

## Supplier Chain Finance Platform Agreement / Terms & Conditions

The **Supplier Chain Finance Platform Agreement / Terms & Conditions** is entered into between Commercial Bank of Dubai and the undersigned customer either manually or digitally, opting for Supply Chain Finance Digital Platform offered by Commercial Bank of Dubai.

### 1. Meaning of Words

**Account** means an account held with CBD, nominated by the Client in the Supply Chain Platform Application Form and/or in any subsequent Amendment Request form for use in connection with the Service.

**Account Set Up** means the setup of Accounts in the Service which defines the type of services or transactions that are allowed to be performed on a designated Account.

**Authorised Signatory** means the person authorized by the Client (and notified to CBD) to grant the right to use the Service to authorized Users within the Client's firm.

**Authoriser** means the User Role where the User is allowed to approve transactions from Accounts that have been designated to that User in accordance with the programme set up.

**Available Funds** means the clear credit funds in the Client's Accounts.

**Business Day** means a day other than a Friday or Saturday or a United Arab Emirates public holiday.

**CBD** means the Commercial Bank of Dubai, its successors and assigns.

**Client** means the undersigned either manually or digitally, opting for Supply Chain Finance Digital Platform offered by Commercial Bank of Dubai, including its Personnel, successors, assigns and, in relation to its rights to use the Service, any other authorized person acting within his or her authority.

**Corporate Administrators** or **Primary User** means the Super User nominated by the Client who will be having access to all the roles in the platform and responsible to create new Users, delete or modify existing Users, assign or modify User Roles (including assigning the Authoriser User Role to Users), define Account Setup, and create or modify Approval Rules.

**Supply Chain Finance Application Form** means the form by which the Client applies to use the Service.

**SCF Portal** means CBD's Supply Chain Finance Digital platform, described by that name, by which the Client may undertake Transactions.

**Amendment Request** means the form by which the Client requests to make changes to the setup of the Service.

**Initiator / Maker** means the User Role where the User is allowed to initiate transactions from Accounts that have been designated to that User.

**Instruction** means any instruction to CBD from the Client and received by CBD using the Service, whether or not such Instruction has in fact been properly authorized by the Client.

**Notice** means a notice sent from either party to the other using the means specified in clause 13.

**Personnel** means any of the Client's agents, representatives or employees.

**Password** means an authentication method that is used by the user to authenticate to the platform.

**Service/s** means SCF Portal services as the context requires.

**Transaction** means any transaction carried out by the Client using the Service.

**Unauthorized Transaction** means any Transaction where the Client claims that the Client did not engage in or have knowledge or consent to the Transaction even though the Client's password was used to authenticate to the platform.

**User** means any Personnel given access to the Services.

**User ID** means the user identification to be used in conjunction with the password.

**User Role** means the role assigned to Users which defines the level of access (such as Viewer, Initiator/Maker, Authorizer or a combination), and the types of transactions and services that can be accessed by the User. .

**Viewer** means the User Role where the User is allowed to view designated Accounts in the Service.

**Words** importing the singular include the plural and vice versa.

## 2. SCF Portal Services

- 2.1. CBD will provide the Service agreed between CBD and the Client from time to time on the terms and conditions set forth in this Agreement and the Client must comply with these terms and conditions.
- 2.2. In relation to Corporate Administrators (Primary Users):
  - 2.2.1. The Client hereby acknowledges that its designated Corporate Administrators (Primary Users) who will be having access to all the roles in the platform and authorized to be able to, from time to time, create new Users, delete or modify existing Users, assign or modify User Roles (including assigning the Authorizer User Role to Users), define Account Setup, and create or modify Approval Rules.
  - 2.2.2. The Client represents and warrants that all such changes initiated and authorized by its Corporate Administrators shall constitute valid and binding legal documents duly authorized in accordance with the necessary Client approvals.
  - 2.2.3. The Client acknowledges that, as defined by the Client's Corporate Administrators, its SCF Approval levels, limits and approvers may differ from the Client's account operating instructions as defined in the Client's account mandate. The Client acknowledges that the Bank shall not be liable for any Transaction executed by the Client on the Service in accordance with the Approval Rules, limits and Approvers defined by the Client's Corporate Administrators.
  - 2.2.4. The Client agrees to indemnify and hold CBD harmless against any losses or damages (including legal cost and expenses) that CBD may suffer or sustain as a result of any claim or legal action brought against CBD in connection to activities performed by the Client's Corporate Administrators.
  - 2.2.5. The Client shall advise CBD of any changes to its Corporate Administrators.

