

BCS Capital (DIFC) Limited is a private company, incorporated in the Dubai International Financial Centre, Dubai with registered number 3568, commercial license number CL3568, whose registered office is at Unit 411, Level 4, Index Tower, the Dubai International Financial Centre, P O Box 507341, Dubai, United Arab Emirates (BCS, we or us). BCS is an Authorised Firm regulated by the Dubai Financial Services Authority (DFSA) with licence reference number F004980.

## 1. DEFINITIONS AND INTERPRETATIONS

### 1.1. In this Electronic Services Terms:

**Applicable Regulations:** means any laws, regulations, court orders and restrictions applicable to the relevant person or entity as well as any regulatory requirements, guidelines and codes (whether or not having the force of law) issued by a regulator responsible for supervising that person or entity, including, but not limited to, those laws, regulations, court orders, selling restrictions, guidelines and codes in any relevant jurisdiction applicable to the person or entity when acting in accordance with these Electronic Services Terms.

**Authorized Emails:** means with relation to BCS clients@bcscapitaldifc.com and with relation to you email address specified by you in Electronic Services Agreement defined below or other emails notified to us by you in writing provided that such notification is duly signed by you. Only emails from you sent from Authorized Emails addresses will be deemed as sent from you.

**E-Facility** means any communications facility, including Personal Area, that is used to facilitate routing of orders, processing, transferring, reconciling and otherwise interchanging Electronic Data, which may be either a proprietary electronic service offered to you by us or a third party system operated by a Third Party Provider, and any software, hardware, application, capability or equipment provided by us or any Third Party Provider to connect you electronically to that system or facility and any related programs, documentation or services we and/or any Third Party Provider(s) may from time to time make available to you in connection therewith.

**Electronic** means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

**Electronic Data** means any and all data or information, including reports, statements, notices, confirmations, orders, instructions, quotes, offers, acceptances, rejections, withdrawal, payment, transfer, market data, research, analytics, historic activity, positions in account(s) or any other material or content displayed, published, transmitted, supplied, distributed or otherwise made available by means of E-Facility from time to time.

**Electronic Document** means anything stored in electronic form, whether as text, drawing, picture, image or any other mode or format, which comprises a message forming a visible representation of words, or is capable of being seen as words after a coding convention has been applied to interpret it, once represented on-screen.

**Electronic Services** means services provided by BCS under this Electronic Services Terms.

**End-User** means you and where relevant, any and all your officers, directors and employees and any person authorised to act on your behalf, and the officers, directors and employees of such person.

**General Terms** means General Terms of BCS published on the Website <https://bcscapitaldifc.com>.

**Intellectual Property Rights** means all copyright, patent rights, trade or service marks, logos, design rights, rights in or relating to databases, goodwill, rights in, or relating to, confidential information, know-how and any other intellectual property rights (registered or unregistered) and arising or existing anywhere in the world.

**Personal Area** means Website page <https://online.bcscapitaldifc.com> accessible to you after registration in the Personal Area which contains information about End-User, Services permitted for use, agreements entered into between you and BCS, your account(s), balances, transactions, reports and which permits you to manage your account(s), exchange information, place electronic orders, give instructions, notices and other communications, receive reports, confirmations and take other actions related to the foregoing.

**Services** means following financial services which BCS is authorized to provide in or from the Dubai International Financial Centre (DIFC) in accordance with its licence issued by DFSA:

- a) Advising on Financial Products;
- b) Arranging Custody;
- c) Arranging Deals in Investments;
- d) Dealing in Investments as Agent;
- e) Managing Assets.



BCS has endorsements: Carrying on authorized Financial Service with or for Retail Clients; Holding or Controlling Client Assets.

Third Party Provider means third party licensors, vendors, service providers, subcontractors and sources of any content, data, material, information, connectivity, capability or service.

Transactions means transactions which may be entered into pursuant to General Terms.

User Code means unique identifiers and/or security devices or prescribed security procedures or any combination thereof, including without limitation, any digital certificate(s), secret keys, authentication codes, logins and other secure access code (SMS, PUSH etc.), user name(s) password(s), credentials and/or access details that may be required to access or use E-Facility and/or Electronic Data.

Website means information system being complex of databases which are accessible through internet web-pages and also information technologies and means united by single address area of domain name [bcscapitaldifc.com](https://bcscapitaldifc.com) owned by BCS. Start page of the Website is located at the address: <https://bcscapitaldifc.com>.

