



DIFC AMENDMENT LAW
DIFC LAW NO. [2 OF 2023]

TABLE OF CONTENTS

PART 1 : GENERAL 2

1. Title and repeal..... 2

2. Legislative authority..... 2

3. Date of enactment 2

4. Commencement..... 2

PART 2 : AMENDMENTS TO THE CONTRACT LAW 2004 3

PART 3 : AMENDMENTS TO THE IMPLIED TERMS IN CONTRACTS AND UNFAIR TERMS LAW 2005 11

PART 4 : AMENDMENTS TO THE INSOLVENCY LAW 2019 17

PART 5 : AMENDMENTS TO THE LAW OF DAMAGES AND REMEDIES 2005 21

PART 6 : AMENDMENTS TO THE LAW OF OBLIGATIONS 2005 25

PART 7 : AMENDMENTS TO TRUST LAW 2018 35

PART 8 : AMENDMENTS TO FOUNDATIONS LAW 2018 39

PART 1: GENERAL

1. Title

This Law may be cited as the “DIFC Laws Amendment Law, DIFC Law No. 2 of 2023.”

2. Legislative authority

This Law is made by the Ruler of Dubai.

3. Date of enactment

This Law is enacted on the date specified in the Enactment Notice in respect of this Law.

4. Commencement

This Law comes into force on the date specified in the Enactment Notice in respect of this Law.

PART 2: AMENDMENTS TO CONTRACT LAW 2004

1. The Contract Law 2004 is amended as prescribed in this Part.
2. The following Articles of the Contract Law 2004 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

.....

PART 4: VALIDITY

35. Validity of mere agreement

A contract is concluded, modified or terminated by the mere agreement of the parties, without any further requirements.

36. Initial impossibility

- (1) The mere fact that at the time of the conclusion of the contract the performance of the obligation assumed was impossible does not affect the validity of the contract.
- (2) The mere fact that at the time of the conclusion of the contract a party was not entitled to dispose of the assets to which the contract relates does not affect the validity of the contract.

37. Relevant mistake

- (1) A party (A) may only avoid a contract with another party (B) for mistake if, when the contract was concluded:-
 - (a) the mistake was of such importance that a reasonable person in the same situation as the party would not have concluded it at all if the true state of affairs had been known, and
 - (b) ~~Article 37(2) is satisfied. the other party made the same mistake, or was also mistaken, or caused the mistake, or knew or ought to have known of the mistake and it was contrary to reasonable commercial standards of fair dealing to leave the mistaken party in error; or~~
 - (b) ~~the other party had not at the time of avoidance acted in reliance on the contract.~~
- (2) This Article 37(2) is satisfied if:
 - (a) the other party (B) made the same mistake;
 - (b) the other party (B) was also mistaken;
 - (c) the other party (B) caused the mistake;
 - (d) the other party (B) knew or ought to have known of the mistake and it was contrary to reasonable commercial standards of fair dealing to leave the mistaken party in error;
 - (e) if a Coded Term is accepted by a Computer Program without any conscious human decision at the time of acceptance and it is contrary to commercial standards of fair dealing to bind the party (A) to the contract; or
 - (f) the other party had not at the time of avoidance acted in reliance on the contract.
- (3) However, a party may not avoid the contract if:
 - (a) it was grossly negligent in committing the mistake; or
 - (b) the mistake relates to a matter in regard to which the risk of mistake was assumed or, having regard to the circumstances, should be borne by the mistaken party.

.....

PART 5: INTERPRETATION

49. Intention of the parties

- (1) A contract shall be interpreted according to the common intention of the parties.
- (2) Subject to Article 49(3), If such an intention cannot be established, the contract shall be interpreted according to the meaning that reasonable persons of the same kind as the parties would give to it in the same circumstances.
- (3) As regards a Hybrid Contract or Coded Contract, if an intention under Article 49(1) cannot be established, the contract shall be interpreted according to the meaning that a reasonable person with a competent understanding of the relevant Code and having regard to the circumstances under Article 51 shall give to it.

50. Interpretation of statements and other conduct

- (1) The statements and other conduct of a party shall be interpreted according to that party's intention if the other party knew or could not have been unaware of that intention.
- (2) Subject to Article 50(3), If Article 50(1) is not applicable, such statements and other conduct shall be interpreted according to the meaning that a reasonable person of the same kind as the other party would give to it in the same circumstances.
- (3) As regards a Hybrid Contract or Coded Contract, if Article 50(1) is not applicable, such statements and other conduct shall be interpreted according to the meaning that a reasonable person with a competent understanding of the relevant Code and having regard to the circumstances under Article 51 shall give to it.

51. Relevant circumstances

In applying Articles 49 and 50, regard shall be had to all the circumstances, including

- (a) preliminary negotiations between the parties;
- (b) practices which the parties have established between themselves;
- (c) the conduct of the parties subsequent to the conclusion of the contract;
- (d) the nature and purpose of the contract;
- (e) the meaning commonly given to terms and expressions in the trade concerned and in the case of a Coded Term, the meaning given by a reasonable person with a competent understanding of the relevant Code; and
- (f) usages.