## 3. Materials provided with the SCF Portal Service

- 3.1. To facilitate the Client's access to the Service, CBD will (on the completion and acceptance by CBD of the SCF Portal Application Form) provide the Client with one Primary User IDs and Password.
- 3.2. The number of User IDs, Tokens and PINs to be supplied shall be specified by the Client on the SCF Portal Application Form.
- 3.3. The Client acknowledges and agrees User ID & Password will be sent to registered email address (as mentioned in the SCF Portal Application form) of the relevant User.

## 4. Intellectual Property Rights

- 4.1. The Client acknowledges that the Service system and all related content are subject to copyright and possibly other intellectual property rights (Intellectual Property Rights).
- 4.2. CBD (or its licensors) retain all right, title, and interest in and to the Intellectual Property Rights comprising the Service system and all related content, and nothing the Client does on or in relation to the Service system or any of the related content will:
  - (a) transfer any of those Intellectual Property Rights to the Client; or
  - (b) license the Client to exercise any of those Intellectual Property Rights unless this is expressly stated in writing.

## 5. Conditions

- 5.1. The Client acknowledges that all applications to use the Service are subject to approval by CBD, such approval being at CBD's sole discretion.
- 5.2. CBD makes no representations or warranties as to the suitability of any personal computer or modem provided or obtained by the Client for the purpose of using the Services. The Client will be responsible for maintaining personal computers and any other required hardware, equipment or telecommunication lines, at the Client's expense.
- 5.3. Provided that a User ID & Password have been used for access, CBD is entitled to assume that any access and operation of the Service has been made by a User, regardless of the true identity of the person accessing and operating the Service. CBD's records of the Service transactions shall be prima facie evidence of such access and operation.
- 5.4. We may treat all apparently valid Instructions received by the bank through SCF Portal as instructions properly authorized by you, even if made fraudulently and even if they conflict with the terms of any other instructions or mandates given by you at any time concerning your accounts or affairs. We shall be under no obligation to check the authenticity of Client instructions or the authority of the person or persons giving them provided that a User ID & Password have been used for access.
- 5.5. You are responsible for the accuracy and completeness of Instructions (including safeguarding the security and integrity of the Service by ensuring that only authorized Users have access to the system and that authorized Users' security credentials and password are safeguarded at all times) and for ensuring that they will achieve your intended purpose.

- 5.6. In the event that you request us to cancel or modify any 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 the Instruction if such a request is received at a time or under circumstances that render us unable to comply with your request.
- 5.7. CBD will not be held liable for the loss, alterations or disclosure, howsoever arising, of any information sent by the Client to, or received by the Client from, the Service which is the result of any cause, event, activity or circumstances beyond its direct control.
- 5.8. The Client may access the Service twenty four (24) hours per day, seven (7) days a week, except during system housekeeping, or at other times when the Service is not available for any reason. CBD shall give the Client prior notice of any planned system maintenance.
- 5.9. CBD may maintain details of the Client's computer operating environment, including information regarding the Client's personal computer operating system. This information is retained and used by CBD solely for the purposes of administration and troubleshooting any connection problems that may arise.
- 5.10. CBD does not guarantee that all Instructions will be completed or fulfilled by CBD. However, subject to these terms and conditions, CBD undertakes to use all reasonable endeavors to effect the Client's Instructions sent via the Service.
- 5.11. The Client is solely responsible for ensuring that any Instruction (without limitation the account details) is correct and that CBD is under no obligation to check the correctness of any information contained in it.
- 5.12. The Client must comply with any guidelines on Password safekeeping and security contained in this agreement.

## **6. Confidentiality and Security**

- 6.1. The Client must not, and will ensure that its Personnel do not:
  - (a) disclose their User ID or password to any other person including any other Personnel, CBD staff, family member or friend; or
  - (b) act with carelessness in failing to protect the security of a password.
- 6.2. CBD reserves the right not to give advance notice to the Client when changes are necessitated by an immediate need to restore or maintain the security of the Service or its systems or the Client's individual accounts.
- 6.3. Additional Authorized Signatories can only be created in accordance with the procedures specified by CBD from time to time.