1.2. In Electronic Services Terms:

- (a) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (b) the singular includes the plural and vice versa;
- (c) the word "person" includes, without limitation, an individual, a firm, a body corporate, an unincorporated association and an authority;
- (d) the headings in these Electronic Services Terms (Electronic Services Terms) are for convenience only and shall not affect its interpretation;
- (e) references to an agreement, is a reference to that agreement as amended, supplemented, varied, replaced, restated, novated, extended or otherwise modified from time to time;
- (g) a reference to a party shall include that party's successors, permitted assignees and permitted transferees;
- (i) a reference to a particular time of day is, unless stated otherwise, a reference to that time in DIFC.

2. GENERAL

2.1. These Electronic Services Terms shall take effect on the date of receipt by you of electronic message or SMS with information necessary for activation of your Personal Area or of electronic message with the information confirming activation of the Electronic Services which is earlier, which will occur after signing by you an Electronic Services Agreement (as may from time to time be in effect) (Electronic Services Agreement). By conducting business with us, you agree and accept these Electronic Services Terms, as the same may be amended, varied, supplemented or otherwise modified or restated from time to time. These Electronic Services Terms will apply to any and all services and/or transactions which we may be carrying out for you in accordance with our General Terms, provided that you became our client under the General Terms.

2.2. We will notify you of any material changes to these Electronic Services Terms via e-mail (or by other electronic means as may be agreed between you and us from time to time) and by posting updated versions of the Electronic Services Terms on our Website at <https://bcscapitaldifc.com>. Unless we notify you otherwise or the Applicable Regulations otherwise require, any amendment to the Electronic Services Terms shall take effect 14 business days after the date of notification, provided that (a) we have not received a notice of termination within those 14 business days; or (b) you have decided to conduct business with us, in which case we can rely that you have agreed and accepted these Electronic Services Terms, and (c) no variation shall affect transactions executed prior to such variation.

2.3. In accordance with these Electronic Service Terms, we may provide the Services to you through dedicated electronic systems, meaning that we will communicate information to you in electronic form and act in respect of the Services upon computer generated orders and instructions. To this end you will be given the right to use the automatic routing system, which permits you as user to exchange information, place electronic orders, give instructions, notices and other communications to be then routed to back office processing, or any other designated person or entity. It is agreed that as well as exchange of communications may be made by use of Authorized Emails.

2.4. Subject to the conditions and limitations set out in these Electronic Services Terms and whatever additional obligations, conditions and limitations contained in agreement(s), if any, with the Third Party Provider(s), we grant you at your request a limited, non-exclusive, revocable, non-transferable right to use E-Facility and certain Electronic Data.

2.5. You agree that E-Facility, Electronic Data and Authorized Emails may be used solely by you or your End-Users on your behalf. You may use E-Facility, Electronic Data and Authorized Emails only for your personal use, or internal business use, as may be applicable.

2.6. You agree not to (and shall not permit any End-User or third party to) transfer, sub-licence, rent, assign, lease, convey, copy, translate, convert to other programming, modify, change, reverse engineer, decompile or disassemble E-Facility or any parts thereof, and not to use any other means to discover, or attempt to discover, source code contained in E-Facility. You agree not to disclose or distribute to any other party, or allow any other party to inspect, copy, use or otherwise commercially exploit E-Facility or any Electronic Data or tools contained in, related to, transmitted to or from, or derived from E-Facility for any purpose other than compliance with Applicable Regulations.

2.7. Upon termination of these Electronic Services Terms, all licences granted in respect hereto shall immediately and automatically terminate without further notice.

2.8. You agree to permit (subject to reasonable confidentiality restrictions and upon reasonable notice) us and any relevant Third Party Provider or appropriate regulator to inspect any equipment, connections and the distribution networks used by you in connection with E-Facility.

2.9. You acknowledge and agree that damages may not be an adequate remedy for breach of the obligations set out in these Electronic Services Terms and that nothing herein is intended to limit our right to seek alternative remedies, including an injunction or other equitable remedy.

### 3. USE

3.1. You agree that you may not (and shall not permit any End-User or third party to):

- (a) upload files that contain software or other material protected by intellectual property rights (or by rights of privacy or publicity) or files that contain a virus or corrupted data;
- (b) delete, remove or modify any author attributions, disclaimer, copyright, trademark or other legal notices or proprietary designations or labels;
- (c) use E-Facility in a manner that adversely affects the availability of its resources to other members; or
- (d) download a file that cannot be legally distributed via E-Facility.

