



FNB Channel Islands Foreign Exchange Terms & Conditions

Date last amended 30 April 2021

1. Introduction

- 1.1. These Foreign Exchange Terms and Conditions as set out herein and Product, Channel and Account Specific Terms and Conditions ("Terms and Conditions") form part of the Client's Agreement with the Bank for the use of its Foreign Exchange facilities.
- 1.2. The Terms and Conditions set out in this document are applicable to all Foreign Exchange Transactions entered into between the Bank and a Client. The Client must read these Terms and Conditions carefully. It contains important information about the Client's and the Bank's legal rights and duties. The Client must communicate with the Bank via one or more of the following portals: the Bank's website; email: info@fnbci.co.uk or FxGuernsey@fnb.co.za; telephone: 087 730 6010 or +27 (0)11 369 1500 or (+44) 148 174 8138, if the Client does not understand any part of these Terms and Conditions. This agreement must be read in conjunction with other terms and conditions that apply to the Client's banking relationship with the Bank.
- 1.3. These Terms and Conditions do not cover derivatives, documentary credits or guarantees.

2. Definitions

- 2.1. Authorised Person means the person who is duly authorised to instruct the Bank and includes any person designated by the Client as its authorised representative;
- 2.2. After Hours means hours outside of Business Hours;
- 2.3. Agreement means the Transaction application form completed by the Client, these Terms and Conditions, the Transaction confirmation and any other documents specifically incorporated herein by reference and/or related to the services and/or products provided by the Bank;
- 2.4. Bank or FNBCI means FirstRand Bank Limited, Guernsey Branch, trading as FNB Channel Islands, which is regulated by The Guernsey Financial Services Commission and licensed under The Banking Supervision (Bailiwick of Guernsey) Law, 1994;
- 2.5. Bank's website means the FNBCI website www.fnbci.co.uk;
- 2.6. Business Day means any working day as applicable in the country in which the Transaction is settled;
- 2.7. Business Hours means from 07h30 - 17h30 Monday to Thursday and 07h30 - 17h00 Friday, South African time. These hours differ from Currency cut-off times;
- 2.8. Channels means one of the ways in which a Client communicates how their Transactions should be processed by the Bank, e.g. online, banking app, telephone, in writing, branch, relationship manager or private banker;
- 2.9. Client means a natural or legal entity entering into a Transaction with the Bank;
- 2.10. Currency cut-off times means the time of day when processing of the applicable Foreign currency Transactions will cease. Any Transaction where the Trade Date occurs after the relevant currency-cut off time will be processed on the following Business day during Business Hours. Each Foreign currency has its own cut-off time.
- 2.11. Data means all financial and other information which is transferred between the Parties pursuant to the provision of the services whether in electronic format or hard copy;
- 2.12. Data Subjects means the Client's customers, employees, agents and any other individuals or entities whose Personal Information or other Data the Client provides to the Bank for purposes of the services;
- 2.13. Foreign Currency means any currency other than the currencies catered for in Guernsey (i.e. other than British Pound (GBP), Euro (EUR) or US Dollar (USD));
- 2.14. Guernsey means the Bailiwick of Guernsey;
- 2.15. LIBOR means, unless otherwise agreed to in writing between the Bank and the Client, the London Inter Bank Offer Rate as published on Reuters as being the ICE Benchmark Administration Limited's (or any other person which takes over the administration of that rate) interest settlement rate;
- 2.16. Margin means a sales margin added to the wholesale rate;
- 2.17. Net Asset Value means the excess of a party's assets over its liabilities, as determined from its most recent financial statements: provided that if a party's liabilities exceed its assets, its net asset value will be deemed to be zero;
- 2.18. Nominated Bank Account means the bank account selected by the Client, into which the Bank shall pay all monies due to the Client and from which the Bank may debit any amounts owed by the Client;
- 2.19. Party or Parties means either the Bank or the Client, or both, as the context indicates;
- 2.20. Personal Information means personal information as referred to in The Protection of Personal Information Act, 2013 and the Data Protection (Bailiwick of Guernsey) Law, 2017;
- 2.21. Product, Channel and Account Specific Terms and Conditions means the terms and conditions governing the respective Channels, accounts and products;
- 2.22. Rate of exchange means the rate at which the Bank buys or sells Foreign currency. This rate is determined by the global currency market;
- 2.23. Settlement Date means the agreed maturity date of a Transaction provided always that settlement must always occur on a Business Day within the prevailing cut-off times for the currency that is the subject of the applicable Transaction;
- 2.24. South Africa means the Republic of South Africa;
- 2.25. Spot Deal means a Transaction where the Value Date is 2 (two) Business Days after the instruction date;



