

# Nedbank Limited, London Branch

## Terms of business for bank accounts and deposits

### Note:

The London Interbank Offered Rate ("LIBOR") is a key interest rate benchmark that, together with other Interbank Offered Rates ("IBORs"), is widely used in financial transactions. Regulators around the globe have been working with the financial services industry to reform benchmarks to ensure that these are credible and robust.

The Financial Conduct Authority in the United Kingdom has suggested that LIBOR should be replaced by a risk-free rate by the end of 2021. Various other regulators have taken a similar position in connection with other IBORs.

Any changes to interest rate benchmarks, such as LIBOR, and the move to risk-free rates may be relevant to the Services, your Accounts and/or your Deposits. You should seek independent advice on the effect that the transition from LIBOR and other IBORs to risk-free rates may have on you and the Services, your Accounts and/or your Deposits.

You can find more information on the IBOR reform at <https://www.nedbank.co.uk/>.

### 1. Introduction

1.1. Your agreement with us (collectively herein referred to also as the "Agreement") is contained in:

- (a) our specific terms and conditions communicated to you that relate to an Account, Deposit or Service and our charges and interest rates, notice periods and minimum or maximum balances;
- (b) any application form signed by the customer in connection with the Services (the "Application Form"); and
- (c) these terms of business (the "Terms of Business").

1.2. In the event of any conflict between any of the terms of the documents referred to in Clause 1.1, the order of priority set out in Clause 1.1 shall apply.

1.3. These Terms of Business apply to all bank accounts and fixed term- or notice deposits you have with us in England and the Services we provide to you in relation thereto.

1.4. In these Terms of Business:

(a) unless the context otherwise requires, the following expressions shall have the respective meanings set opposite them:

- (i) "Account" means any bank account which has been opened or is to be opened by you with us under the Agreement.
- (ii) "Affiliate" means, in relation to any person, each of its holding companies and subsidiaries and each subsidiary of each of its holding companies (as each such term is defined in the Companies Act 2006).
- (iii) "Applicable Laws" means, in relation to a member of the Nedbank Group, all applicable laws, statutes, rules, regulations, directive, edicts, bye laws and codes of conduct and mandatory guidelines which have legal effect, whether local, national, international or otherwise existing from time to time and applicable to that member of the Nedbank Group.
- (iv) "Authorised Person" means person authorised to act on your behalf for purposes of any Account, Deposit or Service and who is identified to us in writing.

(v) "Authority" means any governmental, regulatory, judicial, tax, administrative or other public body or authority, any tax authority, securities or futures exchange, central bank or law enforcement body, or any agents thereof, having jurisdiction over the relevant Party or a member of its group.

(vi) "Banking Day" means a day (other than a Saturday, Sunday or bank holiday or public holiday in London or Johannesburg) on which we are open for business and:

(A) in relation to a date for the payment of any sum denominated in any currency (other than Euro), on which banks generally are open for business in the principal financial centre of the country of such currency;

(B) in relation to a date for the payment of any sum denominated in Euro, on which settlement of payments denominated in Euro is generally possible in London or any other financial centre in Europe selected by us.

(vii) "Blocking Law" means:

(A) any provision of Council Regulation (EC) No 2271/1996 of 22 November 1996 (or any law or regulation implementing such Regulation in any member state of the European Union or the United Kingdom);

(B) any similar blocking or anti-boycott law.

(viii) "Client Information" means Personal Data and/or Confidential Information of:

(A) yours or in relation to you, your transactions and your relationships with any member of the Nedbank Group;

(B) any person (each a "Client Data Subject") which is provided by you or them to us in relation to or connection with the Agreement, any Account, any Deposit or any of the Services.

(ix) "Compliance Obligations" means any obligations of any member of the Nedbank Group to comply with Applicable Laws, including (a) any reporting or disclosure obligations, (b) any obligations requiring us or any other Nedbank Group member to verify the identity of our customers and (c) any obligations relating to or in connection with the detection, investigation and/or prevention of Financial Crime.

(x) "Confidential Information" means, in relation to a Party, any information about or relating to that Party or members of its group, received or accessed by the other Party during the course of the relationship between them pursuant to the Agreement, including without limitation, the business, operations, Personal Data or customers of the disclosing Party or members of its group and the provisions of the Agreement, but excluding information that:

(A) is in or enters into the public domain other than in breach of the Agreement;

(B) is lawfully obtained by the recipient Party from a third party or is already known by the recipient Party, in each case without notice or duty to maintain it as confidential; or

(C) was independently developed by the recipient Party without reference to the disclosing Party's Confidential Information.

(xi) "Connected Person" means a person or entity whose information (including Personal Data or tax information) is provided by you, or on your behalf, to any member of the Nedbank Group or otherwise received by an member of the Nedbank Group in