52. Reference to contract or statement as a whole

Terms (including Coded Terms) and expressions (including expressions in Code) shall be interpreted in the light of the whole contract or statement in which they appear.

53. All terms to be given effect

DIFC LAWS AMENDMENT LAW

Contract terms shall be interpreted so as to give effect to all the terms rather than to deprive some of them of effect.

54. Interpretation against party responsible

If contract terms supplied by one party are unclear, an interpretation against that party is preferred.

55. Linguistic discrepancies

Where a contract is drawn up in two or more language versions which are equally authoritative there is, in case of discrepancy between the versions, a preference for the interpretation according to a version in which the contract was originally drawn up.

.....

PART 9: ASSIGNMENT

.....

94. Limits on assignments and delegations

- (1) A contractual right can be assigned unless:
 - (a) the substitution of a right of the assignee for the right of the assignor would materially change the duty of the obligor, or materially increase the burden or risk imposed on him by his contract, or materially impair his chance of obtaining return performance, or materially reduce its value to him; or
 - (b) assignment is precluded by contract and not made effective by Article 18 of the Law of Security.
- (2) A contractual obligation can be delegated unless:
 - (a) the obligee has a substantial interest in having the obligor perform or control the acts promised; or
 - (b) the delegation is precluded by contract.
- (3) Neither delegation of performance nor a contract to assume the duty made with the obligor by the person delegated discharges any obligation or liability of the delegating obligor.

95. Contractual prohibition of assignment

- (1) Unless the circumstances indicate the contrary, a contract term prohibiting assignment of the contract bars only the delegation to an assignee of the performance by the assignor of a duty or condition.
- (2) A contract term prohibiting assignment of rights under the contract, unless a different intention is manifested:
 - (a) is for the benefit of the obligor, and does not prevent:
 - (i) the assignee from acquiring rights against the assignor; or
 - (ii) the obligor from discharging his duty as if there were no such application (subject to Article 18 of the Law of Security, where applicable);
 - (b) gives the obligor a right to damages for breach of the terms forbidding assignment but does not render the assignment ineffective;
 - (c) does not prevent assignment of a right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation.

.....

PART 12: AGENCY

124. Agency; principal; agent

- (1) Agency is the relationship which results from the consent by one person to another that the other shall act on his behalf, and consent by the other so to act.
- (2) The one for whom action is to be taken is the principal.
- (3) The one who is to act is the agent.
- (4) In this Part, a reference to an agent can include, where appropriate, an apparent agent.
- (5) In this Part, a Computer Program per se is not to be regarded as an 'agent'.

.....

SCHEDULE 1: INTERPRETATION

.....

3. Defined Terms

- (1) In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
<u>Code</u>	<u>a language used to give instructions to computers.</u>
<u>Coded Contract</u>	<u>a contract in which all of the contractual terms are defined in, and performed automatically by, Coded Terms and no Natural Language version of the agreement exists.</u>
<u>Coded Term</u>	<u>a contractual term that is defined in and performed automatically by the Code of a Computer Program.</u>
<u>Computer Program</u>	<u>a collection of instructions written in Code that are executed by a computer.</u>
Court	the DIFC Court as established under Dubai Law.
<u>Credit Balance</u>	<u>includes a contractual claim for a Digital Asset that is money.</u>
<u>currency</u>	<u>includes a Digital Asset that is money.</u>
DIFC	the Dubai International Finance Centre.
<u>Digital Asset</u>	<u>has the meaning given in Article 8 of the Digital Assets Law</u>
<u>Hybrid Contract</u>	<u>a contract, some terms of which are defined in Natural Language and another or others of which are defined in a Coded Term or terms. Some or all of the contractual obligations are performed automatically by Code.</u>
Law	the Contract Law, DIFC Law No. 6 of 2004.
<u>Law of Security</u>	<u>the Law of Security, DIFC Law No. [x] of [2023]</u>
mistake	an erroneous assumption relating to facts or to law existing when the contract was concluded.
<u>monetary obligation</u>	<u>includes an obligation to pay in a Digital Asset that is Money.</u>
<u>Money</u>	<u>something that functions as a medium of exchange, store of value, and unit of account, and includes a Digital Asset that satisfies these three requirements.</u>
<u>Natural Language</u>	<u>language that has developed in the usual way as a method of communicating between people</u>
obligee	refers to a party who is entitled to performance of an obligation.
obligor	refers to the party who is to perform an obligation.
President	the president of the DIFC, appointed by a decree of the

DIFC LAWS AMENDMENT LAW

	Ruler pursuant to Dubai Law.
Ruler	the ruler of the Emirate of Dubai.
Schedule	a schedule to the Law.
<u>Sum</u>	<u>includes an amount in a Digital Asset that is Money.</u>
writing	Any mode of communication that preserves a record of the information contained therein and is capable of being reproduced in tangible form, including electronic means.

