

Terms and Conditions of Application for Bank Guarantee/Standby Letter of Credit

1. This application and the SBLC or Guarantee to be issued are subject to the General Security Agreement Relating to Goods, Agreement and Indemnity Relating to The Opening of Documentary Credits, General Customer Agreement and/or other agreement(s) previously signed and delivered by the applicant of this application (the "Applicant") to The Bank of East Asia, Limited (the "Bank"), if any. In case of conflict, terms of this application shall prevail to the extent of conflict.
2. The Applicant agrees that the Bank may, at its sole discretion and without reference to or consent from the Applicant, amend the terms and conditions of the SBLC or Guarantee stated in this application and/or insert additional terms and conditions into the SBLC or Guarantee as the Bank thinks appropriate. The Bank may, subject to the beneficiary's consent, cancel the whole or any unused balance of the SBLC or Guarantee.
3. If the Applicant instructs the Bank to permit T/T reimbursement, the Bank is irrevocably authorised to pay and/or reimburse the relevant claiming bank or reimbursing bank upon receipt of a claim from such bank even prior to the Bank's receipt of the presented documents. The Applicant shall bear all the relevant risks (including non-receipt and non-compliance risks of the presented documents) and shall reimburse and indemnify the Bank for any payment made under the SBLC or Guarantee.
4. The Applicant agrees and acknowledges that it is the sole responsibility of the Applicant to (i) ensure clarity, enforceability or effectiveness of any terms or requirements incorporated in the SBLC or Guarantee; and (ii) comply with all applicable laws and regulations regarding the underlying transaction to which the SBLC or Guarantee relates and obtain all necessary documents and approvals from any governmental or regulatory bodies and produce such documents or approvals to the Bank upon request. The Bank is not responsible for advising and has no duty whatsoever to advise the Applicant on such issues. The Bank shall not be liable to the Applicant for any direct, indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever which may arise out of such issues.
5. Notwithstanding any instruction(s) stipulated in this application, the Bank may, at its sole discretion, name or instruct any correspondent to be the advising, confirming or nominated bank in respect of the SBLC or Guarantee.
6. Any action taken or omitted by the Bank or by any of its correspondents or agents under or in connection with the SBLC or Guarantee shall be binding on the Applicant and shall not place the Bank or its correspondents or agents under any liability to the Applicant.
7. The Applicant agrees and undertakes to examine the customer copy of the SBLC or Guarantee issued by the Bank and irrevocably agrees that failure to give a notice of objection about the contents of the SBLC or Guarantee within 5 calendar days after the customer copy of the SBLC, Guarantee or subsequent amendment(s) is sent to the Applicant shall be deemed to be its waiver of any rights to raise objections or pursue any remedies against the Bank in respect of the SBLC or Guarantee.
8. The Applicant undertakes to pay and reimburse the Bank any sum in connection with the SBLC or Guarantee upon the Bank's demand and irrevocably authorises the Bank to debit the Applicant's account(s) for any such sum at any time the Bank thinks appropriate. Such sum includes interest, costs, expenses, commissions, reimbursement claims from any nominated bank or confirming bank and any payment, prepayment or purchase effected by the Bank in connection with the SBLC or Guarantee, all irrespective of any alleged discrepancies in the presented documents and/or any fraud that may be alleged at any time or discovered subsequent to such payment, negotiation, prepayment or purchase by any nominated bank, confirming bank or the Bank.
9. The Applicant agrees that the Bank is fully entitled to reject any discrepant documents presented under the SBLC or Guarantee notwithstanding that the Applicant may have waived such discrepancy.
10. The Applicant further undertakes that it shall indemnify the Bank and the Bank's delegate(s) on demand (on a full indemnity basis) against all liabilities, losses, payments, damages, demands, claims, expenses and costs (including legal fees), proceedings or actions which the Bank or the Bank's delegate(s) may incur or suffer under or in connection with this application and the SBLC or Guarantee.
11. The Applicant undertakes that it will, upon demand by the Bank, provide further security in form and value in the opinion of the Bank sufficient to secure any of the Applicant's liabilities and obligations owing to the Bank.
12. If this application is executed by more than one party, the obligations and liabilities of each of the parties are primary as well as joint and several and the Bank will be at liberty to release, compound with or otherwise vary or agree to vary the liability of any one without prejudicing or affecting the Bank's rights and remedies against the others.
13. No person other than the Applicant or the Bank will have any right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce or enjoy the benefit of any of the provisions of the terms of this application.
14. This application is governed by and shall be construed in accordance with the laws of Hong Kong SAR.