3.2. You represent to us that you and your End-Users directing or placing any order are fully trained in the use of E-Facility, are aware of the difficulties, limitations and risks relating to such use, and are familiar with and will abide by all relevant Applicable Regulations and market rules. Accordingly, you will be responsible for directing all orders in or through E-Facility and you do so at your own risk and you shall be wholly responsible for the accurate and compliant placement and for monitoring of your use of E-Facility and all such orders will be deemed to be unsolicited.

3.3. Notwithstanding any tools, controls, arrangements or precautions we may input, employ or agree to provide to you, you hereby assume full responsibility for, and shall ensure compliance with any and all anti-money laundering, supervision, control, registration, market abuse laws, rules and regulations (including relating to manipulative trades, wash trades and misuse of information), market rules and other requirements and restrictions of ours, any Third Party Provider or Applicable Regulations that may apply to the use of E-Facility by you or any person who accesses under a User Code and any communication to or from you or under a User Code.

3.4. You acknowledge that from time to time, and for any reason, E-Facility may not be operational or otherwise unavailable for example, due to servicing, hardware malfunction, software defect, service or transmission or market interruption, disruption or other cause. You represent and warrant to us that you have alternative arrangements which will remain in place for the transmission and execution of trading orders and instructions, by telephone, facsimile transmission, or otherwise, in the event, for any reason, circumstances prevent the transmission and execution of all, or any portion of, your orders or instructions via E-Facility. In the event E-Facility is not operational, you agree to contact us by the alternative means.

3.5. Where you communicates with us via e-mails you understands and accepts the risks involved with the transmission of data via the internet: the third parties may discover content of communications, the risk of

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disclosure of data and the risk of delay of incomplete receipt, data corruption or alteration, the equipment malfunction, which could entail errors, mistakes and distortions.

3.6. You consent to the delivery of Electronic Data, which comprise messages forming a visible representation of words, or are capable of being seen as words after a coding convention has been applied to interpret them, once represented on-screen, including any confirmations, statements, any other required or optional communication or agreement under any Applicable Regulation and any agreements or changes in their respective terms and conditions, by E-Facility. Any such Electronic Data that are delivered to you by E-Facility are deemed to be in writing. If your signature, agreement, consent or acknowledgment is required or requested with respect to any such Electronic Data and such signature, agreement, consent or acknowledgment is communicated under a User Code, you will be deemed to have signed or acknowledged, the Electronic Data to the same extent and with the same effect as if you had signed the same document manually. You confirm validity and genuineness of electronic documents confirmed by you and/or communicated to us with use of a User Code. You have the right to withdraw your consent to the electronic delivery and signature at any time by providing prior written notice to us. However, if you revoke your consent, your access to or use of E-Facility may be restricted or terminated.

3.7. You shall, and shall ensure that your End-Users shall, at all times fully comply with all of the agreements, requirements and restrictions of ours and the applicable trading venues or markets and Third Party Provider(s) relating to Electronic Data and the use, access, storage and redistribution thereof, and all Applicable Regulations. In order to ensure compliance with contractual restrictions and obligations, you shall promptly respond to any and all requests for information from us or the Third Party Provider(s) and shall cooperate with other measures we may take in good faith to fulfil our obligations to the Third Party Provider(s). If you become aware of any unauthorised use, access to, storage or redistribution of any Electronic Data, you shall immediately notify us in writing.

3.8. You consent to the recording, retention and use by us of all Electronic Data that you input or otherwise communicate during your access to and/or use of E-Facility and the transmittal of the same to third parties for execution, processing, database maintenance, record keeping or any other use subject to data protection and other Applicable Regulations. You agree that our electronic data records shall, save in the case of manifest error, be conclusive evidence of its contents and are binding on you.

3.9. You acknowledge that we control both the entitlements and the display of E-Facility and any Electronic Data and agree that we may, in our sole discretion and with or without notice, restrict, suspend, limit, cancel or terminate your right to use E-Facility or access or use Electronic Data if required to do so by a Third Party Provider, trading venue, appropriate regulator or other competent authority, court or tribunal or otherwise to comply with the requirements of relevant Applicable Regulations or market rules.

#### 4. ELECTRONIC ORDERS AND INSTRUCTIONS

4.1. You agree to be responsible for, and bound by, all orders and instructions that are identified by E-Facility as coming from you or a User Code or sent from Authorized Emails, and all consequences thereof, whether entered by you, your End-Users or by any other person. You further agree and acknowledge that the records of any and all such orders or instructions generated by E-Facility will be presumed to be accurate.

