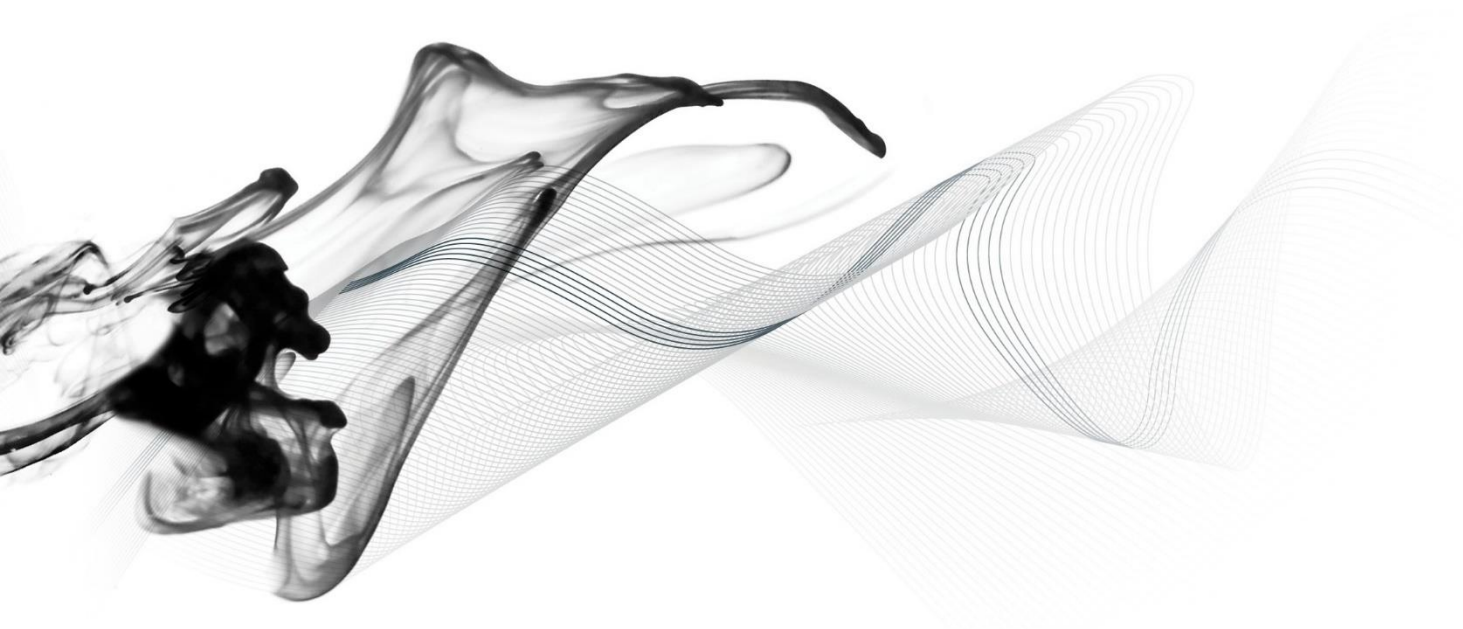


Investec Bank Limited

Investec Corporate & Institutional Banking

# Treasury: General Terms of Business



*Out of the Ordinary™*

## General Terms of Business

These terms and conditions ("General Terms"), together with any accompanying documents set out the basis on which we, Investec Bank Limited, will provide you with treasury services in respect of foreign exchange dealing and / or trading, money market, interest rate trading, commodities trading and transactional banking amongst other treasury products, services and offerings ("the Services"). These General Terms are legally binding and will be deemed to take effect by you at the start of you receiving the Services or by you continuing to receive the Services following your receipt of these General Terms. It is, therefore, very much in your interests to read them carefully. Please let us know as soon as possible if there is anything which you do not understand.

### MODULE A - INTRODUCTION

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#### 1. GENERAL INFORMATION

- 1.1 **Information about us:** We, Investec Bank Limited (Reg. No. 1969/004763/06), operate as a specialist bank in South Africa. We are regulated by the Registrar of Banks or any successor thereto. Investec operates as a subsidiary of Investec Limited. Our registered address is 100 Grayston Drive, Sandown, Sandton, 2196, South Africa ("Investec"). Investec is an Authorised Financial Services Provider (11750), a Registered Credit Provider (NCRCP 9), an authorised Over the Counter Derivatives Provider, and a member of the JSE. Investec is committed to the Code of Banking Practice as regulated by the Ombudsman for Banking Services. Copies of the Code and the Ombudsman's details are available on request.
- 1.2 **Communication with us:** You may communicate with us in writing by email or other electronic means, orally (including by telephone), or on any of our online platforms where such communication is permitted. The language of communication shall be English, and you will receive documents and other information from us in English. Our website at [www.investec.co.za](http://www.investec.co.za) contains further details about us and the Services, and other information relevant to these General Terms as well as other relevant terms and conditions and information. We may make information available generally on our website or electronic platforms from time to time. You may indicate to us in writing that you will not access information in that way, and we will write to you and provide you with copies of any information posted on our website or relevant electronic platform. We will communicate in a manner that is clear, accurate, professional and not misleading.
- 1.3 **Capacity:** We act as principal and not as agent on your behalf. We undertake to (a) act in accordance with your best interests; (b) provide appropriate information to you before providing the Services where required; (c) restrict the payment or receipt by us of any inducements; (d) achieve best execution in respect of your transactions; (e) implement procedures and arrangements which provide for the prompt, fair and expeditious execution of your requests; (f) ensure that all information we provide to you is fair, clear and not misleading; and (g) provide you with adequate reports and / or statements on the Services provided to you. You act as principal and not as agent (or trustee) on behalf of someone else.
- 1.4 **Commencement:** These General Terms and any accompanying documents shall govern each transaction entered into prior to you receiving these General Terms, as well as any transaction entered into on or after commencement of these General Terms, which shall commence when delivered to you. These General Terms supersede any previous agreement between you and us on the same subject matter. In addition, a transaction may be subject to additional terms and other documentation pertaining to a specific Service. In relation to any transaction(s), in the event of an inconsistency between these General Terms and any relevant additional terms, the provisions of the additional terms shall prevail in relation to such transaction(s).
- 1.5 **Subject to Applicable Regulations:** These General Terms and all transactions are subject to Applicable Regulations so that: (i) if there is any conflict between these General Terms and any Applicable Regulations, the latter will prevail; (ii) nothing in these General Terms shall exclude or restrict any obligation which we have to you under Applicable Regulations; (iii) we may take or fail to take action for the purposes of compliance with Applicable Regulations and whatever we do or fail to do will be binding on you; and (v) such actions that we take or fail to take for the purpose of compliance with any Applicable Regulations shall not render us or any of our directors, officers, employees or agents liable. "Applicable Regulations" includes but is not limited to, FICA, POCDATARA, FAIS, NCA, Exchange Control Regulations, POPI, FATCA / CRS, the National Payments System Act and the Financial Markets Act, as amended, supplemented or replaced from time to time.
- 1.6 **Market action:** If a regulatory body takes any action which affects a transaction, then we may take any action which we, in our reasonable discretion, consider desirable to correspond with such action or to mitigate any loss incurred as a result of such action. Any such action shall be binding on you. If a regulatory body makes an enquiry in respect of any of your transactions, you hereby agree to co-operate with us and to promptly supply information requested in connection with the enquiry.
- 1.7 **Scope of these Terms:** These General Terms set out the basis on which we will provide the Services to you.