- connection with the provision of the Services and any owner, controlling person, substantial owner or beneficial owner of you in relation to whom we reasonably consider tax information is required to be provided to any tax authority to comply with any Nedbank Group member's Compliance Obligations.
- (xii) "Correspondent Banking Services" means banking services provided by a bank or non-bank financial institution to third parties (such as, without limitation, trade finance, cash clearing, liquidity management, short term borrowing and payments on behalf of your customers or any other third party).
- (xiii) "Credit Institution" means an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account.
- (xiv) "Data Protection Legislation" means any law or regulation in force from time to time relating to the processing, privacy and/or use of Personal Data, as applicable to a Party, including: (a) the UK Data Protection Act 2018; (b) the laws or regulations implementing European Union's Directive 2002/58/EC, the General Data Protection Regulation 2016/679 ("GDPR"); (c) any other similar law or regulation.
- (xv) "Deposit" means any fixed term- or notice deposit which has been made or is to be made by you with us under the Agreement.
- (xvi) "Electronic Medium" means any electronic medium of communication, including and without limitation the generality hereof, telephone, telefacsimile, e-mail, SWIFT and any other form of speech, text or data transmission.
- (i) "Financial Crime" means money laundering, terrorist financing, bribery, corruption, tax evasion, fraud, evasion of Sanctions, and any breach or attempt to breach or circumvent any laws or regulations relating to these matters.
- (ii) "FCA" means the Financial Conduct Authority (including any successor or replacement regulatory authority).
- (iii) "Force Majeure" means any event or circumstance (or combination thereof) which is beyond our reasonable control, including without limitation:
- (A) any natural event such as flood, storm or earthquake;
  - (B) war, civil disturbance or act of terrorism;
  - (C) strike, lockout or other industrial action;
  - (D) Act of God;
  - (E) action of a government or governmental agency;
  - (F) change of law or regulation (or change in the interpretation of law or regulation);
  - (G) power or equipment failure or interruption; or
  - (H) interruption, failure or delay in receiving or acting on any communication or Instruction caused by a third party service provider.
- (iv) "Instruction" means any communication received by us in relation to an Account, Deposit or Service which contains the necessary information for us to carry out the relevant act on your behalf.
- (v) "Large Companies" means a body corporate which does not qualify as a small company under section 247 of the Companies Act 1985, or section 382 of the Companies Act 2006 as applicable.
- (vi) "Large Mutual Associations" means a mutual association or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time) which is one of the following:
- (A) a PRA authorised person or an FCA authorised person (who is not a professional firm unless it is an authorised professional firm); or
  - (B) an overseas financial services institution, ie an institution authorised to carry on any regulated activity or other financial service by an overseas regulator (within the meaning of section 195(3) FSMA 2000); or
  - (C) a collective investment scheme (as defined in section 235 FSMA 2000) or an operator or trustee of a collective investment scheme; or
  - (D) a pension or retirement fund, or a trustee of such a fund (except as trustee of a small self-administered scheme or an occupational scheme of an employer which is not a large company (ie a body corporate which does not qualify as a small company under section 247 of the Companies Act 1985, or section 382 of the Companies Act 2006 as applicable) or a large partnership (ie a partnership (in accordance with section 417(1) FSMA 2000 any partnership, including a partnership constituted under the law of a country or territory outside the United Kingdom, but not including an limited liability partnership (whether a body corporate incorporated under the Limited Liability Partnerships Act 2000 or a body corporate incorporated under legislation having the equivalent effect to the Limited Liability Partnerships Act 2000) or unincorporated association with net assets of more than £1.4 million (or its equivalent in any other currency at the relevant time).
- (vii) "Losses" means any losses, damages, liability, costs, claims, suits, actions, demands and expenses of any kind whether or not foreseeable.
- (viii) "Nedbank Group" means Nedbank Group Limited, Nedbank Limited and each of their respective subsidiaries, associated entities and branches.
- (ix) "Party" means you or us, and "Parties" means you and us.
- (x) "Personal Data" means any information that relates to an individual and from which such individual can be identified, and such other information which is protected by local Data Protection Legislation.
- (xi) "PRA" means the Prudential Regulation Authority (including any successor or replacement regulatory authority).
- (xii) "Sanctions" means any trade or economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by:
- (A) the United States of America;
  - (B) the United Nations;
  - (C) the United Kingdom;
  - (D) the European Union or its member states from time to time; and/or
  - (E) the respective governmental institutions and agencies of any of the foregoing, including without limitation, the Office of Foreign Assets Control of the United States Department of Treasury ("OFAC"), the United States Department of State, and Her Majesty's Treasury ("HMT"),
- (together the "Sanctions Authorities"), in each case as amended, updated, supplemented, replaced or

substituted from time to time.

- (xiii) "Services" means the services provided by us in connection with any Account or Deposit.
- (xiv) "Tax Information" means any documentation or information relating, directly or indirectly, to you or any person who owns or controls you, or substantially or beneficially owns or controls you, that we consider (acting reasonably) is needed to comply with any Nedbank Group member's obligations to any domestic or foreign tax, revenue, fiscal or monetary authority.
- (xv) "VAT" means any value added, sales, use, goods and services, business, stamp or any similar taxes or duties, as applicable.
- (xvi) "you" and "your" refer to the customer named in the Application Form or the specific terms and conditions referred to in Clause 1.1(a) (as applicable).
- (xvii) "we", "us" and "our" are references to Nedbank Limited, London Branch.
- (xviii) "Wholesale Depositor" means a person who is:
  - (A) a Credit Institution;
  - (B) a Large Company;
  - (C) a Large Mutual Association;
  - (D) a supranational institution, government or central administrative authority;
  - (E) a provincial, regional, local or municipal authority; or
  - (F) a body corporate in the same group as the person with whom the deposit is made (i.e. a member of the Nedbank Group).

*The full definition of a Wholesale Depositor is available at <https://www.bankofengland.co.uk/media/boe/files/prudential-regulation/new-bank/wholesale-depositor-definition> and is subject to change by the PRA.*

- (b) references to the singular include the plural and vice versa.
  - (c) Clause headings are included for convenience only and do not affect interpretation.
  - (d) each reference to a document or agreement (whether online or in hard copy) is a reference to that document or agreement as amended or restated from time to time.
- 1.5. The Agreement contains the whole agreement between us and you relating to the transactions contemplated by the Agreement and supersedes and replaces all previous agreements between you and us relating to the Services. You confirm that in agreeing the terms of the Agreement you have not relied on any express or implied warranties, representations, collateral contracts or other assistance made by us or on our behalf unless expressly set out in the Agreement. Each party waives all rights and remedies which, but for this Clause 1.5, might otherwise be available to it in respect of any such express or implied representation, warranty, collateral contract or other assurance. Nothing in this Clause 1.5 limits or excludes any liability for fraud.

## 2. Information about us

- 2.1. Nedbank Limited is a company incorporated in South Africa (with registration number 1951/000009/06) and acts herein through its London Branch (with registration number BR001334/FC004124) with its registered office at Millennium Bridge House, 2 Lambeth Hill, London, EC4V 4GG.
- 2.2. We are authorised and regulated by the South African Reserve Bank. We are also authorised by the Prudential Regulation Authority and subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation

Authority. Details about the extent of our regulation by the Prudential Regulation Authority are available from us on request. Our Financial Services Register number is 204684 and you can check the Financial Services Register by visiting the FCA's website at <http://www.fca.org.uk/register> or contacting them on 0800 111 6768.

- 2.3. We are a member of the Financial Services Compensation Scheme ("FSCS"). For more information about the FSCS, including current limits, amounts covered and eligibility to claim, please contact us, visit the FSCS website at <http://www.fscs.org.uk> or call the FSCS on 0800 678 1100.
- 2.4. Out VAT registration number is 301 3323 70.

## 3. Information about you

- 3.1. Before we can conduct any business with you, we must conduct certain checks and other steps to comply with our Compliance Obligations, including "know your customer" and other customer onboarding ("KYC") procedures.
- 3.2. You shall comply with all reasonable requests from us in connection with any Account, Deposit or Service and/or the Agreement, including but not limited to, promptly providing us with all documents and other information reasonably requested by us from time to time:
  - (a) in relation to any Account, Deposit or Service;
  - (b) for purposes of any of our Compliance Obligations;
  - (c) to evidence your status as a Wholesale Depositor;
  - (d) to evidence your authority to enter into, deliver and perform under the Agreement.
- 3.3. You shall provide us with documents and other information necessary to identify the Authorised Persons.
- 3.4. You must advise us immediately if you are not or cease to be a Wholesale Depositor.
- 3.5. Subject to any written limitation received and accepted by us, you confirm that each Authorised Person is duly authorised to perform all lawful acts on your behalf in connection with any Account, Deposit or Service, including, but not limited to:
  - (a) opening, closing and operating any Account;
  - (b) making, withdrawing or transferring any Deposit;
  - (c) signing and delivering any agreements, deeds, declarations, guarantees, indemnities or other undertakings or other documents relating to any Account, Deposit or Service.
- 3.6. You agree that we may, and you hereby authorise us to, rely on any documents, information and authorities provided to us by any means (including electronically) pursuant to Clauses 3.2 and 3.3, until you notify us in writing of any changes and we have had a reasonable opportunity to act on such changes.

