

Terms and Conditions - Miscellaneous Entities

These Terms and Conditions ("Terms and Conditions") shall apply to each and every account (Account/s) of whatever nature hereafter opened by or continued in the name of the Club, Society, Association, Trust, NGO, NPO, Charity or any other Entity (Business, Entity or Accountholder) save and except to the extent specifically set out by the National Development Bank PLC ("NDB" or the "Bank") bearing Registration No. PQ 27 (References to the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender).

1. The Accountholder hereby acknowledges and agrees that, all Account(s) maintained at NDB shall be governed by,
 - a) the guidelines and terms and conditions stipulated by NDB from time to time.
 - b) the rules, regulations and directions imposed by the Central Bank of Sri Lanka (CBSL), directions issued by the Director-Department of Foreign Exchange or any other authority from time to time and the laws prevailing in Sri Lanka.
2. In the event of there being any discrepancy between these Terms and Conditions and/ or the provisions contained in (a) or (b) above, the provisions contained in the latter (1b) shall take precedence.
3. Accountholder shall forthwith supply the Bank with a copy of the certificate of business/Entity registration and/or other documents evidencing the formation of the Business or Entity and all current licenses, approvals and consents for the Business or Entity to carry on its business/operations in Sri Lanka which the Bank may request from time to time.
4. The Accountholder shall appoint authorized signatories to operate the Account(s) and shall be obliged to supply NDB with specimen signatures of the persons authorized to sign (cheques, debit orders etc.) on behalf of the Accountholder. Upon the Business, Entity or Accountholder submitting the necessary mandate, and the relevant account opening forms for each Account together with all required documents (Mandate), the Bank at its sole discretion may open the Account(s) requested to be opened by the Accountholder.
5. The Accountholder shall authorize the Bank to act on signed instructions or documents drawn or accepted in accordance with the operating instructions given in the Mandate. The Accountholder agrees that any changes or revocation of the operating instructions shall be given by a resolution adopted by the governing body of the Entity. NDB is not responsible if damage or loss is incurred by the Accountholder through the Accountholder's negligence to furnish the specimen signatures as mentioned in this clause or by furnishing them incorrectly or incompletely.
6. The Accountholder shall not overdraw its Account(s) except by special arrangements made with NDB. NDB has the right to dishonor cheques if funds are insufficient in the Account(s), and charge for each cheque returned unpaid. NDB may, at its sole discretion honor cheques by overdrawing the account. In such instances NDB has the right to recover interest and Bank charges from the Accountholder and the Accountholder is obliged to repay the overdrawn amount together with interest and bank charges on demand unconditionally. This is not to be construed as an agreement either expressed or implied that NDB is bound to grant an overdraft facility whatsoever.
7. Any and all amounts credited to the above Account(s) while any overdraft or any other banking facility in connection therewith is current shall firstly be applied to reduce any interest payable on the said overdraft or any other banking facility until such interest is paid in full. Then and only then shall any such amounts so credited be applied to reduce the principal amount of such overdraft or any other banking facility.
8. Interest on Overdraft and other facilities arising in connection with current accounts will be calculated on the daily balance and debited monthly or as appearing in the prevailing Key Fact Document, which is available on the Bank's website. Interest will not be paid on any credit balances remaining in the current accounts.
9. In the event of the Accountholder fails to meet the Accountholder's obligations towards NDB in whatsoever respect, NDB is, in addition to its right of execution, authorized to realize the whole or part of the security at such time and in such manner as it considers proper, without giving any prior notice or previously issuing summons, and to reimburse itself out of the proceeds, for all sums due to NDB up to the time of settlement including interest and expenses.
10. In addition to any general lien or other rights or remedies to which NDB may be entitled, whether by operation of law or otherwise, NDB may at any time and without notice to the Accountholder combine and/or consolidate all or any Account(s) of the Accountholder with liabilities owed by the Accountholder to NDB and set off or transfer any sums standing to the credit of any such Account(s) aforesaid whether such liabilities be actual or contingent, primary or collateral or several or joint.
11. Written Notice of changes to interest rate/s or any other notice shall be given by an announcement inserted in the local press and/or displayed on the Bank's premises and/or Bank's website and/or through the Bank statement and shall be deemed to be due and sufficient notice thereof to the Account Holder and shall be binding on the Account Holder.
12. The Bank shall always be entitled to, levy or impose all customary banking and other charges and expenses in respect of the Account or in respect of any other banking facilities provided to the Accountholder by the Bank after publishing same on the Bank's website and, to debit the relevant Account(s) in accordance with the Bank's normal banking procedures. The Accountholder agrees that such charges are not refundable upon termination/closure of any or all of the Account(s).