- 2.26. Spot Rate means the rate is booked and the Transaction is settled within 2 (two) Business Days;
- 2.27. SWIFT means Society for Worldwide Interbank Financial Telecommunications, an electronic communications platform across which banks effect cross-border payments;
- 2.28. Trade Date means a date upon which a Transaction is concluded;
- 2.29. Transaction means a currency transaction concluded between the Parties and comprising of either a spot, pre-spot, forward or swap transaction; and
- 2.30. Value Date means the agreed date of settlement of a Transaction.
- 3.12. If the inward payment presented by the Bank does not belong to the Client, it is the Client's responsibility to inform the Bank as soon as is reasonably possible that the money should be returned. Failure to advise the Bank within a reasonable time could result in fraud charges being instituted against the Client by the Bank.
- 3.12.1. If the inward payment is recalled or cancelled for whatever reason by the remitting bank on the instructions of the sender, the Bank will take whatever action is necessary to process that request including freezing the relevant funds and/or your Bank account/s and doing all such things as provided in the relevant Account Terms and Conditions and any applicable legislation;
- 3.12.2. The Bank will endeavour to process recall/cancellation requests as quickly as possible however this process is entirely dependent on the remitting bank and any other parties involved including the sender of the funds and any law enforcement agencies that may be involved in the recall/cancellation requests. The relevant funds and/or your Bank account/s will remain frozen during this period until the recall/cancellation request has been finalised;
- 3.12.3. The Bank will not be held liable for any damages, losses, legal actions and costs the Client may incur as a result of the Client failing to truthfully declare the monies are not that of the Client.
- 3.12.4. The Bank reserves the right to debit the account into which the monies were incorrectly or erroneously paid with the full amount including any interest or exchange rate fluctuation losses incurred.
- 3.12.5. In the event the Bank is unable to debit the account with the outstanding amount the Client will remain liable to repay the Bank the full amount including any interest or exchange rate losses.

3. General

- 3.1. The Terms and Conditions and the Transaction confirmation form part of the Client's Agreement with the Bank.
- 3.2. All Transactions are processed during Business hours subject to the relevant Currency cut-off time. Transactions concluded on electronic platforms outside of Business hours will only be processed during Business hours.
- 3.3. The Bank reserves the right to amend these Terms and Conditions from time to time. A copy of the latest Terms and Conditions is available on the Bank's website. The Client is required to read these Terms and Conditions prior to entering into a Transaction.
- 3.4. The head notes to the clauses are inserted for reference purposes only and shall in no way govern or affect the interpretation hereof.
- 3.5. Unless inconsistent with the context, an expression which denotes any gender includes the other gender, a natural person includes a legal entity and the singular includes the plural and vice versa.
- 3.6. References to "writing", "written notice", "written instructions" and the like shall include telefax and email.
- 3.7. No indulgence given to either Party shall constitute a waiver of any of either Party's rights.
- 3.8. The Client may not cede and/or assign its rights and/or obligations in terms of any Transaction to any third party without written notification to the Bank.
- 3.9. Defined terms used in a sentence will generally have the initial letter capitalised.
- 3.10. Terms printed in BOLD place a strict obligation on you and should therefore be carefully read and understood.
- 3.11. If any provision of these Terms and Conditions including these disclaimers and limitations shall be unlawful or unenforceable then such provision shall fall away and shall not affect the validity and enforceability of the remaining terms or any of the Client's statutory rights which cannot be excluded by these Terms and Conditions.
- 3.13. The provision of Foreign Currency involves special risks which may affect the value of an order placed by virtue of fluctuation in exchange rate as a result of changes in financial markets. These changes are outside of the control of the Bank.
- 3.14. Please note that Foreign Currency availability may be subject to monetary limits (in respect of the value and quantity of the Transaction processed), Currency cut-off times, currency exchange restrictions and anti-money laundering regulations.
- 3.15. Each Transaction shall be subject to and conditional upon compliance with the Terms and Conditions and any relevant laws, rulings, rules, regulations and directives of any competent authority in force at the time of entering into any Transaction with the Bank or which may come into force thereafter but be applicable to any Transaction already entered into.
- 3.16. The onus is on the Client to ensure that all Transactions comply with relevant laws, both local and international and monetary limits.