- (2) Where a party to a contract has more than one place of business the relevant "place of business" is that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract.

PART 3: AMENDMENTS TO IMPLIED TERMS IN CONTRACTS AND UNFAIR TERMS LAW

1. The Implied Terms in Contracts and Unfair Terms Law 2005 is amended as prescribed in this Part.
2. The following Articles of the Implied Terms in Contracts and Unfair Terms Law 2005 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

.....

PART 2: IMPLIED TERMS IN CONTRACTS

.....

Chapter 4 – Other terms relating to transfer of property

.....

21. Property must be ascertained

Subject to Article 23 (Undivided shares in property forming part of a bulk), where there is a contract for the sale of unascertained property no title in the property is transferred to the transferee unless and until the property is ascertained, save that this Article 21 shall not apply if the property is a Digital Asset.

22. Passing of risk

- (1) Property remains at the transferor's risk until the property in it is transferred to the transferee, but when the property in it is transferred to the transferee the property is at the transferee's risk whether delivery has been made or not.
- (2) But where delivery has been delayed through the fault of either transferee or transferor the property is at the risk of the party at fault as regards any loss which might not have occurred but for such fault.
- (3) Nothing in this Article 22 affects the duties or liabilities of either transferor or transferee as a bailee of the property of the other party.

23. Undivided shares in property forming part of a bulk

- (1) This Article 23 applies to a contract for the sale of a specified quantity of unascertained property if the following terms are met:
 - (a) the property or some of it forms part of a bulk which is identified either in the contract or by subsequent agreement between the parties; ~~and~~
 - (b) the transferee has paid the price for some or all of the property which is the subject of the contract and which forms part of the bulk; and
 - (c) the property is not a Digital Asset.
- (2) Where this Article 23 applies, then as soon as the terms specified in paragraphs (a) and (b) of Article 23(1) are met or at such later time as the parties may agree:
 - (a) property in an undivided share in the bulk is transferred to the transferee; and
 - (b) the transferee becomes an owner in common of the bulk.
- (3) Subject to Article 23(4), the undivided share of a transferee in a bulk at any time is such share as the quantity of property paid for and due to the transferee out of the bulk bears to the quantity of property in the bulk at that time.
- (4) Where the aggregate of the undivided shares of transferees in a bulk determined under Article 23(3) would at any time exceed the whole of the bulk at that time, the undivided share in the bulk of each transferee is reduced proportionately so that the aggregate of the undivided shares is equal to the whole bulk.
- (5) Where a transferee has paid the price for only some of the property due to him out of a bulk, any delivery to the transferee out of the bulk is ascribed in the first place to the property in respect of

which payment has been made.

- (6) For the purposes of this Article 23 payment of part of the price for any property is treated as payment for a corresponding part of the property.

24. Deemed consent by co-owner to dealings in bulk property

- (1) Subject to Article 24, A a person who has become an owner in common of a bulk by virtue of Article 23 (Undivided shares in property forming part of a bulk) is conclusively presumed to have agreed to:
- (a) any delivery of property out of the bulk to any other owner in common of the bulk, being property which is due to him under his contract;
 - (b) any dealing with or removal, delivery or disposal of property in the bulk by any other person who is an owner in common of the bulk in so far as the property falls within that co-owner's undivided share in the bulk at the time of the dealing, removal, delivery or disposal.
- (2) No cause of action accrues to anyone against a person by reason of that person having acted in accordance with paragraph (a) or (b) of Article 24(1) in reliance on any agreement presumed to have been given under that Article 24(1).
- (3) Nothing in this Article 24:
- (a) imposes an obligation on a transferee of property out of a bulk to compensate any other buyer of property out of that bulk for any shortfall in the property received by that other buyer;
 - (b) affects any contractual arrangement between transferees of property out of a bulk for adjustments between themselves; or
 - (c) affects the rights of any transferee under his contract.
- (4) This Article 24 shall not apply to property that is a Digital Asset.

.....

PART 3: UNFAIR TERMS

35. Application

- (1) Insofar as it relates to liability in contract, this Part applies to any contract governed by the law of the DIFC.
- (2) Insofar as it relates to any other liability, this Part applies to any liability arising from, or in relation to, an act or omission in the DIFC.