13. Credit entries are effected by NDB with the provision that if it has to receive any counter value from or on behalf of the Accountholder validating against those entries, the same shall be received properly and in good time. Upon failure of same, NDB is entitled to reverse the credit entry fully or partly, even without notice.
14. The Accountholder understands that the Bank will send a statement of Account(s) at such intervals as may be requested by the Accountholder. In the absence of any instructions the statements shall be sent at such intervals as may be determined by the Bank for the respective Account in accordance with the Bank's normal banking procedures. The Accountholder hereby agree that the Accountholder is solely responsible for promptly examining all entries thereon and the Accountholder must give the Bank written notice within seven (7) days of the date of the relevant statement, of any discrepancy that the Accountholder believes exists between any such statement and the Accountholder's own records. In the absence of any such notice from the Accountholder, the Accountholder shall be deemed to have agreed and certified conclusively (for all purposes) the correctness of the relevant statement of Account(s). The Accountholder hereby agree that without prejudice to the above and without imposing any obligation on the Bank in this respect, if the Bank subsequently discovers any error in respect of any such statement of Account(s), it may rectify same by debiting or crediting (as appropriate) any Account(s) of the Accountholder as soon as discovery of the same by the Bank.
15. Subject to applicable laws, the following terms will govern cheque drawings by the Accountholder on the account with NDB.
 - a) The Accountholder shall keep the cheque book issued by NDB in safe custody. In the event of a loss or theft of the cheque book or of any cheque leaves the Accountholder is obliged to advise NDB in writing immediately. If NDB has paid on a cheque which has been lost, stolen, unlawfully used, fraudulently altered or forged without having previously received the above notification, NDB will be entitled to debit the account.
 - b) In the event cheque leaves are lost, stolen or misplaced, the Accountholder shall immediately instruct NDB in writing to stop payment by giving the cheque number, date, amount and the payee's name. All such instructions will take effect only if the cheque/s concerned has/have not been paid up to the time of receipt of such instruction. Stop payment instructions given over the phone should be confirmed in writing within the same day. If such written instructions are not received within the same day, NDB has the right to cancel the stop payment instructions.
 - c) The Accountholder shall undertake to issue cheques against realized funds in the Account.
 - d) The Accountholder shall draw any cheques in such manner that falsification is prevented as far as possible. The amount for which the cheque is issued must therefore be written in words and in figures in such a way that any addition of figures or words will be impossible without immediate detection.
 - e) In the event of the Accountholder having no further use of the cheque book and in case the Account is closed, the Accountholder is obliged to return the cheque book/all unused cheque leaves to NDB as soon as possible.
16. NDB may debit the Accountholder's Account(s) with all interest, commission, or other banking charges and expenses (including legal charges) and such other sums that NDB may be called upon to meet government taxes, other taxes, charges or levies imposed upon NDB at any time in connection with such Account(s). In addition all expenses incurred by NDB e.g. postage, stamps, telephone or other charges relating to the Account will be charged to the Accountholder.
17. The Accountholder warrants that all information given to NDB (whether in an Account opening form or otherwise) are true and accurate to the best of the Accountholder's knowledge. The Accountholder shall immediately notify NDB of any change of this information including any change in the office bearers, trustees, authorized signatories, authorized personnel, etc. and their addresses (both residential and mailing).
18. All cash deposits with NDB are payable at its counters.
19. Notwithstanding the temporary advice issued by the Cheque Deposit Boxes or any other machine deployed by the Bank, NDB will not under any circumstances or for any reason whatsoever entertain any claims in respect of the cheques said to have been deposited into cheque deposit boxes unless cheques so deposited have been credited to the Accountholder's Account(s). Cheques deposited to the Account of the Accountholder are acceptable for collection only, and proceeds will not be available for withdrawal until cleared by the Drawee Bank. Funds available date is shown for indicative purposes only.
20. In the case of Trust Account, the Trustees shall be exclusively responsible and accountable for ensuring that the Trust account is used strictly for the purpose of the Trust as provided for in the instrument of Trust and the Trustees shall indemnify NDB, its directors and employees against any litigation, claim, demand or loss to NDB in consequence of permitting the opening and maintenance of such Trust Account.
21. Foreign Currency Accountholders are advised to be familiar/aware of relevant laws, by-laws, Foreign Exchange regulations, other regulations, gazette notifications and the like, relating to Foreign Currency accounts and should comply with them at all times in order to eliminate the risk of breach of statutory/regulatory requirements.