- 3.17. The Bank shall have no liability whatsoever in relation to any demands, claims, actions, losses, costs and damages of whatever nature the Client may suffer as a result of the Client's failure to comply with the Terms and Conditions and any related local and international rules, laws and regulations.
- 3.18. The Bank may request the Client to provide additional information/documentation as required in terms of any applicable pieces of legislation.
- 3.19. Failure by the Client to provide the Bank with the requested documentation and information on time will result in:
- 3.19.1. the Transaction being cancelled, with all costs debited to the Client's account; and/or
- 3.19.2. a delay in processing the Client's Transaction until such time that all outstanding documentation/information has been received by the Bank. The Bank cannot be held liable for any loss incurred by the Client as a result of a delay in processing the Transaction. An administration fee may be levied and should any exchange rate loss occur, the Client will be held liable for the loss.
- 3.20. The Client is responsible for ensuring that all information supplied to the Bank is complete, correct and accurate. The Bank will not be held responsible for incorrect information supplied by the Client in respect of any Transactions.
- 3.20.1. The Client is solely responsible for ensuring that the beneficiary account details and account numbers are correct.
- 3.20.2. As provided for in 6.1.2 below, SWIFT processes Transactions with reference to the account number only; and
- 3.20.3. the Bank may not be able to assist in recalling or cancelling transactions processed into the incorrect account without the relevant accountholder's consent which consent must be freely given by the relevant accountholder.
- 3.21. No Transaction will be processed unless the application has been fully completed and submitted and all requested information and/or documentation have been received by the Bank.
- 3.22. The Bank may from time to time be obliged to disclose information relating to a Transaction to regulatory bodies, local and international counterparty banks for purposes of such counterparty complying with its rules, regulations or other legitimate duties and by entering into the Transaction with the Bank, the Client furthermore agrees and grants consent to the Bank to make such disclosure.
- 3.23. By undertaking a Transaction, the Client hereby consents that the Bank, the FirstRand Group, any affiliate companies and/or third parties (like its authorised agents and contractors) may process (collect, use, store or otherwise deal with) the Client's personal information according to our Privacy Notice (located on the Bank's website).
- 3.23.1. The Client hereby confirms that they have read and understood the Privacy Notice.
- 3.23.2. The Client also confirms that the personal information provided to the Bank is up to date, correct and complete, including information about residency and citizenship for tax purposes, and that the Client will immediately inform the Bank if this information changes.
- 3.23.3. The Client agrees that the Bank can process their personal information according to the safeguards and requirements of the law, using third parties if this is required.
- 3.23.4. The Client hereby consents that the Bank may process the personal information using automated means (without human intervention in the decision-making process) to make a decision about the Client's application for any product or service.
- 3.24. These Terms and Conditions have been drafted with reference to the guidelines set out in the Global Foreign Exchange Code as published by the Bank of International Settlements.

4. Exchange rate quotations and acceptance

- 4.1. The rate of exchange offered by the Bank for any Transaction is influenced by factors such as Channel used, Client profile, Transaction currency and amount, date and time the Transaction is initiated and prevailing market conditions.
- 4.2. By accepting a quote from the Bank, the Client agrees to purchase or sell the Foreign Currency at the rate quoted by the Bank and accepted by the Client and will be settled for the specified Value Date.
- 4.3. When carrying out certain Transactions through certain Channels the Client may be provided with an indicative quote which may reflect information regarding the Transaction the Client wishes to undertake.
- 4.4. The indicative quote - the Client is provided with merely an indication of the possible rate the Client may qualify for. The Bank does not guarantee that this is the rate the Client will receive when a formal application is made, and the Bank cannot be bound to the information provided in an indicative quote.
- 4.5. The indicative quote is merely a tool to assist the Client when planning foreign exchange Transactions.
- 4.6. Unless the bank confirms your acceptance of a rate of exchange, you do not have a rate of exchange and cannot rely on the quoted rate as the agreed rate of exchange
- 4.7. The Bank shall under no circumstances be liable for any loss, damages, demands, claims or penalties incurred as a result of the Client's reliance on the information provided in the indicative quote.
- 4.8. When transacting on one of the Banks electronic channels, any indicative quote that is provided will only be displayed for a limited duration, with the result that the applicable rate displayed will also only be valid for the duration that the quote is displayed. Different rates may display with each enquiry and is based on a number of factors.



