

## **1. Services**

(a) The DFCC Bank PLC a Banking Company duly incorporated in Sri Lanka bearing company registration PQ 233 (the 'Bank' which expression shall, where the context allows or requires, include its successors and assigns) shall provide subject to these Terms and Conditions, on online services and facilities from time to time, listed out in the Schedule hereto and as updated by the Bank and accepted by the Customer from time to time, (the 'Services') through any Internet site established, operated and/or maintained by or on behalf of the Bank ('Internet Site') to enable customers to give instructions to and communicate with the Bank for the purposes of conducting banking, investment, financial and other transactions and dealings of various nature and obtaining services, products, information, goods, benefits and privileges from the Bank.

(b) As part of the Services, the Bank may make available via any Internet Site financial, market or other information and data ('Information') supplied by any person (each an 'Information Provider' which expression shall include any person who supplies any information to an Information Provider) and may provide reports compiled from Information in any form, medium or means ('Reports').

(c) The Bank has the right to determine and vary from time to time the scope and type of the Services to be made available including, without limitation : -

- i. expanding, modifying or reducing the Services at any time;
- ii. imposing and varying any restrictions on the use of the Services such as minimum and maximum daily limits with respect to the value of any transaction or dealing or any type of transactions or dealings which the Customer may conduct by using the Services; and
- iii. prescribing and changing the normal service hours during which the Services are available and any daily cut-off time for any type of Services or transactions. Any instruction of the Customer received by the Bank after any applicable daily cut-off time shall be deemed to be received on the next business day.

(d) The Bank may require the Customer to nominate or register specific account(s) for the purposes of the Services.

## **2. Governing Terms and Conditions**

The Services provide an additional means for the Customer to operate accounts, conduct transactions and dealings and obtain services, products, information, goods, benefits and privileges from the Bank as shall be made available from time to time. Transactions and

dealings effected using the Services are subject to the General Terms and Conditions and the Bank's General Disclaimer and Internet Privacy Statement. All other terms and conditions governing the relevant accounts, transactions, dealings, services, products, information, goods, benefits or privileges shall continue to apply but where there is any discrepancy, these Terms and Conditions shall prevail for the purposes of the Services.

### **3. Use of the Services**

(a) To access the Services for the first time, the Customer is required to register online (as made permissible) or in such other manner as the Bank may from time to time specify and indicate his acceptance of all the terms and conditions governing the use of the Services and to provide such information as the Bank may reasonably specify for identifying the Customer.

The Bank may choose to register customers through a written application provided to a DFCC Bank branch or through verbal request made via the DFCC Bank hotline 0112350000 upon customer information verification. It is the responsibility of the customer to inform the DFCC bank of any changes to the contact information such as mobile number, e mail address or postal address.”

(b) By registering to use the Services, the Customer warrants that all information provided by the Customer to the Bank in relation to the Services is true, complete and up-to-date.

(c) The Services are for the sole and exclusive use by the Customer.

(d) The Customer shall not use or knowingly allow any other person to use the Services, the Information and/or the Reports for or in connection with any illegal purpose or activity. The Customer shall notify the Bank as soon as practicable if he becomes aware of such use.

(e) Any exchange rate, interest rate, dealing rate and other prices and Information quoted by the Bank on the Internet Site(s) or otherwise in response to an online inquiry is for reference only and is not binding. Any rate, price and information offered by the Bank for the purpose of the relevant transaction shall be binding on the Customer upon the Customer confirming his acceptance irrespective of any different rate, price or information quoted by the Bank.

(f) The Customer acknowledges that there may be a time lag or the non-receipt of instructions, information or communication by the bank consequent to communicating via the Internet.

#### **4. User ID and Password**

(a) The Customer shall follow the guidance provided by the Bank online in designating the user identification code (the 'User ID') and the login password for identifying the Customer for the purposes of the Services.

(b) The Customer may change the Login Password at any time but any change shall be effective only if accepted by the Bank. The User ID cannot be changed by the Customer

(c) The Bank may, in its sole discretion require a Customer to use a Transaction Password to access the Services

(d) The Customer shall act in good faith, exercise reasonable care and diligence in keeping the User ID, the Login Password, and to the Transaction Password in secrecy. At no time and under no circumstances shall the Customer disclose the User ID, the Login Password and/or the Transaction Password to any other person.

(e) The Customer shall be fully responsible for any accidental or unauthorised disclosure of the User ID, the Login Password and/or the Transaction Password to any other person and shall bear the risks of the User ID, the Login Password, or and the Transaction Password being used by unauthorized persons or for unauthorized purposes.

