

# TERMS AND CONDITIONS

CORPORATE INTERNET  
BANKING SERVICES

PROCASH

بنك أبوظبي التجاري

ADCB



## Corporate Internet Banking Services Terms & Conditions (the “Terms”)

This Agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_  
Two Thousand \_\_\_\_\_ between:

(1) **Abu Dhabi Commercial Bank (ADCB)** a Public Joint Stock Company validly existing under the company law of the United Arab Emirates, having its principal of business at the Abu Dhabi Trade Centre, P.O. Box 939, Abu Dhabi, United Arab Emirates (hereinafter called in the “**Bank**”) and,

(2) \_\_\_\_\_

whose registered office is P.O. Box \_\_\_\_\_  
(city) \_\_\_\_\_ United Arab Emirates  
(hereinafter called the “**Account Holder**”).

ADCB’s Corporate Internet Banking Services are governed by the Terms and Conditions (Terms) of this Agreement. Any written Terms and Conditions (other than these) which affect your Account(s) will continue to apply. Where such other Terms are different to these Terms, these Terms will take precedence unless such other Terms are expressed to apply instead of these Terms.

### 1. DEFINED TERMS

**Access Procedure** means the Access Procedure as defined in clause 6.1/a. and set out in clause 6.1/b.

**Account(s)** means Account(s) you have with the Bank in the UAE, which are accessible by the Services, including any new Account(s) opened from time to time.

**Account Holder** means an entity which has entered into a contract with the Bank for the Services and which has an Account(s) in its own name or a joint Account(s) in respect of which the Bank may act on the instructions of anyone or more of them.

**AED** means United Arab Emirates Dirham, the lawful currency of the UAE from time-to-time.

**Amendment to Import Credit/Outward LG** means the Bank’s standard request for amendment to Import Credit/Outward LG as amended from time to time by the Bank.

**Application** means, as required by the context, one or more Application for an Import Credit, Amendment to Import Credit/Outward LG, Request for Transfer of Export Credit, Application for an Outward LG, Assignment of Inward LG, Application for a Shipping Guarantee, Application and Indemnity for Discounting of Bills and/or any other application or document that the Bank may, in its discretion, request or permit the Account Holder to submit to the Bank through the Internet Site.

**Application and Indemnity for Discounting of Bills** means the Bank’s standard form of application and indemnity for Discounting of Bills as amended from time to time by the Bank.

**Application for an Import Credit** means the Bank’s standard form of an application for the issue of an Irrevocable Documentary Credit as amended from time to time by the Bank.

**Application for an Outward LG** means the Bank’s standard form of an application requesting for issuance of an Outward LG as amended from time to time by the Bank.

**Assignment of Inward LG** means the Bank’s standard form of assignment as amended from time to time to be used by the Account Holder to assign in favour of the Bank the Account Holder’s rights under an Inward LG.

**Application for a Shipping Guarantee** means the Bank’s standard form application requesting issuance of a Shipping Guarantee as amended from time to time by the Bank.

**Authentication Procedures** means the Bank’s procedures that might change from time to time relating to the verification of the identity of persons using or having access to the Services through the Access Procedure and carrying out or authorizing any transactions in respect of Accounts or Corporate Cheque Scanning.

**Authorized Signatory/Signatories** means person(s) who are appointed by the Account Holder and are able to appoint Users in respect of the Services. Instructions received from and appointments made by Authorized Signatories must comply with your Account operating instructions (including the **Mandate**) including the number of Users appointed in respect of your use of the Services, the identity of the Transaction Authorizers and whether the Authorized Signatory/Signatories can set any financial limits on transactions carried out using the Services.

**Bank** means the Abu Dhabi Commercial Bank or any of its branches.

**Banking Day** means any day, excluding Friday and Saturday, on which the banks in the UAE are open for business.

**Business Hours** mean the hours of any Banking Day during which the Bank’s branches are open for business to the public.

**Central Bank** means the Central Bank of the UAE as established by Union Law No. 10 of 1985 concerning the Central Bank, the Monetary System and Organization of Banking.

**Confirmation of Assignment of Proceeds–Export Credit** means the Bank’s form of communication to the new beneficiary of the receipt by it of notice of assignment by the Account Holder of an Export Credit in favour of the new beneficiary in such form as is acceptable to the Bank.

**Corporate Cheque Scanning** means the online cheque deposit service made available to an Account Holder in accordance with clause 9 of these Terms using the Device and the Internet Site.

**Customer Set-up Form** means the Cash Management Set-up Form (of which the Terms form a part), whereby you designate the authority and accessibility to your Users, defining their limits and authority levels to operate the Account(s) that should reflect the Mandate (as defined below) held with us, and select your use of Corporate Cheque Scanning.

**Device** means the cheque scanning device supplied to the Account Holder by the Vendor approved by the Bank for use by the Account Holder and its nominated Users in connection with Corporate Cheque Scanning.

**Discounting of Bills** means the facility offered by the Bank wherein the Bank will purchase/discount a bill of exchange drawn in favour of the Account Holder and accepted by a bank or other party acceptable to the Bank at its sole discretion.

**Documents** means the documents required to be submitted under an Import Credit.

**Export Collection** means the service offered by the Bank wherein the Bank would forward the documents provided by an Account Holder, in its capacity as an exporter of goods, to the bank of the importer of the said goods instructing delivery of the said documents to the importer either on payment or on acceptance by the importer of bills of exchange drawn by the Account Holder.

**Export Collection Notification** means the Bank’s letter addressed to the bank of the importer enclosing the documents provided by the Account Holder and providing instructions on the manner in which the said documents are to be delivered.

**Export Credit** means the documentary credits issued in favour of an Account Holder by a third party bank and payment on which is confirmed by the Bank.

**ICCS** means the Image Cheque Clearing System established and operated by the Central Bank.

**Imaged Cheque** means any Qualifying Cheque submitted to the Bank by a User using Corporate Cheque Scanning.

**Implementation Manager** means a person who, on behalf of the Bank, provides the relevant items in respect of the Access Procedure to each User and sets up access to the Services for the Users.

**Import Collection** means the service offered by the Bank wherein the Bank collects documents from the bank of the counterparty dealing with the Account Holder and releases the same to the Account Holder subject to the terms of the Import Collection Notification.

**Import Collection Notification** means the Bank’s letter notification to the Account Holder intimating the receipt of documents by the Bank under a documentary credit drawn in favour of the Account Holder and the terms subject to which the said documents would be released to the Account Holder.

**Import Credit** means the letter of credit issued by the Bank in favour of the Import LC Beneficiary.

**Import LC Beneficiary** means the beneficiary of the Import Credit as specified in the Application for an Import Credit.

**Instruction** means any request or instruction sent by you or a User, to the Bank, to effect a financial transaction through the Services.

**Internet Site** means any internet website established, operated and/or maintained by us or on our behalf, to facilitate the provision of the Services to you (including, without limitation, the Bank’s website).

**Inward LG** means a guarantee issued by a third party in favour of the Bank in a form acceptable to the Bank as security for the obligations of the Account Holder or any other third party. For the avoidance of doubt and only in the context of an assignment, Inward LG shall mean a guarantee issued by a third party in favour of the Account Holder in a form acceptable to the Bank.

**Location** means the business premises of the Account Holder where each Device is located as nominated in the Customer Set-up Form.

**Loss** means any and all claims, amounts, demands, injuries, liabilities, losses, damages, costs, charges and/or expenses (including all legal expenses) of whatsoever nature or however arising, either direct, indirect, consequential, expectable or non-expectable, including legal expenses in defending any claim, demand or other legal proceeding.

**Mandate** means, as the context in the Terms requires, your Account and/or Corporate Cheque Scanning operating instructions, in particular the identity of the Authorized Signatories required to authorize transactions applying to the Accounts and Corporate Cheque Scanning.

**Outward LG** means the guarantees issued by the Bank in favour of third party beneficiaries guaranteeing the obligations of the Account Holder under one or more transactions.

**Payment Cut-off Time** means that all local and international fund transfers are subject to the cut-off times notified to you by the Bank. Transfer instructions received after the Payment Cut-off Times will be executed on the following Banking Day and, if applicable, may also be a working day in the country of the final beneficiary.

**PIN** means a four digit personal identification number selected by the Account Holder before the initial use and should be changed periodically. The PIN is required to activate the Token.

**Platform** means the Internet Site and/or the internet banking application (including, without limitation, pro cash and pro-trade).

**Qualifying Cheque** means any cheque (including a personal, business, manager's cheque or payment order) that is acceptable for deposit and collection in the Bank's sole opinion based on policies issued by the Bank from time to time and the Regulations of the Central Bank concerning the ICCS.

**Regulations** means any laws, regulations and sanctions programs (including, but not limited to, the United States of America's OFAC and FATCA programs) which the Bank is required, or may at its discretion decide voluntarily, to observe in multiple jurisdiction, including without limitation, the UAE, the European Union, the United Kingdom and the United States of America.

**Request for Transfer of Export Credit** means the Bank's standard form application (as amended from time to time by the Bank) which must be duly completed and submitted by the Account Holder requesting a transfer of the Account Holder's rights in the Export Credit in favour of a third party.

