

DFCC iConnect Terms and Conditions



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1. INTRODUCTION

- 1.1. In this Agreement, the following terms and expressions shall have the meanings ascribed to them as stated below.

Bank	DFCC Bank PLC who will be known as DFCC/we/us/our.
Customer	The customer named in the section of this agreement entitled 'Customer Details'. Also known as you/your/yours.
Customer Associate	The associate companies of the Customer named under the section Customer Associate of the Customer
Customer Instruction	Any advice, request, instruction or communication which is received by the bank through DFCC iConnect. The Bank shall not verify the authenticity of such instruction authorised through DFCC iConnect and shall not be responsible for any contradictions with other Mandates submitted to us by you.
Bank Partner	Any third party retained by the bank to provide some or all of the services mentioned in this agreement. Such partners for the time being include Lanka Clear, System vendors, Companies retained for cheque printing and delivering and Corresponding banks.
Restrictions	This refers to the limitations in access rights granted to a User of a Customer by the Customer.
Security Procedures	The facilities and procedures used to control the operation of DFCC iConnect and its services as set out in this Agreement clause 6 (Security provisions) below.
Services	Any services supplied via DFCC iConnect and ancillary services that we provide, procure or make available to you from time to time.
User(s)	Means the person who is Authorised by the Customer to operate the Account(s) through the system DFCC iConnect

2. SERVICES

- 2.1. Subject to your compliance with the instructions and procedures set out in this Agreement, we will use reasonable efforts to make the Services available to you. Such services will be subject to any restrictions received by us relating to any such Users from time to time.
- 2.2. You shall communicate with us via your Users. You shall ensure your Users only use DFCC iConnect and the Services in accordance with all terms of this Agreement and agree to be bound by and observe the terms of this Agreement.
- 2.3. From time to time, we may make available to you enhancements, improvements and upgrades to the existing Services, which shall be governed by the provisions of this Agreement.
- 2.4. From time to time you may require or we may offer to you new Services. We will provide to you in writing any special terms applicable to those new Services prior to making them available to you, which will form in a schedule as a part of this Agreement. If you consent to receiving such new Services, in writing, then your (or any of your Users) access to or use of any such new services shall be deemed to constitute your acceptability of any such terms.

3. CUSTOMER INSTRUCTIONS

- 3.1. We may treat all apparently valid Customer Instructions received by the bank through DFCC iConnect as instructions properly authorised by you. We shall be under no obligation to check the authenticity of Customer Instructions or the authority of the person or persons giving them.
- 3.2. Where we have reason to believe that a Customer Instruction is purporting to come from you has not been properly authorised by you, we reserve the right not to act, or to delay acting upon the Customer Instructions.
- 3.3. You are responsible for the accuracy and completeness of Customer Instructions
- 3.4. You are responsible for ensuring that Customer Instructions are transmitted correctly.
- 3.5. In the event that you request us to cancel or modify any Customer Instructions for whatever reason, we will make all reasonable efforts to comply with your request. However we are not liable for any failure to cancel or modify a Customer Instruction if such a request is received at a time or under circumstances that render us unable to comply with your request.
- 3.6. Where permitted, we are entitled to debit your accounts, wherever they are situated and whenever they are open, with any amount that we have paid or incurred in accordance with a Customer Instruction.

4. DEALINGS WITH BANK PARTNERS

- 4.1. You appoint us on your behalf to request any Bank Partner to supply DFCC iConnect with information about you and your accounts, and to use DFCC iConnect to instruct a Bank Partner to give effect to a Customer Instruction.
- 4.2. We may appoint a third party to provide some or all of the Services under this Agreement. , we shall use reasonable care in any such selection. In any event we shall not be liable for any loss (including loss of profit), damage, delay or failure to perform occasioned by the acts or omissions of any such third party