36. Scope

- (1) This Part does not apply to:
 - (a) any contract of insurance (including a contract to pay an annuity on human life);
 - (b) any contract so far as it relates to real estate;
 - (c) any contract so far as it relates to the creation, transfer or termination of a right or interest in any intellectual property, unless a Digital Asset is Constitutively Linked to or evidences that right or interest to any intellectual property;
 - (d) any contract so far as it relates:
 - (i) to the formation or dissolution of a body corporate or unincorporated association; or
 - (ii) to its constitution or the rights or obligations of its members or partners;
 - (e) any contract so far as it relates to the creation or transfer of securities or of any right or interest in securities, unless the securities are Digital Assets or a Digital Asset is Constitutively Linked to or evidences that right or interest in securities;
 - (f) a contract of employment, except in favour of the employee; or
 - (g) a contract whose characteristics are the following:
 - (i) either it is a contract of sale or supply of property or it is one under or in pursuance of which the possession or ownership of property passes save that “property” in this article excludes property that is a Digital Asset); and
 - (ii) it is made by parties whose places of business are in the territories of different jurisdictions.
- (2) A contract falls within Article 36 (g)(i) only if:
 - (a) the property in question is, at the time of the conclusion of the contract, in the course of carriage, or will be carried, from the territory of one jurisdiction to the territory of another;
 - (b) the acts constituting the offer and acceptance have been done in the territories of different jurisdictions; or
 - (c) the contract provides for the property to be delivered to the territory of a jurisdiction other than that within whose territory those acts were done.

37. Negligence liability

DIFC LAWS AMENDMENT LAW

- (1) A person cannot by reference to any contract term or to a notice given to persons generally or to particular persons exclude or restrict his liability for death or personal injury resulting from negligence.
- (2) In the case of other loss or damage, a person cannot so exclude or restrict his liability for negligence except in so far as the term or notice satisfies the requirement of reasonableness.
- (3) Where a contract term or notice purports to exclude or restrict liability for negligence a person's agreement to or awareness of it is not of itself to be taken as indicating his voluntary acceptance of any risk.

38. Liability arising in contract

- (1) This Article applies as between contracting parties where one of them (Party A) deals on the other's (Party B's) written standard terms of business.
- (2) As against that party (Party A), the other (Party B) cannot by reference to any contract term:
 - (a) when himself in breach of contract, exclude or restrict any liability of his in respect of the breach; or
 - (b) claim to be entitled:
 - (i) to render a contractual performance substantially different from that which was reasonably expected of him, or
 - (ii) in respect of the whole or any part of his contractual obligation, to render no performance at all,
 - (c) compel that party (Party A) to seek legal recourse only by way of arbitration.

except in so far as (in any of the cases mentioned above in this subsection) the contract term satisfies the requirement of reasonableness.

.....

SCHEDULE 1

.....

3. **Defined terms**

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings.

Terms	Definitions
-------	-------------

.....

<u>Constitutively Linked</u>	<u>A Digital Asset is Constitutively Linked with another asset where the Digital Asset confers a right to the (other) asset, and where the right to the other asset can only be transferred if the conditions under Article 12 or 13 of the Digital Assets Law are satisfied.</u>
------------------------------	---

.....

<u>Digital Asset</u>	<u>Has the meaning given in Article 8 of the Digital Assets Law.</u>
----------------------	--

.....

<u>Possession</u>	<u>In relation to “possession” of a Digital Asset, references in this Law to “possession” denote “control” within the meaning of Article 10 of the Digital Assets Law.</u>
-------------------	--

.....

PART 4: AMENDMENTS TO INSOLVENCY LAW

1. The Insolvency Law 2019 is amended as prescribed in this Part.
2. The following Articles of the Insolvency Law 2019 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

.....

CHAPTER 6 – COMPULSORY WINDING UP

.....

94. Vesting of Company property in Liquidator

- (1) When a winding up order has been made, or where a provisional Liquidator has been appointed, the Liquidator or the provisional Liquidator (as the case may be) shall take into his custody or under his control all the property ~~and things in action~~ to which the Company is or appears to be entitled.
- (2) In circumstances where the Company was a Lessee in respect of a Lease that has been surrendered, forfeited or otherwise terminated prior to the making of a winding up order in respect of the Company or where such Lease has been disclaimed:
 - (a) the Liquidator or the provisional Liquidator (as the case may be) shall remove any assets of the Company from the property that was formerly subject to the Lease and take physical custody of those assets within twenty eight (28) days from the date of the winding up order (unless a longer period is agreed with the former Lessor of the Company in respect of the Lease); or
 - (b) if the Liquidator or the provisional Liquidator (as the case may be):
 - (i) does not or cannot (for whatever reason) remove all such assets of the Company from the property within twenty eight (28) days of the winding up order (or such longer period as may be agreed with the former Lessor, or
 - (ii) notifies the former Lessor in writing that he does not intend to remove some or all of the assets of the Company from the property within twenty eight (28) days from the date of the winding up order,