- 1.8 **Fees:** You shall pay: our fees as agreed with you from time to time; any taxes imposed by any competent authority on any account opened or transaction effected by or cleared for you; any fees or other charges imposed by a market or any clearing organization; interest on any amount due to us at the rates then charged by us (and which are available on request); and any other value added or other applicable taxes of any of the foregoing, including any withholding tax. Where this applies, a copy of our current fees will be provided to you. Any alteration to fees will be notified to you before the time of the change and the effectiveness of any changes to our fees will be subject to the provisions herein dealing with effectiveness of amendments to these General Terms. Our obligation to make payments on your behalf under these General Terms, whether acting as principal, agent or in any other capacity, is conditional upon receipt by us, on or before the due date (or reasonably satisfactory confirmation of such receipt by our settlement agents) of all necessary cleared funds, property and/or documents due to be paid or delivered by you in accordance with this clause. We will notify you of any fees, charges, benefits or inducements we receive from a third party in connection with any of the Services or financial instruments we provide to you. If the amount of any such payment is not known at the time of disclosure, we will provide you with information as to the basis of the calculation to enable you to determine the amount at an appropriate time.
- 1.9 **Additional costs:** You should be aware of the possibility that other taxes and/or costs may exist that are not paid through or imposed by us, but which could relate to the transaction.
- 1.10 **Payments:** All payments to us under these General Terms shall be made in same day funds in such currency as we may from time to time specify, to the bank account designated by us for such purposes. All such payments shall be made by you without any deduction or withholding.
- 1.11 **Description of Service:** A description of the main characteristics of the Service may be provided to you before we enter into any transactions or in the relevant additional terms. You may at any time request information from us in connection with the Services and your rights under these General Terms.

## 2. RIGHT TO CANCEL

**Right to Cancel:** You should note that you are not entitled to cancel these General Terms (but you can terminate it as set out in the Termination clause).

## MODULE B – OUR RELATIONSHIP WITH YOU

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### 3. YOUR INFORMATION, MATERIAL INTERESTS AND CONFLICTS OF INTEREST

- 3.1 **Confidentiality:** We will treat all information we hold about you as private and confidential, even when you are no longer a client. You agree, however, that we may disclose this information to other companies in our group and that we and they may disclose it to those who provide services to us or act as our agents; to anyone to whom we transfer or propose to transfer any of our rights or duties under this agreement; to credit reference agencies or other organizations' that help us and others make credit decisions and reduce the incidence of fraud or in the course of carrying out identity, fraud prevention or credit control checks; to regulators and governmental agencies, in any jurisdiction, where we are required to do so by Applicable Regulations, there is a public duty to disclose or our interests require disclosure.
- 3.2 **Data protection:** We are committed to processing your data in accordance with the Protection of Personal Information Act, 2013 ("POPI"), as amended, supplemented or replaced from time to time. We may use your personal data to provide you with the Services you request from us, manage your accounts, make decisions, detect and prevent fraud, for analysis and assessment, and to ensure that we comply with legal and regulatory requirements. For further details of how we use your information, please read our Data Protection Statement on our website or ask for a printed copy. By entering into these General Terms you agree that we can use and disclose your information in the ways described in our Data Protection Statement, as amended or updated from time to time. If you do not wish to receive marketing information by post or telephone, please let us know by contacting us in writing or by telephone.
- 3.3 **No duty to disclose:** We will comply with Applicable Regulations, but we will have no further duty to disclose any interest to you including any benefit, profit, commission or other remuneration made or received by reason of any transaction.
- 3.4 **Accounting:** If we arrange for any transaction to be effected with, or through the agency of ourselves, we will not be liable to account to you for, or to disclose to you, any profit or charges or other remuneration we make or receive from or by reason of the transaction or any connected transaction. However, we will disclose to you any fees which are payable to us by you.
- 3.5 **Chinese Walls:** We maintain arrangements which restrict access by our employees to information relating to areas of our business (and that of affiliates) with which, and the affairs of clients with whom, they are not directly concerned. Accordingly:
- (a) we will provide services to you from time to time under these General Terms on the basis of the information known

to the particular employees who are at the time handling your affairs;

- (b) neither we nor our affiliates will be required to have regard to or disclose to you or make use of any information known to those employees, or to any of our other employees, agents or affiliates, which belongs to or is confidential to another client, or to us or any agent or affiliate, or which is not known to those employees; and
- (c) in exceptional circumstances, we may be unable to deal with you in relation to particular investments and be unable to disclose the reason for this.

3.6 **No further duties:** In providing the Services under these General Terms, we will not be subject to any fiduciary or equitable duties which would prevent us, or persons connected with us from acting in a dual capacity or oblige us to accept responsibilities more extensive than those set out in these General Terms.

3.7 **Conflicts of interest:** We are committed to maintaining the highest professional standards and principles in providing the Services to our clients. Our policies and procedures, which address and manage conflicts of interest as may arise, are intended to ensure that those interests are well served. To this end, we have policies and procedures in place to identify, consider and manage potential conflicts of interest and protect the integrity of our relationships. Further details on these policies and procedures are available on request.  
Risk management will be prioritised over the execution of client transactions.

