Persons which govern the Authorised Persons for the Electronic Services (including their appointment and removal by you) shall apply to the Authorised Persons for the ERP Cloud Services, unless otherwise specified by the Bank. In particular, you expressly agree that:
 - (i) a Primary User of the Electronic Services is authorised to appoint, on your behalf and in accordance with the scope of the Primary User's authority, any Delegate User and set the scope and limits on the Delegate User's authority for using the ERP Cloud Services which will not affect the scope and limits on the Delegate User's authority for using the Electronic Services; and
 - (ii) any change relating to a Primary User of the Electronic Services, including appointment, removal or variation to the scope or limits on the Primary User's authority from time to time shall apply with respect to the ERP Cloud Services.

- (b) Without reducing or limiting the effect of the provisions of the Electronic Services Terms:
- (i) You are responsible for taking appropriate measures having regard to your circumstances:
 - (1) to notify each Authorised Person of the scope and limits on his authority for using the ERP Cloud Services and giving instructions to or dealing with the Bank;
 - (2) to ensure that each Authorised Person acts within the scope of his authority in a proper and responsible manner and complies with these Terms in using the ERP Cloud Services; and
 - (3) to safeguard against instructions being given by unauthorised persons or for unauthorised purposes, including to ensure that each Authorised Person safeguards his personal device, password, user code, personal identification number, encryption or other security key, and other personal or log-in credentials from loss, theft or unauthorised use. It is recommended to set expiry date on the use of personal or log-in credentials and to change them on a regular basis and whenever necessary or appropriate.
 - (ii) You shall notify the Bank of the defined scope of authority of each Authorised Person for accessing and using the ERP Cloud Services, including any limits on the types or value of withdrawal, transfer or other transactions which he is authorised to effect on your behalf. You shall ensure that each Authorised Person acts within his defined scope of authority in using the ERP Cloud Services. All instructions given to the Bank by an Authorised Person within his defined scope of authority are binding on the Customer.
 - (iii) You expressly confirm that the Bank may regard the instructions received by the Bank as being intended and authorised by you. The Bank is not obliged to verify the identity of the person giving an instruction or its authenticity, except for checking the log-in credentials used for sending the instruction, nor is the Bank obliged to verify whether the instruction was within the scope of the authority of the Authorised Person giving it.
 - (iv) If you know or suspect that an instruction sent through the ERP Cloud Services is unauthorised or any personal device, password, user code, personal identification number, encryption or other security key, or other personal or log-in credentials of an Authorised Person is compromised, corrupted, lost or stolen, you shall notify the Bank as soon as reasonably practicable by such means prescribed or accepted by the Bank. In that case, the Bank has the right to suspend or terminate your use of the ERP Cloud Services with immediate effect and/or to prescribe the necessary conditions and procedures for continuing use. The Bank

has the right to act on a notification received by the Bank which it believes in good faith to be genuine and the Bank may (but is not obliged to) obtain your confirmation before acting.

- (v) You shall be responsible for all unauthorised transactions effected with any of your passwords, user codes, personal identification numbers, encryption or other security keys, or other personal or log-in credentials.

4.2 Related Parties and Non-Service Jurisdiction Entities

The provisions of the Electronic Services Terms governing the Related Parties and Non-Service Jurisdiction Entities (including their designation and removal by you) shall apply to the Related Parties and Non-Service Jurisdiction Entities for the ERP Cloud Services, unless otherwise specified by the Bank. In particular:

- (a) You and each of the Related Parties and Non-Service Jurisdiction Entities shall comply with and be bound by the applicable provisions of the Electronic Services Terms with respect to the use of the ERP Cloud Services for accessing, using and operating the Accounts of the Related Party or the Non-Service Jurisdiction Entity and any information or data relating to them by you and your Authorised Persons.
- (b) Without prejudice to any other indemnity given by you, you shall indemnify the Bank, the relevant Bank Group Member and their respective officers and employees against any liability, claim, demand, loss or expenses (including legal fees) arising from the access, use and operation of the Accounts of the Related Party or the Non-Service Jurisdiction Entity by you or your Authorised Persons, or for any act or omission of the Related Party or the Non-Service Jurisdiction Entity, unless the same is caused by the wilful misconduct or gross negligence of the Bank, the relevant Bank Group Member and/or their respective officers or employees.
- (c) Each Related Party understands and accepts the risk of allowing fund transfers from its Accounts to your Accounts or to the accounts of any other person, including the risk of unauthorised transfers.