the former Lessor may apply to the Court for an order permitting it to sell such assets of the Company that remain at the property on the open market and account to the Liquidator or the provisional Liquidator (as the case may be) for the proceeds of such sale of assets, excluding the reasonable costs it incurred in selling the assets and any rent arrears or other payments that may be owed to it by the Company in respect of the Lease.
- (3) Within seven (7) days of an application to the Court pursuant to Article 94(2)(b), the Liquidator or the provisional Liquidator (as the case may be) shall deliver to the former Lessor and the Court a list of the Company's assets situated at the property that were formerly subject to the Lease, and shall publish the list on the Company's website or (if it does not have a website) in an Appointed Publication.
- (4) Interested parties may attend Court and make representations to the extent that they consider that any assets included in the list prepared by the Liquidator or the provisional Liquidator (as the case may be) pursuant to Article 94(3) are owned in whole or in part by persons other than the Company, and the Court may make such orders in respect of such assets as it thinks fit.
- (5) When a Company is being wound up the Court may on the application of the Liquidator, order that all or any part of the property of whatever description belonging to the Company or held by trustees on its behalf shall vest in the Liquidator.
- (6) The Liquidator may bring or defend any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the Company and recovering its property.

.....

**SCHEDULE 1
INTERPRETATION**

.....

3. Defined terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
------	------------

.....

<u>Digital Asset</u>	has the meaning given in Article 8 of the Digital Assets Law.
<u>Digital Assets Law</u>	the Digital Assets Law DIFC Law No. [x of 2023].

.....

<u>property</u>	includes money, goods, Digital Assets, things in action, land and every description of property wherever situated and also obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property.
-----------------	--

.....

Security Law	the Security Law DIFC No. [8x of 2005 2023].
--------------	--

.....

PART 5: AMENDMENTS TO THE LAW OF DAMAGES AND REMEDIES

1. The Law of Damages and Remedies 2005 is amended as prescribed in this Part.
2. The following Articles of the Law of Damages and Remedies 2005 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

.....

PART 4: REMEDIES

CHAPTER 1: GENERAL

34. Remedies stipulated under this Law

Where this Law provides that a person may claim or otherwise has a right to or is entitled to compensation, damages, restitution, specific performance, or any other relief or remedy, the Court may, on application made by such a person, make orders accordingly, together with any other order as the Court sees fit, except where the making of any particular order may be excluded under this Law.

35. Other orders

- (1) Where a person commits a breach of any requirement, duty or obligation which is imposed under any DIFC Law the Court may, on application of any person who is aggrieved by such conduct or has suffered loss or damage arising from such conduct, make one or more of the following:
 - (a) an order for damages;
 - (b) an order for compensation;
 - (c) an order for restitution;
 - (d) an order for specific performance of a contract or part of a contract;
 - (e) a declaration as to the rights, liabilities and obligations of a person;
 - (f) an injunction;
 - (g) rescission;
 - (h) rectification; or
 - (i) any other order that the Court thinks fit.

.....

CHAPTER 3: OTHER REMEDIES

.....

41(A). **Rescission**

- (1) Subject to Article 41A(2) and 41(A)(3), the Court may order that a gift or transaction be rescinded on the basis of:
 - (a) mistake within the meaning of Article 37 of the Contract Law;
 - (b) fraud within the meaning of Article 40 of the Contract Law;
 - (c) threat within the meaning of Article 41 of the Contract Law;
 - (d) misrepresentation within the meaning of Articles 29 and 30 of the Law of Obligations; or
 - (e) breach by a fiduciary of the no-conflict and no-profit rules (as provided in paragraphs 2 and 3 respectively of Schedule 3 of the Law of Obligations).
- (2) The power of the court to make any of the above orders is without prejudice to the rights contained in the Trust Law, the Contract Law, and the Law of Obligations in respect of setting aside or avoiding a gift or transaction.
- (3) Rescission may be refused on the basis of:
 - (a) affirmation of the gift or the transaction by the counterparty;
 - (b) undue delay;
 - (c) prejudice to third party rights; or
 - (d) impracticality of restoring the parties as closely as reasonably possible to their pre-transaction or pre-gift position.
- (4) A rescission order refers to an order that restores the parties as closely as reasonably possible to the position as if the gift or transaction had not been made.

41(B). **Rectification**

- (1) A court may order rectification of a contract to reflect the intended agreement of the parties if there has been a relevant common mistake or relevant unilateral mistake at the time the contract was formed.
- (2) A relevant common mistake exists where:
 - (a) the parties had a common intention, whether or not amounting to an agreement, in respect of a particular matter in the contract;
 - (b) there was an outward expression of accord;
 - (c) the intention continued at the time of the execution of the contract; and
 - (d) by mistake, the contract did not reflect that common intention and all parties made a mistake about the contract not reflecting such common intention.
- (3) A relevant unilateral mistake exists where:

DIFC LAWS AMENDMENT LAW

- (a) one party (A) erroneously believed that the document sought to be rectified:
 - (i) contained a particular term or provision; or
 - (ii) did not contain a particular term or provision which, mistakenly, it did contain.
- (b) The other party (B), was aware (in that B had actual knowledge, wilfully shut his eyes to the obvious or wilfully and recklessly failed to make such inquiries as an honest and reasonable person would make) of the omission or the inclusion and that it was due to a mistake on the part of A;
- (c) B has not drawn the mistake to the attention of A; and
- (d) B takes advantage of the mistake for his own benefit.
- (4) Rectification may be refused if:
 - (a) it would or might substantially prejudice a non-party to the contract;
 - (b) there has been unreasonable delay in pursuing the remedy; or
 - (c) it is otherwise inequitable to award rectification.
- (5) Rectification of a contract has retrospective effect, such that the rectification is effective from the time the contract was formed.