4.2. No order, once given, may be varied, cancelled or withdrawn without our express consent. Cancellation requests and confirmations may be communicated via E-Facility or by other means, including orally. You shall remain fully responsible for any orders given unless and until the request for cancellation, variation or withdrawal is confirmed as accepted by us.

4.3. We will not be obliged to check the accuracy or authenticity of any electronic orders or instructions or orders sent by emails. Orders received by us with a price that does not satisfy the relevant tick, lot or other size requirements may be subject to rounding in accordance with the market rules or practice of the relevant trading or market or broker as the case may be.

4.4. We may at any time and in our absolute discretion impose and vary limits and conditions upon the placement of orders, including limits on authorised products, access levels, size, order types, position and execution venues limits. We will use reasonable efforts to communicate them to you through E-Facility or by email as soon as reasonably practicable. Where we accept, input or update any such limits, we will not be responsible for any failure to enforce the limits. For the avoidance of doubt, we shall not be responsible for the rejection of any order because it has exceeded any applicable limits.



4.5. You shall maintain with respect to E-Facility adequate systems and controls to ensure accuracy, order size, compliance with any limits and balances is checked and validated and that duplication and order retransmission errors do not occur.

4.6. You assume full responsibility for:

- (a) determining the suitability of all orders and instructions in or through E-Facility placed by you or on your behalf or sent by emails;
- (b) ensuring that all such orders and instructions comply with all Applicable Regulations; and
- (c) ensuring the adequacy, suitability and appropriateness of any capability provided as part of E-Facility to assist you in meeting requirements of Applicable Regulations and market rules.

4.7. You acknowledge that we will also determine suitability, legality or regulatory compliance of your orders or instructions. Further to any other rights granted to us in accordance with the General Terms, we shall also have the right to reject or cancel orders or restrict your ability to enter further orders or instructions in the event you do not comply with the terms of these Electronic Services Terms. We will use reasonable efforts to notify you via E-Facility or by email as soon as reasonably practicable.

4.8. You shall immediately notify us in writing if you become aware of any of the following:

- (a) failure to receive a message indicating that an order or instruction was received and/or executed;
- (b) failure to receive an accurate report or order status confirmation;
- (c) receipt of a confirmation of an order or instruction which you did not place;
- (d) any known or suspected failure in any other communications that arise at any time; or
- (e) inaccuracies in your account balances, positions, or operations history.

## 5. SECURITY PROCEDURES AND ELECTRONIC PROCESSING

5.1. You are required to follow the security procedures as communicated to you by us from time to time, including the procedures set forth herein, and shall be bound by such security procedures. We will use the security procedures to verify that the Electronic Document is effective as that of yours where relevant, your authorised person. It is understood that the purpose of the security procedure is to verify the authenticity of, and not to detect errors in, Electronic Documents. You shall safeguard the security procedure and make it available only to persons that you have authorised. Any Electronic Document, the authenticity of which has been verified through such security procedure, shall be effective as that of yours, whether or not authorised.

5.2. You understand and agree that all Electronic Documents must comply with industry standards and our check specifications and image standards, published from time to time. You hereby waive any claim that any Electronic Document was not in writing. You shall, immediately on request, provide any Electronic Document in a hard copy bearing a 'wet-ink' signature, where required provided that we may accept and act on the Electronic Document prior to receipt of any such paper document. We will not be liable for failure to seek or receive such paper document. We have the right to refuse or reject any Electronic Document without explanation provided we give your prompt notice of such refusal.

5.3. You shall be fully responsible for use and protection of your User Code and will be liable to us under any and all operations occurring in an account opened, held or accessed with your User Code. You undertake to keep your User Code(s) secure and not to share the User Code with any third party.

5.4. You agree that:

- (a) you shall not, nor shall you permit any other person to, remove, modify, exchange, disable, penetrate or otherwise defeat any prescribed security procedures;
- (b) you will take all necessary actions to preserve the confidentiality of User Codes;
- (c) you shall restrict access to the User Codes, E-Facility, Authorized Emails to those persons who are duly authorised to have such access on your behalf;
- (d) you are responsible for ensuring that all information contained in any request for a User Code is complete and correct; and
- (e) you are responsible for all acts or omissions that occur under any User Code.

5.5. You shall notify us and, where applicable, the Third Party Provider immediately in writing in the event that you learn that:

- (a) any User Code is lost, stolen, or improperly disclosed to a third party;



- (b) the authority or employment, as applicable, of any End-User provided with a User Code has been or is about to be terminated (in which case you agree to promptly return to us any security device, if any, previously issued to such End-User);
- (c) the confidentiality of any User Code has been compromised in any way; or
- (d) you learn about a possible or actual unauthorised access to and/or use of E-Facility and/or Authorized Emails.