5. **Records and Information**

5.1 Financial reports and records

- (a) You understand and accept that the financial reports and records generated or compiled by the ERP Cloud Services are not aligned on a real time basis with the information and data relating to the Accounts and Transactions maintained under the Electronic Services.
- (b) To the extent permitted by Regulatory Requirements, the Bank disclaims liability for any error, omissions or inaccuracies in the information contained in any financial report or record generated or compiled by the ERP Cloud Services and for any loss or damages arising from or in connection with use of or reliance on such information.

5.2 Use, transfer and storage of Your Information

You expressly consent to the Bank to do the following in relation to Your Information:

- (a) use and/or transfer Your Information to any Bank Group Member or third party service provider for performing survey, research or analysis by electronic or other means, including data analytics. For the avoidance of doubt, notwithstanding the foregoing, the Bank will not use or transfer any personal data of your employees contained in Your Information (if any) as aforesaid;
- (b) use Your Information for direct marketing the services and products offered by the Bank or any Bank Group Member which are clearly meant for your exclusive use, and that the Bank will not use Your Information for direct marketing any services and products which are intended for personal customers; and
- (c) use, process, disclose, transfer, hold and store Your Information, within or outside Hong Kong for the purposes relating to the ERP Cloud Services, by the Bank and any other person providing services or support to the Bank. These other persons may include the Bank Group Members, agents, contractors and third party service providers which provide services or support for the ERP Cloud Services.

For the avoidance of doubt, notwithstanding the foregoing,

- (i) the Bank is not a data user and will not use, process, disclose, transfer, hold or store any personal data of your employees contained in Your Information (if any) within or outside Hong Kong;
- (ii) the Bank has no duty to accept any data access request or data correction request from you or your employees;
- (iii) you shall be responsible for the erasure or the return of any personal data of your employees contained in Your Information (if any) during the provision of the ERP Cloud Services or upon your employees' requests or termination of the ERP Cloud Services. For the avoidance of doubt, the Bank shall not be responsible for any of the aforesaid erasure or return of personal data;
- (iv) the Bank will use its reasonable endeavor, but is not obliged, to notify you and/or your employees of any data breaches in connection with the ERP Cloud Services; and
- (v) the Bank does not permit the Customer to audit the operation of ERP Cloud Services and the Bank shall not be responsible for providing any auditing reports or claims of ERP Cloud Services to the Customer.

6. **Limitation on Liability and Indemnity**

- 6.1 This Clause 6 applies to the ERP Cloud Services without reducing or limiting the effect of the provisions of the Electronic Services Terms or the iGTB Services Terms. The provisions of this Clause 6 shall operate to the fullest extent permitted by Regulatory Requirements.
- 6.2 Unless caused by its wilful misconduct or gross negligence, the Bank is not liable for:
- (a) any delay of or interruption to the availability of the ERP Cloud Services;
 - (b) any loss, error, delay, misdirection, corruption or unauthorised alteration or interception of an instruction or message sent through the ERP Cloud Services, or any unauthorised use of the ERP Cloud Services;
 - (c) any delay or failure to execute, or error in executing, your instructions;
 - (d) any error, malfunction or failure of any software, equipment or system; or
 - (e) any factor, including any computer virus, which may impair the functions of a computer system.
- 6.3 The Bank's liability for any damages in respect of any Transaction shall be limited to the amount of the fees received by the Bank in connection with the relevant Transaction.
- 6.4 You shall indemnify the Bank, its officers and employees against any claim, liability, loss, damage, cost or expense (including legal fees on a full indemnity basis and other expenses reasonably incurred) which may be incurred or suffered by any of them and all actions or proceedings which may be brought by or against any of them in connection with:
- (a) the Bank acting on your instructions, effecting Transactions or providing the ERP Cloud Services to you;
 - (b) your failure or the failure of any Authorised Person to perform or observe any provisions of these Terms; or
 - (c) the preservation, exercise or enforcement of the Bank's rights, including in recovering sums from you or in obtaining any professional advice as the Bank may consider appropriate.
- 6.5 The indemnity in this Clause shall continue to have effect notwithstanding the termination of the ERP Cloud Services.

7. Governing Law and Governing Version

- 7.1 These Terms are governed by and shall be construed in accordance with the laws of Hong Kong. You submit to the non-exclusive jurisdiction of the Hong Kong courts.
- 7.2 The English version of these Terms is the governing version. The Chinese version is for reference only. If there is any inconsistency between the English and Chinese versions, the English version shall prevail for all purposes.