**Scanning Cut-off Time** means that all Corporate Cheque Scanning Instructions are subject to the cut-off times notified to you by the Bank. Instructions received after the Scanning Cut-off Times will be executed on the following Banking Day.

**Services** means the corporate internet banking services that the Bank makes available through the Internet Site to enable the electronic receipt and transmission of information and Instructions (including in relation to an Account, Corporate Cheque Scanning, Import Credit, Export Credit, Import Collection, Export Collection, Outward LG, Inward LG, Shipping Guarantee and Discounting of Bills) after completing the Access Procedure.

**Services Equipment** means any item(s) and/or equipment provided by the Bank or any third party approved by the Bank (whether on single or periodic basis) to the Account Holder, for the purposes of accessing and utilizing the Services, including the Device.

**Shipping Guarantee** means a facility where the Bank indemnifies and guarantees the shipping company for the release of goods to the Account Holder without the presentation of the original bill of lading.

**Software** means the software installed on any Device in object code form only, and any revisions, replacements, modifications, updates or documentation related to that software and provided to you by the Bank or its authorized agents from time to time.

**Tokens** means a small electronic device generating a changing random set of numbers which are required for the Users to gain access to the Services.

**Transaction Authorizers** means person(s) appointed by you who can authorize transactions initiated via the Services and as supplied by the customer in a Customer Set-up Form, which reflects the Mandate, each a Transaction Authorizer.

**Transaction Makers** means the person(s) appointed by you who is/are authorized to initiate transactions debiting your Account with the Bank, as per a Customer Set-up Form.

**Transactional Password** means the eight digit password provided to your Transaction Authorizers by the Bank containing the password.

**UAE** means the United Arab Emirates.

**User(s)** means a person who can use the Services including a Transaction Maker, Transaction Authorizer and any person appointed as such at a later date. Each User must have a unique User ID, PIN and Token and in the case of Transaction Authorizers, a Transactional Password. Each User must be authorized by the Authorized Signatory(ies) and their ability to perform tasks and access Accounts is restricted by their User and Account permissions and ability to gain access to the Service via the Access Procedure. Users must comply with the Bank's Authentication Procedures for the Services.

**User ID** means the eight to ten digit internet banking identification number assigned to User(s) by the Bank for the purposes of identification in respect of use of the Services by such person(s), including when logging on to use the Services via the Access Procedure.

**Vendor** means the third party supplier of the Device approved by the Bank and the Central Bank as notified to you.

**We** means Abu Dhabi Commercial Bank; 'us' and 'our' has a corresponding meaning.

**You** means an Account Holder who accepts the Terms and signs a Customer Set-up Form, and 'your' has a corresponding meaning.

## 2. USE OF THE SERVICES

### 2.1 Acceptance of the Terms

- a. By signing a Customer Set-up Form and/or by using the Services you shall be deemed to have agreed to the Terms and any other terms and conditions relating to the provision of the Services which are imposed by the Bank from time-to-time.
- b. Your use of the Services after signing a Customer Set-up Form shall constitute your acceptance of them.
- c. You will ensure that in using the Services, all Users and Authorized Signatories comply with the Terms.
- d. By signing a Customer Set-up Form, you agree that all paper statements and advice regarding your Account(s) shall be sent to your registered address (as stated above) by courier or normal postal services, on a monthly basis or as advised by the Bank from time to time.
- e. You agree to be bound by the Terms including without limitation Clause 8. Where there are any inconsistencies between Clause 8 and the remaining provisions of the Terms, Clause 8 shall prevail.
- f. You acknowledge you have read and understood the terms and conditions of the Terms including without limitation Clause 8. You acknowledge and agree that your use of the Service(s) (including without limitation any Applications and/or transactions executed by the Bank pursuant to an Application) will be governed by the Terms and in particular by the provisions of Clause 8.
- g. Any other written terms and conditions relating to the Account(s) will continue to apply to the Account(s). Unless the Bank agrees otherwise, where there is inconsistency between such other terms and conditions and the Terms, the Terms shall prevail.

### 2.2 Acting on Instructions

- a. You request and authorize us to:
  - ▶ disclose Account Information and any other details available via the Services to any Authorized Signatory and User; and
  - ▶ rely and act upon all apparently valid Instructions as Instructions properly authorized by you and/or your Users, even if they may conflict with any other Mandate given at any time concerning your Accounts or affairs and to debit any Account with any amounts we have paid or incurred in accordance with any Instructions.
- b. You agree that we can rely on and act upon any Instructions given to us including deducting money from any Account even if these Instructions were not

authorized by you unless notice of the disclosure, loss or unauthorized use of the relevant User ID, PIN and/or Token has been given in such form and by such means as the Bank may deem satisfactory and has been received by the Bank within such amount of time in advance of such Instruction as the Bank would reasonably require (having regard to all the circumstances then prevailing) to enable it to take appropriate action to prevent such Instruction from being received, acted upon and implemented. However, your liability for transactions or Instructions which have not been authorized by you will be limited in accordance with Clause 7 below.

- c. An Instruction will only be accepted by us if it has been affected through the Services using the Access Procedure. We will not be obliged to conduct any further check into the authenticity of an Instruction.
- d. Where we receive Instructions for more than one payment from an Account on the same day, it will determine the order or priority in which the payments are made.
- e. We will make reasonable efforts not to process or delay processing, where possible, any Instruction if you request us to do so but we shall not be liable for any failure to comply with such request.
- f. We are not liable for any failure by any third party with which you have Accounts or any third party to execute or for any delay or other shortcoming of any such party when executing your Instructions to them howsoever caused.
- g. You are responsible for ensuring that your Users make sure that any Instruction is accurate and complete and we are not liable if this is not the case. Where any Instruction to the Bank is ambiguous or inconsistent with any other Instruction, to the Bank, the Bank shall be entitled to rely, act on or carry out any Instruction in accordance with any reasonable interpretation thereof which any officer or employee of the Bank believes in good faith to be the correct interpretation or refuse to act on or carry out the Instruction until it receives a fresh Instruction in such a form or manner required by or acceptable to us.
- h. The Bank may reset or replace the User ID, as the case may be, of any or all Users at any time, by notifying you in writing.

### 2.3 Delay or Refusal to Act on Instructions and Non-availability of the Services

- a. We may refuse to act on an Instruction if a transaction exceeds a particular value or other limit or if we know of or suspect a breach of security. Any changes to these limits will be notified to you as and when such changes occur.

- b. You agree that the Bank may delay acting upon an Instruction or ask for more information before acting on an Instruction.
- c. We may (but are not obliged to) suspend any Service provided to you without notice where we consider it necessary or advisable to do so having regard to the systems and operations of the Bank and the other circumstances then prevailing and shall not be liable for any Loss arising from any delay on our part in acting upon or carrying out any Instruction.
- d. We will use reasonable efforts to inform you through the Services and/or the Internet Site, if any service under the Services will be unduly delayed. If we have levied any charge to you which is specifically expressed to be for a particular service (the Service Charge) and such service is not available (which for the avoidance of doubt shall not mean any periodic fee charged for the Services under Clause 10 below) then we will reimburse such Service Charge. Other than reimbursing any Service Charge as outlined above we will have no further liability to you.

#### 2.4 Timing for Processing of Instructions

- a. From time to time, some Instructions may take time to process (for example, as a result of maintenance being carried out) and an Instruction will not be carried out simultaneously with an Instruction being issued by a User. If your Users give us an Instruction:
  - ▶ to make a payment from an Account on a Banking Day but after the Payment Cut-off Time, it will be processed on the next Banking Day;
  - ▶ to make an AED transfer to any Account not held with the Bank either after the Payment Cut-off Time or on any day which is not a Banking Day, it will not be made until the next Banking Day; and
  - ▶ to effect the transfer of a currency (other than AED) to an Account with any other bank after the Payment Cut-off Time, it will be made on the next day which is a Banking Day in (i) the UAE, (ii) the country of the beneficiary Account and (iii) the financial center for the relevant currency.

### 3. AUTHORIZED SIGNATORIES AND MANDATE CHANGE

- 3.1 For the purposes of this Clause 3, the term **"Mandate Change"** means any addition, removal, deletion or substitution of any person as an Authorized Signatory or any amendment, variation or revision of the scope, extent or limit of the authority conferred on any Authorized Signatory by you.
- 3.2 The Bank shall not have any obligation whatsoever to act upon and implement any Mandate Change:
  - a. unless written notice of the Mandate Change has been given to the Bank in a form prescribed by or acceptable to the Bank and in accordance with the Bank's operational procedures;
  - b. unless and until the Bank is satisfied that the Mandate Change has been duly authorized by you; and
  - c. until, in the event that and after the Bank is satisfied that the Mandate Change has been duly authorized by you, such amount of time which the Bank would reasonably require (having regard to all the circumstances then prevailing) to enable the Bank to take the appropriate action to act upon and implement the Mandate Change shall have elapsed.
- 3.3 Where you notify the Bank, within three (3) Banking Days of any resolution of your board of directors that has been passed or any document has been executed by you which (i) authorizes any person or persons to take any action or enter into any agreement on your behalf or (ii) confers any authority on any person or persons to act on your behalf. The Bank shall be entitled to assume that such authority has been conferred on those person(s) and has not been revoked by you until you have given written notice of revocation to the Bank.
- 3.4 You will reflect the Mandate in each Customer Set-up Form for the authorization part of it.