## 4. How the Agreement applies to corporate customers

- 4.1. The Payment Services Regulations 2017 (the "Regulations") set out requirements applying to us and the services that we provide to our customers. The Regulations are available at <https://www.fca.org.uk/firms/payment-services-regulations>.
- 4.2. The Regulations require firms to treat micro-enterprises and charities in the same way that they would treat personal banking customers. Where a customer is not a micro-enterprise or charity, the Regulations allow us to provide more limited information and to agree different rights and obligations.
- 4.3. As you are a Wholesale Depositor, you agree that the following provisions of the Regulations do not apply to the Agreement:
  - (a) Regulations 42 to 60 inclusive;
  - (b) Regulation 66(1)

- (c) Regulation 67(3) and (4);
- (d) Regulation 75;
- (e) Regulation 77;
- (f) Regulation 79;
- (g) Regulation 80;
- (h) Regulation 83;
- (i) Regulation 91;
- (j) Regulation 92; and
- (k) Regulation 94.

## 5. Multiple Clients

5.1. Where multiple customers are joint holders of an Account or Deposit and/or joint recipients of the Services, each of the customers undertakes and agrees that:

- (a) it shall be jointly and severally liable with each of the other customers for any obligation owed to us or any other member of the Nedbank Group under the Agreement;
- (b) any demand, notice, agreement, Instruction or communication given by us to one or more customers, or received by us from one or more of the customers, in connection with the Agreement will be deemed to be a demand, notice, agreement, Instruction or Communication (as the case may be) given to or received from all the customers;
- (c) if we become aware of or reasonably suspect a dispute between any of the customers, we may decline to act on any Instruction until all the customers have confirmed our authority to act on it in form and substance satisfactory to us; and
- (d) to the extent any of the customers ceases to exist for any reason, the Agreement shall continue to bind the remaining customers.

## 6. Instructions

6.1. Any Instruction may be sent to us in writing by post, fax, email, authenticated SWIFT or any other form of electronic communication acceptable to us, unless we agree otherwise.

6.2. Subject to Clause 6.3, we will process Instructions given before the relevant cut-off time:

- (a) in the case of Euros, US Dollars or Sterling, on the relevant Banking Day on the day;
- (b) in the case of any other currency, as soon as reasonably practicable.

Instructions received after the cut-off time or without sufficient time to process the Instruction before the cut-off time or on a non-Banking Day will be processed as soon as reasonably practicable. Cut-off times vary and may depend on cut-off times of external organisations, the operation of our telephone and computer systems and our opening hours. Our cut-off times are available on request.

6.3. If any Instruction, or transaction or payment relating to any Account or Deposit, is blocked, withheld or otherwise delayed by our or any third party's Financial Crime prevention systems or pursuant to a requirement of any Authority:

- (a) we will, to the extent permitted by law and regulation and our internal Financial Crime policies, notify you thereof as soon as reasonably practical after we become aware thereof; and
- (b) the relevant Instruction, transaction or payment will only be processed if, when and to the extent the Instruction, payment or transaction is permitted by law and regulation, the relevant Authority and released by the relevant system (as applicable).

Neither we nor any other Nedbank Group member shall be liable for any Losses resulting directly or indirectly from any Instruction, transaction or payment being blocked, withheld or otherwise delayed by any Financial Crime prevention system.

6.4. We do not have to accept or act on any Instruction if it has not been, or if it in our reasonable opinion appears not to have been, provided by an Authorised Person.

6.5. We do not have to make further enquiries as to the genuineness, authority or identity of the person giving or purporting to give the Instructions and who we reasonably believe to be an Authorised Person.

6.6. You acknowledge that Electronic Medium can be unreliable, and that communications between us may be initiated, intercepted or interfered with before, during or after transmission, whether fraudulently or otherwise and may be weakened, distorted or lost and that privacy cannot be ensured. You acknowledge that we will not be responsible for any Loss suffered or incurred by you directly or indirectly arising out of, in connection with, or consequential upon your use of Electronic Medium to communicate with us or to give us any Instruction

6.7. We are not responsible for any errors or omissions made in, or the duplication of, any Instruction by you or any Authorised Person and we may act on any Instruction by reference to a bank identification or account number only, even if a bank or account name is provided.

6.8. You are responsible for the accuracy, completeness and correct transmission of your Instructions. We shall not be liable for any Losses you may suffer or incur as a result of us complying in good faith with any Instruction that has been, or appears in our reasonable opinion to have been, provided by an Authorised Person.

6.9. We may deduct the amount of any payment from your Account or Deposit if we have followed your Instructions correctly. We may rely on any Account number quoted in an Instruction as the correct Account to be debited or credited.

6.10. We may refuse to comply with any Instruction that is unclear or if we doubt its authenticity. We may also refuse to perform any Service or carry out any Instruction or transaction relating to an Account or Deposit (i) if we believe that by so performing or carrying it out might result in a Financial Crime or otherwise break a law, regulation, code or other duty (including a Compliance Obligation), (ii) if we reasonably believe that so performing or carrying out may damage our reputation, (iii) where we reasonably believe that there may be any Financial Crime or other crime affecting an Account or Deposit, or (iv) where there is a dispute over the ownership of, or entitlement to, the money in an Account or Deposit.

6.11. If we refuse to perform any Service or carry out any Instruction or transaction relating to an Account or Deposit, we will notify you at the earliest opportunity. Notification will be in person, by telephone or in writing by post, fax, email or authenticated SWIFT. We will (where possible and where it would not be against the law for us to do so) tell you of the reason for the refusal. Where it is possible to provide reasons for the refusal and those reasons relate to matters of fact, we will tell you the procedure for rectifying any factual errors that led to the refusal. We may make a charge for giving you this notification, providing our refusal was reasonably justified.

6.12. You can vary or cancel an instruction only if you do so before the end of the Banking Day before the day the transaction is due to be carried out. We will use our reasonable efforts to comply with any request made by you to vary or cancel an Instruction. Subject to us using such reasonable efforts, we will not be responsible for any Losses related to such varied or cancelled Instruction.

## 7. Transactions in respect of an Account or Deposit

7.1. We may apply limits to transactions of certain types or amounts from time to time.

7.2. We will accept Deposits from you at our sole discretion. We

reserve the right to refuse to accept any Deposit without giving any reason.

- 7.3. Any payments in relation to a Deposit must be made to or from a bank account in your name.
- 7.4. On an Account or Deposit, all payments into or from the Account or Deposit must be by electronic transfer. We do not accept or make payments in cash or by cheque.
- 7.5. Deposits received in a currency for which there is no corresponding Account may be credited at our discretion in the currency designated by you at the time of opening your Account, converted at our exchange rate from time to time, or may be maintained at our discretion in the currency received.
- 7.6. If you ask us to make an international payment we may make that payment through another bank chosen by us. You must comply with all laws in the country to which the payment is being sent and you must reimburse us for any costs, expenses or charges we incur in making that payment.
- 7.7. We may make a charge or reduce the interest payable on an Account or Deposit if you request a payment or withdrawal from that Account or Deposit without giving the notice required for that Account or Deposit.
- 7.8. Please note that transactions on an Account or in relation to a Deposit which are made on South African public holidays, may not reflect in the Account or Deposit until the next Banking Day.