## **7. Fees and Charges**

The Client will pay to CBD the fees and charges for the Client's application and for ongoing use of the Service as set by CBD, the amount and nature of which are set out in the annexure to this Agreement, as amended by CBD from time to time by mutual agreement with the Client.

## **8. Available Funds / facility limits**

The Client may use the Services for Transactions up to the value of the Client's Available Funds / facility limits granted by CBD.

## **9. Liability and Indemnity**

- 9.1. Except to the extent its own fraudulent, willful or negligent acts or omissions cause loss or damage CBD will not be responsible for and excludes all liability for loss or damage (including any indirect or consequential loss or damage) that the Client may suffer or incur by reason or in connection with the Client's use of the Service whether or not it is attributable to CBD, its agents or employees including (without limitation):
  - (a) any act or omission of CBD, its agents or employees in relation to the Service or the Client's use of the Service;
  - (b) the inability on the Client's part to access the Service through a telecommunications network or where access to the Service is overloaded, suspended, terminated or otherwise unavailable or unsatisfactory for whatever reason;
  - (c) subject to Clause 5.5, where CBD acts on an Instruction purporting to be, but which is not in fact, from an authorized User;
  - (d) if for any reason the Service system fails, is unavailable or does not perform as expected or required;
  - (e) any error contained in an Instruction or any delays in complying with an Instruction; and
  - (f) any other matter in respect of which liability is excluded under these terms and conditions.
- 9.2. The Client will indemnify CBD fully against any liability, loss or damage suffered or incurred by CBD howsoever arising and by whomsoever caused, whether arising directly or indirectly from the Client's use and operation of the Service or the Client's access to the Service, except to the extent such liability, loss or damage is due to the willful acts or negligence of CBD.
- 9.3. The Client will indemnify and continue to hold indemnified CBD in full for any claims or demands made by any person against CBD in consequence of CBD having acted in accordance with an Instruction.

- 9.4. The Bank will not be responsible for any loss of or damage to the Client's data, software, computer, telecommunications or other equipment's caused as a result of SCF Portal service.
- 9.5. The Client may make a request for products, services and facilities that the Client wishes to avail through SCF Portal which includes, but is not limited to, Ledger Upload, Advance Payment Requests, Documents upload etc and other provided services initiated on third party websites. The processing of such requests, below or above the limits set out by the client, shall be at the discretion of the Bank.
- 9.6. The Client is liable for losses resulting from Unauthorized Transactions:
- where CBD can prove on the balance of probability that the Client contributed to the losses through their fraud or their contravention of the security requirements in clause 6, the Client is liable for the actual losses which occur before CBD is notified that the Password has been misused, and
  - where CBD can prove on the balance of probability that the Client contributed to losses resulting from Unauthorized Transactions because the Client unreasonably delayed notifying CBD after becoming aware of the misuse, of the Password, in which case the Client will then be liable for the actual losses that occurred between the time the Client became aware and when CBD was actually notified.
- 9.7. The Client is not liable for losses resulting from Unauthorized Transactions in the following circumstances:
- before receipt by the Client of the relevant User ID and Password;
  - after the Client has notified CBD that the relevant User ID and Password has been misused or become known to someone other than a User;
  - to the extent the loss is caused by CBD's fraudulent, willful or negligent acts or omissions; or
  - that is caused by the same Transaction being incorrectly debited more than once.
- 9.8. The Client shall not:
- use the Services in a way or for a purpose not authorized or intended by the Bank.
  - use the Services in contravention of any applicable law or regulation.
  - use the Services other than for your or your Affiliates' business purposes;
  - permit any third party to use the Services or seek to gain or permit any third party to gain unauthorized access to any system or network of CBD.
  - Transmit or upload any material that contains viruses, Trojan horses, worms, time bombs or any other harmful programs which may interfere with or disrupt the Services or any network connected thereto.
- 9.9. The Client shall immediately contact CBD if the Client suspects or becomes aware of:
- Any failure of any part of the Services.
  - Any error in any part of the Services.
  - Any error affecting any data accessible through the Services; and/or any programming error or defect or corruption of any part of the Services, and the Client shall promptly assist CBD in implementing any necessary remedial steps.