### 4. BANK'S GENERAL RESPONSIBILITIES

- 4.1 The Bank will be responsible for:
  - a. providing you a telephone support service during the Bank's normal Business Hours in respect of your use of the Services;
  - b. subject to Clauses 2 and 8, acting on any Instruction received via the Services;
  - c. providing User(s) with the permissions authorized by you;
  - d. providing each User with a User ID; and

- e. providing you the quantity of Tokens necessary. Each User shall be issued one (1) Token in accordance with the Terms, upon our satisfaction that our Authentication Procedures have been met.
- 4.2 The Bank may from time-to-time provide guidelines for ensuring the security of a PIN, User ID and/or Token in addition to your security responsibilities set out in Clause 6 below. The guidelines will provide examples only of security measures however any liability on your part for unauthorized transactions will be determined in accordance with Clause 7 below.

## 5. YOUR GENERAL RESPONSIBILITIES

### 5.1 You have sole responsibility for:

- a. acquiring and maintaining any equipment required for your Users' continued access to and use of the Services (including, but not limited to, the Services Equipment), ensuring all Services Equipment is compatible and functional with the Internet Site, and for your own computers' anti-virus and security measures including the adequate protection and back up of data and/or equipment and to undertake reasonable precautions to scan and protect your internal computer systems and applications from any computer viruses or other destructive properties;
- b. complying with the Terms when operating Account(s), including, but not limited to, the accounts Authentication Procedures and/or Mandate requirements;
- c. the actions of all User(s) including limiting the use of and access to the Services to such User(s) and any security duties and/or obligations and general undertakings in respect of the use of the Services set out in these Terms;
- d. the accuracy of all information transmitted to our systems by User(s);
- e. using the Services as directed by us;
- f. in respect of any User leaving your employment or otherwise having their permission to use the Services revoked by you:
  - ▶ immediately notifying us in writing when any User(s) leaves your employment or has their permission to use the Services revoked, to ensure revocation of authority and updating of authentication procedures in respect of that User; and
  - ▶ obtaining from such User their Token and returning it to us;

- g. checking your Account records and statements carefully upon receipt;
- h. ensuring that User(s) do not interfere with or damage (or attempt to interfere with or damage) the Services Equipment;
  - ▶ immediately notifying the Bank if any Services Equipment is lost, stolen or if it becomes aware or suspects that an unauthorized third-party has used or is in possession of the Services Equipment;
  - ▶ monitoring the use of the Services Equipment and ensure that no unauthorized person has access to or use of the Services Equipment;
- i. ensuring that no modification is made to the Services Equipment without the prior written consent of the Bank; and
- j. ensuring that only User(s) can use the Services Equipment and issue Instructions.

## 6. ACCESS PROCEDURE, SECURITY AND TECHNICAL DUTIES

### 6.1 Access Procedure

- a. From time-to-time, the Bank will devise and implement a process to enable Users to gain access to and use the Services in accordance with their appointment and permissions imposed by Authorized Signatories (the "Access Procedure") in order to either:
  - ▶ obtain or utilize any Service that may be offered or made available by the Bank through the Services;
  - ▶ access, view and obtain information as may be permitted by the Bank (whether relating to an Account or otherwise); and
  - ▶ initiate, authorize, effect, perform and/or dispatch any Instruction or other communication to the Bank, subject to these Terms.
- b. The Access Procedure currently involves the following identification steps:
  - ▶ the Implementation Manager providing a separate User ID directly to each User;
  - ▶ the Implementation Manager providing a separate Token to each User where the User has to select the initial PIN;

- ▶ each User gaining access to the Services by logging on to the Services by:
  - i. inputting the selected PIN to activate the Token;
  - ii. entering their User ID in the secure login facility of the Services together with the number randomly generated by their Token in the password field;
  - iii. depressing the 'submit' button, receiving a host authentication code then depressing the 'arrow' button on their Token to display the four digit number on the Token;
  - iv. confirming that the second number on the Token is identical to the number displayed on the screen at which point they depress the 'confirmation' button visible on the screen, in order to:
    - ▶ access, view and obtain information as may be permitted by the Bank (whether relating to an Account or otherwise);
    - ▶ initiate but not effect, perform or dispatch, any Instruction to the Bank; and
    - ▶ each Transaction Authorizer effecting, performing or dispatching an Instruction confirming the acceptance to effect the instruction by entering the random code provided by the Token assigned to the respective Users.

## 6.2 Tokens

- a. The Implementation Manager shall issue one (1) personal Token directly to each User for the purpose of enabling such User to utilize the Services.
- b. Tokens will at all times remain the Bank's sole property. If you require replacement Tokens, an additional fee may be charged for each Token replaced.
- c. Tokens must always be kept in a safe place by Users and must never be provided to an unauthorized third party or passed from one User to another.
- d. The Bank may cancel a User ID, PIN and/or Token in respect of any User and at any time without prior notice if it believes the User ID, PIN and/or Token is being misused or any breach of security or unauthorized use of the Services is occurring.
- e. You shall procure the return to the Bank of any Token issued or provided by the Bank to any User (i) if so requested by the Bank, or (ii) immediately upon you ceasing to maintain or operate any Account with the Bank or (iii) upon termination of the Services.

- f. The Bank will make all reasonable efforts to ensure that Tokens provided to you will perform as necessary to permit access to the Services. You and/or the relevant User(s) agree to notify us immediately if any Token fails to function correctly.
- g. The Bank shall have no liability for breach of any implied term as to satisfactory quality, merchantability or fitness for purpose of any Token.

## 6.3 Your Security and Technical Responsibilities

- a. You shall have sole responsibility for ensuring that all User(s):
  - ▶ do not interfere with or damage (or attempt to interfere with or damage) any User ID, PIN, Token or any data/software associated with the Services; and
  - ▶ keep their User ID, PIN and/or Token secure and secret at all times, and take steps to prevent unauthorized use of such items. In particular, Users must:
    - i. never write or otherwise record the User ID and/or PIN in a way that can be understood by a third party and never record the User ID and PIN together;
    - ii. never keep their Token with any records of their User ID or PIN;
    - iii. never tell their User ID or PIN to a third party including our staff and/or any other User(s) or your employees;
    - iv. never give their Token to a third party including our staff and/or any other User(s) or your employees;
    - v. destroy any advice from us concerning their User ID or PIN promptly after receipt; and
    - vi. not respond to e-mails asking for secure information. The Bank does not use e-mail communication to convey or seek information of a sensitive nature such as User IDs, PINs or confirmation of personal details.
- a. You have sole responsibility for notifying the Bank immediately if (i) a User's User ID, PIN, Token or any other item used in respect of the Access Procedure is lost or stolen or (ii) the User becomes aware or suspects that another person either knows their User ID or PIN, is in possession of their Token or has made unauthorized use of the Services. The Bank will then cancel such User's User ID and/or PIN and arrange for them to be provided with replacement items.



## 6.4 General Undertakings

### a. You also undertake:

- ▶ to take all necessary steps for disaster recovery, including off-site storage of data recorded in the Services;
- ▶ not to publish, disclose or otherwise make available the Services in any form to any person, other than User(s);
- ▶ not to use or disclose any material and/or information pertaining to the Services other than to access and use the Services;
- ▶ to immediately respond to all enquiries and communications from the Bank regarding the Services or any transaction effected or service provided through the Services;
- ▶ to allow the Bank's auditors and any authorized personnel access to inspect and retain your records and/or copy data for the purpose of verifying or validating payments to or from your Accounts;
- ▶ to promptly notify us or, if outside of Business Hours, as soon as the Bank is open for business on the next Banking Day of:
  - i. any faults, errors or inconsistencies in respect of your use of the Services including a mistake in any transaction using the Services;
  - ii. disclosure of a User ID or PIN by any third party, or use of a Token by an unauthorized third party;
  - iii. any unauthorized access or use of the Services whatsoever; or
  - iv. your receipt or retrieval of any data or information through use of the Services that is not intended for you and, in addition, you will delete and destroy and/or procure the deletion or destruction of such data or information;
- ▶ not to use the Services for any illegal or unauthorized purpose;
- ▶ not to allow any person who is not a User to have a Token in their possession;
- ▶ not to attempt to transfer any material of any kind to the Internet Site which contains a virus, malicious computer corruption software and not to otherwise attempt to alter the content of the Internet Site;

- ▶ to immediately pay the Bank in respect of any Services Equipment, within three (3) Business Days of receiving a written payment request from the Bank, or as directed by the Bank from time to time. You authorize the Bank to debit any of the Accounts with any charges relating to the provision of the Services Equipment; and
- ▶ not to use the Services for any transactions with third parties, either directly or indirectly, which would result in a breach of the Regulations.

### a. You understand and agree that neither the Bank, nor its affiliates or its or their employees, shall be liable for any Loss suffered by you in relation whatsoever with the Services or the Platform including but not limited to:

- ▶ any malfunction, errors, omission, delay, break-down, interruption in, improper operation of, inaccuracies in the operations of the Services;
- ▶ the non-availability of the Internet or the Platform;
- ▶ any loss, damage or destruction caused to the Customer's hardware, software or other data processing system as a result of using the Services;
- ▶ the use of e-mail or any other insecure means of communication in dispatching instructions to the Bank;
- ▶ any breach of confidentiality resulting directly or indirectly from the your use of the Services or the Platform;
- ▶ any interruption or delay caused by any update or replacement performed on the Platform;
- ▶ any inaccurate or erroneous information provided by you;
- ▶ any matter arising from causes beyond the Bank's control; and/or
- ▶ any Loss, damage or destruction caused to the Account Holder's hardware, software or other data processing system as a result of using the Services Equipment.