## 8. Borrowing

- 8.1. You must keep each Account in credit unless we agree in writing to lend you money.
- 8.2. If an Account is credited in error or in anticipation of receiving funds, where those funds are not received or the underlying funds transfer is reversed, we may reverse all or part of such credit including any interest accrued thereon, make the appropriate entry to the Account, and, except in case of our error, debit or demand immediate repayment of any Losses incurred by us in connection therewith, as appropriate.
- 8.3. If you give us Instructions which would result in multiple debits on or withdrawals from an Account which would in aggregate cause the Account or Deposit to be overdrawn, we may decide the order in which to make those debits or withdrawals and whether to make any of them in whole or in part.
- 8.4. We are not obliged to carry out an Instruction which would result in a debit to an Account or Deposit where this causes the Account to be overdrawn without our written approval or to exceed any agreed or advised overdraft facility, or where the Account or Deposit is subject to a right of a third party that has been enforced.
- 8.5. In deciding if you have sufficient funds we may take into account, any Instructions that you have given us which have not yet been processed and any regular payments scheduled to be made from the Account. If we do decide to complete the transaction you will have to repay us the money and we will require you to pay interest at our overdraft rate and/or an unauthorised overdraft fee.
- 8.6. If an Account is overdrawn or if a limit is exceeded without our written approval, you shall immediately upon demand, or otherwise on first becoming aware thereof, transfer sufficient cleared funds to bring such Account into credit or within the limit. Please note that:
  - (a) we may charge interest and fees at our applicable rates until the Account is returned to credit or within the limit (as applicable);
  - (b) we are not hereby offering you, or agreeing an increase to, any overdraft facility;
  - (c) unless otherwise provided in an agreement executed between us and you, any extension of credit can be cancelled or reduced by us at any time.

## 9. Interest and charges

- 9.1. We will calculate interest on your Accounts and Deposits at our applicable rates or as otherwise agreed with you. Interest payable to you will be paid into your applicable Account or credited to your Deposit (as applicable) and interest payable to us will be deducted from your Accounts or Deposit as communicated to you.
- 9.2. On accounts we generally:
  - (a) calculate interest on a sum deposited by electronic transfer from the day we receive it. Any sums received by us on a non-Banking Day or on a Banking Day after the cut-off time referred to in Clause 6.2 will not be credited to the Account or Deposit (and so will not earn interest or be available for use) until the next following Banking Day;
  - (b) calculate interest on a sum withdrawn by electronic transfer up to and including the day before the day you make the withdrawal.

However, this may vary depending on the type of account. You should check the special conditions for particular Accounts or Deposit. Also, different periods may apply to currencies other than sterling: please enquire for details.
- 9.3. We will tell you about the charges, fees, costs and expenses for any Service (including transaction fees (whether domestic or overseas)) on request or at the time we first provide the Service to you. Generally, these will be our standard fees and charges unless we separately agree different fees and charges with you in writing. Such charges, fees, costs and expenses may be charged by us either promptly upon our notification to you or as otherwise agreed with you in writing from time to time.
- 9.4. We may receive remuneration from, or share charges with, an associated company or other third party in connection with transactions carried out on your behalf. Details of such remuneration or sharing arrangements will be made available to you on request. However, any other remuneration received by us or any associated company will not abate the fees (including reimbursement fees) and charges payable by you in connection with any transaction.
- 9.5. If you fail to pay us any amount under the Agreement when it is due, we reserve the right (to the extent permitted by applicable law) to charge you interest (both before and after any judgment) on any such unpaid amount calculated at the rate as reasonably determined by us to be the cost of funding such overdue amount. Any such interest will accrue on a daily basis and will be due and payable by you as a separate debt on first demand.
- 9.6. If we receive or recover any amount in respect of an obligation of yours in a currency other than that in which such amount was payable, whether pursuant to a judgment of any court or otherwise, you shall indemnify us and hold us harmless on first demand from and against any Losses (including costs of conversion) incurred or suffered by us as a result of receiving such amount in a currency other than the currency in which it was due.
- 9.7. If we make a charge in respect of a payment received into an Account or Deposit, we may deduct the charge from the amount received before we credit the payment to the Account or Deposit. We will notify you of the amount of any such charge deducted.
- 9.8. You acknowledge that we may debit from an Account or Deposit any interest to be charged to such Account or Deposit as and when due. Further to this, we may debit any other interest and any fees, costs, charges and expenses owed by you to us from any Account or Deposit advised by you for such purposes. In the event of your breach of the Agreement or your insolvency, we may debit fees, costs, charges, interest and expenses owed by you to us from any account you have with us (including any Account or Deposit).

## 10. Taxation

- 10.1. All payments due to us under the Agreement shall be:
- calculated and be made free and clear of any deduction or withholding for or on account of tax, set-off, counterclaim or other claims or charges so we receive such amounts in full. If a deduction or withholding for or on account of tax is required to be made by law, the payment shall be increased to an amount which after making any deduction or withholding leaves an amount equal to the payment which would have been received by us if no deduction or withholding had been required. You shall make any payment required in connection with such tax deduction or withholding within the time allowed by law;
  - are exclusive of prevailing VAT (unless otherwise stated). All such VAT will be paid and applied in accordance with applicable legislation and we will issue the necessary invoices or other documents (as appropriate).
- 10.2. You are solely responsible for understanding and complying with all tax requirements and obligations applicable to or in connection with the Accounts, the Deposits and the Services, in all jurisdictions where those requirements and responsibilities arise.
- 10.3. If we pay any amount to you without deduction or withholding and are then required to pay tax on that amount to any taxation authority, you must reimburse us on first demand for any amount that we pay.
- 10.4. Except to the extent required otherwise by applicable law, you shall be responsible for the deduction or withholding on account of any tax with respect to any amount paid, transferred or held by us pursuant to any Service and shall be responsible for the payment and proper reporting of any such tax. You confirm that, whenever required by applicable law or regulation, you have reported and will continue to report your assets deposited with us or at any other member of the Nedbank Group as well as the income generated by those assets to the competent tax authorities.
- 10.5. We may deduct or withhold all forms of tax (whether of the United Kingdom or elsewhere in the world whenever imposed) from any payment if obliged to do so under any applicable law or regulation. In accounting for tax or making deductions or withholding of tax, we may estimate the amounts concerned. Any excess of such estimated amount over the final confirmed liability will be credited or sent to you as quickly as reasonably practicable.
- 10.6. The failure of by you to supply you, or you Connected Person's, Tax information and accompanying statements, waivers and consents, as may be requested, may result in us making our own decision with respect to your status and/or your Connected Persons, including whether you and/or your Connected Persons are reportable to a tax authority. Such failure may require the Bank or other persons to withhold amounts as may be legally required by any tax authority and paying such amounts to the appropriate tax authority.

