



South African Reserve Bank

**Terms and conditions for the use of Direct Banking System
operated by the South African Reserve Bank
(commonly referred to as iBank)**

1. Basis and purpose

The basis and purpose of these terms and conditions are to allow the Customer access to the Direct Banking System (“DBS”), subject to the availability of the DBS connection and to any periods required for necessary maintenance of the DBS or the Customer’s accounts (“Accounts”), for the performance of the following banking activities:

- 1.1 effect electronic funds transfers as requested by the Customer from the Accounts held at the South African Reserve Bank (“Bank”) and the Corporation for Public Deposits (“CPD”) to a specified beneficiary account or nominated account in the case of the CPD held at a commercial bank;
- 1.2 run enquiries on its Accounts; and
- 1.3 view and print reports and statements from its Accounts.

2. User sign-in Identification

- 2.1 The Bank and the CPD will provide the Customer with the user sign-in identification and password for the Customer’s authorised users (“Authorised Users”) to access the DBS.

- 2.2 The Customer must ensure that the user sign-in identification and password are kept secret and take all reasonable precautions to prevent unauthorised use of the DBS.
- 2.3 If the Customer suspects that a password or has become known to someone else other than the Authorised Users, the Customer must immediately reset their password.
- 2.4 If the Customer suspects that a user sign-in identification and/or password has become known to someone else other than the Authorised Users, the Customer must immediately notify the corporate administrator of the Customer who must immediately deactivate the user sign-in identification and password and notify the Bank and the CPD of such incident.
- 2.5 If any unauthorised person obtains the user sign-in identification and/or password in any manner whatsoever, such person will be regarded as the Customer's duly Authorised User with full authority to use the DBS on the Customer's behalf, unless the Customer is able to prove that the person has obtained the user sign-in identification and/or password due to the Bank's or the CPD's negligence or due to internal fraud in the Bank or the CPD.

3. **Sending and processing Instructions**

- 3.1 The Bank and the CPD will assume that the Customer has authorised all transactions once the user sign-in identification and password has been entered, unless otherwise informed.
- 3.2 An instruction is deemed to be received by the Bank and the CPD once the Bank and the CPD have confirmed receipt of it. If the Bank and the CPD fail to confirm receipt of Customer's instruction, the Customer must not resend the same instruction before checking its statements as the initial instruction may still be processed.

- 3.3 The Customer is responsible for providing correct information and instructions upon registration and when conducting transactions on the DBS.
- 3.4 The Bank and the CPD will provide the Customer with an opportunity to review the entire transaction, to correct any mistakes and to withdraw from the transaction before submitting any transaction.
- 3.5 The Bank and the CPD will try to assist if an error is made by the Customer when giving instructions, but the Bank and the CPD will not be responsible for any loss or damage caused by the Customer's error.
- 3.6 The Customer accepts that financial limits may be imposed on the transfer of funds, which limits may be altered at any time as agreed to in writing between the Bank, the CPD and Customer.

4. **Obligations of the Bank and CPD**

The Bank and CPD shall, for the duration of these terms and conditions:

- 4.1 provide the Customer access to the DBS to perform such banking activities with the Bank and the CPD as set out herein;
- 4.2 furnish the Customer with the user sign-in identification and password for Authorised Users to access the DBS;
- 4.3 ensure that all the mandatory fields are completed when capturing transactions;
- 4.4 ensure that funds are available to the Customer on demand and in the case of CPD, subject to the applicable limits

- 4.5 ensure that the banking details contemplated in 1.1 in respect of CPD are maintained so that no unauthorised changes to the banking detail fields can be made;
- 4.6 co-ordinate the movement of funds of the Customer from the Accounts to a specific beneficiary account held at a commercial bank as instructed by the Customer;
- 4.7 provide statements of accounts to the Customer on request in the event of the unavailability of the DBS;
- 4.8 be responsible for the maintenance of the router and all components of the Bank's internal networks that allows access to the DBS.
- 4.9 provide training and support to the relevant staff of the Customer;
- 4.10 assist with the handling and resolving of queries;
- 4.11 ensure business continuity in case of disruptions to the availability of the facility except as stipulated in clause 9 as follows:
 - 4.11.1 provide security code keys to the Customer for use on transactions by fax or secured e-mail;
 - 4.11.2 in case of faxed instructions, the CPD shall confirm such transactions telephonically and record same before execution;
 - 4.11.3 serve as a backup if the Customer is unable to connect to the DBS via the internet; and
 - 4.11.4 periodically conduct business continuity tests in conjunction with some of the existing clients.

