

ELECTRONIC TRANSACTIONS REGULATIONS 2020



TABLE OF CONTENTS

TABLE OF CONTENTS	2
PART 1 ELECTRONIC RECORDS	3
1. Legal recognition of Electronic Records.....	3
2. Requirement for writing.....	3
3. Provision of Information in writing and presentation of Electronic Records	3
4. Conditions for Retention of Electronic Records	3
5. Admissibility of Electronic Records in evidence.....	4
PART 2 ELECTRONIC CONTRACTS	5
6. Legal recognition of electronic contracts.....	5
7. Formation and validity of contracts in an Electronic Communication.....	5
8. Effectiveness between parties.....	5
9. Invitation to make an offer.....	5
10. Use of automated message systems for contract formation	5
11. Time and place of despatch and receipt.....	5
PART 3 ELECTRONIC SIGNATURES	7
12. Legal recognition of Electronic Signatures.....	7
13. Validity of Electronic Signatures	7
14. Attribution and effect of Electronic Signature.....	7
15. Admissibility of Electronic Signatures in evidence.....	7
PART 4 EXCLUSIONS	8
16. Excluded matters.....	8
17. Exclusion or modification by the parties.....	8
PART 5 GENERAL PROVISIONS	9
18. Interpretation of certain words and expressions	9
19. Short title, extent and commencement matters.....	9

ELECTRONIC TRANSACTIONS REGULATIONS 2020

Regulations to facilitate commerce in the Abu Dhabi Global Market by providing legal validity and certainty to Electronic Records, electronic contracts and Electronic Signatures

Date of Enactment: []

The Board of Directors of the Abu Dhabi Global Market, in exercise of its powers under section 6(1) of Law No. 4 of 2013 concerning the Abu Dhabi Global Market issued by His Highness the Ruler of the Emirate of Abu Dhabi enacts the following Regulations.

PART 1**ELECTRONIC RECORDS****1. Legal recognition of Electronic Records**

- (1) Information in the form of an Electronic Record has legal effect, validity or enforceability as if it were in writing.

2. Requirement for writing

- (1) Where a provision in an Enactment requires Information to be in writing, or provides for certain consequences if Information is not in writing, an Electronic Record satisfies that provision if it preserves a record of the Information and can be reproduced in tangible form.

3. Provision of Information in writing and presentation of Electronic Records

- (1) If parties have agreed to conduct a transaction by Electronic means and a provision in an Enactment requires a person to provide, send, or deliver Information in writing to another person, the requirement is satisfied if the Information is provided, sent, or delivered, as the case may be, in an Electronic Communication capable of retention once it is received.
- (2) For the purposes of subsection (1) above, Information is not capable of retention if the Originator or the Originator's Information System inhibits the ability of the Addressee to reproduce the Information in tangible form or retain the Electronic Communication.
- (3) If an Originator inhibits the ability of an Addressee to reproduce the Information in tangible form or retain an Electronic Record, the Electronic Record is not enforceable against the Addressee.

4. Conditions for Retention of Electronic Records

- (1) Where an Enactment requires a Record to be retained, or provides for certain consequences if it is not retained, that requirement is satisfied by retaining the Record

in an Electronic Record if the following conditions are satisfied:

- (a) the Electronic Record preserves a Record of the Information it contains and is capable of being reproduced in tangible form;
 - (b) the Electronic Record is retained in the format in which it was originally created, or in a format which can be demonstrated to accurately replicate the original Information;
 - (c) the Information enables the identification of the origin and destination of the Electronic Record, any party that sent or received the Electronic Record;
 - (d) the date and time the Electronic Record was sent or received; and
 - (e) any additional requirements relating to the retention of such Electronic Records specified in an Enactment are complied with.
- (2) Section 4(1) does not extend to the Electronic Communication used to send or receive it.
 - (3) A person may satisfy the requirements referred to in section 4(1) by using the services of a third party, if the conditions in sections 4(1)(a) to (d) are complied with.
 - (4) If a provision set out in an Enactment requires a Record to be presented or retained in its original form, or provides for certain consequences if the Record is not presented or retained in its original form, that provision is satisfied by an Electronic Record retained in accordance with section 4(1) unless the Enactment expressly prohibits the use of an Electronic Record for the specified purpose.
 - (5) If a provision set out in an Enactment requires the retention of a cheque, that requirement is satisfied by retention of an Electronic Record of the Information on the front and back of the cheque, in accordance with section 4(1).
 - (6) A Record retained as an Electronic Record in accordance with section 4(1) satisfies an Enactment requiring a person to retain a Record for evidentiary, audit, or similar purposes, unless the Enactment expressly prohibits the use of an Electronic Record for the specified purpose.

5. Admissibility of Electronic Records in evidence

- (1) An Electronic Record may be used as evidence of a Record in any Court proceedings.

PART 2
ELECTRONIC CONTRACTS

6. Legal recognition of electronic contracts

- (1) An Electronic Record of a contract is of legal effect, valid and enforceable as if it was in writing.

7. Formation and validity of contracts in an Electronic Communication

- (1) In the context of the formation of contracts, an offer and the acceptance of an offer may be expressed in an Electronic Communication.
- (2) Where an Electronic Communication is used in the formation of a contract, that contract has the same legal effect, validity or enforceability as if it was in writing.

8. Effectiveness between parties

- (1) Where an Electronic Communication is used for a declaration of intent or other statement, it will have the same legal effect, validity or enforceability as if it was made in writing.