## 11. Statements and records

- 11.1. We may (and if you have requested us to do so, we shall) issue statements to you from time to time showing all amounts added to or taken from your Account or Deposit since the previous statement.
- 11.2. Statements sent to you shall be deemed correct and accepted by you unless we are notified to the contrary in writing within thirty (30) days of your receipt of such statements, unless otherwise provided in such statements. Statements and notices are sent to the last mailing or SWIFT address listed with us for your Account or Deposit (as applicable).
- 11.3. Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with an Account or Deposit. You will not object to the admission of our records as evidence in any legal proceedings. 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.

- 11.4. You agree to keep adequate records in accordance with all applicable laws and regulations in respect of each Account, Deposit and all related transactions.

## 12. Monitoring

- 12.1. In some circumstances, communications between you and us (including paper communications, electronic mail, voicemail, SMS, telephone calls, website usage, instant messaging, chatrooms and Instructions) may be monitored, recorded or inspected ("Monitoring") using monitoring/recording devices or other technical or physical means.

- 12.2. Such Monitoring:

- may take place where required or permitted by applicable law or regulation or Authorities from time to time;
- may include (without limitation) the recording of all telephone and electronic communications without warning,

in each case, including (without limitation) in order to record evidence of business transactions, to ensure compliance with our Compliance Obligations, to help us improve our services and for security reasons.

- 12.3. Any Monitoring records are and shall remain our sole property and we may produce them as evidence in any proceedings brought in connection with the Agreement.

## 13. Liability

- 13.1. We will perform our obligations under the Agreement using such level of skill and care as would be considered commercially reasonable by reference to the standards and practices of the banking industry in the London market.

- 13.2. Neither we nor any other Nedbank Group member shall be liable for any Losses arising from or resulting out of or in connection with any of the Services, any Account, any Deposit, or any transaction relating thereto, in each case save to the extent such Loss results directly from our negligence, wilful default or fraud.

- 13.3. Notwithstanding anything to the contrary in the Agreement, our liability to you arising from or in connection with this Agreement, any Account, any Deposit or any Service shall:

- not exceed the amount of any direct and foreseeable Loss sustained by you;
- be limited to that proportion of the loss or damage (including interest and costs) suffered by you, which is agreed between us or ascribed to us by a court of competent jurisdiction allocating proportionate responsibility to us having regard to (i) the contribution to the loss and damage in question of any other person responsible and/or liable to you for such loss and damage and (ii) our contribution to such loss and damage.

- 13.4. To the extent we have any liability to you, we will only be liable for Losses if you give us written notice of the claim, stating in reasonable detail the nature of the claim, no later than 12 months after you became aware of the cause of action giving rise to that claim.

- 13.5. We will not be liable to you at all for any loss of business, loss of goodwill, loss of opportunity, loss of profit (actual, anticipated, direct or indirect) or any type of consequential, incidental or indirect loss whatsoever (including, without limitation, fines, penalties or punitive damages) and whether or not foreseeable, even if we were advised of the possibility of such loss or damage, and regardless of whether the claim or loss or damage is made in negligence, gross negligence, for breach of contract or otherwise.

- 13.6. Neither we nor any other member of the Nedbank Group is

obliged to perform any of the Services or any other obligation under the Agreement, including without limitation any obligation to give notice or provide information to you, if to do so would result in breach of any Applicable Laws by us or any other member of the Nedbank Group.

- 13.7. You must tell us, as soon as possible, if you become aware of any unauthorised or incorrectly executed transaction relating to any Account, Deposit or Service. You should do this by telephoning us on +44 (0)207 002 3400. This line is open from 9am to 5pm, London time. We will not be obliged to correct any error if you do not tell us about it within 13 months after it happened.
- 13.8. Any of our obligations with respect to any Account, Deposit, Service or the Agreement shall be enforceable only against us, which is the sole place of payment, and not at or against another branch or member of the Nedbank Group.
- 13.9. You may not take any proceedings against any of our directors, officers, employees, contractors or agents in respect of any claim you might have against us or in respect of any act or omission of any kind by that director, officer, employee, contractor or agent in relation to any Account, Deposit, Service and/or the Agreement. Each such director, officer, employee, contractor or agent may rely on this Clause 13.9 and the Contracts (Rights of Third Parties) Act 1999 shall apply for the benefit of such persons, subject always to the terms of Clause 31 (*Governing Law*). The consent of any such person shall not be required to rescind or vary this Agreement at any time.
- 13.10. We have no liability to you if you do not exercise reasonable control over the operation of or access to your Account, Deposit and our Services.
- 13.11. You agree to indemnify each Indemnified Party on demand, on a full indemnity basis, from and against any Loss (including legal fees), taxes, imposts and levies an Indemnified Party may incur or be subjected to (i) as a result of or acting upon any Instructions, (ii) as a result of any breach by you of any term of the Agreement, (iii) as a result of any claim by any third party in respect of an Account or Deposit or (iv) as a result of your use of Electronic Medium to communicate with us, in each case save to the extent such Loss is finally judicially determined to have resulted directly from such Indemnified Party's negligence, wilful default or fraud. All sums payable under this Clause 13.11 shall be paid free and clear of all deductions or withholdings unless the deduction or withholding is required by law. For purposes of this Clause 13.11, "Indemnified Party" mean us, our Affiliates and any of our or our Affiliate's directors, officers, employees, contractors or agents. Each Indemnified Party may rely on this Clause 13.11 and the Contracts (*Rights of Third Parties*) Act 1999 shall apply for the benefit of such Indemnified Person, subject always to the terms of Clause 13.11 (*Governing Law*). The consent of any Indemnified Person (other us) shall not be required to rescind or vary this Agreement at any time.
- 13.12. Nothing in this Clause 13 excludes our liability for fraudulent misrepresentation by us, our directors, officers, employees or agents, our liability for death or personal injury caused by our negligence or the negligence of our directors, officers, employees or agents, or any other liability on our part which cannot be excluded by law.

## 14. Confidentiality and Data Protection

- 14.1. Subject to this Clause 14, the Parties agree that any Confidential Information shall be kept confidential.
- 14.2. Your rights and obligations
- (a) You consent to us collection, processing, storing, using, disclosing and transferring your Client Information as set out in the Agreement.
- (b) You confirm and warrant, and shall at all times ensure that every Client Data Subject has (or will at the relevant time have) been notified of and consented to the collection, processing, storage, use, disclosure and transfer of their

Personal Data pursuant to the Agreement.

- (c) You will ensure that each Client Data Subject is made aware of our Privacy Notice referred to in Clause 14.4 prior to providing us with any of their Personal Data.
- (d) You may disclose our Confidential Information to:
- (i) members of your group provided always that you may only make such disclosure on a confidential basis, and in connection with receipt of the Services under the Agreement;
- (ii) your auditors and professional advisers or as otherwise required under law, regulation, order of a court, or binding request from an Authority; and
- (iii) any other person with our written consent.