3.8 **Entertainment and gifts:** We confirm that we have policies and appropriate monitoring in place to deal with entertainment and gifts. Our employees may neither offer inducements to conduct business, nor solicit them from employees of other institutions. Gifts or entertainment may not be excessive in value or frequency. We monitor the form, frequency and cost of entertainment and gifts that our employees offer or receive.

## MODULE C – THE SERVICES

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### 4. NO ADVICE

4.1 **Execution only:** We transact on the Services on an execution only basis and do not advise on the merits of a particular transactions, or their taxation consequences. In accepting these General Terms, you agree and acknowledge that we may execute your requested transaction outside of a regulated market and to the extent that we require your specific consent to effect such a transaction, you agree to not unreasonably withhold such consent and to provide it in a timely manner following our request.

4.2 **Own judgment and suitability:** In asking us to enter into any transaction, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks associated with such transaction. You represent that you have sufficient knowledge, industry sophistication, professional advice and experience to make your own evaluation of the merits and risks of any transaction relating to the Services. We give you no warranty as to the suitability of the Services governed in terms of these General Terms and assume no fiduciary duty in our relations with you.

4.3 **Incidental information and investment research:** Where we do provide general factual information, product and / or service recommendations, market commentary or other information electronically or in any other format, you accept that:

- (a) this is incidental to your relationship with us. It is provided solely to enable you to make your own investment or business decisions and does not amount to advice;
- (b) if the document contains a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on to any such person or category of persons;
- (c) we give no representation, warranty or guarantee as to the accuracy or completeness of such information or as to the tax or accounting consequences of any transaction relating to the Services;
- (d) where information is in the form of a document containing a restriction on the person or category of persons for whom that document is intended or to whom it is distributed, you agree that you will not pass it on contrary to that restriction;
- (e) prior to dispatch to you, we may have acted upon it ourselves or made use of the information on which it is based. We do not make representations as to the time of receipt by you and cannot guarantee that you will receive such information at the same time as other clients. While we have taken every care to compile accurate information and to keep it up-to-date, we cannot guarantee its correctness and completeness.

## 5. INSTRUCTIONS AND BASIS OF TRANSACTING

- 5.1 **Placing of instructions and / or requests:** You may give us instructions in writing by e-mail or other electronic means or orally (including by telephone), unless we tell you that instructions can only be given in a particular way or manner. If you give instructions via telephone, your conversation will be recorded. If any instructions are received by us via telephone, computer or other medium we may ask you to confirm such instructions in writing. We shall be authorised to follow such instructions notwithstanding your failure to confirm the same in writing. Irrespective of the method used to convey instructions, amendment to instructions or cancellation of instructions, instructions are only deemed as accepted once acknowledged and confirmed by us.

You may transmit an instruction to us on any electronic platform or online platform that we may offer. Such instruction shall be subject to the relevant terms and conditions of that specific electronic platform or online platform. Our pricing and our ability to receive and action instructions from you may be affected by technological constraints and malfunctions which may or may not be as a result of our own electronic environment. These occurrences may delay or prevent us from actioning such instructions from you.

- 5.2 **Authority:** We shall be entitled to act for you upon instructions given or purporting to be given by you or any person authorised on your behalf without further enquiry as to the genuineness, authority or identity of the person giving or purporting to give such instructions.
- 5.3 **Cancellation/withdrawal of instructions:** We can only cancel or amend your instructions if we have not acted upon those instructions.
- 5.4 **Right not to accept instructions:** We may, but shall not be obliged to, accept instructions to enter into a transaction. If we decline to enter into a proposed transaction, we shall not be obliged to give a reason, but we shall promptly notify you accordingly.
- 5.5 **Control of transactions prior to execution:** We have the right (but no obligation) to set limits and/or parameters to control your ability to transact at our absolute discretion. Such limits and/or parameters may be amended, increased, decreased, removed or added to by us at our absolute discretion and may include (without limitation): (i) controls over maximum amounts; (ii) controls over our total exposure to you; (iii) controls over prices; (iv) controls over the Electronic Services (to include (without limitation) any verification procedures to ensure that any particular order or orders has come from you); (v) controls over the times you may instruct us to transact and controls over the times your transaction shall be executed; or (vi) any other limits, parameters or controls which we may be required to implement in accordance with Applicable Regulations.
- 5.6 **Transmission:** We accept no responsibility for any delays or inaccuracies in the execution of the transactions relating to the Services or other information due to any cause whatsoever beyond our reasonable control.
- 5.7 **Execution of transactions:** We will take all reasonable steps to best execute your transaction relating to the Services in the following circumstances where we act as principal but have a client relationship with you in relation to executing a transaction on your behalf. Where we provide you with a quote for the purchase or sale of a product offered to you with regards to the Services in response to a request from you, we will not be executing a transaction for you, and therefore best execution obligations will not apply. Please note that specific instructions from you take precedence and will influence how we fulfill your transactions. This may prevent us from taking the steps set out in this clause to obtain the best possible result for the execution of your transaction.

We have arrangements in place to enable us to achieve the best possible result taking into account a number of factors which include, amongst others, price, cost of transaction, speed of execution, size, time and nature of the transaction. Price and / or the time will ordinarily be a priority in this assessment but in some circumstances other factors may be given a higher priority in order to ensure the best possible execution result is achieved. We have access to a number of liquidity pools and venues which we can use for illiquid transactions or for transactions of an unusual size or nature. We will undertake periodic monitoring to ensure the on-going effectiveness of our arrangements in addition to a full annual review of our systems, the liquidity pools / venues we have access to, and the prioritization of the factors mentioned above. Material changes to the market or to our business model during the period may also trigger a review. Where we do not receive any specific instructions from you, we will consider all factors in delivering the best possible result. However, other factors (e.g. speed, likelihood of execution and settlement) will only be given precedence over the immediate price, time and cost consideration only insofar as they are instrumental in delivering the best possible result in terms of total consideration for you as the client. At our discretion, we may execute transactions either electronically or manually.