### b. You agree to keep each personal computer utilized to connect to the Services with:

- ▶ An updated, genuine, functioning antivirus and firewall installed;
- ▶ A genuine operating system including the latest security patches; and,
- ▶ The most recent and updated version of a genuine and reputable web browser.

## 7. LIABILITY FOR UNAUTHORIZED TRANSACTIONS

**7.1** Subject to the provisions of Clause 3.3 above, if any Loss arises from any unauthorized transaction on your Account, you will be liable if:

- a. if the Loss occurs before you notify the Bank that the relevant User ID, PIN and/or Token has been misused, lost or stolen or become known to a third party; and
- b. if you contribute to the Loss because:
  - ▶ the dominant cause of the Loss was the fraudulent activity, failure to observe any of the security duties referred to in these Terms or extreme carelessness in failing to protect their security on the part of any of your employees, agents of any third parties, whether User(s) or not; or
  - ▶ your unreasonable delay in notifying the Bank of the misuse, loss or theft of any User ID, PIN, and/or Token or such items becoming known to a third party and the loss occurring between the time you became aware of, or should reasonably have become aware of, these matters and the time you notify the Bank.

**7.2** You will not be liable for any Loss incurred:

- a. before the relevant User ID, PIN and/or Token to enable the User to carry out all steps of the Access Procedure has been received by you;
- b. if the transaction occurs after you notify the Bank that the relevant User ID, PIN and/or Token has been misused, lost or stolen or become known to someone else;
- c. that is caused solely by the fraudulent or negligent action of the Bank's employees or agents;
- d. that is related to an access method and/or any item used in respect of the Access Procedure which is expired, cancelled, faulty or forged; or
- e. that is caused by the same transaction being incorrectly debited more than once to the same Account.

**7.3** You agree that the Bank may disclose information about you or your Account to any legal or regulatory authority or to other third parties (including service providers) if it thinks it will help prevent or recover any Losses and/or to comply with the Regulations.

## 8. SPECIFIC TERMS RELATING TO THE TRADE FINANCE DOCUMENTS

### 8.1 Specific Terms relating to Import Credit

- a. A request to issue an Import Credit or any request for amendment of an Import Credit shall be made by you by submission of the appropriate Application at least one (1) Business Day prior to the required issuance of the Import Credit or amendment of the Import Credit, as applicable.
- b. The Import Credit shall be issued in form and substance and with such terms and conditions as the Bank may decide. The Import Credit will be expressly subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision, Publication No. 600 of the International Chamber of Commerce, Paris, France) as revised from time to time.
- c. Each Import Credit shall be valid for such maximum period and in such maximum amount as may be decided by the Bank.
- d. The Import Credit shall be issued solely for purposes acceptable to the Bank.
- e. Unless otherwise agreed in writing by the Bank, the goods to be shipped under the Import Credit shall be shipped to the order of the Bank.
- f. The Bank shall not be under any obligation or commitment to release any Documents or goods or grant an advance for payment of the purchase price of the goods.
- g. You authorize the Bank to effect insurance and/or renew any expired insurance at your cost if the Documents called for do not include insurance policies or certificates acceptable to the Bank for the Cost and Freight (CFR) value plus at least an additional 10 per cent of such value.
- h. You authorize the Bank to make any additions and/or any amendments required to the Documents specified under the Import Credit which the Bank considers necessary to ensure compliance with the local government regulations but without any obligation on the part of the Bank.
- i. You confirm that you hold a valid license to import the goods under the Import Credit and will ensure its continued validity and the Import LC Beneficiary and the suppliers of the goods mentioned in the Application are not black listed. You further certify that the goods prescribed are not prohibited or restricted from entry at the port of destination.

- j. You understand and agree that the Bank will not be held liable for any acts or omissions of its correspondent(s) or of the Import LC Beneficiary(ies) nor for the existence, character, quality or quantity of the merchandise and the Documents, nor for the validity or genuineness of the Documents or endorsements thereon, nor for the time, place, manner in which the shipment(s) are made nor for partial or incomplete shipment(s), or whether there is no shipment at all.
- k. You understand and agree that the Bank will not be held liable for the character or the genuineness of the insurance nor for the solvency of the insurer nor for any delay in arrival nor for any loss or damage which may happen to any such merchandise during its transit and or after its arrival, or the non arrival of either the Documents or the goods, nor for delay on giving, or failure to give, notice of arrival or any other notice, nor for any errors, omissions or delays with respect to the delivery of mail, cables or wires.
- l. You also undertake to pay all fees as per the approved tariff due to the Ministry of Finance and Industry of the UAE in lieu of authentication of documents in case the duly legalised invoice and certificate of origin are not submitted by the Import LC Beneficiary and/or if the amount deducted from/paid by the Import LC Beneficiary is less than the amount payable to the UAE Ministry of Finance and Industry.
- m. You agree that if in consequence of any interruption of communications with the country where the Import Credit is available or due to any other reasons the Bank cannot ascertain for the time being to what extent the Import LC Beneficiary has availed himself of the Import Credit or any other obstruction of whatever nature arises, you shall have no right to demand release of any security or margins paid to the Bank or to demand to be released of any obligations unless and until such reasons, obstacles or obstructions have, in the sole opinion of the Bank, ceased to exist and until the settlement of accounts has taken place to the full satisfaction of the Bank.
- n. You agree that all and any bills of exchange and/or Documents presented in connection with the Import Credit will be couriered at your risk and cost. You acknowledge your responsibility to pay to the Bank any sum or sums that the Bank may have paid or that have been debited to the Bank without or before the Bank being in possession of such bills of exchange and/or Documents.
- o. You understand and agree that when and as soon as the Bank is satisfied that the Import LC Beneficiary's bills of exchange and Documents, whether negotiated or not, conform to the terms and conditions of the Application, the Bank shall accept, or as the case may be pay under bills of exchange, and take up the Documents.
- p. You agree that any request made by you to the Bank for the release of Documents against payment and/or under the relevant trust receipt and/or under acceptance and/or deferred payment shall be deemed to constitute your acceptance of the Documents and an irrevocable authorization to the Bank to debit your account on the due date for all sums owed by you to the Bank in connection with the Import Credit. You further agree that if there shall be an insufficient amount standing to the credit of your Account on the due date or if your Accounts have been overdrawn in excess of any limit approved by the Bank, the Bank may classify such amounts as overdue in your name and levy any overdue charges and/or default interest as deemed applicable by the Bank, at its sole discretion, from time to time.
- q. You agree that the above conditions and provisions shall also govern any and all extensions, increase and/ or other amendments to the terms of the Import Credit that the Bank may be prepared to make at your written request.
- r. You understand and agree that if you take possession of the goods before the Bank has received the Documents, all and any rights to reject the Documents for not being in conformity with the terms and conditions of the Import Credit are irrevocably lost both to you and the Bank.
- s. You agree that the Bank is authorized to route an Import Credit through its own branch or correspondent bank or make use of its agency arrangement programme with another bank to advise and/or re-issue an Import Credit to the Import LC Beneficiary, without any notification.
- t. As security for the liquidation of liabilities under the Import Credit you agree to pledge in our favour all your credit balances, stocks, movables and immovable assets and any other assets or rights whatsoever. You further agree that any amount held in your name may be applied by us in payment of any sum payable and due under the Import Credit.
- u. You agree to mark a pledge to the extent specified under the Import Credit on a fixed deposit in the Account specified with the Bank towards a margin for the Import Credit and for the Bank to utilise the same without further recourse to you.
- v. In the event that the cash margin or pledge on a fixed deposit is insufficient to meet a claim under the Import Credit, the Bank may at its sole discretion exercise its right of set-off or net any credit balance in any other account maintained by you (either singly or jointly) to recover the shortfall.

- w. You authorize the Bank to debit your account with the Bank for any commission, postage and other expenses incurred by the Bank in connection with the Import Credit and any Amendment to Import Credit and undertake to provide for necessary funds in the event of insufficient funds.
- x. You agree that the Bank is authorized to utilise the deposits and credit balances held under pledge against the Import Credit.
- y. You agree and confirm that any amendment under the Amendment to Import Credit has been agreed by all beneficiaries of the Import Credit. The Bank will not be held responsible where any amendment does not become effective.