### 14.3. Our rights and obligations

- (a) We and any other members of the Nedbank Group may collect, disclose, use, store, process and transfer Client Information in accordance with this Clause 14.3.
- (b) Client Information may be collected, disclosed, used, stored, processed and/or transferred by us and/or other members of the Nedbank Group in connection with the following purposes (the "Purposes"):
- (i) the provision of Services and as necessary for us to approve, manage, administer or effect any transactions requested or authorised by you;
- (ii) meeting Compliance Obligations;
- (iii) when we are required or requested to do so under law, regulation, order of a court or arbitration award, or by any Authority, or if we have a public duty to do so;
- (iv) conducting credit checks and obtaining or providing credit references;
- (v) to enforce or defend our, or a member of the Nedbank Group's rights (including, without limitation, the collection of any amounts due and outstanding from you);
- (vi) for our or a member of the Nedbank Group's internal operational requirements (including, without limitation, credit and risk management, system or product development and planning, insurance, audit and administrative purposes); and
- (vii) the maintenance of our relationship with you.
- (c) We and any other member of the Nedbank Group may, as necessary and appropriate for a Purpose, transfer and disclose Client Information to the following recipients (who may also process, transfer and disclose such Client Information as necessary and appropriate for a Purpose):
- (i) any member of the Nedbank Group;
- (ii) any sub-contractors, agents and service providers of any member of the Nedbank Group (including their employees, directors and officers);
- (iii) in response to any requests from any Authorities;
- (iv) persons acting on your behalf, payment recipients, beneficiaries, account nominees, intermediary, correspondent and agent banks, clearing houses, clearing or settlement systems, market counterparties, upstream withholding agents, and companies in which you have an interest;
- (v) any party to a transaction acquiring interest in or assuming risk in or in connection with the Services or any Account or Deposit; and
- (vi) any third party in favour of whom you have provided a security interest over an Account or Deposit;
- (vii) other financial institutions, credit reference agencies or

credit bureaus, for the purposes of obtaining or providing credit references,

in each case wherever located, including in jurisdictions (such as South Africa) which do not have data protection laws that provide the same level of protection as the jurisdiction in which the Services are supplied, or the Accounts or Deposits are located.

- (d) Whether it is stored by a member of the Nedbank Group in a home jurisdiction or overseas, Client Information will be:
- (i) protected by a strict code of confidentiality and security which all members of the Nedbank Group and their employees are subject to;
  - (ii) treated with the same degree of care that the relevant Nedbank Group member exercises to protect its own Confidential Information of a similar nature.

14.4. Further information on how we collect, disclose, use, store, process and transfer Personal Data is contained in our Privacy Notice, which can be found at <https://www.nedbank.co.uk>. In the event of any conflict between any terms of this Clause 14 and the terms of our prevailing Privacy Policy, the relevant terms of the Privacy Notice shall apply.

## 15. Foreign currency

15.1. Credit balances in foreign currencies (all currencies other than sterling) (a "Foreign Currency") are held for us by other banks in the country of that Foreign Currency. Accounts or Deposits in Foreign Currencies are subject to local market practices in those countries and local laws.

15.2. We are only required to perform our obligations under the Agreement in the currency in which those obligations are denominated. Unless otherwise agreed in writing, we may make any currency conversions in connection with the exercise of our rights and obligations pursuant to the Agreement, using exchange rates that are reasonable in the relevant market at the time and for the size and type of foreign exchange transaction. Any conversion will also be subject to our standard charges.

15.3. If we receive funds in a Foreign Currency, we can convert these into the currency of your Account or Deposit (as applicable) using the exchange rate applicable at that time.

15.4. If money has been paid into your Account in a Foreign Currency, and the foreign bank asks for the money to be returned, we will take enough money from your Account for the payment in the Foreign Currency using the exchange rate applicable at that time. This Amount may not be the same amount as what we paid into your Account. Where the payment is more than what is in your Account, your Account will be overdrawn and you will need to put it back into credit as soon as possible. Fees and interest will be applicable in this case.

15.5. You must not enter into any foreign exchange transaction with us if that transaction would breach any law or regulation.

15.6. If you Instruct us to make a payment in a currency other than the currency of the relevant Account or Deposit (as applicable) we may not be able to convert the amount and complete the transaction on the day of your Instruction. We will use the exchange rate applicable on the day of the conversion. If the transaction is conditional on a particular exchange rate for conversion or a particular date for completion, you must tell us when giving us your Instructions.

## 16. Online access

16.1. We may allow you to view information concerning any of your Accounts by using an internet based system. We will send you detailed instructions on how to access the services available using this system. You must follow these instructions to use the services.

16.2. These online services are for viewing account information only. They do not allow you to give us Instructions over this system or

to perform any transaction on the Accounts yourself.

16.3. You must follow the procedures set out below:

- (a) You must, in respect of any equipment used by you to connect to the internet service:
- (i) not authorise or allow anyone to access or operate the internet service on your behalf;
  - (ii) ensure that the equipment is disconnected from the internet service before leaving it at any time;
  - (iii) ensure that such equipment is free from, and sufficiently protected against, any computer virus or other destructive or contaminating device;
  - (iv) ensure that any software supplied to you in connection with use of the internet service is compatible with any such equipment and any other software on such equipment; and
  - (v) not access the internet service via a local area network without first ensuring that no-one else is able to access the service using your security codes.
- (b) You must, in respect of any password required to access your Accounts or Deposits using the internet based system:
- (i) ensure that the password is in such format, and complies with such guidelines, as may be notified by us from time to time;
  - (ii) change the password each time we ask;
  - (iii) take all reasonable steps to ensure that the password is and remains secret, and not disclose the password to any other person; and
  - (iv) if you become aware, or suspect, that the password has been discovered by anyone else, immediately notify us by electronic mail at NCIBCSAssist@Nedbank.co.za or the Nedbank IT Helpdesk on +27 10 217 4340. For security reasons, we will suspend access to the relevant account until a new password has been sent to you.
- (c) You may authorise your employees to access and operate the internet based service on your behalf. You must give each employee a personalised password. The employee must, in connection with any equipment used by them to connect to the internet service:
- (i) not authorise or allow anyone to access or operate the internet service on your behalf;
  - (ii) ensure that the equipment is disconnected from the internet service before leaving it at any time.
- (d) We will grant you a non-exclusive, non-transferable licence for the period during which you are entitled to use the internet based system to use any software which we supply to you for such purpose. You must use this software only to access the internet based system on the terms set out or referred to in the Agreement. You must not copy, sell, sub-license, lease, assign or otherwise transfer the software or any other information supplied by us to any third party, or try to de-compile, dis-assemble or reverse engineer or otherwise discover the source code of the software.
- (e) If you no longer wish to use the internet based system you must tell us in writing. We may cancel this service at any time by notice in writing to you.
- (f) We may charge you fees and charges for this service (in addition to our normal fees and charges relating to Accounts and Deposits). We will tell you in writing 30 days before the introduction of or change to any fees and charges relating to this service.