We are required to obtain prior consent to our Best Execution Policy. Receipt of an instruction from you will be deemed to be your provision of that consent. We will notify you of any material changes to our Best Execution Policy contained in the General Terms by posting an updated version on our website or on any of our online platforms, but it is your responsibility to check for any other changes to these General Terms as published from time to time at our website. In accepting these General Terms, you agree and acknowledge that we may update our policies (including this Best Execution Policy) on our website. We will consider the continued placement of instructions by you to constitute your

continued consent to our Best Execution Policy as in effect from time to time.

- 5.8 **Crossing of transactions:** We may arrange for a transaction to be executed, either in whole or in part, by selling a transaction to you from another client, or a client of an associate of ours, or vice-versa. We shall not give you prior notice if we arrange for a transaction to be executed in this manner. If we do so, we may charge, or otherwise take remuneration from, both customers, and retain the charges or other remuneration.
- 5.9 **Timing and aggregation of transactions:** If we have received multiple instructions to transact, be they from different clients or separate instructions from the same client, we will generally handle the instructions in the order in which they were received. However, at our discretion, we may combine your instructions to transact with our own transactions and with the transactions of other clients. By combining your transactions with those of other clients we must reasonably believe that this is in the overall best interests of our clients. However, aggregation may result in you obtaining a less favourable price in relation to a particular transaction.
- 5.10 **Mark-up:** We hereby disclose that your final price may be inclusive of a mark-up. Mark-up is the spread or charge that we, acting as principal, may charge and include in the final price of the transaction in order to compensate us for a number of considerations, including, but not limited to, risk taken (including market risk), actual costs incurred, and services rendered to the underlying client. Please note that the mark-up between different clients may be different for transactions that are the same or similar. Factors that contribute to this mark-up include, but are not limited to, the nature of the specific transaction (size, tenure and so forth), related operating costs (e.g. settlement process, exchange control involvement etc.), the broader client relationship and market conditions at the time of transacting.
- 5.11 **Pre-hedging:** We, acting as principal, may choose to pre-hedge anticipated client transactions. Pre-hedging is the management of risk associated with one or more anticipated client transactions with the aim of benefiting the client and protecting Investec from risk. While undertaking pre-hedging, we may continue to conduct on-going business including risk management, market making and execution of other client transactions. When pre-hedging for a single transaction, we will consider our overall exposure as market participant i.e. the pre-hedge transaction will be considered within a portfolio of activity.
- 5.12 **Confirmations:** We shall send you confirmations as soon as practicable following the execution of any transactions that we have entered into with you or executed on your behalf, by electronic mail to the e-mail address on record for you. It is your responsibility to inform us of any change to your e-mail and available address, the non-receipt of a confirmation, or whether any confirmations are incorrect before settlement. Confirmations shall, in the absence of manifest error, be conclusive and binding on you, unless we receive from you objection in writing within two Business Days of dispatch to you or we notify you of an error in the confirmation within the same period. Some confirmations may be generated automatically and may not be signed by Investec. The failure by us in issuing a confirmation shall not affect the efficacy, validity or enforceability of the relevant transactions.
- 5.13 **Performance and settlement:** Unless otherwise agreed all transactions will be on a delivery versus payment basis. You will promptly deliver any instructions, money, documents or property deliverable by you under a Transaction in accordance with that Transaction as modified by any instructions given by us for the purpose of enabling us to perform our obligations under the relevant transaction.
- 5.14 **Intermediate brokers and other agents:** We may, in our sole discretion, arrange for any transaction to be effected with or through the agency of an intermediate broker, who may be an associate of ours, and may not be in South Africa. Neither we nor our respective directors, officers, employees or agents will be liable to you for any act or omission of an intermediate broker or agent. No responsibility will be accepted for intermediate brokers or agents selected by you.
- 5.15 **Position limits:** We may require you to limit the number of open positions which you may have with us, with respect to our trading services, at any time and we may in our sole discretion close out any one or more transactions in order to ensure that such position limits are maintained.
- 5.16 **Transacting at off-market rates:** In relation to our trading services, the practice of dealing or transacting at off-market rates is strongly discouraged.
- 5.17 **Transaction reporting:** Under Applicable Regulations we may be obliged to make information about certain transactions public. You agree and acknowledge that any and all proprietary rights in such transaction information are owned by us and you waive any duty of confidentiality attaching to the information which we reasonably disclose. You acknowledge and agree that you will be responsible for complying with any law or regulation in relation to transaction reporting in relation to your own obligations to report. We will not undertake transaction reporting on your behalf.
- 5.18 **Consummation of a transaction:** We have a duty to be clear on whether the prices or fees we quote are firm or merely indicative. We are committed to transact at that price or fee level in a marketable amount, provided the counterparty's name is acceptable. We are bound to transact once the price or fee and any other commercial terms have been agreed. Oral agreements are considered binding, the subsequent confirmation serves as evidence of the transaction, but should not override terms agreed orally.

5.19 **Stop-loss orders:** We shall use our reasonable endeavours to execute any transactions in accordance with the instructions provided by you. However, the placing of certain orders in a transaction (e.g. "stop-loss" orders or "stop-limit" orders) which are intended to limit losses in the event of normal market movements may not be effective since market conditions may make it impossible to execute such orders at the specified level. A stop-loss or stop-limit order is an order to buy or sell at a specified price (or better) after the specified "stop price" has been reached or exceeded. This type of transaction allows you to better control the price at which you enter or exit a position. However, the placing of stop-loss or stop-limit orders will not necessarily limit your exposure to the intended amounts. Accordingly, in taking your order, we do not represent or warrant that we will be able to fulfill your transaction, or in the event that we are able to fulfill your transaction that we can do so at the rate specified by you, or that we will fill your transaction before that of other clients.

We will not act in a manner designed solely to move the market to your stop loss level or offer a stop loss order on a purposefully loss-making basis. We may in our sole discretion continue to execute risk management, market making, other client transaction, or pre-hedging transactions which may result in your stop loss order(s) being triggered.

5.20 **Netting:** The use of payment versus payment netting to reduce settlement risk is encouraged. Payment or settlement netting involves settling payments due on the same date and in the same currency on a net basis. Transactions that are to be included in net settlement will be confirmed individually in order to ensure that all transactions are properly included in the settlement obligation.