- 4.9. Should a Transaction in respect of Foreign Currency be entered into by a Client using any of the Bank's electronic banking Channels and the rate at which such Transaction was entered into was off-market at the time of conclusion of the Transaction, and the Bank is of the view that the off-market rate of the Transaction was as a result of a malfunction of the electronic Channel, the Bank will be entitled to reverse or amend the Transaction, as appropriate, to reflect the rate that should have applied at the time the Transaction was initiated by the Client.
- 4.9.1. The Bank will accordingly notify the Client thereof and if the Transaction has already settled, the Bank will pay to the Client, or require payment from the Client, as the case may be, of the amount required to reflect the rate at which the Transaction should have been entered into.
- 4.10. Any discrepancies contained in the Transaction confirmation must be advised to the Bank in writing during Business Hours on the Trade Date referred to in the Transaction email confirmation. The Client's failure to revert to the Bank prior to the aforementioned time period will constitute the Client's agreement to the content of the Transaction email confirmation and the Terms and Conditions contained herein.

5. Fees and Charges

- 5.1. A Margin on exchange rates, fees, charges and or commissions will be levied on all Transactions. Margins, commissions and charges are specific to the type of Transaction concluded.
- 5.2. All Transaction costs, fees and charges will be credited and debited from and to the Client's Nominated Bank Account, unless otherwise advised by the Client. It will be displayed on the Client's Nominated Bank Account transaction history and/ or by a confirmation provided by the Bank.
- 5.2.1. Fee explanations, related fees, charges and penalty fees for the use of the service can be found in the pricing guide available on the Bank's website.
- 5.2.2. If no account is specified, the Client will be obliged to advise the Bank in writing of the bank account to which the payment must be made by no later than the Value Date. Failure to advise the Bank of the Client's bank account within the aforementioned timelines will entitle the Bank to:
- 5.2.2.1. cancel the Transaction concerned, and the Client will be liable for any loss arising as a result thereof;
- 5.2.2.2. take whatever action is required to ensure that settlement of the Transaction takes place (but without any obligation on the Bank to do so) which will include debiting any such amounts from any account held in the Client's name with the Bank.
- 5.2.3. The foregoing provisions shall not prejudice any rights the Bank may have as a result of the Client's failure to pay amounts due to the Bank.
- 5.3. The Bank is irrevocably authorised by the Client to debit any account held in the Client's name with the Bank and/or the Client's Nominated Bank Account, with:
- 5.3.1. any amount incorrectly credited to the Nominated Bank Account;
- 5.3.2. any amount overpaid to the Client;
- 5.3.3. any amount paid in error;
- 5.3.4. fees and charges in respect of the Transaction and/or any other out-of-pocket expenses and any other taxes which the Bank incurs in connection with maintaining and enforcing the Bank's rights in respect of any Transaction;
- 5.3.5. the amount reflected on the Client's monthly statement;
- 5.3.6. any legal fees associated with the recovery of any and all sums from the Client;
- 5.3.7. interest on outstanding amounts. Interest will be charged as provided in the terms and conditions that govern the Client's Nominated Bank Account. Interest is calculated from the date on which the Client should have made payment to the Bank up to and including the date on which the Client actually pays the Bank the overdue amount.
- 5.4. The Bank has the right where the Client is in default of any Transaction and/or where an amount was overpaid to the Client or paid in error to the Client to immediately:
- 5.4.1. place any of the Client's funds (credits) on hold; or
- 5.4.2. debit any account held in the Client's name with the Bank and/or the Client's Nominated Bank Account with the amount in question; or
- 5.4.3. freeze or close the Client's account; or
- 5.4.4. if the law allows, set-off any outstanding amounts that are due and payable against funds (credits) available in the Client's accounts held with the Bank.
- 5.5. The authorisations granted to the Bank above shall not preclude the Bank from any other remedy available to it whether in terms of these Terms and Conditions, any other terms and conditions governing the Bank/Client relationship or by law.
- 5.6. The amounts payable by the Client in respect of the Transaction shall be paid in GBP/USD/EUR (as may be applicable) and calculated in accordance with the total amount of the Transaction and converted in accordance with the relevant exchange rate(s).
- 5.7. The Bank may at any time amend or introduce new fees for the use of the service.

6. Swift

- 6.1. All Transactions are processed over the SWIFT network according to the following rules:
- 6.1.1. SWIFT processes Transactions according to the instructions provided in the SWIFT Transaction message ONLY.
- 6.1.2. SWIFT does NOT validate the beneficiary account name against the beneficiary account number.



- 6.1.3. In the event of a conflict between a Nominated account provided to the Bank and a beneficiary account stated in a SWIFT Transaction message, Settlement of the Transaction will be to the beneficiary account as provided in the SWIFT Transaction message.
- 6.1.4. Subject to clause 11.3, the processing of SWIFT Transactions takes approximately 3-5 (three to five) days.
- 6.1.5. In the event of a Transaction being cancelled or recalled, the Bank cannot guarantee that same will be successful despite the recall or cancellation instruction being received within the 3-5 (three to five) day period referred to in 6.1.4.