5. **Obligations of the Customer**

- 5.1 The Customer acknowledges that it is aware that the rendering of the services is subject to various acts and other legislation and the Customer undertakes to comply with all applicable legislation at all times.
- 5.2 The Customer shall for the duration of these terms and conditions:
 - 5.2.1 register with an internet service provider and for secured communication method with the Bank prior to accepting these terms and conditions and shall be solely responsible for the acquisition, installation and maintenance of the connection to the internet and any related costs or expenses will be borne by the Customer.
 - 5.2.2 appoint at least two personnel members to serve as its Authorised Users;
 - 5.2.3 provide the Bank and the CPD with the necessary written authorisations in terms of which the Authorised Users will have access to the DBS. The Customer may revoke an Authorised User's access to the DBS at any time by giving the Bank and the CPD written notice of the revocation;
 - 5.2.4 ensure that all instructions given via the DBS are authenticated by the use of the user sign-in identification, the password and/or any other procedures which may be agreed to in writing between the Bank, the CPD and Customer.
 - 5.2.5 ensure the validity and correctness of all payment instructions;
 - 5.2.6 maintain and service all the components and components of the connection required for internet access to the DBS;
 - 5.2.7 provide the Bank and the CPD with its forecasted cash flows on the Accounts as prescribed by the Bank and the CPD from time to time;

- 5.2.8 provide the Bank and the CPD with details of persons designated to authorise manual transactions with the Bank and the CPD;
- 5.2.9 participate in the testing of relevant system developments and changes and sign-off on the results of such tests;
- 5.3 In case of disruptions to the availability of the DBS, the Customer shall:
 - 5.3.1 provide the Bank and the CPD with instructions to transfer funds from the Accounts to a specified beneficiary account or nominated bank account held at a commercial bank;
 - 5.3.2 provide security code keys on payment instructions sent by fax or secure e-mail;
 - 5.3.3 in case of faxed instructions, confirm such transactions telephonically;
 - 5.3.4 participate in periodical business continuity tests when requested; and
 - 5.3.5 ensure that the Authorised Users log-off once done using the DBS. Failure to log-off may result in unauthorised transactions being conducted, for which the Bank and the CPD will not be held liable.

6 Confidentiality

The parties will at all times respect the confidentiality of these terms and conditions and any arrangements or agreements made or entered into in connection with this terms and conditions and will not disclose to any other person any information acquired as a result of or pursuant to these terms and conditions unless required to do so by law, a regulatory authority, governmental body or an order of a court or as otherwise agreed in writing by the parties. Where it is required to disclose any information or any of the provisions of these terms and conditions, the disclosing party shall provide with notice such requirement of disclosure to the other parties.

7 Intellectual Property

- 7.1 All the intellectual property rights, including trademarks, copyrights and other rights, used or combined in any document, publication, research project or computer software program pertaining to the DBS and which originate from or have been designed, programmed, manufactured or produced by, for or on behalf of the Bank will remain the exclusive property of the Bank or any third party acknowledged by the Bank in writing to be the holder of such rights.
- 7.2 The Customer shall not in any way or by any means whatsoever, copy, duplicate or reproduce, or cause or permit such copying, duplication or reproduction, or publication or distribution of any document, publication, research project or computer software program pertaining to the DBS and which is the exclusive property of the Bank, without the prior written consent of the Bank being obtained, which consent shall not be unreasonably withheld.
- 7.3 In the event of the termination or cancellation of these terms and conditions for whatever reason, the Customer shall return to the Bank all the intellectual property rights provided or supplied to it by the Bank.

8 Indemnities and Liability for loss or damage

- 8.1 The CPD and the Bank shall, in the provision of electronic banking facilities and the operation of the DBS respectively, exercise reasonable care and take reasonable precautions in order to ensure the effective, secure and proper rendering of such services and operation of the DBS in such manner as to ensure that the Customer shall not suffer loss or damage pursuant to the usage of the DBS.
- 8.2 Each party shall indemnify the other from, and against, any reasonable loss, damage, costs, expenses and liabilities which the other party may suffer or incur as a result of, or in connection with, any claim or action by any third party arising out

of the actions or omissions of the first mentioned party, which actions result directly from these terms and conditions, save to the extent that the legal action or claim arises out of the misconduct, fraud or negligence of the party so indemnified.