5.21 **Business Transactional Banking:** Where you agree to make use of the contents and products available on Investec Business Online, you agree that such use will be limited to certain users and the relevant terms and conditions shall be applicable to and govern the use of such platforms. The term "user" is as described in the Investec Business Online Terms and Conditions, available at [https://www.investec.com/en\\_za/legal/SA.html](https://www.investec.com/en_za/legal/SA.html)

5.22 **Option Strike Prices:** We will not deliberately trade in a way to influence relevant market prices of securities in an attempt to or actually triggering or avoiding triggering your option strike prices. We may actively risk manage our positions on an ongoing basis, which activity may as a natural consequence influence the price of the underlying security to the option. Such risk management will be legitimate and done on a best execution basis.

## MODULE E - CLIENT MONEY

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### 6. TITLE TRANSFER OF CASH

**Client money:** Money held for you in an account with us will be held as banker and not as trustee. Any money received by us from you or a third party for your account will be owed by us to you, even where we are acting as your agent, and we will treat this as a transfer of full ownership of money to us for the purpose of securing or covering your present, future, actual, contingent or prospective obligations. We will transfer an equivalent amount of money back to you where, in our discretion, we consider that the amount of money you have transferred to us is more than is necessary to cover your present and future obligations to us. In determining the amount of collateral and the amount of our obligations to you, we may apply such methodology (including judgments as to the future movement of markets and values), as we consider appropriate, consistent with Applicable Regulations.

## MODULE F – REPRESENTATIONS AND UNDERTAKINGS

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### 7. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 7.1 **Representations and warranties:** You represent and warrant to us on the date these General Terms come into effect and as of the date of each transaction that:
- (a) you have full capacity to enter into these General Terms;
  - (b) you have all necessary authority, powers, consents, licenses and authorisations and have taken all necessary action to enable you lawfully to enter into and perform these General Terms and such transactions and to grant the security interests and powers referred to in these General Terms;
  - (c) the persons entering into these General Terms and each transaction on your behalf have been duly authorised to do so;
  - (d) these General Terms, each transaction and the obligations created under them both are binding upon you and enforceable against you in accordance with their terms (subject to applicable principles of equity) and do not and will not violate the terms of any regulation, order, charge or agreement by which you are bound;
  - (e) you act as principal and sole beneficial owner (but not as trustee) in entering into these General Terms and each transaction;
  - (f) any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading;

- (g) you are willing and financially able to sustain a total loss of funds resulting from transactions and trading in such transactions is a suitable investment vehicle for you;
- (h) there is not pending or, to your knowledge, threatened, any action, suit or proceeding before any court, tribunal, governmental body, agency or official or any arbitrator that purports to affect or is likely to affect, the legality, validity or enforceability against you of these General Terms or ability to perform your obligations under these General Terms;
- (i) except as otherwise agreed by us, you are the sole beneficial owner of all cash or property you transfer under these General Terms, free and clear of any security interest whatsoever other than a lien routinely imposed on all securities in a clearing system in which such securities may be held;
- (j) in relation to each transaction:
  - unless there is a written agreement with us to the contrary, you are not relying on any advice or recommendation to enter into the transaction (whether written or oral) from us other than the representations expressly set out in these General Terms;
  - you have made and will make your own decisions regarding the entering into of any transaction based upon your own judgment and upon advice from such professional advisers as you have deemed it necessary to consult;
  - you understand the terms, conditions and risks of each transaction and are willing to assume (financially and otherwise) those risks; and
- (k) you are now and will be at all material times in the future be in compliance with all applicable laws, rules and regulations concerning the detection of financial crime, prevention of terrorism and anti-money laundering and you acknowledge that any transaction dealt with by us on your instructions will be covered by statutory and other requirements relating to money laundering and combating terrorist financing.

**7.2 Covenants:** You covenant to us that:

- (a) you will at all times obtain, comply, and do all that is necessary to maintain in full force and effect, all authority, powers, consents, licenses and authorizations referred to in this clause;
- (b) you will use all reasonable steps to comply with all Applicable Regulations in relation to these General Terms and any transaction, so far as they are applicable to you or us;
- (c) you will not send instructions or otherwise take any action that could create a false impression of the demand or value of product in relation to the Services, or send instructions which you have reason to believe are in breach of Applicable Regulations. You shall observe the standard of behavior reasonably expected of persons in your position and not take any step which would cause us to fail to observe the standard of behavior reasonably expected of persons in our position; and
- (d) upon demand, you will provide us with such information as we may reasonably require to evidence the matters referred to in this clause or to comply with any Applicable Regulations.



## 8. TERMINATION & DORMANCY

8.1 **Termination:** Unless required by Applicable Regulations, either party may terminate these General Terms (and the relationship between us) by giving 10 (ten) days written notice of termination to the other. We may, however, terminate these General Terms immediately if you fail to observe or perform any provision of these General Terms or in the event of your insolvency.

We may, on written notice to you of Investec's intention to do so close an account or withdraw or terminate a service in respect of the account holder or the account in the following circumstances:

- if your actions or the actions of any other third party linked to you, as reported in the media or otherwise, may cause reputational harm to Investec in its sole discretion;
- if you have acted in an abusive or threatening manner to Investec's staff;
- if Investec is reasonably of the opinion that keeping the account open may expose it to action or censure from any government, regulator or law enforcement body;
- if an event of default has occurred in accordance with these General Terms;
- if Investec reasonably suspects that you have provided false or misleading information or is refusing and/or failing to supply information or documentation reasonably requested by Investec;
- if Investec is reasonably of the opinion that its relationship with you has broken down or that Investec can no longer offer the services required by you and/or fulfil your needs; or
- If you do not have any required regulatory approvals or licenses, or such licenses are suspended or withdrawn.