## 8.2 Specific Terms relating to Export Credit

- a. The Bank shall not be under any obligation or commitment to purchase or discount the Export Credit or any bills drawn thereunder. All proceeds under an Export Credit shall be paid by the Bank only upon receipt by it of an equivalent amount from the bank issuing the Export Credit.
- b. You confirm that you hold a valid license to export the goods under the Export Credit and will ensure its continued validity. You further certify that the goods prescribed are not prohibited or restricted from being exported from the port of loading.
- c. You understand and agree that the Bank will not be held liable for any acts or omissions of its correspondent(s) or of the issuing bank of the Export Credit or of the buyer of the goods being exported by you.
- d. Any transfer by you of an Export Credit shall not be valid and binding on the Bank unless you have completed and submitted to the Bank a Request for Transfer of Export Credit. You may assign all your rights under an Export Credit in favour of any third party, such assignment shall be valid and binding on the Bank upon the Bank being notified and the Bank acknowledging the same. Any notification of such assignment by the Bank to the third party shall be by way of issuance by the Bank of the Confirmation of Assignment of Proceeds – Export Credit.
- e. A request by you to confirm an Export Credit shall be made at least one (1) Business Day prior to the required date, in such form as may be acceptable to the Bank.
- f. The Export Credit shall be guaranteed by the Bank only if it is in form and substance and with such terms and conditions as are acceptable to the Bank. The Export Credit must expressly be subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision, Publication No. 600 of the International Chamber of Commerce, Paris, France) as revised from time to time.

- g. You agree that if in consequence of any interruption of communications with the country where the Export Credit is available or due to any other reasons the Bank cannot ascertain for the time being to what extent the Export Credit has been paid by the issuing bank or any other obstruction of whatever nature arises, you shall have no right to demand release of any security or margins paid to the Bank or to demand to be released of any obligations unless and until such reasons, obstacles or obstructions have, in the sole opinion of the Bank, ceased to exist and until the settlement of accounts has taken place to the full satisfaction of the Bank.
- h. You agree that the above conditions and provisions shall also govern any and all extensions, increase and/ or other amendments to the terms of the Export Credit.
- i. You understand that while a request for assignment of proceeds of the Export Credit may be irrevocable on your part, the assignment does not constitute an undertaking on the part of the Bank. Any payment to a third party is conditional on the Bank being in receipt of an equivalent amount from the bank issuing the Export Credit.
- j. In the case of a Request for Transfer of Export Credit you agree that the transferee shall have the sole rights as beneficiary provided that the transfer expires on the date stipulated in that Request for Transfer of Export Credit but not later than the expiry date of the credit. You agree to provide the relevant documents within the stipulated time thereunder.
- k. Following the transfer of an Export Credit you agree that the transferring bank must obtain the new beneficiary's approval to any amendment of the Export Credit.
- l. You agree to exonerate the Bank from all responsibility in connection with any inadvertent disclosure of a party's details to the transferee. Furthermore you agree that the Bank and its correspondents are not responsible for the accuracy or genuineness of any documents in the event of misrepresentation as to the quality, quantity or value of any goods in connection with the Request for Transfer of Export Credit.

## 8.3 Specific Terms relating to Import Collection

- a. A request to provide the Service relating to Import Collection shall be made by you by at least one (1) Business Day prior to the required date, in such form as may be acceptable to the Bank.

- b. The Bank shall intimate you on the documents available in its custody by issuance of an Import Collection Notification and the documents will be made available to you strictly in accordance with the terms and conditions stated in such Import Collection Notification.
- c. The Bank shall not be under any obligation or commitment to release any documents or grant an advance for payment of the purchase price of the goods shipped pursuant to the documents.
- d. You confirm that you hold a valid license to import the goods shipped pursuant to the documents and will ensure its continued validity and the suppliers of the goods are not black listed. You further certify that the goods prescribed are not prohibited or restricted from entry at the port of destination.
- e. You understand and agree that the Bank will not be held liable for any acts or omissions of its correspondent(s) or of the supplier of the goods or the issuing bank of the letter of credit relating to the goods nor for the existence, character, quality or quantity of the merchandise and the documents, nor for the validity or genuineness of the documents or endorsements thereon, nor for the time, place, manner in which the shipment(s) are made nor for partial or incomplete shipment(s), or whether there is no shipment at all.
- f. You understand and agree that the Bank will not be held liable for the character or the genuineness of the insurance nor for the solvency of the insurer nor for any delay in arrival nor for any loss or damage which may happen to any such merchandise during its transit and or after its arrival, or the non arrival of either the documents or the goods, nor for delay on giving, or failure to give, notice of arrival or any other notice, nor for any errors, omissions or delays with respect to the delivery of mail, cables or wires.
- g. You also undertake to pay all fees as per the approved tariff due to the Ministry of Finance and Industry of the UAE for the authentication of documents, in case the duly executed invoice and certificate of origin are not submitted to the Bank as part of the Import Collection and/or if the amount deducted from/paid to the Bank in this regard is less than the amount payable to the UAE Ministry of Finance and Industry.
- h. You understand, agree and authorize the Bank that if a payment default occurs in due payment of any principal, interest, commission, expenses, fees and charges as mentioned in the Terms including this Clause 8, the Bank shall be entitled without any further notification, obligation and/or consent on your part to sell the goods or the documents of title thereto and to act in all respects as the direct consignee of the goods and to utilize the proceeds for the payment of all principal sums and commissions disbursed by the Bank including for the freight, insurance or other charges and of all expenses incurred for the sale. Should there be any shortfall and/or deficiency whatsoever, you also agree to be responsible for such shortfall and/or deficiency until full settlement has been obtained by the Bank of the amounts due to it.
- i. You agree that if in consequence of any interruption of communications with the country from where the document are sent to the Bank or due to any other reasons the Bank encounters any obstruction of whatever nature, you shall have no right to demand release of any security or margins paid to the Bank or to demand to be released of any obligations unless and until such reasons, obstacles or obstructions have, in the sole opinion of the Bank, ceased to exist and until the settlement of accounts has taken place to the full satisfaction of the Bank.
- j. You agree that any request made by you to the Bank for the release of documents against payment and/or under the relevant trust receipt and/or under acceptance and/or deferred payment shall be deemed to constitute your acceptance of the documents and an irrevocable authorization to the Bank to debit your account on the due date for all sums owed by you to the Bank in connection with the underlying credit or bill of exchange or draft. You further agree that if there shall be an insufficient amount standing to the credit of your Account on the due date or if your Accounts have been overdrawn in excess of any limit approved by the Bank, the Bank may classify such amounts as overdue in your name and levy any overdue charges and/or default interest as deemed applicable by the Bank, at its sole discretion, from time to time.
- k. You agree that the above conditions and provisions shall also govern any and all extensions, increase and/or other amendments to the terms of the credit underlying the transaction in relation to which the Import Collection Service is rendered by the Bank.
- l. You understand and agree that if you take possession of the goods before the Bank has received the documents, all and any rights to refuse the documents upon its receipt for not being in conformity with the terms and conditions of the underlying credit are irrevocably lost to you.
- m. Unless notified otherwise by the Bank, you agree and understand that the Import Collection Service will be subject to the Uniform Rules for Collection, 1995 Revision and ICC Publication No.522 as amended or replaced from time to time.

#### 8.4 Specific Terms relating to Export Collection

- a. A request to provide the Service relating to Export Collection shall be made by you by at least one (1) Business Day prior to the required date, in such form as may be acceptable to the Bank.
- b. The Bank shall inform the collecting bank on the documents by issuance of an Export Collection Notification setting out the terms and conditions relating to release of the documents.
- c. You confirm that you hold a valid license to export the goods represented by the documents and will ensure its continued validity. You further certify that the goods prescribed are not prohibited or restricted from being exported from the port of loading.
- d. You understand and agree that the Bank shall not and will not be held liable for any acts or omissions of its correspondent(s) or of the collecting bank or of the buyer of the goods being exported by you.
- e. You agree that if in consequence of any interruption of communications with the country where the documents have been sent or due to any other reasons or any other obstruction of whatever nature arises, you shall have no right to demand release of any security or margins paid to the Bank or to demand to be released of any obligations unless and until such reasons, obstacles or obstructions have, in the sole opinion of the Bank, ceased to exist and until the settlement of accounts has taken place to the full satisfaction of the Bank.
- f. You agree that all and any bills of exchange and/or documents presented in connection with the Export Collection will be couriered at your risk and cost. You acknowledge your responsibility to pay to the Bank any sum or sums that the Bank may have paid or that have been debited to the Bank without or before the Bank being in possession of such bills of exchange and/or documents.
- g. You agree that the above conditions and provisions shall also govern any and all extensions, increase and/ or other amendments to the terms of the credit underlying the transaction in relation to which the Export Collection Service is rendered by the Bank.
- h. You agree that the Bank is authorized to route the documents through its own branch or correspondent bank or make use of its agency arrangement programme with another bank to advise, without any notification.
- i. Unless notified otherwise by the Bank, you agree and understand that the Export Collection Service will be subject to the ICC Uniform Rules for collections and 1995 Revision (ICC Publication No.522) as amended or replaced from time to time.

- j. You agree that the Bank is not responsible for the genuineness and correctness of the documents relating to the Export Collection or the quality and condition of the goods or their delivery.