8.3 The Bank and the CPD will not be responsible for any damage, loss or consequential damage which the Customer may suffer as a result of:

8.3.1 any malfunction or defect in the hardware used by the Customer;

8.3.2 any defect in the software used by the Customer to gain access to the DBS;

8.3.3 any act or omission by the internet service provider;

8.3.4 the DBS being off-line or unavailable;

8.3.5 any industrial action;

8.3.6 any other circumstances not reasonably within the Bank's control;

8.3.7 erroneous, unauthorised, incomplete, or unlawful instructions from the Customer;

8.3.8 unlawful or unauthorised access by any person(s); and

8.3.9 incorrect or late execution or non-payment of any instruction given by the Customer, due to the circumstances set out in 8.3.1 to 8.3.8 above.

8.4 The Customer shall indemnify the Bank and CPD from, and against, all claims and liabilities, including but not limited to costs, charges and expenses, be it in respect of capital amounts or interest on such amounts, or for any other reason, which the Bank and CPD may be held liable for, or which the Bank and CPD may pay, incur

or sustain in connection with the authorised transfer of funds, in accordance with these terms and conditions, to the Accounts, provided that the Bank and CPD has taken due care to ascertain that the payment information captured by the Customer from which the Bank and CPD would act, emanates from the designated persons of the Customer and has exercised reasonable care and diligence in accordance with prevailing commercial practices.

8.5 The indemnity given in clauses 8.2 and 8.3 shall remain operative and enforceable, notwithstanding the termination of these terms and conditions in respect of any such loss, costs, fees, damages, liabilities, claims, suits or demands as aforesaid, the cause of which arose during the subsistence of these terms and conditions.

8.6 Any claim for loss or damage instituted against any party by the other party/ies, shall be limited to direct compensatory loss or damage and shall exclude consequential loss or damages.

9 ***Force Majeure***

Notwithstanding the clause 8 above, no party shall be responsible to the other for delay or failure in performance of any of the obligations imposed by these terms and conditions, if such failure shall be occasioned by war, fire, flood, explosion, lightning, storm, earthquake, riots, insurrection, power outages due to national blackouts, or other acts of God. Upon any of these events happening, the parties shall do everything in their power to establish restitution of the rights and obligations under these terms and conditions as soon as possible.

10 **Termination**

10.1 These terms and conditions shall become effective from the Customer accepting these terms and conditions and shall remain valid and binding until terminated in terms hereof.

- 10.2 The Bank and the CPD are entitled, at its discretion to terminate the use of the DBS at any time the Bank and the CPD deems it necessary.
- 10.3 A party may, by giving 30 (thirty) business days' written notice to the other Parties, terminate these terms and conditions.
- 10.4 Termination of these terms and conditions, however, will not affect any rights acquired and/or obligations incurred and outstanding at the time such termination becomes effective, which shall remain subject to these terms and conditions until all such outstanding rights and/or obligations are exercised, performed or otherwise fulfilled.
- 10.5 In order to protect the Bank, the CPD, Customer and the DBS, the Bank and the CPD are entitled to immediately suspend or withdraw access if the:
 - 10.5.1 DBS is being used contrary to these terms and conditions;
 - 10.5.2 Bank and the CPD has reasonable grounds to believe that the DBS may be used negligently, illegally or fraudulently; or
 - 10.5.3 Bank and the CPD believe that the security of the systems used to provide access to the DBS may be compromised.

11 **Dispute resolution**

- 11.1 Any dispute between the Parties that arises with regard to these terms and conditions and which despite the *bona fide* negotiations between the parties, remains unresolved after 7 (seven) calendar days from the date when such dispute arose, shall be referred by either party to an arbitrator, agreed upon by the parties within 7 (seven) calendar days from the aforementioned date for resolution. Failing agreement on the arbitrator to be appointed, an arbitrator will be appointed at the

request of any party by the Arbitration Foundation of Southern Africa (“AFSA”), which arbitrator shall, as far as possible, be a person appointed on account of his/her knowledge of both banking law and the payment systems. Such appointment shall be made within 7 (seven) calendar days of the request for such appointment.

11.2 The above arbitration shall be held as a matter of urgency, at a time and place decided on by the duly appointed arbitrator, in the English language and with a view to it being completed within 14 (fourteen) calendar days after the appointment of the arbitrator. The arbitration shall be held in accordance with the AFSA rules and procedures.

11.3 The parties agree that the decision in the arbitration proceedings shall be final and binding upon the parties, shall be carried into effect and may be made an order of a court of competent jurisdiction at the discretion and sole volition of any of the parties involved.