You acknowledge that Investec shall be entitled to close the relationship, account, product or services without notice to you if:

- it is compelled to do so under Applicable Law and/or international best practice; or
- If Investec has a reasonable suspicion to believe that you are using the account, product or services for illegal, fraudulent or criminal purposes, including a sanctioned transaction;

Any closure of a relationship, account, product or services shall be without prejudice to any rights Investec may have to recover any amounts due to it or any losses or damages suffered by it. Under such circumstances Investec shall be entitled forthwith to cancel any Instructions received from you. Once the relationship, account, product or services is closed, no interest shall accrue on any unclaimed funds. You further acknowledge that Investec may be obliged under applicable law or pursuant to a court order to suspend the relationship, account, product or services and/or to effect payment of any funds standing to the credit of the client to any third party as may be directed under applicable law and you shall have no claim whatsoever against Investec for any loss suffered by you as a result.

Upon terminating these General Terms, all amounts payable by you to us will become immediately due and payable including (but without limitation):

- (a) all outstanding fees, charges and commissions; and
- (b) any transactional expenses incurred by terminating these General Terms; and
- (c) any losses and expenses realized in closing out any transactions or settling or concluding outstanding obligations incurred by us on your behalf.

8.2 **Existing rights:** Termination shall not affect the outstanding rights and obligations (in particular relating to the Indemnities and Limitation of Liability Module and the Miscellaneous and Governing Law Module) and transactions which shall continue to be governed by these General Terms and the particular clauses agreed between us in relation to such transactions until all obligations have been fully performed.

8.3 **Inactive and Dormant Accounts:** We reserves the right to classify any account as a dormant account and accordingly close the account after written notice advising of same has been sent to you. We will provide prior notice to you that your account has been classified as an inactive and/or dormant account and that you are urgently required to take specific measure within the period specified in such notice to prevent the commencement of the account closure process. We reserve the right to charge monthly fees during this period of inactivity. Should you fail to use your account within the period of inactivity or dormancy we reserve the right to close your account. Final communication will be sent to you confirming that your account has been closed. You will not earn any interest (if applicable) on any credit (if applicable) from the time your account is closed.

If you elect to maintain a dormant or inactive account, Investec will be entitled to charge monthly fees.

We shall upon closure of the account be entitled, but not obliged, to transfer the funds in the affected accounts into any of your other accounts, or any other account held by you within Investec. If you do not have any other account with Investec, the credit balance shall be transferred to Investec's unclaimed balance account until claimed by you in accordance with such procedures and requirements as may be determined by Investec from time to time including, but not limited to, providing sufficient proof of entitlement to such funds and FICA and KYC requirements.

## 9. EXCLUSIONS, LIMITATIONS AND INDEMNITY

- 9.1 **General Exclusion:** Neither we nor our directors, officers, employees, or agents shall be liable for any losses, damages, costs or expenses, whether arising out of negligence, breach of contract, misrepresentation or otherwise, incurred or suffered by you under these General Terms (including any transaction or where we have declined to enter into a proposed transaction) unless such loss arises directly from our or their respective gross negligence, willful default or fraud. In no circumstance, shall we have liability for losses suffered by you or any third party for any special or consequential damage, loss of profits, loss of goodwill or loss of business opportunity arising under or in connection with these General Terms, whether arising out of negligence, breach of contract, misrepresentation or otherwise. Nothing in these General Terms will limit our liability for death or personal injury resulting from our negligence.
- 9.2 **Tax implications:** Without limitation, we do not accept liability for any adverse tax implications of any transaction whatsoever.
- 9.3 **Changes in the market:** Without limitation, we do not accept any liability by reason of any delay or change in market conditions before any particular transaction is affected.
- 9.4 **Limitation of liability:** We shall not be liable to you for any partial or nonperformance of our obligations hereunder by reason of any cause beyond our reasonable control, including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, act of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of our custodian, sub-custodian, dealer, Market, clearing house or regulatory or self-regulatory organization, for any reason, to perform its obligations. Nothing in these General Terms will exclude or restrict any duty or liability we may have to you under the regulatory system, which may not be excluded or restricted there under.
- 9.5 **Responsibility for transactions:** You will be responsible for all transactions entered on your behalf and you will be fully liable to us for the settlement of any Transaction arising from it.
- 9.6 **Entire Agreement:** You acknowledge that you have not relied on or been induced to enter into these General Terms by a representation other than those expressly set out in these General Terms.
- 9.7 **Indemnity:** You shall pay to us such sums as we may from time to time require in or towards satisfaction of any debit balance on any of your accounts with us and, on a full indemnity basis, any losses, liabilities, withholding, costs or expenses (including legal fees), taxes, imposts and levies which we may incur or be subjected to with respect to any of your accounts or any transactions or any matching transaction on a Market or with an intermediate broker or as a result of any misrepresentation by you or any violation by you of your obligations under these General Terms (including any transaction) or applicable law or regulation or by the enforcement of our rights.
- 9.8 **Payments to designated beneficiaries:** Where you instruct us to pay amounts, due and payable to you, to a designated beneficiary specified by you, then:
- We shall entirely in our own discretion decide the means by which we accept your instruction to us to make any such payment, whether in writing, by letter, by e-mail or verbally. Upon receipt of your instruction and our acceptance of the means by which we have received this, we will treat that instruction as your irrevocable instruction to make payments to your designated beneficiaries as so instructed by you.
- You agree that any payment to a designated beneficiary will serve to discharge the obligation we have to you in respect of that payment obligation, and you agree to keep us at all times fully and effectually indemnified against all losses, damages and expenses which you, your clients or we may incur or sustain by virtue of our making payment to a designated beneficiary in accordance with your instructions.
- 9.9 **Payments:** Payment instructions received from you will be executed on the same day they are received as long as they are received by us before the general cut-off time for receipt of payment instructions and provided that settlement requirements and all supporting documentation has been met or received as appropriate including exchange control documentation. Your payment services provider will receive funds from us on the same day as your payment instruction if your instruction was received before the cut off time, otherwise funds will be received on the following business day.
- 9.10 **Cut-off times for payments:** Where this is applicable to our transaction with you, a document detailing applicable cut-off times for payments and the currencies relating to those times will be delivered to you via email, our electronic platforms or online platforms and this will be updated and communicated to you from time to time. In the event you require a further copy kindly contact us. A payment instruction received prior to the applicable cut-off time will be deemed to have been received on that business day but if received after the cut-off time the payment instruction will be deemed to have been received on the following business day.
- 9.11 **Payment instructions:** A payment instruction received from you will be considered to be complete and binding on us in the event that you have provided us with a completed form for new settlement instructions. This will constitute your standing payment instructions until such time as you provide us with a amended

payment instructions. We shall not have a general obligation to inquire as to the authority of the person giving a payment instruction. We may treat your instructions as irrevocable once we have commenced the carrying out of those instructions.