7. Cancellations, partial payments, early draw-downs and extension of foreign exchange transaction

- 7.1. In the event of the Client wanting to:
 - 7.1.1. cancel a Transaction in whole or in part;
 - 7.1.2. effect partial settlement of a Transaction;
 - 7.1.3. make an early drawdown; and/or
 - 7.1.4. extend the Value Date of a Transaction.
- 7.2. The Client must instruct the Bank, at least 2 (two) Business Days prior to the Value Date or the proposed earlier Value Date of the Transaction, as the case may be, to effect such variation.
- 7.3. Such instructions shall be by way of the Client's preferred Channel of Communication with the Bank.
- 7.4. In the event of any loss of profit arising as a result of a request to vary the initial Transaction instructions as contemplated above and as determined by the Bank in accordance with its standard procedures, such loss will be for the Client's account and will be payable at the time of such variation, and/or on the originally agreed Value Date of the Transaction. The Client authorises the Bank to debit the Client's Nominated Bank Account, or any account held in the Client's name with the Bank, in the amount of the loss incurred due to the variation contemplated above.
- 7.5. The Bank will not be responsible for any costs, claims, damages and loss incurred as a result of a reversal and/or cancellation of a Transaction. The Client authorises the Bank to debit any fees and costs incurred from the Nominated bank account or any account held in the Client's name with the Bank.
- 7.6. **After Hours Dealing**
 - 7.6.1. The Bank will in its sole and absolute discretion make After Hours dealing available, subject to the following provisions:
 - 7.6.1.1 A limited number of currencies will be available for After Hours dealing and the availability of these currencies are subject to change without notice; and
 - 7.6.2. The Bank does not guarantee the availability of exchange rates and the liquidity thereof.

7.7. Deal Confirmation

- 7.7.1. The deal acceptance on self-service channels will serve as confirmation of a deal.
- 7.7.2. Deals executed by the Bank on behalf of a Client, i.e. by the dealing desk:
 - 7.7.2.1. All Transactions that are concluded between the Bank and the Client telephonically, these calls are recorded. A confirmation in respect of each Transaction shall be made by the Bank to the Client promptly on the Trade Date;
 - 7.7.2.2. A confirmation of a Transaction will be provided by the Bank to the Client. A confirmation will be provided in the form of a PDF document, any confirmation provided in the CSV format is for the sole use of automation so that the confirmation can be imported into a Client's computer system for editing;
 - 7.7.2.3. The failure by the Bank to provide a confirmation as stated shall not invalidate the Transaction concerned;
 - 7.7.2.4. A confirmation which has been provided by the Bank shall constitute prima facie proof of the subject matter of the Transaction concerned unless the Client notifies the Bank in writing (which may be sent by telefax or email) or by telephone, that it disputes the confirmation as soon as possible but not later than the Business Day following receipt of such confirmation.

7.8. Settlement of Transactions

- 7.8.1. Payments to the Client in terms of a Transaction will be made to the account specified by the Client in terms of the settlement instructions provided by the Client to the Bank and accepted by the Bank or, if no such instructions have been provided, to the account specified by the Client when the Transaction is entered into, and recorded in the confirmation, or as otherwise agreed. If no account is so specified, and accepted or recorded, and if no other arrangement has been agreed, the Client will be obliged to advise the Bank in writing of the account to which the payment must be made by no later than 2 (two) Business Days prior to the Settlement Date, and failure to do so will entitle the Bank:
 - 7.8.1.1. to cancel the Transaction concerned, and any loss or profit arising on such cancellation (as determined by the Bank in accordance with its standard procedures) will be for the account of the Client; or
 - 7.8.1.2. to take whatever action is required to ensure that settlement of the Transaction takes place (but without any obligation on the Bank to do so) which will include, but not be limited to, payment of Rand to the Client's Nominated Bank Account maintained with the Bank (if any);



- 7.8.1.3. It's the Client's responsibility to ensure that adequate funds or limits are available for settlement of any Transaction;
- 7.8.1.4. The foregoing shall not prejudice any rights which the Bank may have as a result of the Client's failure to pay amounts due to the Bank.

8. Recording

- 8.1. It is the Bank's practice to record all telephone conversations with regard to Transactions. The Bank may use the recording of and/or a transcript thereof in any disputes.
- 8.2. Notwithstanding clause 7.1, the Bank has no obligation to the Client to:
 - 8.2.1. retain its practice of recording telephone conversations;
 - 8.2.2. retain such recordings for any period of time;
 - 8.2.3. make such recordings available to a Client; or
 - 8.2.4. ensure that its recording equipment is in a working condition and any failure to have a recording for any of the reasons (or any other reason) will not give rise to an adverse inference against the Bank.