(f) Upon notice or suspicion of the User ID and/or the Login Password or the Transaction Password being disclosed to any unauthorized person or any unauthorized use of the Services being made, the Customer shall notify the Bank in person as soon as practicable or by telephone at such telephone number(s) as the Bank may from time to time prescribe (and the Bank may ask the Customer to confirm in writing any details given) and, until the Bank's actual receipt of such notification by a relevant officer of the Bank, the Customer shall remain responsible for any and all use of the Services by unauthorised persons or for unauthorised purposes.

#### **5. Customer's Instructions**

(a) The Customer is required to enter the User ID, the Login Password, the Transaction Password and any other identifiers as shall be prescribed by the Bank from time to time in order to log-on to the Services and give instructions to the Bank online. Instructions in connection with the Services shall not be considered to be received by the Bank unless they are given in such manner as the Bank may prescribe from time to time and until the Bank has actually received them.

(b) Any instruction given in connection with the Services quoting the User ID, the Login Password, the Transaction Password and such other identifiers of the Customer as prescribed by the Bank, once given, may not be rescinded or withdrawn without the consent of the Bank. All such instructions given, as understood and acted on by the Bank in good faith, shall be irrevocable and binding on the Customer whether given by the Customer or by any other person purporting to be the Customer. The Bank shall be under no duty to verify the identity or authority of the person giving any such instruction or the authenticity of such instruction apart from verifying the User ID, the Login Password, the Transaction Password and such other identifiers (if any) of the Customer.

(c) The Bank will be entitled not to act on an instruction insofar as it is in the Bank's opinion not practicable and reasonable to do so and/or not in accordance with its regular business practices and procedures.

(d) Advice or confirmation that an instruction has been received and/or a transaction has been effected through the Services will be provided by the Bank online. Such advice or confirmation shall be deemed to have been received by the Customer immediately after transmission and it is the duty of the Customer to check such advice or confirmation. It is also the duty of the Customer to enquire with the Bank if the Customer does not receive an advice or confirmation within the time usually required for a similar advice or confirmation to be received.

(e) Information relating to any account or transaction made available on the Internet Site(s) are for reference only. The Bank's records of such account and transaction shall be conclusive unless and until the contrary is established.

## **6. Fees**

The Bank reserves the right to charge fees in relation to the use and/or termination of the Services and to revise such fees. The Bank shall determine and give reasonable notice to the Customer of the rate of any fee from time to time before they become effective which shall be binding on the Customer if the Customer continues to maintain or use the Services on or after the effective date. Fees may be collected from the Customer in such manner and at such intervals as the Bank may specify.

## **7. Customer's Undertakings and Responsibilities**

(a) The Customer shall provide such information as the Bank may from time to time reasonably request for the purposes of providing the Services. The Customer shall also ensure that all information provided to the Bank is at all times accurate, complete and up-to-date including, without limitation, the Customer's address and other contact details.

(b) The Customer authorizes the Bank to disclose and transfer information relating to the Customer, the Customer's account(s) and/or the transaction(s) executed by the Bank on the Customer's behalf to such person(s) as the Bank may be requested (whether or not compelled by law) to do so by any law, rules or regulations of any competent jurisdiction in which the Bank executes transaction(s) on the Customer's behalf or any exchange, government or regulatory authority in such jurisdiction.

(c) The Customer shall not, and shall not attempt to decompile, reverse-engineer, translate, convert, adapt, alter, modify, enhance, add to, delete or in any way tamper with, or gain access to, any part of the Services or any Internet Site or any software comprised in them.

(d) The Customer acknowledges that it is the responsibility of the Customer to determine independently market prices and rates for trading purposes through his usual trading channels, to verify any Information and/or Report before relying or acting on it and to seek independent professional advice on legal, tax and other issues in connection with the use of the Services, the Information and the Reports, these Terms and Conditions and any transactions and dealings which may affect the Customer under all applicable laws.

(e) The Customer shall comply with all laws and regulations in connection with the use of the Services including, but not limited to, the provisions of the Prevention of the Money Laundering Act No 05 of 2006 and the Exchange Control Act No 24 of 1953.

## **8. Information and Information Providers**

(a) The Customer acknowledges and agrees that the Information, the Reports and their form, format, mode or method of compilation, selection, configuration, presentation and expression (collectively 'Confidential Information') are trade secrets and confidential and proprietary property of the Bank and the respective Information Providers.