11.4 Should any party elect not to go to arbitration as stated in this clause 11, the parties agree that the dispute will be referred to a competent court that has jurisdiction.

12 **Breach**

Should any party breach any provision of these terms and conditions and fail to remedy such breach within 14 (fourteen) business days after receiving written notice requiring such remedy, then the aggrieved party shall be entitled, without prejudice to his other rights under these terms and conditions and/or in law (including without limitation any right to claim damages), to claim immediate specific performance of all of the defaulting party's obligations, whether or not otherwise then due for performance, or to cancel these terms and conditions.

13 Addresses and *domicilia*

13.1 The parties select, as their respective *domicilia citandi et executandi* for purposes of serving all notices in terms of, or made necessary, by these terms and conditions, the following physical addresses, telefacsimile numbers and e-mail addresses:

13.1.1 The Bank:
 Attention: General Counsel
 Legal Services Department
 South African Reserve Bank
 370 Helen Joseph (formerly Church) Street
 PRETORIA
 0002
 Facsimile number: (012) 313-4090
 E-mail address:

13.1.2 CPD:
 The Secretary
 Corporation for Public Deposits
 370 Helen Joseph (formerly Church) Street
 PRETORIA
 0002
 Facsimile number: (012) 313-4117
 E-mail address:

13.1.3 The Customer chooses the address given in the application form.

13.2 Every notice to be given in terms of these terms and conditions shall be given in writing and be deemed, unless the contrary can be proved if:

- 13.2.1 delivered by hand to the other party/ies, to have been given on the 1st (first) business day following the date of signature of such delivery having been received; or
- 13.2.2 transmitted by telefacsimile to the other party/ies, to have been given on the 1st (first) business day following the day of transmission thereof, provided confirmation of such successful transmission is available.
- 13.3 An e-mail message will be deemed to be sent by the:
 - 13.3.1 Customer, at the time at which the Bank and the CPD is capable of accessing such message; and
 - 13.3.2 Bank and the CPD, at the time shown on the message as having been sent, or if not so shown, at the time shown on the Bank's and CPD's computer system as having been sent.
- 13.4 An e-mail message is deemed to be received by the:
 - 13.4.1 Customer once it becomes capable of being retrieved by the Customer; and
 - 13.4.2 Bank and the CPD, once the Bank and the CPD has confirmed receipt thereof to the Customer, or responded thereto, whichever comes first.
- 13.5 An e-mail message shall be attributed to the:
 - 13.5.1 Customer, if it purports to have originated from the Customer, irrespective of the fact that someone else may have impersonated the Customer or whether the message sent to the Bank and the CPD resulted from an error or malfunction in the communication system; and

13.5.2 Bank and the CPD, if it has been sent by a duly authorised representative and such representative acted within the scope of such authority or by an automated system programmed by the Bank and the CPD and such system operated without error or malfunction.

13.6 Notwithstanding anything to the contrary herein contained, a written notice actually received by any party from the other party, shall be deemed to have been delivered to such party's *domicilia citandi et executandi* on the date when such notice was received.

14 **General**

14.1 These terms and conditions constitutes the whole relationship between the Parties relating to the subject matter of these terms and conditions

14.2 Each party will comply, and will take all reasonable steps on request by the other party to enable it to comply with the relevant anti-money laundering laws and regulations.

14.3 The Bank and CPD reserves the right to amend these terms and conditions and shall within reasonable time notify the Customer of such amendments.

14.4 No party shall be entitled to cede, transfer, assign, make over and/or delegate any of its rights, benefits and/or obligations under these terms and conditions without the prior written consent of the other party/ies, which consent shall not be withheld unreasonably.

14.5 No waiver of any of these terms and conditions shall be binding on any party unless expressed in writing and signed by the party giving the same and such waiver will be effective only in the specific instance and for the purpose given.

- 14.6 No failure or delay on the part of any party in exercising any right, power or privilege shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege preclude any other exercise or further exercise of any right, power or privilege.
- 14.7 In the event of any clause in these terms and conditions or any part of any clause being found to be invalid for any reason whatsoever, such clause or part thereof, shall be severable from the remainder of these terms and conditions and shall not affect the validity of such remainder.
- 14.8 The parties agree that, except for the indemnities signed by the parties in relation to these terms and conditions, there are no other conditions, warranties or representations, whether oral or written and whether expressed or implied, applicable to these terms and conditions, save for those contained in these terms and conditions.
- 14.9 These terms and conditions shall be governed by the laws of the Republic of South Africa.