We agree to be accountable to you for our errors in the execution of your payment instructions. Notwithstanding the aforesaid, we shall not be liable to you for any errors or late payments as a result of circumstances that are beyond our reasonable control. In the event that you become aware of any incorrectly executed payment instruction you should notify us immediately.

We may refuse to carry out any payment instruction that does not satisfy the conditions detailed above or where the execution of that order would be unlawful. Where we have not carried out your payment instruction, and where it is not unlawful for us to communicate with you, we will notify you of the reasons for our failure.

## MODULE I – MISCELLANEOUS AND GOVERNING LAW

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### 10. MISCELLANEOUS AND GOVERNING LAW

- 10.1 **Amendments:** We reserve the right to amend these General Terms, at any time and in any way. If the amendments to these General Terms are material in nature, we will provide you with reasonable prior notice of such amendments. The amendments will come into effect on the basis specified on the notice. Notwithstanding this provision, for the avoidance of doubt, it shall remain your responsibility to review these General Terms at [https://www.investec.com/en\\_za/legal/SA.html](https://www.investec.com/en_za/legal/SA.html), from time to time, to ensure that you agree with the any amendments to these General Terms.
- 10.2 **Notices:** Unless otherwise agreed, all notices, instructions and other communications to be given by us under these General Terms shall be given to the address, fax number or e-mail address provided by you to us. Likewise, all notices, instructions and other communications to be given by you under these General Terms shall be given to the address, fax number or e-mail address provided by us to you. You will notify us of any change of your address in accordance with this clause. Any notice, instruction or other communication shall, be deemed to take effect in the case of fax, on receipt (the proof of which shall not be satisfied by a transmission sheet) and, in the case of airmail or first class pre-paid post, two Business Days after dispatch. Notices, instructions and other communications made pursuant to this agreement, or any transaction shall be effective if given by electronic mail.
- 10.3 **Electronic signatures and communications:** Subject to Applicable Regulations, any communication between or other electronic means will constitute evidence of the transaction or instructions given.
- 10.4 **Recording of calls:** We may record telephone conversations without use of a warning tone to ensure that the material terms of transactions conveyed, and any other material information relating to the transaction are promptly and accurately recorded. Such records will be our sole property and accepted by you as evidence of the transactions or instructions given. If any part of a recording is unclear or inaudible our understanding of your instructions will be binding. You agree that we may deliver copies or transcripts of voice recordings to any court, regulatory authority or market authority. All communications between us (including electronic and other written communication) may be monitored or inspected as required by us in accordance with relevant policies and regulatory requirements.
- 10.5 **Our records:** Our records, unless shown to be wrong, will be evidence of your transactions with us in connection with the Services. You will not object to the admission of our records as evidence in any legal proceedings because such records are not originals, are not in writing or are documents produced by a computer. You will not rely on us to comply with your record keeping obligations, although records may be made available to you on request at our absolute discretion.
- 10.6 **Your records:** You agree to keep adequate records to demonstrate the nature of your instructions and the transactions and the time at which such instructions and/or are submitted.
- 10.7 **Complaints procedure:** Please note that we have established a written internal complaint resolution system with detailed procedures. Access to the written procedures and a copy of the complaint resolution system is available to clients upon request.
- 10.8 **Assignment:** These General Terms shall be for the benefit of and binding upon us both and our respective successors and assigns. You shall not assign, cede or otherwise transfer or purport to assign, cede or otherwise transfer your rights or obligations under these General Terms or any interest in these General Terms, without our prior written consent, and any purported assignment, cession or transfer in violation of this clause shall be void.
- 10.9 **Time of essence:** Time shall be of the essence in respect of all obligations of yours under these General Terms (including any Transaction).
- 10.10 **Rights and remedies:** The rights and remedies provided under these General Terms are cumulative and not exclusive of those provided by law. We shall be under no obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to you. No failure by us to exercise or delay by us in exercising any of our rights under these General Terms (including any transaction) or otherwise shall operate as a waiver of those or any other rights or remedies. No single or partial exercise of a right or remedy shall prevent further exercise of that right or remedy or the exercise of another right or remedy.

- 10.11 **Set-off:** Without prejudice to any other rights to which we may be entitled, we may at any time and without notice to you set off any amount (whether actual or contingent, present or future) owed by you to us against any amount (whether actual or contingent, present or future) owed by us to you. For these purposes, we may ascribe a commercially reasonable value to any amount which is contingent or which for any other reason is unascertained.
- 10.12 **Partial invalidity:** If, at any time, any provision of these General Terms is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these General Terms nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.
- 10.13 **Charges for services:** We record that under normal circumstances charges for the Services may include, amongst other charges, charges for carrying out your payment or wiring instructions.
- 10.14 **Co-operation for proceedings:** If any action or proceeding is brought by or against us in relation to these General Terms or arising out of any act or omission by us required or permitted under these General Terms, you agree to co-operate with us to the fullest extent possible in the defense or prosecution of such action or proceeding.

## 11. GOVERNING LAW AND JURISDICTION

- 11.1 **Governing law:** These General Terms and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of South Africa.
- 11.2 **Law applicable to relationship prior to the conclusion of the General Terms:** The law applicable to the relationship between us prior to the conclusion of these General Terms is South African law.
- 11.3 **Jurisdiction:** Each of the parties irrevocably:
- (a) agrees for the benefit of the other that the courts of South Africa shall have exclusive jurisdiction to settle any suit, action or other proceedings relating to these General Terms including any non-contractual obligations that may arise out of or in connection with it ("**Proceedings**") and irrevocably submits to the jurisdiction of such courts (provided that this shall not prevent us from bringing an action in the courts of any other jurisdiction); and
  - (b) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court and agrees not to claim that such Proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over it.
- 11.4 **Waiver of immunity and consent to enforcement:** You irrevocably waive to the fullest extent permitted by applicable law, with respect to yourself and your revenue and assets (irrespective of their use or intended use) all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any courts, (iii) relief by way of injunction, order for specific performance or for recovery of property; (iv) attachment of assets (whether before or after judgment); and (v) execution or enforcement of any judgment to which you or your revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agree that you will not claim any immunity in any Proceedings.