5.6. The use and storage of any information including, without limitation, your User Code, portfolio information, operational activity, account balances or any other information obtained by you using E-Facility and Authorized Emails shall be your sole responsibility and risk.

5.7. You understand and agree that nothing in these Electronic Services Terms shall transfer to you any proprietary title to, rights, or interest in any Intellectual Property Rights relating to the E-Facility or any content or components thereof or processes therein or Electronic Data. All such Intellectual Property Rights are reserved to, and shall remain the property of ours, our licensors and/or the relevant Third Party Provider. You undertake not to (and shall not permit any third party to) copy, use, analyse, modify, compile, decompile, assemble, disassemble, reverse engineer, translate, convert, transfer, assign, sell, lease, service, distribute or otherwise exploit the E-Facility or any content or components thereof or processes therein except as expressly provided herein or a direct agreement with the relevant Third Party Provider.

## 6. END USED AND ADDITIONAL USER CODES

6.1. You may, from time to time ask for additional User Codes, provision of which may be subject to conclusion of relevant agreements, and we will grant access to E-Facility (and certain Electronic Data) to additional End-Users authorised by you in accordance with the provisions of these Electronic Services Terms.

6.2. If you wish to have other authorised End-Users with additional User Codes, you shall request us in writing by filing a relevant request. We shall consider your request and should we agree, subject to the authorised person signing relevant documentation with us, we will grant to such End-Users User Codes as requested and if requested you shall pay to us the relevant fees for such additional User Codes as set out in the relevant request.

6.3. In relation to your End-Users, you undertake to us that:

- (a) you shall cause your End-Users to comply with these Electronic Services Terms and shall be fully responsible for their acts and omissions;
- (b) you shall not allow your End-Users access to E-Facility and Authorized Emails if they do not have suitable trading experience;
- (c) you will ensure that your End-Users remain at all times familiar with the products that you trade;
- (d) the maximum number of your End-Users authorised to access and use E-Facility shall not exceed the number of User Codes;
- (e) you will ensure that unless otherwise agreed by us in writing, no User Code is used by more than one individual on a more than one computer terminal or other physical device or automated service and that no User Code can simultaneously log-on with multiple instances or to multiple devices;
- (f) each End-User shall keep User Code strictly confidential;
- (g) you will maintain a written, up to date list of current your End-Users and provide such list to us immediately upon request;
- (h) you will ensure that your End-Users provide us with any and all information and assistance necessary for us to comply with Applicable Regulation or to respond satisfactorily to any query or request from any regulatory authority in relation to your and your End-Users' activities; and
- (i) you have the ability to immediately disable the electronic trading capabilities of any End-User or all access to E-Facility and upon our request, you agree to immediately disable such capabilities or access.

## 7. REPRESENTATIONS AND WARRANTIES

7.1. On a continuous basis, you represent and warrant to us and agree that:

7.1.1. Where you are a legal entity, you have been duly incorporated and validly existing under the law of your jurisdiction of incorporation, where relevant, and have the power, capacity and authority to carry on your business as it is being conducted in any relevant jurisdiction such as your country of incorporation or country

where you have your registered seat or where you have you reside or domicile or have your principal place of business;

7.1.2. you have the power, capacity and authority to execute, deliver and perform your obligations under these Electronic Services Terms and that any third party appointed by you to give and receive instructions, notices and/or other communications on your behalf under these Electronic Services Terms has all requisite power and authority and/or appropriate regulatory or governmental consents (if applicable), to give and receive such instructions, notices or other communications;

7.1.3. the execution, delivery and performance of the obligations contemplated by these Electronic Services Terms do not and will not contravene or conflict with your constitutional documents, where you are a legal entity, and/or any agreement or instrument binding on you or any of your assets;

7.1.4. if relevant, you are authorised under the Applicable Regulations and have all necessary permissions in each case to enable you to perform your obligations under these Electronic Services Terms and have taken all necessary action and obtained all requisite or desirable authorisations, corporate or other consents to enable you to execute, deliver and perform your obligations under these Electronic Services Terms and to make them admissible in evidence in your jurisdiction of incorporation, residence, domicile or principal place of business. Any such authorisations are in full force and effect, and you shall provide us with copies of such authorisations, consents or approvals as we may reasonably require and promptly notify us of any change in your status, authorisations or consents;