9. Authorised persons

- 9.1. If the Client provides to the Bank a list of persons who are authorised to provide, instructions, notices, requests or to acknowledge confirmations, including any third party service providers (e.g. Bloomberg, 360T etc), the Bank reserves the right to rely on such, instructions, requests, notices or acknowledgements which the Bank believes are given or made by any person who is or who is believed by the Bank to be a person who is authorised or entitled under the said list to give or make such, instructions, notices, requests or confirmations on the Client's behalf, provided that in doing so the Bank acts in good faith. The Bank shall not be required to enquire as to the authority or entitlement of any such person to give such, instructions, notices, requests or confirmations.
- 9.2. If the Client does not provide a list of the type contemplated in clause 9.1 to the Bank, the Bank is entitled to assume that any, instruction, notice, request or confirmation (whether in writing or not and however communicated to the Bank) has been properly authorised by the Client if they are given or purported to be given by an individual or person who is or purports to be and is reasonably believed by the Bank to be a director or employee of the Client, or the Client's authorised agent.

10. Warranties

- 10.1. The Client warrants that:

- 10.1.1. the Authorised Person is duly authorised and has the contractual capacity to sign to enter into a Transaction. If it is found that contractual capacity does not exist, the Transaction may be cancelled, and the Client will be held liable for any losses incurred in this regard. The Bank will not be responsible for any costs, claims, damages and incidental loss incurred as a result of the cancellation of the Transaction;
- 10.1.2. to the best of the Client's knowledge, the Transaction does not contravene any local or international law, statute, rule or regulation;
- 10.1.3. the Client has read these Terms and Conditions and knows and understands the contents hereof and agrees to be bound by these Terms and Conditions;
- 10.1.4. the information furnished and documentation presented in support of this application are in all respects true and correct;
- 10.1.5. the Client will inform the Bank if any of this information changes;
- 10.1.6. the currency applied for will only be used for the specific purpose stated herein;
- 10.1.7. the Client has not applied for the same exchange facilities with another authorised dealer;
- 10.1.8. no other Foreign Currency cover exists for the obligations covered by the Transaction(s) entered into;
- 10.1.9. the Client has been informed that limits may be applicable to certain Transactions and the Client acknowledges that these limits will not be exceeded at the conclusion of relevant Transactions;
- 10.1.10. the Client is aware of the fees and the Terms and Conditions that apply to the Transaction(s) in question; and
- 10.1.11. the Client understands that information about fees and Terms and Conditions is available in the pricing guide as published on the Bank's website.

11. Indemnity

- 11.1. The Client specifically indemnifies the Bank against and holds it harmless from all demands, claims, actions, losses, costs and damages of whatever nature that may be brought against the Bank or that the Bank or the Client may suffer or incur arising from any unauthorised or unlawful access to the Client's accounts or data or any loss, destruction or theft of or damage to any of the Client's or the Bank's data or equipment.



- 11.2. The Client indemnifies the Bank against and hold it harmless from: any penalties or fines that apply to the Transaction or are incurred as a result of the Transaction; any claim, cost, loss, damage or actual expenses it suffers or incurs because of an act, omission and/or the Client's non-compliance.
- 11.3. The Client understands and confirms that the Transaction may be delayed, blocked and/or cancelled for reasons that are outside of the Banks control and the Client indemnifies the Bank against and holds it harmless from all demands, claims, actions, losses, costs and damages of whatever nature that may be brought against the Bank as a result thereof. This includes reasons such as the local or international laws or policies that apply to the Transaction.
- 11.4. The Client indemnifies the Bank and holds it harmless from all demands, claims, actions, losses, costs and damages of whatever nature that may be brought against the Bank for any loss or damage that the Client may sustain as a result of any omissions, errors or delays in transmission, or for misinterpretation of instructions on receipt, or for any loss or damage from whatever cause, including failure to identify properly the person mentioned in the message.
- 11.4.1. The Client will hold the Bank harmless for such loss or damage, unless such loss or damage was caused by the Bank's intentional conduct or gross negligence.
- 11.4.2. The Client will furthermore hold the Bank harmless for non-receipt of funds by any recipient hereunder, where the transmission is delayed, blocked or cancelled due to inter alia: sanctions and restrictions being imposed; the instruction is incomplete, ambiguous (confusing) or contains errors.
- 11.4.3. The Client warrants that the Client is aware that the enforcement or transgression of local and foreign legislation, regulations and/or policies (including without limitation those dealing with money laundering, terrorist related activities and sanctions) in relation to a Transaction may cause the Client or third parties loss or damage and the Client hereby indemnifies and holds the Bank harmless against any claim, demand, penalty or action against the Bank that the Client or any other party may have against the Bank as a result of such enforcement or transgression.
- 11.4.4. The Bank shall under no circumstances be liable for any loss, damages, demands, claims or penalties incurred as a result of such enforcement or transgression. Any profit/loss arising from such enforcement or transgression will be for the Client's own account.
- 11.5. The Bank shall make every effort to process orders placed via the various Channels available without any delay. However, the Client understands that delays can sometimes occur due to applicable local or international laws or policies that apply to the Transaction; technical problems and/or matters out of the Bank's control and hereby holds it harmless from all demands, claims, actions, losses, costs and damages of whatever nature that may be brought against the Bank as a result thereof.