41(C). Action for the agreed sum

- (1) A party (A) may bring an action for the agreed sum under a contract, unless
 - (a) There is anticipatory non-performance within the meaning of Article 88 of the Contract Law by the contractual counterparty (B); and
 - (b) A has no legitimate interest in performing the contract following B's anticipatory non-performance.
- (2) A party bringing an action for an agreed sum is not required to prove loss and has no duty to mitigate his loss.

.....

SCHEDULE 1

.....

3. Defined Terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Table 1

Term	Definition
Court	the DIFC Court, as established by Dubai Law.
Charging Order	has the meaning given in Article 42(1) a.
<u>Credit Balance</u>	<u>includes a contractual claim for a Digital Asset that is money.</u>
<u>currency</u>	<u>includes a Digital Asset that is money.</u>
DIFC	the Dubai International Financial Centre.
<u>Digital Asset</u>	<u>has the meaning given in Article 8 of the Digital Assets Law.</u>
<u>Digital Assets Law</u>	<u>the Digital Assets Law No [x of 2023].</u>
<u>Monetary Obligation</u>	<u>Includes an obligation to pay in a Digital Asset that is money.</u>
<u>money</u>	<u>something that functions as a medium of exchange, store of value, and unit of account, and includes a Digital Asset that satisfies these three requirements.</u>
person	has the meaning given in table 1 of Schedule 1 to this Law.
relevant property	has the meaning given in Article 36(2).
Ruler	the ruler of the Emirate of Dubai.
<u>sum</u>	<u>includes an amount in a Digital Asset that is money or analogous thereto.</u>

.....

PART 6: AMENDMENTS TO THE LAW OF OBLIGATIONS

1. The Law of Obligations 2005 is amended as prescribed in this Part.
2. The following Articles of the Law of Obligations 2005 are to be amended by inserting the underlined text and deleting the struck through text as shown below:
.....

CHAPTER 4: MISREPRESENTATION

30. **Liability**

A person is liable for misrepresentation to a representee if:

- (a) he is the representor in relation to a misrepresentation;
- (b) the representee has entered into a contract with the representor after the misrepresentation has been made;
- (c) the misrepresentation influences the representee to enter into a the contract with the representor or affects the terms upon which he agrees to enter into it; and
- (d) the representee suffers loss as a result of entering into the contract with the representor.

.....

CHAPTER 7: WRONGFUL INTERFERENCE WITH PROPERTY

.....

42. Meaning of property

In this Chapter, property has the meaning given to it in the Personal Property Law, except that it does not include real property (as defined in the Personal Property Law), money, things in action, Digital Assets and intellectual property.

.....

46. Rights of third parties

- ~~(1) It is a defence under this Chapter to show that a third party has a better claim to title of the property than the claimant.~~
- ~~(2) Where a defendant has been found liable to one claimant under this Part and subsequently a second claimant is found to have a superior right of interest in or to the property, which right or interest was the subject of the claim, the first claimant is liable to account to the second claimant.~~

.....

PART 5: OBLIGATIONS RELATING TO BAILMENT

CHAPTER 1: APPLICATION AND DEFINITIONS

65. Application

- (1) This Part applies to any bailment of property possessed or owned by a person within the DIFC, subject to Article 65(2).
- (2) This Part does not apply in respect of securities, ~~or~~ negotiable instruments, or Digital Assets.

.....

PART 6: NEGOTIABLE INSTRUMENTS

CHAPTER 1: DEFINITIONS

77. Negotiable instrument defined

- (1) A negotiable instrument is any instrument or other writing (in tangible form or in the form of an electronic trade document) that embodies ~~evidence~~ an unconditional right to the payment of a fixed monetary obligation, and is of a type that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment, subject to this Law.
- (2) Subject to Article 77(1), E each of the following is a negotiable instrument:
 - (a) a bill of exchange within the meaning of Article 78 of this Law;
 - (b) a promissory note within the meaning of Article 80 **Error! Reference source not found.**of this Law.
- (3) A monetary obligation may be fixed even though it is required to be paid with interest, in instalments, or according to a rate of exchange.