7.1.5. your obligations under these Electronic Services Terms are legal, valid, binding and enforceable and the Electronic Services Terms creates valid and legally binding obligations enforceable against you in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization (where you are a legal entity), moratorium or other similar laws affecting creditors' rights generally;

7.1.6. the choice of Dubai (DFCI) law as the governing law of these Electronic Services Terms will be recognised and enforced in your jurisdiction of incorporation, residence, domicile or principal place of business and any judgment obtained in relation to these Electronic Services Terms will be recognised and enforced in that jurisdiction;

7.1.7. you are subject to tax in the country of your tax residency;

7.1.8. the information, in written or electronic format, supplied to us in connection herewith was, at the time it was supplied or at the date it was stated to be given (as the case may be) complete, true and accurate and not misleading in any material respect, nor rendered misleading by a failure to disclose other information except to the extent that it was amended, superseded or updated by more recent information supplied to us and we may rely on such information until you notify us otherwise. You shall keep us updated on any change (including but not limited to your contact details, telephone number, email addresses). Persons who have access to Authorized Emails boxes are authorized person to give orders, instructions and to communicate with us, to send and to receive correspondence related to this Electronic Services Terms and General Terms. We bear no liability for any consequences arising from any change of your details or Authorized Emails for which no information was provided to us;

7.1.9. Unless otherwise expressly agreed with us, you are entering into these Electronic Services Terms as principal and not as an intermediary, agent, nominee, fiduciary or administrator for another person.

## 8. FEES

8.1. Unless otherwise agreed in writing, we will not charge you for the use of E-Facility. Where any such charges apply, you agree that we and/or the Third Party Provider may modify any applicable charges and fees at any time upon written notice to you.

8.2. You shall obtain and be responsible for the expenses, relating to installation and maintenance of all necessary equipment, software, telecommunications and other services for you to use E-Facility and to fulfil your obligations under or pursuant to these Electronic Services Terms.

## 9. LIABILITY AND LIMITATION OF LIABILITY

9.1. You acknowledge that we may provide Electronic Data and E-Facility using a number of systems and networks, including the internet, to carry data. Data transmission on any Electronic System or network may be subject to delay, interruption, interference, blackout, failure, malfunction and interception. E-Facility and



Electronic Data are provided to you 'as is'. We hereby expressly disclaim any and all warranties, guarantees, conditions, covenants and representations relating to E-Facility or Electronic Data, including, but not limited to, any relating to merchantability, quality, accuracy, fitness for a particular purpose, title, non-infringement, timeliness, availability, latency, capacity, currency, absence of viruses or damaging or disabling code, any warranties or representations that E-Facility or Electronic Data or access to any portion of it will be uninterrupted or error-free or that defects therein will be correctable or corrected, or other attributes, whether express or implied (in law or in fact), oral or written, or from a course of dealing or usage of trade. We have no responsibility to inform you of any difficulties, which other third parties may experience concerning use of E-Facility or Electronic Data or to take any action in connection with those difficulties. Without prejudice to our regulatory responsibilities under Applicable Regulations, we also will have no duty or obligation to verify, correct, complete or update any Electronic Data. E-Facility and Electronic Data are being provided with all faults and the entire risk as to satisfactory quality, performance, accuracy and effort regarding E-Facility is with you and you agree to release and discharge us and the applicable Third Party Provider(s) from any and all Loss (as defined in these Electronic Services Terms) arising out of or otherwise relating to your or your End-Users' access to E-Facility or Electronic Data or any use of E-Facility under a User Code or any malfunction, delay, defect, error, fault, interruption, omission, mistake, inaccuracy or failure of E-Facility or Electronic Data.

9.2. We will not be liable to you for any actions, claims, demands, proceedings, costs, fees, charges, losses, expenses, settlements, taxes, duties, levies, damages and liabilities of every description (including without limitation legal fees, accountant's fees, interest, fines and penalties) whether actual or future (Loss), which may be sustained or incurred by or asserted against you in connection with these Electronic Services Terms unless such Loss has been proven to directly arise from our gross negligence, wilful misconduct or fraud. In no event, we shall be liable to you for any indirect, consequential or special loss, howsoever arising.

9.3. We shall be released from liability pursuant to this clause 9 to the extent that your Loss is incurred as a result of gross negligence, wilful misconduct or fraud on your own behalf or, where relevant, on behalf of any of your employees, officers, agents or other authorised persons. Except as otherwise expressly stated herein, we shall not be responsible for Loss resulting from an act or omission of any third party, whether or not appointed by us, which is beyond our control and shall not be obliged to request such third party to comply with its obligations but undertake to provide reasonable assistance to you in doing so.