12. Limitation on the bank's liability

- 12.1. The Bank shall make every effort to process a Transaction placed via the various Channels available without any delay. However, the Client understands that delays can sometimes occur due to technical problems or matters out of the Bank's control.
- 12.2. The Bank uses reasonable care and skill in providing the products to facilitate the dealing in Foreign Currency to a Client. However, the Bank does not warrant that access to these products shall be continuous and/or error free.
- 12.3. The Bank will not be liable to the Client or any other person for any loss or damage the Client suffers because of any one or more of the following:
- 12.3.1. if the Bank is unable to perform any of its obligations to the Client due to the failure of any technical systems or for any other reason beyond the Bank's reasonable control including amongst other things, war, terrorism, government action, natural disaster and industrial dispute;
- 12.3.2. for any damage to the Client's computer equipment as a result of using the website or Channels to deal in Foreign Currency; and/or
- 12.3.3. for any claims and/or damages (including, without limitation, indirect or consequential loss, loss of profit and whether in contract or in delict) suffered by the Client or incurred from the Client's use or delay or inability to use the website or Channels to deal in Foreign Currency however caused.
- 12.4. The Bank's maximum liability to the Client in respect of each use of the Channels to deal in Foreign Currency shall be to refund the purchase price of the Client's order. Any delay on the Client's part in providing documentary evidence of the Client's underlying commitment in order to obtain any relevant approval by the Settlement Date will, without exception, prevent a settlement and could result in possible costs to the Client's account and/or the Client's payment not being effected timeously, in which case the Bank will not be liable for these costs or for the Client's payment not being effected timeously.

13. Domicile and communications

- 13.1. All notices, demands or communications intended for the Bank shall be made or given to the Bank as follows: Foreign Exchange Product House, 9th Floor, FNB Place, Bank City, 30 Diagonal Street, Johannesburg, 2001.
- 13.2. The Client will be deemed to have elected either its registered address or its most recent physical address (as well as its most recent telefax number) advised to the Bank, at the option of the Bank, as its address for notices etc. and as its domicilium.



- 13.3. Any Party shall be entitled to change its domicilium from time to time, provided that any new domicilium selected by it shall be an address other than a post box number, and any such change shall only be effective upon receipt of notice in writing by the other Party of such change.
- 13.4. A notice sent by one Party to the other shall be deemed to have been received on the same day, if delivered by hand or sent by telefax and on the fifth day after posting, if sent by prepaid registered post.
- 13.5. Notwithstanding anything to the contrary contained herein a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium citandi et executandi.

14. Breach

- 14.1. The Client will be in breach if the following happens:
- 14.1.1. failure to adhere to the Terms and Conditions set-out herein;
 - 14.1.2. failure to make payment in terms of the provision of the Transaction;
 - 14.1.3. the Client is in breach of any of the warranties provided in these Terms and Conditions;
 - 14.1.4. the Client is placed under provisional or final sequestration or liquidation, provisional or final judicial management or business rescue or is unable to pay its debts as they fall due, or enters into debt counselling or attempts to compromise with its creditors, or enters into an arrangement, compromise or a composition with or for the benefit of its creditors, or commits an act of insolvency; or
 - 14.1.5. either Party fails to pay any amount(s) due to any other person(s) whomsoever and from whatsoever cause in an amount(s) in aggregate in excess of 3% of the defaulting party's Net Asset Value and, as a result of such failure the other person(s) become(s) entitled to demand payment of an amount(s) that was/were otherwise not yet due.
- 14.2. If the Client is in breach, the Bank may do the following:
- 14.2.1. any amounts outstanding will become due and payable immediately in terms of any Transactions concluded;
 - 14.2.2. the Client will be responsible for the loss incurred by the Bank as a result of the Client's breach of a provision of the Terms and Conditions;
 - 14.2.3. the Bank has the right to immediately cancel the Transaction and to claim damages from the Client; and/or
 - 14.2.4. the Bank has the right to immediately demand specific performance and/or is entitled to stipulate an early termination date with regard to all Transactions then in existence, by written notice to the Client.