#### 8.5 Specific Terms relating to Outward LG and Shipping Guarantee

- a. A request to issue an Outward LG or to issue a Shipping Guarantee or any request for amendment of an Outward LG or Shipping Guarantee shall be made by you by submission of the appropriate Application at least one (1) Business Day prior to the required issuance of the Outward LG or Shipping Guarantee amendment thereof, as applicable
- b. The duration of an Outward LG or Shipping Guarantee shall be of such tenor as is acceptable to the Bank and the Bank shall be under no obligation to renew or extend this tenor.
- c. The Outward LG or the Shipping Guarantee shall be issued in form and substance acceptable to the Bank and subject to receipt by the Bank of such documents and information from you as are in a form and substance acceptable to the Bank. The Bank shall issue a Shipping Guarantee only in relation to an Import Credit.
- d. The Bank shall be entitled unilaterally to renew or extend the validity of the Outward LG or the Shipping Guarantee without any reference to you if renewal or extension of the tenor of the Outward LG or the Shipping Guarantee is requested by the beneficiary of the Outward LG or the Shipping Guarantee and the terms of such Outward LG or the Shipping Guarantee do not prohibit such extension.
- e. You shall, at least two (2) Business Days prior to the issuance or, as the case may be, amendment of the Outward LG or Shipping Guarantee, provide the Bank with such cash margin as may be requested by the Bank and pay any and all fees, commissions and expenses related to the same. You authorize the Bank to open a separate account to hold any cash margin subject to the usual terms and conditions of the Bank ("Margin Account") or otherwise directly hold such cash margin in its own account.
- f. The Bank shall be entitled, without referring to the Account Holder, to effect payment of the Outward LG or the Shipping Guarantee in accordance with the provisions of the Outward LG or the Shipping Guarantee upon a claim being made by the beneficiary of the Outward LG or the Shipping Guarantee and the Account Holder shall pay, indemnify and reimburse the Bank immediately upon demand by the Bank, any sums which the Bank may demand, together with such expenses and charges which are incurred by the Bank.

- g. The Bank shall be entitled to debit any of the Account(s), including the Margin Account, for any payments that the Bank may be required to make pursuant to the Outward LG or the Shipping Guarantee.
- h. You understand and agree that if you take possession of the goods on the strength of a Shipping Guarantee, all and any rights to refuse the documents upon its receipt are irrevocably lost to you.
- i. You agree to indemnify the Bank against any and all consequences of issuing the Outward LG and the Shipping Guarantee, including any Loss incurred by the Bank, and you undertake to reimburse the Bank on demand with interest on amounts paid under the Outward LG.
- j. As security for the liquidation of liabilities under the Outward LG you hereby pledge in our favour all your credit balances, stocks, movables and immovable assets and any other assets or rights whatsoever. You further agree that any amount held in your name in any Account, including the Margin Account, may be applied by us in payment of any sum payable and due under the Outward LG.
- k. You understand that you will remain liable under the Outward LG until the original guarantee is returned to the Bank for cancellation or the beneficiary confirms your release thereunder or it expires according to its terms.
- l. You agree to mark a pledge on the fixed deposit amount contained in the Margin Account as security for the Outward LG and that the Bank may utilise the same without any reference to you.
- m. You agree to furnish any additional security, cash margin or increase the fixed deposit in the Margin Account pledged by the Applicant, on demand from the Bank, whenever the Bank considers it necessary.
- n. In the event that the cash margin or pledge on fixed deposit is insufficient to meet a claim under the Outward LG, the Bank may at its sole discretion exercise its right of set-off or net any credit balance in any other account maintained by you (either singly or jointly) to recover the shortfall.
- o. You authorize the Bank to debit your account with the Bank for any commission, postage and other expenses incurred by the Bank in connection with the Outward LG and Amendment to Outward LG.
- p. You confirm that the Amendment to the Outward LG has been agreed by all beneficiaries. The Bank will not be held responsible where any amendment does not become effective.

- q. In relation to a Shipping Guarantee you agree to surrender the original bill of lading or airway bill to the Bank in the event they come into your possession by whatever means.
- r. You agree that the Bank will debit your Account for any required margin or charges incurred by it in connection with the Shipping Guarantee.

#### 8.6 Specific Terms relating to Inward LG

- a. A request to accept an Inward LG as security for your obligations to the Bank shall be made by you at least one (1) Business Day prior to the required date.
- b. An Inward LG must be in a form acceptable to the Bank, at its sole discretion.
- c. All your rights, title and interest under an Inward LG must be assigned to the Bank in a form prescribed by the Bank.
- d. The original Inward LG must be delivered to the Bank irrespective of whether the Inward LG is in favour of the Bank or has been assigned to the Bank.
- e. Receipt of an Inward LG or the assignment of an Inward LG shall not preclude the Bank from requiring such additional security as it may deem fit and necessary.
- f. The issuing bank of the Inward LG must agree to pay all amounts under the Inward LG to the Bank on the first written demand of the Bank despite any contestation by any person.
- g. You understand that the Bank may demand renewal of the Inward Guarantee if your underlying obligations to the Bank have not been performed in full to the satisfaction of the Bank.

#### 8.7 Specific Terms relating to Discounting of Bills

- a. A request to discount a bill of exchange shall be made by you by submission of the appropriate Application at least one (1) Business Day prior to the required date.
- b. All such bills of exchange must be accepted or issued, as the case may be, by bonafide third parties acceptable to the Bank, in favour of the Account Holder in the ordinary course of business as payment to the Account Holder for any assets, goods or services sold by the Account Holder to such third party.
- c. The Bank shall not be required to make any demand for presentation, acceptance or protest of any bill of exchange.
- d. The Bank shall have no liability or responsibility to the Account Holder for collection of the bills of exchange.
- e. All bills of exchange must have a maturity acceptable to the Bank.

- f. All bills of exchange must be endorsed and delivered by the Account Holder in favour of and to the Bank in form and substance acceptable to the Bank.
- g. The aggregate value of bills of exchange submitted for discount under the Discounting facility that are issued by one person or related persons must not exceed the amount acceptable to the Bank of Bills;
- h. The Bank shall not be obliged to discount any bills of exchange which originate from or are drawn in favour of the parties other than the Account Holder.
- i. The Bank may, in its sole discretion, refuse to discount a bill of exchange.
- j. If any bill of exchange that has been discounted by the Bank pursuant to the Terms fails for, whatever reason, to clear for payment on maturity then the Bank shall in addition to its remedies against the drawer and prior endorsers, if any, of such bills of exchange, also debit the Account(s) of the Account Holder with the Bank. If the Account(s) of the Account Holder do not have adequate funds then the Account Holder shall no later than one (1) Business Day after the date of the notice from the Bank pay the Bank the value of such dishonoured bills of exchange.
- k. You understand that in addition to the Bank's rights against you, the Bank will also have the right to sue and institute legal proceedings against any drawer or endorser at your cost for the recovery of the full value of the bills discounted by the Bank and to exercise its rights under any other bills pledged or to be pledged to you. Any proceeds received by the Bank by way of taking legal action shall have preference and priority in favour of the Bank over any other creditors for satisfaction of the Bank's claims.
- l. Where the Application and Indemnity for Discounting Bills is to be made by more than one person it shall be construed as being made jointly and all covenants and liabilities thereunder shall be joint and several and the pledge shall extend to the assets and securities of each and all of the persons. Any notice served on one such person will be deemed to be served on all.

#### 8.8 Additional common terms relating to the trade finance documents

- a. Your request or Application, as the case may be, has to be initiated by an Authorized Signatory and approved by another Authorized Signatory. The Bank shall not be obliged to verify the Instruction before providing any Service.
- b. You undertake to pay on first demand, whenever and as many times any sum or sums that the Bank in its absolute discretion may require you to pay, or to pre-

pay, additional security in fulfilment of your obligations to the Bank as may be considered necessary or desirable by the Bank.

- c. You agree that the Bank may hold all the prepayments received in the relevant margin account and the Bank shall be under no obligation to pay any sums held by it in the margin account to you until the Bank in its sole discretion determines that it has received all amounts due to it in connection with the Service.
- d. You undertake and agree to effect all payments to the Bank in UAE Dirhams at the rate of exchange prevailing at the Bank.
- e. You understand, agree and authorize the Bank that if a payment default occurs in relation to any principal, interest, commission, expenses, fees and charges mentioned in the Terms, the Bank shall be entitled without any further notification, obligation and/or consent on your part to debit your Account for such amounts or if applicable to sell the goods or the documents of title thereto and to act in all respects as the direct consignee of the goods and to utilize the proceeds for the payment of all principal sums and commissions disbursed by the Bank including for the freight, insurance or other charges and of all expenses incurred for the sale. You also agree to be responsible for payment of such amounts until full settlement has been obtained by the Bank of such amounts.
- f. In consideration of the Bank agreeing to render any Service, you shall, if requested by the Bank, provide the Bank with such guarantees, pledges, charges or any other security(ies) in a form satisfactory to the Bank as the Bank may request.
- g. You agree that the Bank is authorized to pay to its correspondents for your account and at your risk, such sum or sums as these correspondents may require or the Bank may want to pay as margin in security for the obligations of the Bank in relation to the Service or to facilitate the settlement of any negotiations.
- h. You further declare that the Terms shall not be affected by the death of any Authorized Signatory(s)', or any of you or your partner or shareholder death but shall remain in full force and effect and shall continue to be binding notwithstanding any changes which may from time to time take place by death, insolvency, winding up, bankruptcy or otherwise however in relation to you and/ or your partners/shareholders.
- i. You undertake to pay and/or reimburse the Bank on first demand or at maturity for any sum or sums that the Bank certifies that it has paid, together with the interest until the date of payment and any and all costs that it has incurred, in connection with the Service. Without prejudice to any rights or remedies the Bank may have or has under the



Terms and notwithstanding anything else to the contrary in the Terms including this clause, you shall indemnify and hold the Bank harmless for any losses, claims, damages and expenses suffered or incurred by the Bank in connection with (i) processing any Instruction and/or Application relating to any Service, (ii) the issuance of the Import Credit, confirmation of an Export Credit, issuance of an Import Collection Notification, issuance of an Export Collection Notification, issuance of an Outward LG or Shipping Guarantee, Discounting of Bills, acceptance of an Inward LG and/or (iii) the use of this Service by you and/or (iv) the carrying out by the Bank of any matter contemplated by any Service, except to the extent finally and judicially determined to have resulted primarily from the gross negligence or wilful misconduct of the Bank.