9. Invitation to make an offer

- (1) A proposal to conclude a contract made through Electronic Communications that is not addressed to any specific Addressee and is generally accessible to the public, including on a webpage, is to be considered as an invitation to make offers.

10. Use of automated message systems for contract formation

- (1) A contract is capable of being formed by the interaction of an automated message system and a natural person, or by the interaction of automated message systems.

11. Time and place of despatch and receipt

- (1) Unless otherwise agreed between the Originator and the Addressee, the time of despatch of an Electronic Communication is the time when it leaves an Information System under the control of the Originator or of the party who sent it on behalf of the Originator.
- (2) Unless otherwise agreed between the Originator and the Addressee, the time of receipt of an Electronic Communication is the time when the Electronic Communication becomes capable of being retrieved by the Addressee at an electronic address designated by the Addressee.
- (3) Unless otherwise agreed between the Originator and the Addressee, an Electronic Communication is deemed to be despatched at the place where the Originator has its place of business and is deemed to be received at the place where the Addressee has its

place of business.

- (4) Section 11(3) applies even if the place where the Information System supporting an electronic address is located in a place that may be different from the place where the Electronic Communication is deemed to be received under section 11(3).
- (5) Nothing in this section will affect the deemed time for the service of documents under the ADGM Court Procedure Rules 2016, or any deeming provisions for the service of documents contained in an Enactment.

PART 3
ELECTRONIC SIGNATURES

12. Legal recognition of Electronic Signatures

- (1) Where an Enactment requires the signature of a person, or provides for certain consequences if a document or a Record is not signed, that provision is satisfied if an Electronic Signature is used, unless the Enactment expressly prohibits the use of an Electronic Signature.

13. Validity of Electronic Signatures

- (1) An Electronic Signature is deemed to identify the relevant person and to indicate that person's intention to sign the Record, provided that the type of Electronic Signature used is, either:
- (a) reliable and appropriate for the purpose for which the Record was generated or communicated, in light of all the circumstances, including any relevant agreement between the parties; or
 - (b) proven to have fulfilled the functions described in paragraph (a) above, by itself or together with further evidence.

14. Attribution and effect of Electronic Signature

- (1) An Electronic Signature is attributable to a person if the act of the person can be demonstrated, including through the efficacy of any security procedure used, to determine the person to which the Record the subject of the Electronic Signature is attributable.
- (2) The effect of an Electronic Signature attributed to a person under section 14(1) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by any applicable law.

15. Admissibility of Electronic Signatures in evidence

- (1) In any proceedings before the Court, evidence of a signature includes an Electronic Signature.

PART 4
EXCLUSIONS

16. Excluded matters

- (1) The provisions of Parts 1, 2 and 3 of these Regulations do not apply to any provision set out in an Enactment or any applicable law requiring writing or signatures in any of the following matters:
- (a) the creation, performance or enforcement of a power of attorney;
 - (b) the creation, performance or enforcement of a declaration of trust (with the exception of implied, constructive and resulting trusts) and any provision in the Trust (Special Provisions) Regulations 2016 or the Foundations Regulations 2017 requiring Information to be written or in writing;
 - (c) the creation and execution of wills, codicils or testamentary trusts;
 - (d) transactions involving the sale, purchase, lease (for a term of more than 10 years) and other disposition of immovable property and the registration of other rights relating to immovable property;
 - (e) any document to be notarised before a notary public;
 - (f) subject to section 4(5), negotiable instruments, documents of title, bills of exchange, promissory notes, consignment notes, bills of lading, warehouse receipts or any transferable document or instrument that entitles the bearer or beneficiary to claim the delivery of goods or the payment of a sum of money.

17. Exclusion or modification by the parties

- (1) The parties to a contract or transaction may expressly exclude, derogate from or vary the application of any provisions of these Regulations unless an Enactment or any applicable law otherwise provides.
- (2) The parties to a contract or transaction may impose additional requirements to the form or authentication of the contract or transaction by agreement unless an Enactment or any applicable law otherwise provides.

PART 5
GENERAL PROVISIONS

18. Interpretation of certain words and expressions

(1) In these Regulations:

“**Addressee**” in relation to an Electronic Communication, means the party who is intended by the Originator to receive the Electronic Communication.

“**Court**” means any of the courts established pursuant to Article 10 of the ADGM Founding Law.

“**created**” includes generated, sent, communicated, or received.

“**Electronic**” relates to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“**Electronic Communication**” means any communication made by means of Electronic Records.

“**Electronic Record**” means a Record created, generated, sent, communicated, received or retained in Electronic form.

“**Electronic Signature**” means an Electronic sound, symbol or process attached to or logically associated with a Record and executed or adopted by a person with the intent to sign the Record.

“**Enactment**” means an “enactment” or “subordinate legislation”, within the meaning given to these words in the Interpretation Regulations 2015.

“**Information**” includes data, text, images, sounds, codes, computer programs, software, databases, symbols or processes.

“**Information System**” means a system for generating, sending, receiving, storing or otherwise processing Electronic Records.

“**Originator**” in relation to an Electronic Communication, means the party who sent the Electronic Communication.

“**Record**” means Information that is capable of retention in either tangible or Electronic form.

19. Short title, extent and commencement

(1) These Regulations may be cited as the Electronic Transactions Regulations 2020.

(2) These Regulations shall apply in the Abu Dhabi Global Market.

(3) These Regulations shall come into force on the date of their publication.