## 17. Third party interests

We do not have to recognise the interests or claims of any person other than you in respect of any money held in an Account or Deposit (and we will not have any liability for failing to do so), except to the extent required by law.

## 18. Representations and warranties

18.1. You represent and warrant to us that, on each day until the Agreement is terminated or expires in accordance with its terms:

- (a) you have full capacity to enter into the Agreement, to open any each Account and to make each Deposit;
- (b) you have all necessary authority, powers, consents, licences and authorisations and have taken all necessary action to enable you lawfully to enter into and perform the Agreement and each transaction thereunder, to open any each Account and to make each Deposit;
- (c) the persons entering into the Agreement and each transaction thereunder on your behalf (including any Authorised Person) have been duly authorised to do so;
- (d) the Agreement, each transaction thereunder and the obligations created under them are legal, valid and binding upon you and enforceable against you in accordance with their terms and do not and will not (i) conflict with your constitutional or organizational documents or (ii) breach any regulation, order, charge, agreement or instrument by which you are bound;
- (e) you have in place appropriate systems, policies, procedures and governance for detection, monitoring and reporting of Financial Crime;
- (f) you are a Wholesale Depositor;
- (g) you conduct appropriate due diligence on and maintain know-your-customer documentation in respect of your employees, officers, payment recipients, beneficiaries, account nominees and associated persons to a level which complies with applicable Financial Crime legislation and other mandatory requirements in the jurisdictions in which you operate, and you have in place and shall maintain policies and procedures designed to promote and achieve compliance with such legislation and requirements;
- (h) you act as principal in entering into the Agreement and each transaction thereunder, opening any Account and making any Deposit; and
- (i) any information which you provide or have provided to us pursuant to the Agreement or the Services, is complete and accurate and not misleading in any material respect.

## 19. Undertakings

19.1. You undertake to us that:

- (a) you will notify us promptly upon becoming aware that any representation or warranty in Clause 18.1 is or has become incorrect or misleading in any respect when made or deemed repeated;
- (b) you will at all times obtain and comply, and do all that is necessary to maintain in full force and effect all authority, powers, consents, licences and authorisations referred to in Clause 18.1(b);
- (c) you will comply with all applicable laws and regulations in relation to the Agreement and any transaction in connection therewith;
- (d) you will not (and you shall ensure that none of your Affiliates nor any of your or their employees, directors, officers or agents shall) directly or indirectly:
  - (i) use any Account or Deposit, or any funds in any Account or Deposit, or lend, contribute or otherwise

make available any such funds, (i) to finance any activities or business of or with any person, or in any country or territory, that is, or whose government is, the target of Sanctions or (ii) in any other manner that is likely to result in a breach of Sanctions by any person (including us)

- (ii) use any funds derived from any business, transaction or any other activity which is the subject of Sanctions or concerning any person, or from any country or territory, that is, or whose government is, the target of Sanctions or (ii) in any other manner that is likely to result in a breach of Sanctions by any person (including us) to repay any amount owing by you under or in connection with the Agreement, or otherwise place any such funds (or permit any such funds to be placed) in any Account or Deposit,

in each case save to the extent such undertaking breaches, or is or would be unenforceable by or in respect of that person by reason of breach of, any applicable Blocking Law;

- (e) you will not (and you shall ensure that none of your Affiliates nor any of your or their employees, directors, officers or agents shall), in connection with any Account, Deposit, Service or transaction in relation thereto, breach any applicable anti-bribery or anti-corruption laws and regulations, including, but not limited to the U.S. Foreign Corrupt Practices Act, the UK Bribery Act (each as may be amended from time to time) and other analogous legislation in other applicable jurisdictions (the "Relevant Anti-Corruption Laws");
- (f) you will (and you shall ensure that your Affiliates shall):
  - (i) conduct your businesses in compliance with Relevant Anti-Corruption Laws; and
  - (ii) maintain policies and procedures designed to promote and achieve compliance with the Relevant Anti-Corruption Laws.
- (g) you will comply with all Applicable Regulations in relation to the Agreement and any Account, Deposit, Service or transaction relating thereto, so far as they are applicable to you or us;
- (h) upon request, you will promptly provide us with such information as we may reasonably require to (i) evidence the matters referred to in this Clause 19 and/or (ii) comply with any of our Compliance Obligations.

## 20. Force Majeure and performance

20.1. If we are prevented from performing any of our obligations or Services under the Agreement by a Force Majeure, we will if practicable serve notice in writing on you specifying the nature and extent of the circumstances. There will be no obligation on us to perform any of our obligations under the Agreement on the occurrence of a Force Majeure event or while a Force Majeure event is continuing. We will use all reasonable endeavours to bring the Force Majeure event to a close or to find a solution by which the Agreement may be performed despite the continuance of a Force Majeure circumstance and/or we will take all reasonable steps to resume performance as soon as is reasonably possible following the cessation of a Force Majeure event. Neither we nor any other Nedbank Group member shall be liable for any Losses resulting directly or indirectly from delayed, partial or non- performance of our obligations by reason of Force Majeure.

20.2. In providing the Services, we may use certain infrastructure and other service providers and the Services are therefore subject to the rules and regulations of those service providers as well as the guidelines and procedures of relevant regulatory or industry bodies. Neither we nor any other Nedbank Group member shall be liable for any Losses resulting directly or indirectly from the acts or omissions of any such service provider.

20.3. Communication channels provided by us may be suspended by us for maintenance or for any other reason where we reasonably consider it necessary to do so. We will provide you with reasonable prior notice of the suspension where it is practical to do so.

## 21. Applicable Laws and Compliance Obligations

The Agreement, the Account, the Deposits, the Services and transactions relating thereto are subject to and may be affected by all Applicable Laws and Compliance Obligations, so that:

- (a) if there is any conflict between the Agreement and any Applicable Laws, the latter will prevail;
- (b) nothing in the Agreement will exclude or restrict any obligation, duty or liability which we have to you under Applicable Laws (including the FCA/PRA Rules and FSMA);
- (c) we and each other member of the Nedbank Group may take or omit to take any action we consider necessary or appropriate to ensure compliance with any Applicable Laws or Compliance Obligation;
- (d) our compliance with any Applicable Laws or other Compliance Obligations may delay or prevent us from carrying out of Instructions or Services;
- (e) whatever we do or fail to do under the Agreement in order to comply with Applicable Laws or Compliance Obligations will be binding on you;
- (f) such actions that we take or fail to take for the purpose of compliance with any Applicable Laws or other Compliance Obligations will not render any member of the Nedbank Group or any of their directors, officers, employees or agents liable to you.

## 22. Security Interests

You shall not grant any security interest over or transfer or assign any of your rights or obligations in connection with any Account or Deposit without our prior written consent, such consent not to be unreasonably withheld or delayed.

## 23. Closing your account

23.1. You may close any Account by giving us thirty calendar days' written notice. All benefits and Services provided by us in relation to that Account will cease as soon as the Account is closed.