## 9. SPECIFIC TERMS RELATING TO CORPORATE CHEQUE SCANNING

### 9.1 Corporate Cheque Scanning

- a. This section of the Terms contains the terms and conditions specifically governing Corporate Cheque Scanning. Any written Terms and Conditions (other than these) which govern the depositing of cheques in your Account(s) will continue to apply.

### 9.2 The Bank's Corporate Cheque Scanning Obligations

- a. The Bank will be responsible for:
  - ▶ making Corporate Cheque Scanning available to you upon your completion of a Customer Set-up Form and following its approval of you and the Users using Corporate Cheque Scanning;
  - ▶ providing you with details of the Vendor that is authorized to supply you with each Device; and
  - ▶ at its discretion, setting, and you agree it may set, in addition to any daily limit requested by you (including in the Customer Set-up Form), daily limits on the value of cheques submitted by you using Corporate Cheque Scanning pursuant to any applicable credit or other policies the Bank may have in force from time to time.

### 9.3 Your Corporate Cheque Scanning Obligations

- a. You have sole responsibility for:
  - ▶ obtaining each Device from the Vendor approved by the Bank and arranging installation of each Device for use with Corporate Cheque Scanning;

- ▶ the Users submitting Qualifying Cheques with Corporate Cheque Scanning within the daily limits prescribed or specified and correctly inputting all information required by Corporate Cheque Scanning;
- ▶ complying with all procedures, systems and operating manuals implemented by the Bank in connection with Corporate Cheque Scanning, including the requirements prescribed by the Bank for Qualifying Cheques and the Regulations of the Central Bank concerning cheque security features, and issued by the Vendor regarding a Device;
- ▶ ensuring all Imaged Cheques are deposited only once (including by any other deposit method). Once an Imaged Cheque is submitted you must not present it to any person (other than the Bank) for collection or payment;
- ▶ immediately informing the Bank where you, or any User, is aware or reasonably suspects there has been any unauthorized, negligent, fraudulent or dishonest use of Corporate Cheque Scanning; and
- ▶ delivering each Imaged Cheque to the prescribed Bank locations, as advised by the Bank from time to time, within three days of it being submitted by Corporate Cheque Scanning. You may select Courier@Velocity to deliver all Imaged Cheques so submitted by entering into the separate terms and conditions of the Bank governing that service. If Courier@Velocity is used by you to deliver Imaged Cheques to the Bank, you undertake to keep the Imaged Cheques separate from all other items delivered by Courier@Velocity and to comply with all policies and instructions of the Bank regarding delivery of Imaged Cheques.

### 9.4 Timing for Processing of Instructions

From time to time, some Instructions may take time to process (for example, the unavailability of the ICCS or a cheque not conforming to the requirements of the Bank) and an Instruction will not be carried out simultaneously with an Instruction being issued by a User. If your Users submit an Imaged Cheque on a Banking Day but after the Scanning Cut-off Time, it will be processed on the next Banking Day;

### 9.5 Corporate Cheque Scanning Device

- a. You agree to:
  - ▶ keep, maintain and insure each Device at the Location and comply with all terms and conditions between you and the Vendor;

- ▶ use the Device properly for the purpose provided, in accordance with the manufacturer's operating instructions and to comply with all relevant laws relating to the possession, use and maintenance of the Device;
- ▶ not:
  - i. use a Device that has not been approved by the Bank, is the Device of another person or organization, or permit anyone but the Vendor or its authorized agents to repair, service or maintain each Device;
  - ii. knowingly or negligently use or attempt to use the Internet Site with a malfunctioning Device or otherwise allow anything to happen which might damage or interfere with the Internet Site or compromise the Internet Site's security when using a Device or Corporate Cheque Scanning; and
  - iii. connect or link each Device with any other device or system without the Bank's prior written consent.
- b. You acknowledge that each Device is supplied to you by the Vendor and the Bank has no liability to you in this regard and makes no representation or warranty with respect to the Device. You are liable for any Loss and agree to indemnify us for any Loss we incur as a result of your use of the Device.

## 9.6 Software

- a. The Bank grants to you a non-exclusive, non-transferable right to use one copy of the Software on each Device for the purposes of accessing Corporate Cheque Scanning and for your own internal business purposes. The right to use the Software will automatically cease upon termination of your use of Corporate Cheque Scanning whether or not the Device is returned to the Bank or the Vendor.
- b. You agree that you will not:
  - ▶ interfere with or alter any Software within the Device;
  - ▶ use all reasonable efforts to protect the confidentiality of the Software and to protect the Software from unauthorised use, reproduction, distribution or publication; and
  - ▶ copy, reverse engineer, or disassemble or modify or attempt to modify the Software in any way in an attempt to duplicate the Software or imitate any of its functions or otherwise.

## 9.7 Liability and indemnity

- a. You are solely liable and responsible for all Imaged Cheques submitted and all information submitted by a User in connection with an Imaged Cheque being true, complete and correct.
- b. The Bank reserves the right to reject or hold any Imaged Cheque that does not comply with the Terms (including, but not limited to, any Imaged Cheque that is altered, mutilated, defaced, post-dated or suspected of being, or proven to be, fraudulent) or any terms applicable to your Account. You acknowledge that the Bank's ability to provide Corporate Cheque Scanning and submit an Imaged Cheque to ICCS is subject to the availability of the ICCS and the correct functioning of the Device. The Bank reserves the right to suspend Corporate Cheque Scanning on the conditions and for such period it determines in the event the ICCS has been suspended or is unavailable for any reason. The Bank shall have no liability to you for Loss incurred by you upon the occurrence of any event described in this Clause 9.7/b.
- c. Without limiting the indemnity given by you at Clause 10.2, you shall indemnify and hold the Bank harmless from and against any and all Loss suffered or incurred by the Bank and any penalty (including any fine or statutory impost) that the Bank certifies as having been sustained or incurred as a result of or in connection your or any User's use of Corporate Cheque Scanning, including any unauthorized, negligent, fraudulent or dishonest use, or your failure to deliver the original of any Imaged Cheque in an acceptable form.

## 9.8 Termination

In addition to the termination rights contained at Clause 13, the Bank may by notice in writing to you immediately terminate your use of Corporate Cheque Scanning where the Central Bank terminates the ICCS or the Bank's access to the ICCS.

## 10. DISCLAIMER AND INDEMNITY

### 10.1 Disclaimer

- a. The Bank does not represent or warrant that the Services and the Internet Site (a) will be available and meet your requirements or that access will be uninterrupted, (b) that there will be no delays, failures, errors or omissions or loss of transmitted information, (c) that no viruses or other contaminating or destructive properties will be transmitted or (d) that no damage will occur to your computer system. Due to the open nature of the internet, the Bank cannot guarantee and nor does it warrant the complete security of your transactions from hacking,