You consent generally in respect of any Proceedings to the giving of any relief or the issue of any process in connection with such Proceedings, including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such Proceedings.

- 11.5 **Service of process:** If you are situated outside South Africa, process by which any proceedings in South Africa are begun may be served on you by being delivered to an address within South Africa nominated by you for this purpose. This does not affect our right to serve process in another manner permitted by law.
- 11.6 **Compliance with tax and other applicable legislation:**

For the purposes of this clause –

"CRS" means regulations based on the OECD Common Reporting Standard to improve international tax compliance which includes any South African tax regulations created to enable automatic exchange of financial account information.

"FAIS" means Financial Advisory and Intermediary Services Act, 2002;

"FATCA" means the Foreign Account Tax Compliance Act, 2003 and all regulations published thereunder;

"FICA" means the Financial Intelligence Centre Act, 2001;

"IGA" means the intergovernmental agreement that the South African and United States governments have concluded to improve international tax compliance and to implement FATCA; and

"NCA" means National Credit Act, 2005.

- (a) You indemnify and hold Investec harmless from any loss, injury, damage, fines, taxes or other reasonable charges, penalties and claims whatsoever and howsoever arising from or connected with these General Terms to the extent to which such loss, injury, damage, fine, taxes or other fiscal charges, penalties and/or claims arise/s from the breach by you of any provision of these General Terms or from any act or omission on your part or from the compliance by us with any applicable law, requirement or regulation introduced from time to time including, but not limited to, any anti-money laundering legislation and applicable tax compliance regulation whether foreign or local to South Africa including where the loss, injury, damage, fine, tax or other reasonable charges, penalties and claims arise from non-compliance with relevant tax compliance regulation by an entity that is a related entity to you (as defined under the IGA).
- (b) You hereby acknowledge and agree that all the representations, warranties and undertakings made by you in terms of these General Terms will be deemed to be repeated by you on each date on which a transaction is entered into between you and us.
- (c) These General Terms shall in all respects be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters in connection therewith shall be determined in accordance with such law.
- (d) Investec shall be entitled to disclose all information and/or documentation provided by you to any of its affiliates, or any other person to whom, and to the extent that, such information is required to be disclosed by any applicable law or regulation.
- (e) You will ensure that you comply with the requirements of POPI and Investec's Data Protection Statement in terms of which you agree to the disclosure of your personal information to us and acknowledge how that personal information will be used by us. The Investec Data Protection Statement may be found at <https://www.investec.co.za/legal1/data-protection-statement.html> .
- (f) You acknowledge that, in compliance with the IGA, CRS or POPI or any other applicable law, we may be required to report details relating to you, any of your controlling persons (where relevant) or an account to the relevant authorities.
- (g) You shall comply with all legislation applicable to you, from time to time.
- (h) You hereby undertake to comply with any rulings, regulations and legislation, in respect of exchange control and, further you warrant that you are not and shall not, during the currency of these General Terms, be, in contravention of any exchange control rules, regulations and/or legislation.
- (i) You hereby undertake to comply with the requirements of the IGA, FATCA and CRS if relevant which includes but is not limited to registration with the IRS (USA Internal Revenue Services), obtaining and maintaining a GIIN, carrying out due diligence on your client accounts and reporting to SARS on financial accounts or non-participating financial institutions. You warrant that during the currency of these General Terms, you are not, and shall not, be in contravention of the IGA, CRS and other relevant tax compliance regulation, and that you will provide us with your tax status under the IGA, FATCA and the CRS including any change from time to time.

11.7 **Sanctions:** You represent to Investec on the date on which each transaction is entered into and will be deemed to represent continuously for the duration of the term of each transaction and at all times until the termination of each transaction that:

- (a) you are not a Sanctioned Entity; and
- (b) the relevant transaction is not a Sanctioned Transaction,

notwithstanding the provisions of these General Terms, any misrepresentation in respect of paragraph (1) and (2) above shall constitute an illegality with the relevant transactions as the affected transactions.

For purposes of these representations:

11.7.1 "Sanctioned Entity" means an entity that:

- (a) is listed in any Sanction List; and/or
- (b) is subject to some form of financial or economic limitations, or in respect of which there is some form of financial or economic limitation on other parties dealing with it, in terms of the Applicable Law; and/or
- (c) is located or incorporated in a Sanctioned Jurisdiction; and/or
- (d) is owned or controlled by an entity that is located or incorporated in a Sanctioned Jurisdiction; and/or
- (e) undertakes significant business activity in a Sanctioned Jurisdiction.

11.7.2 "Sanctioned Jurisdiction" means a country or territory:

- (a) that is listed in a Sanction List; and/or
- (b) in respect of which there is some form of financial or economic limitation on other persons or countries dealing with or making payments or deliveries to or receiving payments or deliveries from such country or territory, in terms of the Applicable Law.

11.7.3 "Sanction List" means any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held by: (i) the United States government and administered by the Office of Foreign Assets Control of the Department of Treasury of the United States, the United States State Department, the United States Department of Commerce or the United States Department of the Treasury; (ii) the United Nations Security Council; (iii) the Council of Europe (founded under the Treaty of London, 1946); (iv) the government of the Commonwealth of Australia; (v) the European Union; (vi) Her Majesty's Treasury of the United Kingdom; (vii) the government of the United Kingdom; (viii) the government of the Republic of France; or (ix) the French Ministry of Finance (Minefi) (the list of financial sanctions targets (screening of business relationships only)), each as amended, supplemented or substituted from time to time; and.

11.7.4 "Sanctioned Transaction" means any payment, receipt or delivery of cash or assets to or from an entity that is a Sanctioned Entity or is located within a Sanctioned Jurisdiction.

11.8 "Applicable Law" as contemplated above and any related sections of these General Terms, means without limitation, all laws, regulations, rules, directives and policies regarding the combating of criminal activities, money laundering and terrorist financing issued by any statutory, regulatory, supervisory and/or other governmental agency of any country in which payment, delivery or compliance is required by you as the case may be.