23.2. You may not close an Account unless all interest and charges due to us in respect of that Account have been paid.

23.3. We may:

- (a) suspend, withdraw or close an Account or Deposit;
- (b) suspend or withdraw any Service;
- (c) repay any Deposit; and/or
- (d) cancel or terminate the Agreement,

in each case, immediately without notifying you if we reasonably believe that:

- (i) you have committed a breach of the Agreement which is incapable of remedy or not remedied within a reasonable time period;
- (ii) you have given us any false or misleading information, or have failed to provide information reasonably requested by us in connection with any know-your-customer requirement, financial due diligence or Compliance Activity;
- (iii) any Account, Deposit or Service has been used for any illegal or fraudulent purpose or for a Finance Crime;

(iv) there have been any serious or persistent breaches of the Agreement between you and us;

(v) you or any other party have taken any step, with respect to you, for a moratorium, composition, compromise or arrangement with creditors, administration, bankruptcy, liquidation, dissolution (other than for the purposes of amalgamation or reconstruction), receivership, distress or execution, debt relief orders, interim orders or you become insolvent (including, where you act as a trustee, the insolvency of the trust and which may also include your bankruptcy in certain jurisdictions) or are deemed unable you are involved in any Financial Crime or other criminal activity, whether or not the Financial Crime or other criminal activity is linked to any Account, Deposit or Service;

(vi) there has been a breach of security or a misuse of any Account, Deposit or Service;

(vii) we have been placed into a position where we might break Applicable Laws;

(viii) you have not provided us with an adequate information in relation to your liability for tax; or

(ix) the continuation of a business relationship with you could result in damage to our reputation.

23.4. We may terminate the Agreement and close any Account or return any Deposit by giving you thirty calendar days' written notice.

23.5. On cancellation or termination of the Agreement or the closure of an Account or return of any Deposit for whatever reason, any amounts owing to us under the Agreement in connection with such Account will become immediately due and payable of the terms of the Agreement. We reserve the right, at our sole discretion, to repay any Deposits which are outstanding at the date of termination, cancellation or closure (as applicable) either on such date, or on the maturity date previously agreed for such Deposit.

23.6. Termination or cancellation of the Agreement, or withdrawal, repayment or closure of an Account, Deposit or Service, shall not affect:

(a) your obligations and liabilities to us arising prior to, or on, such cancellation or termination, all of which shall continue in full force and effect; or

(b) any other provisions of the Agreement which are expressly or by implication intended to continue in force on or after termination or cancellation of the Agreement or withdrawal, repayment or closure of an Account, Deposit or Service (as applicable).

## 24. Correspondent Banking Services

24.1. We do not provide Correspondent Banking Services. Accordingly, the Accounts, Deposits and Services will be used solely for your own operational purposes in your name, and not for Correspondent Banking Services.

24.2. Upon request, you shall promptly provide us with any information reasonably required by us in connection with your use of an Account, Deposit or Service.

## 25. Set-off

25.1. Without prejudice to any other rights to which we may be entitled we may at any time, if you fail to meet any obligation to us when due, we may:

(a) apply any amount standing to the credit of any of your Accounts or any Deposit to discharge such due amount (or any part thereof); and/or

(b) set off any such obligation against any of our obligations

owed by us to you, regardless of the place of payment, booking branch or currency of either obligation.

- 25.2. If the obligations or amounts are in different currencies, we may set off such obligations and amounts at the rate of exchange determined by us on the date of set off.
- 25.3. We will inform you before we exercise our right of set-off unless, in our opinion, giving such notice would prejudice our rights or jeopardise our ability to exercise our right of set-off.
- 25.4. You may not set-off any amount we owe you against any amount you owe us.

## 26. Contacting each other

- 26.1. Unless otherwise agreed:
  - (a) notices in writing from us shall be effective if delivered to an address specified by you in an Application Form or to such other address as you may specify in writing from time to time as effective for delivery of notices pursuant to the Agreement, including an address for notices to be sent electronically;
  - (b) notices in writing from you shall be effective if delivered to Nedbank Limited, London Branch at 1st Floor, Millennium Bridge House, 2 Lambeth Hill, London EC4V 4GG or to such other address as we may specify in writing from time to time as effective for delivery of notices pursuant to the Agreement, including an address for notices to be sent electronically, in each case marked for the attention of the relevant department or officer (if any) specified by us.
- 26.2. Any notice to us will only be effective when we actually receive it.
- 26.3. You will be deemed to have received any notice we send to you under or in connection with the Agreement:
  - (a) if sent by pre-paid first-class post or airmail, at 9.00am on the fifth Banking Day after posting;
  - (b) if delivered personally on a Banking Day, on the date and at the time of delivery;
  - (c) if sent by email or authenticated SWIFT (if applicable), when such notice is actually received (or made available) to you in readable form.

## 27. Complaints procedure

We have internal procedures for handling complaints fairly and promptly. You may submit a complaint to us, for example by letter, telephone, e-mail, or in person. We will send you a written acknowledgement of your complaint within five days of receipt enclosing details of our complaints procedure. Please contact us if you would like further details regarding our complaints management procedures. Please contact your Nedbank banker or relationship manager in the first instance. If you do not feel that your complaint has been dealt with to your satisfaction, you may submit a written complaint to the Head of Compliance, Nedbank Limited, London Branch at 1st Floor, Millennium Bridge House, 2 Lambeth Hill, London EC4V 4GG.

## 28. Amendments

- 28.1. We may change our prevailing interest rates at any time.
- 28.2. We may change any term of the Agreement if that change is necessary to take account of any legal or regulatory requirement, or Compliance Obligation. If we are permitted to do so under law and regulation, we will notify you in writing if we do this except where it is impracticable in the circumstances.
- 28.3. We may make any other change to the Agreement on giving you 30 days' written notice.
- 28.4. You will be taken to have agreed to any change that we notify to you if you continue to use any Account, Deposit or Service after the date when the change is due to come into effect.

## 29. General provisions

- 29.1. The language of the agreement between us is English, and all communications between you and us will be in English.
- 29.2. Each Party's rights and remedies provided under the Agreement are cumulative and not exclusive of those provided by law. No Party shall be under any obligation to exercise any right or remedy either at all or in a manner or at a time beneficial to the other Party. No failure by a Party to exercise or delay by a Party in exercising any of its rights under the Agreement 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.
- 29.3. If, at any time, any provision of the Agreement 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 the Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.

## 30. Third parties

Save in respect of provisions of the Agreement which confer rights for other members of the Nedbank Group or any Indemnified Person or as expressly provided for in 13.9 (*Liability*), a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "Third Parties Act") to enforce or to enjoy the benefit of any term of the Agreement.

## 31. Governing law

This Agreement, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with English law.

## 32. Jurisdiction:

- 32.1. Each of the Parties irrevocably:
  - (a) that the courts of England shall have jurisdiction to determine any suit, action or other proceedings relating to the Agreement including any non-contractual obligation arising out of or in connection with the Agreement ("Proceedings") and irrevocably submits to the exclusive jurisdiction of such courts for such Proceedings; 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.
- 32.2. 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.

### **33. Counterparts**

The Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Agreement.

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