## 10. Termination

- 10.1. CBD may, in its absolute discretion, suspend or terminate the Client's use of the Service in whole or in part at any time with immediate effect without prior notification to the Client, including (without limitation) where it determines that it is necessary in order to protect the security of the Service or the interests of CBD. In all other circumstances, CBD must give the client at least thirty (30) days' prior written notice of any suspension or termination of the Client's use of the SCF Portal Service.
- 10.2. The Client may terminate the Client's use of the Service by written notice of termination to CBD. Such termination:
- notwithstanding clause 11, will not be effective unless the notice of termination is actually received by CBD at the address specified in clause 13;
  - will take effect from 5pm Dubai time on the Business Day after the day on which CBD actually receives notice of termination; and
  - will not affect any obligations incurred by the Client in respect of use of the Service prior to termination.
- 10.3. All moneys due and owing to CBD in connection with the Service, if not already due and payable, will immediately become due and payable upon the date that CBD actually receives notice of termination.
- 10.4. CBD will not process any transactions that have been forward-dated to take effect after the termination.

## 11. Variations

- 11.1. These terms and conditions may be altered, amended or added to by CBD by giving at least 30 days' notice. However before implementing these changes the Client will be given advance intimation of such changes to the agreement.
- 11.2. CBD has the right, in its sole discretion, to change or cancel any of the services that comprise the Service.

## 12. Assignment

- 12.1. The Client must not in any way assign or transfer to any other person any of the Client's rights and interests under these terms and conditions.
- 12.2. CBD may assign any of its rights and interests under these terms and conditions without the Client's consent.

## 13. Notices

- 13.1. A Notice given by CBD to the Client will be deemed to be duly given or made:
- (a) If it is:
    - (i) in writing signed by an authorized officer of CBD; and
    - (ii) left at the address of the first-named party in the Application Form, sent by courier, sent by prepaid ordinary post (airmail if posted in or from a place outside Dubai) to that party's address, or sent by facsimile to that party's facsimile number; or
  - (b) If it is given or made electronically from CBD to the Client via the Service provided that any Notice given pursuant to Clause 12 may not be given or made electronically.
- 13.2. A notice given by the Client to CBD (at the below given address) will be deemed to be duly given or made if it is:
- (a) in writing signed by the Client; and
  - (b) left at CBD's address, sent by courier, sent by prepaid ordinary post (airmail if posted in or from a place outside Dubai) to CBD's address, or sent by facsimile to CBD's facsimile number.

Bank Address:

**Commercial Bank of Dubai**

P. O. Box: 2668 Dubai, U.A.E.

- 13.3. A posted letter or facsimile is taken to be received:
- (a) In the case of a letter sent by courier, on the day of the courier's signed receipt or, if such day is not a Business Day, on the following Business Day.
  - (b) in the case of a posted letter, on the third (seventh, if posted to or from a place outside Dubai) day after posting; and
  - (c) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient.
- 13.4. A Notice delivered in accordance with clause 13.1(b) is:
- (a) deemed to be received when it enters the Client's computer and is effective when received even if no person is aware of its receipt (provided that if such Notice is received on a day which is not a Business Day it will be deemed received on the next Business Day); and
  - (b) to be sent from CBD's place of business and is deemed to be received at the Client's place of business.

## 14. Relationship of the Parties

Except as expressly provided in this agreement:

- (a) nothing in this agreement is intended to constitute a fiduciary relationship or an agency, partnership or trust; and
- (b) no party has authority to bind the other party.

## 15. Severability

Any term of this agreement that is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this agreement is not affected.

## 16. Counterparts

This agreement may be executed in any number of counterparts, each of which, when executed, is an original. Those counterparts together make one instrument.

## 17. Governing Law

These terms and conditions shall be governed by and interpreted according to the law of the United Arab Emirates and each of the parties submits to the jurisdiction of the courts of the United Arab Emirates.



#### **18. Entire Agreement**

The approved Application Form, any approved Additions/Amendment Request Forms and these terms and conditions are the entire agreement between the Client and CBD in respect, and all other terms, undertakings and warranties are excluded.

Executed by the customer's duly authorized representatives.