- unauthorized access, virus attacks and other deliberate attempts by third parties in breaching the latest security features which have been implemented. Nevertheless, the Bank will take all reasonably practicable steps to ensure that your transactions are secure (including the installation of security features which are designed to keep all communication private and confidential).
- b. You should be aware that the Bank uses a very high level of encryption to protect your transactions and Accounts from unauthorized access. The use of such levels of encryption may be illegal in jurisdictions outside the UAE. It is your responsibility to ensure that, if outside the UAE, your ability to use the Services is permitted by local law and we shall not be liable for any Loss suffered by you as a result of not being able to use the Services in these jurisdictions.
- c. The Bank makes no representations or warranties regarding the accuracy, functionality or performance of any third party software that may be used in connection with the Services or the Internet Site.
- d. The Bank has taken reasonable steps to ensure the accuracy, adequacy or completeness of the information and materials (including text, graphics, links or other items) contained in the Services and on the Internet Site. However, the use of the Services and the Internet Site is at your sole risk. Such information and materials are provided on an 'as is' and 'as available' basis and the Bank does not warrant accuracy, adequacy or completeness of this information and materials and expressly disclaims liability for errors or omissions in this information and materials. No warranty of any kind, implied, express or statutory, including but not limited to the warranties of non-infringement of third party rights, title, fitness for a particular purpose and freedom from computer virus is given in conjunction with the information and materials.
- e. Unless otherwise stated or agreed with you, the information contained in the Services and on the Internet Site has been prepared in accordance with the regulations and laws of the United Arab Emirates and for the supply of products or services within the United Arab Emirates. The information is not directed at you if it does not comply with the laws of the jurisdiction in which you reside or from which you are accessing the Services.
- f. Our records, unless proven to be wrong, will be evidence of your dealings with the Bank in connection with the Services.
- g. Subject to Clause 7 above, and to the extent permitted by law, the Bank will not be liable to you or any other person for any Loss whether direct, indirect, consequential, special or incidental including, without limitation, any loss of profit, business revenue, goodwill or anticipated savings or loss of data, arising from:
- ▶ the Bank acting or failing to act upon any Instructions received by a User(s);
  - ▶ any error contained in the information input and transmitted to our internal systems;
  - ▶ the accessing or use of the Services via the Access Procedure but, in a manner, or for a purpose not authorized by a User(s);
  - ▶ the failure of our or your telecommunications systems and communications networks or any mechanical failures, power failures, malfunction, breakdown or inadequacy of equipment;
  - ▶ an event or cause reasonably outside our control including but not limited to acts of God, power failure or variation in the supply of power, machinery or systems or processing systems failure, strikes, riots, acts of war, lockouts or industrial disturbances, governmental action superimposed after the date of your signing the initial Customer Set-up Form, or communication line failures;
  - ▶ any fraudulent activity or negligence by your employees, agents or any third parties whether or not User(s);
  - ▶ any delays in the transmission of data between you and any recipient of the information, whether caused by breakdown, viruses or a fault in your equipment or software programs resident on your equipment or our systems; and
  - ▶ any consequences of any virus or other destructive features which may adversely affect your hardware, software or equipment;
    - i. the failure of a transaction;
    - ii. any other cause, except where it is because of gross negligence or willful default on the part of the Bank or breach of a condition or warranty implied by statute in contracts for the supply of goods and services and which cannot be excluded, modified or restricted. The Bank's liability for breach of any such non-excludable rights is limited, at the option of the Bank, to the supply of the Services again, or to the payment of the cost of having the Services supplied again; or
    - iii. the accessing or use of any Services Equipment via the Access Procedure but, in a manner, or for a purpose not authorized by the Bank or a User.
- h. The Bank accepts no responsibility for any Loss whatsoever or howsoever caused arising from any interruption of the Services or any technical problem which interrupts access to or results in delays, failures, errors, omissions or loss of any transmitted information.

- i. The Bank will execute foreign exchange transactions on the date of accepted request using the Bank's portal displaying the official rate, pre-agreed rates are subject to standard market practice of foreign exchange dealings.
- j. The Bank accepts no responsibility for any Loss whatsoever or howsoever caused arising from any defect, deficiency, or malfunction in the Services Equipment, including, but not limited to, technical problems which interrupt the use of the Services.
- k. Some of the Services require us to receive, process and report information involving your accounts and transactions. The Bank will not be responsible for determining the accuracy, timeliness or completeness of any information that you, your agents or any third party provide to us. We will not have a duty to interpret the content of any data transmitted to us, except as provided in the Terms. Unless otherwise agreed in writing, the Bank will not be required (by means of any security procedure or otherwise) to detect errors in the transmission or content of any information we receive from you or a third party.

## 10.2 Indemnity

Without prejudice to any other right or remedy of the Bank (whether under any other provisions of the Terms or otherwise) you shall indemnify and hold the Bank harmless from and against any and all Loss suffered or incurred by the Bank and any penalty (including any fine or statutory impost) that the Bank certifies as having been sustained or incurred as a result of any of the following:

- a. any failure by you including your User(s) to comply with these Terms;
- b. any act or default of your User(s) in the operation and use of any system used by you in respect of the Services;
- c. the Bank relying or acting on or carrying out any Instruction or in any manner permitted under these Terms;
- d. any change in any applicable laws;
- e. any act, omission or thing done or caused to be done by the Bank in connection with or referable to these Terms or any Account through no willful default of the Bank including but not limited to the disclosure by any officer or employee of the Bank to any person of any information relating to any Account or Instruction whether inadvertent or otherwise;
- f. any virus, default, defect, deficiency or malfunction in and or any breakdown, disruption or failure of any software or any telecommunications, computer or other electronic equipment or system owned, operated and/or maintained by or on behalf of the Bank due to or caused by you or any of your Users accessing and/or utilizing the Services;

- g. any defect, deficiency or malfunction whatsoever or howsoever caused in the Services Equipment or in accessing or utilizing the Services; or
- h. any failure to provide the Services as a result of our compliance with the Regulations.

## 11. INFORMATION

- 11.1 Where the Bank needs to pass information to other banks or financial institutions in order to execute your Instructions or where it reasonably thinks that it is necessary or desirable for the provision of the Services or to any governmental agencies and authorities where the disclosure is required by law. You hereby authorize us to transmit and store information about you and your Accounts through and in various countries and territories and to provide such information to third parties. Furthermore, we or any third party to whom we have transmitted such information about you or your Account, will be permitted to disclose any such information if we or they are legally compelled to do so.
- 11.2 The Bank may record telephone calls made in respect of the support service for transaction verification and quality control training purposes.

## 12. FEES, SUPPLEMENTARY TERMS AND CHANGES TO THE SERVICES

- 12.1 You agree to pay our scale of charges (if any) for use and provision of the Services as we may advise you from time to time. We may vary our charges and the frequency and dates of payment by giving you no less than thirty (30) days' notice.
- 12.2 You authorize us to debit any of your Accounts with any charges for providing the Services as initially described in a Customer Set-up Form that may change from time to time under the Bank's discretion.
- 12.3 The Bank reserves the right to change these Terms and any other information it has issued about the Services at any time. Notice of any other change to these Terms will be given in writing (for example; on Account statements or on the Internet Site) or by an advertisement appearing in the press no later than the date on which the change takes place. You will be given at least thirty (30) days' notice by such method as the Bank shall decide in respect of any increase in your liability for losses or adjustment to any periodic transaction limits.

**12.4** When we introduce new services under the Services, we may provide them on supplementary terms which will be notified to you from time to time in accordance with these Terms.

### 13. TERMINATION OF THE SERVICES

**13.1** You may terminate the provision of the Services to you at any time by giving at least twenty one (21) days' written notice to the Bank; and the Bank may terminate the provision of any or all of the Services at any time, without Court order, by giving you at least five (5) days' written notice by email at the email address provided by you to the Bank in the Customer Set-Up Form. Failure by you to acknowledge the email within a day of receipt shall be considered as acceptance of termination. Where a Service is terminated by the Bank, it shall have no effect on the provision of the remaining Services and the Terms relevant to those Services.

**13.2** Fund transfers for which Instructions have been given and which are scheduled to be made after your use of a Service is terminated may not be effected by the Bank.

**13.3** Furthermore, the Bank may by notice in writing to you immediately terminate these Terms and the provision of any or all of the Services without Court order if:

- a. you (including your employees, agents or any third parties whether or not a User(s)) interfere in any way with our systems or the Services provided by us to you or other customers;
- b. you (including your employees, agents or any third parties whether or not a User(s)) breach any provision of the Terms and fail to rectify the breach within three working days after receiving notice from us requiring the breach to be remedied;
- c. a User discloses his/her User ID, PIN and/or Transactional Password, allows an unauthorized third party to use a Token, or allows any unauthorized third party access to the Services; or
- d. you are declared insolvent, have a receiver appointed over any of your property or make any composition, arrangement with, or assignment for the benefit of your credits.

**13.4** On termination:

- a. we may immediately remove your access to our systems, the Internet Site and the Services; and
- b. you will immediately return any Tokens to us.

### 14. INTELLECTUAL PROPERTY

**14.1** Copyright in all information and other materials contained in the Services and on the Internet Site is owned by or licensed to the Bank. All rights are reserved. You may not reproduce adapt, distribute, display, transmit or otherwise exploit the service the Internet Site or any part of the same without the written permission of the Bank. Furthermore, you must not link any other website to the Internet Site without our permission. You may however copy, download or temporarily store extracts from the Internet Site and the Services for your personal information only or when you use the Services.

**14.2** Any trademarks including logos, trading names, service names, colour schemes, slogans and taglines displayed in respect of the Services and the Internet Site are owned by or licensed to the Bank. Nothing contained on such Internet Site should be construed as granting any license or right to use any such trademarks without the prior written consent of the Bank.

### 15. GOVERNING LAW

The Services provided to you by the Bank and a Customer Set-up Form (of which these Terms form a part), and the transactions carried out under it, are governed by the laws of the UAE. You submit to the non-exclusive jurisdiction of the courts of the UAE including but not limited to Abu Dhabi Courts in respect of any dispute.

### 16. AMENDMENTS

The Bank may amend, vary or supplement the Terms by giving you notice by any means the Bank deems fit and any such amendment, variation or supplement shall take effect from the date specified in such notice or in the absence thereof as from the date of such notice.

### 17. SEVERABILITY

If any provision of the Terms is found to be illegal, void or invalid, the remainder of the Terms will remain in full force and effect.

### 18. NO WAIVER

No failure to exercise or enforce and no delay in exercising or enforcing on the part of the Bank of its rights under the Terms or relating to any Account shall operate as a waiver thereof, nor shall it in any way prejudice or affect the rights of the Bank afterwards to act strictly in accordance with the powers conferred on the Bank under the Terms.

## IN WITNESS WHEREOF.

the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the date first mentioned above.

For and on behalf of the Bank

Name: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

For and on behalf of the Account Holder

Name: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

بنك أبوظبي التجاري  
ADCB