5. CONFIDENTIALITY

- 5.1. You hereby consent with DFCC to share, store or transmit information about you, your Users or accounts within DFCC or third party used by us for the purpose of providing the Services. Subject to clause 10.1.1, any such sharing, storage or transmission of such information will be done in a confidential basis and we will endeavour to maintain the strict confidentiality of such information within DFCC unless: (a) otherwise required by any applicable law, regulation or request of any public or regulatory authority including Banking Act No 30 of 1988 and other applicable laws of Sri Lanka ; or (b) where disclosure is required for the purposes of preventing crime where such is authorised by the applicable law and regulations including the laws and regulations of Sri Lanka, by an order of a court of law ; or (c) we deem disclosure necessary to give effect to a Customer Instruction in the performance of the DFCC duties as per the applicable laws including the Banking Act of Sri Lanka No 30 of 1988 . Nothing in this Clause 5.1 shall apply when the Bank discloses confidential information to a third party as a result of the Bank exercising its rights pursuant to Clause 10.2
- 5.2. You must keep all confidential information about DFCC iConnect and its Services contained in this Agreement and all information concerning your access to the use of DFCC iConnect and its Services.

6. SECURITY PROVISIONS

- 6.1. You agree to comply with the Security Procedures and any other reasonable instructions we may issue to you regarding DFCC iConnect's security. You agree it is your responsibility to set up, maintain and regularly review security arrangements
- 6.2. You must notify us as soon as reasonably possible upon becoming aware of any actual or attempted unauthorised access to DFCC iConnect or any unauthorised transaction or attempt to execute an unauthorised transaction pursuant to this Agreement.
- 6.3. You must ensure that neither you, your Users nor your employees do anything during or after the term of this Agreement which may result in the security of DFCC iConnect

7. LIMITED WARRANTIES

- 7.1. We will use all reasonable efforts to ensure that DFCC iConnect will perform in substantial conformity to the description in this Agreement. To the extent permitted by law, this is the only performance warranty made by the Bank in respect to DFCC iConnect or the Services.
- 7.2. We warrant that your use in accordance with this Agreement of this System or Materials will not infringe the intellectual property rights of any third party.
- 7.3. We will ensure that the information supplied to you through DFCC iConnect reflects the information in our computer systems or information received from a third party, closest to the latest update.
- 7.4. In the case of a breach of the warranty in Clause 7.1 above, we will take all reasonable steps to correct the defective software and/or retransmit or reprocess any Customer Instruction, at no additional cost to you.

8. LIABILITY

- 8.1. Subject to Clauses 8.2 to 8.3 (inclusive), the bank and/or employee of DFCC shall only be liable for any loss, damage or delay which you suffer or incur as a direct result of the Bank's gross negligence or willful misconduct in providing the services herein and shall not be liable for any other loss or damage of any kind.
- 8.2. The liability of the Bank to you due to, error or system or arising out of or in connection with this Agreement shall, in aggregate in any calendar year not exceed USD 100,000 where by the bank may at its discretion decide the recovery methodology from the employees who are guilty.
- 8.3. You will indemnify and hold the Bank and any other member of DFCC harmless from all losses and liabilities incurred by the Bank as a result of:
 - 8.3.1. Any breach by you of your obligations under this Agreement; or
 - 8.3.2. Any kind of harm caused due to negligence of you or your users
 - 8.3.3. The Bank or any employee of DFCC acting on any Customer Instruction or other communication relating to the Services, whether or not such Customer Instruction or communication was authorised by you.
 - 8.3.4. Any breach caused by your System Administrators to DFCC iConnect in respect to creation of users and access granted to the users of DFCC iConnect by your System Administrators.

9. TERMINATION

- 9.1. Either party may terminate this Agreement in whole or in relation to DFCC iConnect:

- 9.1.1. On not less than 30 days written notice to the other party; or
- 9.1.2. With immediate effect by written notice to the other party if the other party: (a) commits a material breach of this Agreement which is not remedied within 14 days of a written notice requiring remedy, or (b) becomes insolvent under the laws of Sri Lanka.
- 9.2. Termination will not affect the rights and remedies of either party accrued to the date of termination nor will it affect any provision of this Agreement (including, without limitation, Clauses 5, 6, 8, 10.1.1 and 11) which is intended to apply after termination.
- 9.3. From time to time we may suspend some or all of DFCC iConnect or its Services for routine, non-routine or emergency maintenance or for any other reason where reasonably consider it necessary to do so. In the event of such suspension, we will provide you, within a reasonable period of written notice prior to the suspension.