78. Bill of exchange defined

- (1) A bill is an unconditional order in writing (in tangible form or in the form of an electronic trade document), addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or future time a sum of money to or to the order of a specified person, or to bearer.
- (2) An instrument which does not comply with these conditions, or which orders anything to be done in addition to the payment of money, is not a bill.
- (3) An order to pay out of a particular fund is not unconditional within the meaning of this Article 78.
- (4) A bill is not invalid by reason:
 - (a) that it is not dated; or
 - (b) that it does not specify the place where it is drawn or the place where it is payable.

79. Cheque defined

A cheque is a bill of exchange drawn on a banker payable on demand, subject to Article 135.

80. Promissory note defined

- (1) A promissory note is an unconditional promise in writing (in tangible form or in the form of an electronic trade document), made by one person to another signed by the maker, undertaking to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer.
- (2) An instrument in the form of a promissory note payable to the order of the maker is not a promissory note within the meaning of this Article unless and until it is endorsed by the maker.
- (3) The Board of Directors of the DIFCA may by Regulations make provision for the application of this Part to negotiable instruments in non-tangible form. Such Regulations may, without limitation, provide for:
 - (a) minimum requirements (including as to security) for the creation and operation of systems for the creation of non-tangible instruments; and

DIFC LAWS AMENDMENT LAW

- (b) the recognition of signatures in relation to, and other writing on, instruments held in non-tangible form; and
- (c) requirements relating to how non-tangible instruments may be possessed and transferred.

.....

CHAPTER 5A: TRADE DOCUMENTS

153A. Paper trade document defined

- (1) A document is a “paper trade document” for the purposes of this Law if:
 - (a) it is in paper form; and
 - (b) it is commonly used in connection with:
 - (i) trade in or transport of goods; or
 - (ii) financing such trade or transport; and
 - (c) possession of the document is required as a matter of law or commercial custom, usage or practice for a person to claim performance of an obligation.
- (2) A bill of exchange and a promissory note are examples of documents that, if they fall within Article 154(1), will be paper trade documents.

153B. Electronic trade document defined

- (1) This Article 153B applies where information in electronic form is information that, if contained in a document in paper form, would lead to the document being a paper trade document.
- (2) The information, together with any other information with which it is logically associated that is also in electronic form, constitutes an "electronic trade document " for the purposes of this Law if a reliable system is used to:
 - (a) identify the document so that it can be distinguished from any copies;
 - (b) protect the document against unauthorised alteration;
 - (c) secure that a person can have control of the document within the meaning of Article 153C.
- (3) When determining whether a system is reliable for the purposes of Article 153B(2), the matters that may be taken into account include:
 - (a) any rules of the system that apply to its operation;
 - (b) any measures taken to secure the integrity of information held on the system;
 - (c) any measures taken to prevent unauthorised access to and use of the system;
 - (d) the security of the hardware and software used by the system;
 - (e) the regularity of and extent of any audit of the system by an independent body;
 - (f) any assessment of the reliability of the system made by a body with supervisory or regulatory functions;
 - (g) the provisions of any voluntary scheme or industry standard that apply in relation to the system.

153C. Control defined

- (1) For the purpose of Article 153B, a person has control of the document if:
 - (a) subject to Articles 153C(2) and 153C(3), the electronic trade document , or the relevant

protocol or system, confers on that person:

- (i) the exclusive ability to prevent others from obtaining substantially all the benefit from the electronic trade document ;
- (ii) the ability to obtain substantially all the benefit from the electronic trade document ; and
- (iii) the exclusive ability to transfer the abilities in Articles 153C(1)(a)(i) and 153C(1)(a)(ii) to another person (a ‘change of control’);

and,

- (b) the electronic trade document, or the relevant protocols or system, allows that person to identify itself as having the abilities set out in Article 153C(1)(a).
- (2) If the electronic trade document is a Digital Asset, a change of control includes the replacement, modification, destruction, cancellation, or elimination of a Digital Asset, and the resulting and corresponding derivative creation of a new Digital Asset which is subject to the control of another person.
- (3) An ability for the purposes of Article 153C(1)(a) need not be exclusive if and to the extent that:
- (a) if the electronic trade document is a Digital Asset, the Digital Asset, or the relevant protocol or system, limits the use of, or is programmed to make changes to, the Digital Asset, including change or loss of control of the Digital Asset; or
 - (b) irrespective of whether the electronic trade document is a Digital Asset, the person in control has agreed (expressly, by implication or by conduct) to sharing that ability with one or more other persons.
- (4) Reading or viewing a document is not, of itself, sufficient to amount to control for the purposes of this Article 153C.

153D. Possession, indorsement and effect of electronic trade documents

- (1) A person may possess, indorse and part with possession of an electronic trade document.
- (2) An electronic trade document has the same effect as an equivalent paper trade document.
- (3) Anything done in relation to an electronic trade document has the same effect (if any) in relation to the document as the equivalent action would have in relation to an equivalent paper trade document.