(b) Unless expressly permitted by these Terms and Conditions, the Customer shall not, and shall not attempt to:-

- i. sell, transfer, disclose, assign, convey, lease, sub-license, share, loan, distribute, transmit, broadcast, cablecast, put in circulation, download, reproduce, duplicate or otherwise provide or disseminate any Confidential Information in any form or by any means to any other person or commercially exploit any Confidential Information;
- ii. remove, obliterate, erase, relocate or modify in any way any proprietary marking on or appearing with the Confidential Information including, without limitation, any trademark or copyright notice; or
- iii. incorporate or combine the Confidential Information with any other programmes.

(c) The restrictions on disclosure shall not apply to any Confidential Information: -

- i. where its disclosure is compelled by law but only to the extent required by law and only after written notice of the requirement to disclose has been given by the Customer to the Bank; or
- ii. where the Bank has expressly agreed in writing to its disclosure.

(d) The Customer agrees that all right, title and interest in and relating to the Confidential Information and any and all related copyright, patent, trademark, service mark, proprietary property, trade secrets and exclusive works are and shall remain the exclusive property of the Bank and the respective Information Providers. No right, title or interest other than the right to access the Information and the Reports subject to these Terms and Condition is conveyed or transferred to the Customer. The Customer shall not make any representation or do any act which may be taken to indicate that the Customer has any such right, title or interest.

(e) An Information Provider may impose from time to time terms and conditions in relation to the availability of any Information supplied by it. Access to such Information by the Customer on or after the effective date, subject to prior notification, of such terms and conditions shall constitute the Customer's acceptance thereof.

(f) The Information and the Reports are made available for reference only and are not intended for trading or other purposes. Neither the Bank nor any Information Provider shall be considered an investment adviser to the Customer.

(g) Neither the Bank nor any Information Provider warrants, represents or guarantees the sequence, accuracy, truth, reliability, adequacy, timeliness or completeness of any of the Information or the Reports or whether it is fit for any purpose. Nor does either of them assume any liability (whether in tort or contract or otherwise) for any reliance on the Information or the Reports by the Customer or any other person.

(h) The Information will be made available as it is supplied and identifying the

Information Provider directly supplying it to the Bank. The Bank does not endorse or express any comment on any Information supplied by any Information Provider nor assume any duty to check or verify any Information.

(i) No warranty, representation or guarantee of any kind relating to the Information and/or the Reports is given or may be implied and no employee or agent of the Bank or any Information Provider is authorised to give any such warranty, representation or guarantee.

## **9. Liabilities of the Bank**

(a) The Bank will take reasonably practicable steps to ensure that its systems in connection with the Services are installed with adequate security designs and to control and manage the risks in operating the systems, taking into account any law, rules, regulations, guidelines, circulars, codes of conduct and prevailing market practices which may be applicable to the Bank from time to time

(b) the Bank shall only be liable for loss or misplacement of funds caused by unauthorized transactions conducted through the use of the Services only if there has been no negligence, fraud or fault on the part of the Customer and it is as a result of : -

- i. a computer crime which should have been prevented by the risks control and management measures had the Bank adopted such measures in accordance with Clause 9(a);
- ii. a human or system error of the Bank; or
- iii. a missed or mis-directed payment caused by the gross negligence or willful default of the Bank, its officers or employees.

(c) The Bank does not warrant or represent that the Services, the Information and the Reports are free from virus or other destructive features which may adversely affect the Customer's hardware, software or equipment.

(d) Subject to Clause 9(b) above, the Bank or their respective officers or employees shall only be liable for their gross negligence or willful default and only to the extent of direct and reasonably foreseeable loss and damage (if any) arising directly and solely there from or the amount of the relevant transaction (whichever is less). The Bank does not assume any liability or responsibility to the Customer or any other person for the consequences arising from or in connection with : -

- i. use of the Services and/or access to any information as a result of such use by the Customer or any other person whether or not authorised;
- ii. any interruption, interception, suspension, delay, loss, unavailability, mutilation or other failure in providing the Services in transmitting instructions or information relating to the Services or in connecting with the Internet Site(s) caused by any acts, omissions or circumstances beyond the reasonable control of the Bank including, without limitation, failure of any communication network, act or omission of any third party service providers, mechanical failure, power failure, malfunction, breakdown, or inadequacy of equipment, installation or facilities, or any law, rules, regulations, codes, directions, regulatory guidelines or government order (whether or not having the force of law); and

iii. transmission and/or storage of any information and/or data relating to the Customer, the Services and/or transactions or dealings conducted by the Customer pursuant to the Services through or in any system, equipment or instrument of any communication network provider.