10. FORCE MAJEURE AND OTHER RIGHTS

- 10.1. 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
 - 10.1.1. In certain circumstances, the action which the Bank may take may prevent or cause a delay in the processing of certain information .Subject to the overriding requirements of any applicable laws and regulations, the Bank will endeavour to notify the Customer of the existence of such circumstances as soon as is reasonably practicable.

11. MISCELLANEOUS

- 11.1. This Agreement forms the entire agreement between the parties concerning the supply and use of DFCC iConnect and Services. It supersedes any pre-existing agreements, communications, representations and discussions between you and us relating to DFCC iConnect and Services, which are hereby terminated.
- 11.2. Any notice to be given under this Agreement must be communicated by post or facsimile to
 - 1.....of.....in the case of DFCC
 - 2. address most recently notified in writing by the receiving party. Proof of posting of transmission of any notice to the Customer shall be deemed to be proof of receipt of the notice by the Customer.

- 11.3. If we agree that you may communicate with us or we agree to communicate with you via e-mail, the internet, SMS, or any other method (other than via DFCC iConnect), you acknowledge the risks that any such communications may be intercepted, monitored, amended or otherwise interfered with by third parties. We are not responsible or liable to you or any third party in the event of any such occurrence in relation to any communication between us and you (or which appears to have been made on your behalf), or any communication you ask us to enter into with any third party.
- 11.4. You agree to pay our fees and other tariffs (where applicable) for providing DFCC iConnect or Services as we advise you from time to time, and we are entitled to debit your account.
- 11.5. Each party shall take all reasonable precautions to ensure that communications through DFCC iConnect are not affected by computer viruses.
- 11.6. Each of the terms of this Agreement (including for the avoidance of doubt the exclusions of liability in Clause 8) is severable from the others and if one or more of them becomes void, illegal or unenforceable, the remainder will not be affected in any way.
- 11.7. The rights of the bank under this Agreement may be exercised as often as necessary.
- 11.8. You may not assign any right or benefit under any provision of this Agreement without our prior written consent.
- 11.9. We may make modifications to this Agreement which are required for official reasons by giving you not less than 30 days notice or, exceptionally, such shorter period as is necessary for the effective operation of the services.
- 11.10. No addition to or modification of any provisions of this Agreement (other than as set out in Clauses 2.4, and 11.9 above) shall be binding upon us unless made by a written instrument signed by the Bank’s duly authorised representative.
- 11.11. In the event of any conflict between these Terms and Conditions and any of its schedules (other than express variations of these Terms and Conditions set out in any schedule), these Terms and Conditions shall prevail to the extent of the inconsistency.

12. AUTHORISATION BY CUSTOMER

- 12.1. You authorise and instruct us to supply DFCC iConnect and the Services in respect to the accounts as set in the Accounts and Services Schedule.
- 12.2. You may subsequently request and authorise us to provide or withdraw DFCC iConnect or Services.
- 12.3. DFCC iConnect may only be accessed by specified Users. The person(s) nominated in each of the respective schedules are appointed as the initial User(s) for DFCC iConnect. Such Users are authorised to access and use DFCC iConnect and Services as set out in the relevant schedules.

- 12.4. If you access or use DFCC iConnect or the Services actually or purportedly on behalf of a Customer Associate, or otherwise act in any way on behalf of such Customer Associate, you shall ensure that you have appropriate authorisation from the Customer Associate to act on its behalf and you agree on behalf of the Customer Associate.

13. LAW AND PROCEEDINGS

- 13.1. This Agreement is governed by and will be construed in accordance with the laws of the jurisdiction of Colombo. Both parties irrevocably submit to the non-exclusive jurisdiction of the courts of the jurisdiction of Colombo in respect to any proceedings which may be initiated in connection with this Agreement.
- 13.2. You agree that any of the Services provided by us to you shall be deemed to be provided in the jurisdiction of Colombo pursuant to Clause 13.1 irrespective of where a User accesses DFCC iConnect or uses the Services (if such access or use is in a different jurisdiction).