153E. Change of form

- (1) A paper trade document may be converted into an electronic trade document, and an electronic trade document may be converted into a paper trade document, if (and only if):
 - (a) a statement that the document has been converted is included in the document in its new form;
and
 - (b) any contractual or other requirements relating to the conversion of the document are complied with.
- (2) Where a document is converted in accordance with Article 153E(1):
 - (a) the document in its old form ceases to have effect; and
 - (b) all rights and liabilities relating to the document continue to have effect in relation to the document in its new form.

153F. Exceptions

- (1) If an intention that Article 153D should not apply in relation to an electronic trade document appears in, or can reasonably be inferred from, the document or terms that have effect in relation to the document—
 - (a) that section does not apply in relation to the document, and

- (b) Article 153E also does not apply in relation to it.
- (2) Articles 153A to 153E do not apply in relation to—
 - (a) Financial Collateral; or
 - (b) Non-Intermediated Financial Property.
- (3) The Board of Directors of the DIFCA may by Regulations add, remove or amend an entry in the list in Article 153F(2).

.....

SCHEDULE 1

.....

3. Defined terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
------	------------

.....

<u>credit</u>	includes a contractual claim for a Digital Asset that is money.
---------------	---

.....

<u>Digital Asset</u>	has the meaning given in Article 8 of the Digital Assets Law.
<u>Digital Assets Law</u>	the Digital Assets Law No [x of 2023].

.....

<u>electronic trade document</u>	has the meaning given in Article 153B of this Law.
----------------------------------	--

.....

<u>monetary Obligation</u>	includes an obligation to pay in a Digital Asset that is money.
<u>money</u>	something that functions as a medium of exchange, store of value, and unit of account, and includes a Digital Asset that satisfies these three requirements.
<u>negotiable Instrument</u>	has the meaning given in Article 77(1).

.....

<u>sum</u>	includes an amount in a Digital Asset that is money.
------------	--

.....

PART 7: AMENDMENTS TO TRUST LAW 2018

1. The Trust Law 2018 is amended as prescribed in this Part.
2. The following Articles of the Trust Law 2018 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

.....

PART 2: CHOICE OF GOVERNING LAW; PLACE OF ADMINISTRATION

.....

15. Heirship rights

An heirship right conferred by foreign law in relation to the property of a living person shall not be recognised as:

- (a) affecting the ownership of immovable property in the DIFC and movable property including a Digital Asset wherever it is situated for the purposes of Article 13(2)(a) and (b) or for any other purpose; or
- (b) constituting an obligation or liability for any purpose.

.....

PART 5: THE BENEFICIARIES OF A DIFC TRUST.

45. Beneficiaries of a trust

- (1) A beneficiary shall be:
 - (a) identifiable by name; or
 - (b) ascertainable by reference to:
 - (i) a class or other identifying characteristic; or
 - (ii) a relationship to some person whether or not living at the time of the creation of the trust or at the time which under the terms of the trust is the time by reference to which members of a class are to be determined.
- (2) The terms of a trust may provide for the addition of a person as a beneficiary or the exclusion of a beneficiary from benefit.
- (3) A settlor, protector or a trustee of a trust may also be a beneficiary of a trust.

.....

**SCHEDULE 1
INTERPRETATION**

.....

3. Defined terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
------	------------

.....

<u>Digital Asset</u>	has the meaning given in Article 8 of the Digital Assets Law.
<u>Digital Assets Law</u>	the Digital Assets Law DIFC Law No. [x of 2023].

.....

Property	any movable or immovable property, and includes <u>Digital Assets</u> and rights and interests, whether present or future and whether vested or contingent.
----------	---

PART 8: AMENDMENTS TO FOUNDATIONS LAW 2018

1. The Trust Law 2018 is amended as prescribed in this Part.
2. The following Articles of the Foundations Law 2018 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

.....

PART 2: NATURE OF A DIFC FOUNDATION

15. Heirship Rights

An Heirship Right conferred by Foreign Law in relation to the property of a living person shall not be recognised as:

- (a) affecting the ownership of immovable property in the DIFC and movable property including a Digital Asset wherever it is situated for the purposes of Article 13(2)(a) and (b) or for any other purpose; or
- (b) constituting an obligation or liability for any purpose.

.....

**SCHEDULE 1
INTERPRETATION**

.....

3. Defined terms

In the Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
------	------------

.....

<u>Digital Asset</u>	has the meaning given in Article 8 of the Digital Assets Law.
<u>Digital Assets Law</u>	the Digital Assets Law DIFC Law No. [x of 2023].

.....

Property	<p>any movable or immovable property <u>including a Digital Asset</u>, and includes rights and interests, whether present or future and whether vested or contingent and where it concerns the property of a Foundation, it shall include:</p> <ul style="list-style-type: none"> (a) any property (including money, investments and other property) contributed to the Foundation; (b) any capitalised income added to the property so contributed; and (c) the money, investments and property from time to time representing those assets and capitalised income.
----------	---

.....