9.4. You as principal obligor and as a separate and independent obligation and liability from other your obligations and liabilities hereunder, undertake to indemnify us, any of our affiliates and each of our and their directors, officers, employees, financiers, or agents (Indemnified Party) within 5 business days of demand against any and all Loss, which may be sustained or incurred by or asserted against any Indemnified Party arising out of, in connection with, or as a result of:

- (i) any breach of warranties and representations hereunder by you or failure by any of your authorized representatives to perform or discharge any of their respective liabilities or obligations hereinunder;
- (ii) your default in performance of obligations under these Electronic Services Terms (Default);
- (iii) investigating any event which an Indemnified Party reasonably believes is a Default;
- (iv) acting or relying on any Electronic Document which an Indemnified Party reasonably believes to be genuine, correct and appropriately authorised by you;
- (v) performance of our obligations or exercise of our rights under these Electronic Services Terms;
- (vi) any regulatory or investigative inquiries or information subpoenas which arise out of or in connection with the activities contemplated by these Electronic Services Terms;
- (vii) access to, or use by you of the E-Facility or the Electronic Signatures otherwise than in accordance with these Electronic Services Terms;
- (viii) the entry into and performance of any agreements with third parties in connection or pursuant to these Electronic Services Terms;
- (ix) any obligation or liability under these Electronic Services Terms being or becoming unenforceable, invalid or illegal or not being recoverable for any other reason whatsoever;
- (x) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in an Indemnified Party under these Electronic Services Terms or by law;





(xi) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnified Party is a party thereto; or

(xii) receiving or recovering any amount in respect of any of your obligations in a currency other than that in which such amount was payable, whether pursuant to a judgment of any court or otherwise, save where such Loss is incurred as a result of the gross negligence, fraud or wilful default on behalf of the relevant Indemnified Party.

9.5. Each indemnity in these Electronic Services Terms:

(i) is a separate and independent obligation from the other obligations in these Electronic Services Terms;

(ii) gives rise to a separate and independent cause of action;

(iii) applies whether or not any indulgence is granted by an Indemnified Party;

(iv) shall continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due under these Electronic Services Terms, or any other judgment or order; and

(v) shall continue in full force and effect notwithstanding the termination of these Electronic Services Terms.

9.6. We will not be liable to you or any other parties for any delay in performance, or for the non-performance of any of our obligations hereunder by reason of any cause beyond our reasonable control or for any Loss caused by the occurrence of any contingency beyond our reasonable control.

This includes without limitation acts of God or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, imposing or changing (including a change of interpretation) any law or governmental or regulatory requirement or failing to grant a necessary licence or consent; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts; non-performance by subagents or intermediaries; insolvency, default, suspension, failure or closure of any venue, market, exchange, clearing house, settlement or credit institution; limits on trading, rulings by any venue, exchange or market or other regulatory or self-regulatory organisation; interruption or failure of any power or telecommunication lines, computer systems or utility service.

## 10. TERMINATION

10.1. Either we or you may terminate these Electronic Services Terms at any time by giving written notice of termination to the other party. Any termination given by us may take effect immediately or on such later date as the notice may specify. Any termination given by you will take effect 10 business days after the date on which we receive such notice. Termination of these Electronic Services Terms shall be:

10.1.1. without prejudice to the completion of any Transaction or Transactions already initiated and any Transaction or all Transactions outstanding at the time of termination will be settled and delivery or payment will be made;

10.1.2. without prejudice to and shall not affect any accrued rights, existing commitments or any contractual provision intended to survive termination; and

10.1.3. without penalty or other additional payment save that you will:

(i) pay outstanding fees and charges as the case may be;

(ii) compensate all expenses incurred by us under these Electronic Services Terms up to termination;

(iii) if applicable, return to us the User Codes.

10.2. These Electronic Services Terms shall terminate automatically upon us becoming aware that you died, declared dead or missing, or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or you become a patient under any mental health legislation, as the case may be.

## 11. CONFIDENTIALITY

11.1. Each party undertakes to keep all information relating to the other party's business, customers or financial or other affairs that is of a confidential nature and which is not in the public domain (Confidential Information) strictly confidential and:

(i) shall not use any Confidential Information for any purpose other than the performance and discharge of your or our respective obligations under these Electronic Services Terms;



(ii) without prejudice to clause 11.2 and 11.3, shall not disclose any Confidential Information to any person except with the prior written consent of the other party; and

(iii) shall undertake reasonable efforts to prevent the use or disclosure of the Confidential Information otherwise than in accordance with this clause.