22. The Account Holder consents and hereby authorise that the Bank has the right to disclose for any purpose any information concerning the Account including (without limitation) information relating to a Accountholder, account held with the Bank or the Accountholder /Accountholder's relationship with the Bank to any of the following:
 - (i) any other bankers, Credit Information Bureau, or any other authority or any party legally authorized person concerning the Account(s) without reference to the Accountholder. For the avoidance of doubt any such response may include a bank reference.
 - (ii) any person to whom the Bank is required or authorized by law or court order to make such disclosure;
 - (iii) any person who is under a duty of confidentiality to the Bank
23. Neither party may assign or transfer its rights or obligations under these Terms and Conditions together with the Service Level Standards without the other's prior written consent, except that the Bank's obligations under these Terms and Conditions together with the Service Level Standards may be assigned to, or fulfilled by, any of the Bank's subsidiaries, affiliates or contractors. In the event the rights of the Accountholder, being reduced, due to such narration, assignment or transfer, the Bank shall obtain prior written approval of the Accountholder.
24. Banking Instructions by facsimile / e-mail
 - (i) Unless Authorized signatories instruct NDB in writing to the contrary (notwithstanding the provisions of Clause 4) NDB is authorized, but not obliged to act on banking instructions of the Accountholder, (including any instructions required by or given by Authorized signatories in relation to these Terms and Conditions unless they otherwise expressly state to the contrary) transmitted through a facsimile machine or the designated e-mail address. Such e-mail/s should carry a scanned signed copy of the Accountholder's instructions in accordance with the operating instructions given to NDB. The designated e-mail address for this purpose shall be the e-mail address of the Accountholder(s) provided to NDB in the Account Opening Master Mandate for Miscellaneous Entities. This shall not apply to attorneys appointed by the Accountholder(s).
 - (ii) The Accountholder shall release NDB and indemnify and hold NDB harmless from any claim, losses, damage whatsoever which the Bank may incur from and against all actions, suits, proceedings, costs, claims, demands, charges, expenses, losses and liabilities howsoever arising in consequence of or in any way related to:
 - a) NDB having acted in good faith in accordance with the written facsimile instruction(s), or instructions sent via the said designated e-mail address, notwithstanding that such instruction(s) as above may have been initiated or transmitted in error or fraudulently altered, misunderstood or distorted in the lines of communication or transmission, and
 - b) NDB having refrained from acting in accordance with written, telephone, facsimile, or e-mail instruction(s) of the Accountholder by reason of failure of actual transmission thereof to NDB or receipt by NDB for whatever reason, whether connected with fault, failure or non-ready status of the sending or receiving machine, or
 - c) The failure of the Accountholder to forward all original copies of facsimile instruction(s) to NDB within such period as NDB may specify.
 - (iii) NDB shall be under no responsibility whatsoever to enquire as to the authority or identity of the person giving or purporting to give instructions and (regardless of the circumstances prevailing) at the time of receipt of the instructions to verify the authenticity or otherwise of any instructions or orders given to the Bank by facsimile or e-mail. The Accountholder shall accept the NDB ruling on time and date of receipt of facsimile and e-mails.
 - (iv) NDB shall not be liable for any loss which the Accountholder may suffer if NDB acts on facsimile or e-mail instructions or orders which were not issued by the Accountholder or not authorized by the Accountholder but which NDB believed in good faith to be the instructions or orders of the Accountholder or to be authorized by the Accountholder, provided that NDB may in its absolute discretion refuse to act on any facsimile instructions or e-mail instructions or orders.
 - (v) NDB's authority to accept facsimile or e-mail instructions or orders is a continuing authority and shall remain in force until written notice by the Accountholder terminating such authority is received by NDB.
 - (vi) Accountholder shall acknowledge that facsimile transmissions or e-mails are not secure means of giving instructions and orders and Accountholder is aware of the risks involved and that the Accountholder's request to NDB to accept and act on such facsimile or email instructions and orders is for the Accountholder's convenience and is solely at the Accountholder's risk.
25. Foreign Account Tax Compliance Act of USA (FATCA)- Applicable to Entity

NDB is hereby authorized with or without reference to the Accountholder's/its office bearers, authorized signatories/authorized personnel to report all information pertaining to the Account(s) opened/ maintained/made and or closed by the Accountholder to the Internal Revenue Service (IRS) of the United States of America or any other regulatory authority of the United States of America or any other jurisdiction, where a duty/obligation is imposed on NDB to comply with the requirement for disclosure of such Information.