(d) In no event shall the Bank be liable to the Customer or any other person for any incidental, indirect, special, consequential or exemplary damages including, without limitation, any loss of use, revenue, profits or savings.

## **10. Liabilities of the Customer**

(a) Subject to Clause 9(b) above, the Customer shall be fully liable and responsible for all consequences arising from or in connection with use of the Services and/or access to any Information or Report or any other information as a result of such use by the Customer or any other person whether or not authorised.

(b) The Customer shall indemnify the Bank, and their respective officers and employees against all liabilities, claims, demand, losses, damages, costs, charges and expenses of any kind (including, without limitation, legal fees on a full indemnity basis) which may be incurred by any of them and all actions or proceedings which may be brought by or against any of them in connection with the provision of the Services, the Information and/or the Reports or the exercise or preservation of the Bank's powers and rights under these Terms and Conditions, unless due to the gross negligence or willful default of the Bank.

## **11. Variation and Termination**

(a) The Bank may, at any time, without giving notice or reason, suspend or terminate all or any of the Services or their use by the Customer.

(b) The Customer may terminate the use of the Services at any time by giving to the Bank prior written notice.

(c) Notwithstanding such suspension or termination, the Customer shall continue to be bound by these Terms and Conditions to the extent that they relate to any obligations or liabilities of the Customer which remain to be performed or discharged. Any provisions, which in order to give effect to the obligations and covenants contemplated by these Terms and Conditions, shall survive and remain in full force and effect upon suspension and/or termination of the Services.

## **12. Amendments**

The Bank may revise these Terms and Conditions and/or introduce additional terms and conditions at any time and from time to time. Any revision and/or addition to these Terms and Conditions shall become effective subject to the Bank giving reasonable notice to the Customer which may be given by posting it on the Internet Site(s) or by display, advertisement or other means as the Bank thinks fit, and shall be binding on the Customer if the Customer continues to maintain or use the Services on or after the effective date of variation.

### **13. Communication**

(a) The Bank shall be entitled to prescribe, from time to time, the form of notice (whether written or any other form) and the mode of communication with respect to each type of notice to be given pursuant to these Terms and Conditions.

(b) Communications delivered personally, sent by post, facsimile transmission, telex or email shall be deemed to have been received by the Customer (where delivered personally) at the time of personal delivery or on leaving it at the address last notified in writing by the Customer to the Bank, (where sent by post) 48 hours after posting if such address is in Democratic Socialist Republic of Sri Lanka and seven days after posting if such address is outside the Democratic Socialist Republic of Sri Lanka or

(where sent by facsimile transmission, telex or email) immediately after transmitting to the facsimile or telex number or email address last notified in writing by the Customer to the Bank. Communications sent by the Customer to the Bank shall be treated as delivered to the Bank on the day of actual receipt.

### **14. Severability**

Each of the provisions of these Terms and Conditions is severable and distinct from the others and, if at any time one or more of such provisions is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, the legality, validity or enforceability of the remaining provisions shall not be affected in any way.

### **15. Force Majeure**

The Bank shall not be liable to the Customer for any delay in performing or failure to perform any of its obligations under this Agreement which is caused by circumstances beyond its reasonable control, including, but not limited to the failure, malfunction or unavailability of telecommunications, data communications and computer systems and services, civil unrest, government action or strikes, lock-outs or any industrial action or

trade disputes. Any delay or failure of this kind, will not be deemed to be a breach of this Agreement.

## **16. Waiver**

No act, delay or omission by the Bank shall affect its rights, powers and remedies under these Terms and Conditions or any further or other exercise of such rights, powers or remedies. The rights and remedies under these Terms and Conditions are cumulative and not exclusive of the rights and remedies provided by law.

## **17. Miscellaneous**

(a) Each party agrees not to object to the admission of the records (including computer records) as evidence in legal proceedings on the basis that the evidence is maintained in electronic form.

(b) Where the account in question is a joint account, the reference in these Terms and Conditions to 'Customer' shall be deemed to mean all and each of the joint account holders. All the Customers shall be bound by these Terms and Conditions and be jointly and severally liable for all the transactions and dealings effected using the Services.

## **18. Governing Law and Jurisdiction**

(a) The Services and these Terms and Conditions shall be governed by and construed in accordance with the laws of the Democratic Socialist Republic of Sri Lanka.

(b) Each of the Bank and the Customer submits to the non-exclusive jurisdiction of the Courts of the Democratic Socialist Republic of Sri Lanka.