11.2. We may and you agree that we may, without notice to you, disclose any Confidential Information relating to you to our directors, officers, employees and to our affiliates and their respective directors, officers, employees, our or their external lawyers, accountants, auditors, insurers and others providing advice and/or other services to us or the relevant affiliate; to issuers, registrars, clearing agents, trading venues, central counterparties, clearing organisations, trade repositories, depositaries, custodians, other agents or service providers or other execution venues or platforms to the extent that such disclosure is necessary for the purposes of providing services under these Electronic Services Terms. We may also disclose any Confidential Information to any governmental, banking, taxation, regulatory, supervisory, self-regulatory or administrative or other authority or similar or analogous body, or any other person to the extent that we are required to do so by virtue of any Applicable Regulations or by any court of competent jurisdiction.

## 12. PERSONAL DATA

12.1. You and we agree that we and you are each a data controller with respect to the personal data used in the course of processing activities contemplated hereunder. Further details of the processing activities, which we may undertake in connection with these Electronic Services Terms, are set out in our Customer Privacy Notice as amended from time to time sent to you.

12.2. You represent and warrant to us and agree that you have the right to provide personal data to us and that you will provide any requisite notice to individuals and ensure that there is a proper legal basis for us to process the personal data as described in and for the purposes detailed in our Customer Privacy Notice.

12.3. We may contact you, or where relevant, your employees on your behalf, by mail, SMS, telephone, e-mail and any other electronic means to provide information on products and services that we provide to you.

## 13. MISCELLANEOUS

13.1. These Electronic Services Terms shall be personal to you and accordingly neither the benefit of nor the obligations under any provision of these Electronic Services Terms may be assigned, transferred or delegated by you to any third party without our prior written consent. Notwithstanding the foregoing, we may, in our sole and absolute discretion, delegate the performance of our obligations and novate, assign or charge any rights, benefits and obligations under these Electronic Services Terms on such terms, as we consider appropriate, to a third party by giving written notice to you.

13.2. These Electronic Services Terms together with Electronic Services Agreement constitute the entire agreement between you and us and supersede and extinguish all previous drafts, agreements, arrangements and understandings, whether written or oral, relating to the subject matter of these Electronic Services Terms.

13.3. You acknowledge and agree that in conducting business with us under these Electronic Services Terms, you do not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person other than as expressly set out in these Electronic Services Terms.

13.4. No failure by us to exercise or delay by us in exercising any right or remedy under these Electronic Services Terms shall constitute a waiver thereof and no single or partial exercise by us of any right or remedy under the Electronic Services Terms shall preclude or restrict any further exercise by us of such right or remedy. The rights and remedies in the Electronic Services Terms are cumulative and not exclusive of any rights and remedies provided to us by law.

13.5. If any court or competent authority finds that any clause or provision of these Electronic Services Terms (or part of any clause or provision) is invalid, illegal or unenforceable, that clause or provision or part of the clause or provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these Electronic Services Terms shall not be affected. If any invalid, unenforceable or illegal provision of these Electronic Services Terms would be valid, enforceable and legal if some part of it were or were to be deleted, the respective clause or provision shall be deemed to apply with the minimum modification necessary to make it legal, valid and enforceable and taking into consideration the intention of the parties.



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13.6. Any provision of these Electronic Services Terms that expressly or by implication is intended to come into or continue in force on or after termination of these Electronic Services Terms including clauses 9, 11, 12, 13 and 14 shall remain in full force and effect.

#### 14. GOVERNING LAW

14.1. These Electronic Services Terms and any disputes or claims arising out of or in connection with these Electronic Services Terms or its subject matter, formation, validity, enforceability or termination (including non-contractual disputes or claims) (Dispute) are governed by, and construed in accordance with the DIFC law.

14.2. Each party irrevocably agrees if a Dispute cannot be settled amicably within 30 days, it shall be referred to the exclusive jurisdiction of the courts of the Dubai International Financial Centre.

14.3. You hereby irrevocably waive to the fullest extent permitted by law, all sovereign or other immunities and privileges, you and your revenues and assets may be subject or might otherwise be entitled in any jurisdiction, including without limitation, suit and legal process, jurisdiction of any court, relief by way of injunction or order for specific performance or recovery of property, attachment or seizure of your assets (irrespective of their use or intended use) whether before or after judgement and execution or enforcement of any judgment or award by any means. You consent to the grant of such relief in any form and irrevocably agree that you will not claim any such immunity or privilege in any suit, action or proceeding relating to any Dispute.