This consent is granted in terms of the provisions of section 77 of the Banking Act No 30 of 1988 of Sri Lanka (as amended).

NDB is further authorized to remit any taxes and / or levies payable to IRS, or any other regulatory authority/ies if required, by debiting the Account(s) under the provisions of FATCA, or any other regulation/s imposed / or that will be imposed by other jurisdiction/s without any further consent from Accountholder.
26. NDB may at any time at its sole and unfettered discretion, refuse to open any Account and/or close any Account and/or terminate any services with or without assigning any reason therefore, after giving fourteen (14) days' written notice to the last recorded address of the Accountholder. In such event the Accountholder shall return on demand all unused cheques in the Accountholder's possession.
 - (i) The Bank at its discretion also reserves the right to close Account(s) which are inactive for a period of twenty-four (24) months and/or where the minimum balance (as may be determined by the Bank from time to time which will be published in the Bank's Website) is not maintained, after giving fourteen (14) working days written notice of such closure to the Accountholder's last recorded address. In such instances, NDB reserves the right to collect any charges or absorb the balance in the account as commission.
 - (ii) NDB may on its own close the Account without notice to the Accountholder/s in the event of the Bank being satisfied that there has been any violation of the Foreign Exchange Regulations or any other law, regulation, direction or order in force at the time.
 - (iii) The Bank, may, either at its own instance or, at the instance of any court or administrative order, or otherwise, close, freeze, or suspend dealing on any of the Account(s) without prior notice to the Accountholder or without being liable for any breach of any duty it may owe to the Accountholder.
 - (iv) Exceptionally, complying with relevant laws and regulations may lead to NDB delaying, blocking or refusing the making or clearing of any payment, the processing of Accountholder instructions or application for Services or the provision of all or part of the Services. To the extent permissible by law, NDB shall not be liable to the Accountholder or any third party in respect of any loss howsoever arising, suffered or incurred by the Accountholder or third party caused in whole or in part in connection with complying with such law or regulation.
27. These terms and conditions shall be governed by and construed and take effect in accordance with the laws of the Democratic Socialist Republic of Sri Lanka proceedings shall be brought in the Courts of Sri Lanka, provided always that NDB may if it so desires take proceedings in the Courts of any other country or jurisdiction if it think fit, in which event the laws applicable to such Courts shall apply, and the Accountholder shall agree to submit to such Courts and such other laws and any legal costs, Court fees and lawyer fees incurred shall be added to the Accountholder's indebtedness.
28. The Account holder shall have the right to make any complaint to the Bank verbally or in writing to the nearest branch or Bank's call centre or to the head office as published via the Bank's official website or any official publication or notice of the Bank as per the procedure given therein. In the event a complaint is not resolved the Accountholder may seek recourse through the Financial Ombudsman and the Central Bank.
29. The Bank reserves the right to report any suspicious transactions and above the threshold transactions to the relevant authority.
30. The Accountholder hereby agree that based on eligibility for the business banking segmentations, the Accountholder will be upgraded or downgraded by the Bank on a quarterly basis and the same shall be informed to the Accountholder by way of a letter sent via registered cover.
31. The Accountholder hereby agree that the Bank shall be entitled to vary, modify, increase or decrease the minimum average credit balance with prior notice sent via SMS sent to the designated mobile phone number of the Accountholder /E-mail sent to the designated e-mail of the Accountholder.
32. The Accountholder hereby agrees that, the Bank shall at any time be entitled to amend, supplement or vary any of these Terms and Conditions, with notice to Accountholder at its absolute discretion and such amendment, supplement or variation shall be binding on the Accountholder. The updated version(s) of the Terms and Conditions shall be notified to the Accountholder via SMS sent to the designated mobile phone number of the Accountholder/E-mail sent to the designated e-mail of the Accountholder, while the same being made available on the Bank's corporate website. Accountholder may contact the relevant Relationship Manager or the Credit Officer for any clarifications (as applicable).