15. Certification of indebtedness

- 15.1. A certificate signed by any manager of the Bank (whose appointment and designation need not be proved) as to any of the Client's indebtedness in terms of any Transaction/s, or as to any other fact, shall be prima facie evidence of the Client's indebtedness to the Bank, or of such other fact, for the purpose of any application; action; judgement; order, or for any other purpose whatsoever.

16. Government law

- 16.1. These Terms and Conditions will be governed, construed and take effect in all respects in accordance with the laws of Guernsey and South Africa.
- 16.2. The Client agrees that the Bank may bring legal proceedings against the Client relating to these Terms and Conditions in any Magistrate's Court in South Africa that has the authority to hear and decide on the case (this authority is called jurisdiction). The Client agrees to the jurisdiction of the Magistrate's Court even if the amount claimed from the Client is more than the Magistrate's Court limit. This does not prevent the Bank from bringing legal proceedings in a higher court that has jurisdiction, at the discretion of the Bank.

17. Consent to disclosure of information

- 17.1. By making use of the Bank's Foreign Currency dealing products, the Client consents to the Bank providing information about: these Terms and Conditions; the Client's breach of the Terms and Conditions; fraudulent activities to which the Client is a party to; the Client's application for Foreign Currency; and/or the Bank's termination of the Transaction.
- 17.2. This consent extends to any credit bureaux; different divisions within the Bank; fraud prevention schemes established by the Bank; and/or other banks. The Bank will only disclose the abovementioned information when it is necessary to preserve the rights and interests of the Bank, other banks, the financial industry or the public in general.

18. How we use your information/data protection

- 18.1. You can refer to our Privacy Notice located on the Bank's website for more information on our privacy practices.
- 18.2. The Bank will process (collect, use, store or otherwise deal with) the Client's Personal Information for the purposes of providing the services. The Personal Information will be processed in accordance with the Bank's privacy notice which may be accessed on the Bank's website and the requirements of applicable law.



- 18.3. The Client must be authorised to provide any Data, including Personal Information, of Data Subjects to the Bank. In doing so, the Client indemnifies the Bank against any losses, damages or costs suffered by or claims made against the Bank as a result of the Client not having the required authorisation.
- 18.4. The Client warrants that all Data, including Personal Information, provided to the Bank is accurate, complete and correct and undertakes to notify the Bank should this Data change in any way.
- 18.5. The Bank will secure the integrity and confidentiality of such Personal Information by taking appropriate, reasonable technical safeguards against any loss or unauthorised destruction of, damage or unlawful access to, or unauthorised use of such Personal Information.
- 18.6. Neither Party will be responsible for the security of Data during transmission via public telecommunications facilities or services, provided that where security protocols are specified, these have been adhered to.

19. Product specific terms and conditions

The Product Specific Terms and Conditions have to be read in conjunction with the General Terms and Conditions detailed above.

- 19.1. **SWIFT** - The transfer of funds between accounts held at FNBCI will be regarded as a SWIFT transaction. This will include transfers between accounts in the Client's name, international based beneficiaries, as well as payments from the Client's account to that of another FNBCI Client's account.

19.1.1. Inward Payment Transfers

- 19.1.1.1 When receiving funds from abroad the Client's account will be automatically credited. Should the funds be returned to the originating bank, the Client will be responsible for the costs and fees involved therein.
- 19.1.1.2. Transactions will only be processed if all required information for the Transaction has been completed.
- 19.1.1.3. The Client's Nominated Bank Account will be credited as soon as the Transaction has been processed and approved by the Bank.
- 19.1.1.4. A Client will be charged fees for carrying out inward payment transfers. These will be debited from the Client's Nominated Banking Account and may change from time to time.

- 19.1.1.5. Where an inward payment transfer is made in a currency other than that of the beneficiary FNBCI account, the incoming funds will be converted to the currency of the account and an applicable fee may be charged for this conversion.

- 19.1.1.6. The Bank strongly encourages that payments to FNBCI be made in the same currency as the beneficiary account to avoid incurring additional fees.

- 19.1.1.7. In the event that an inward payment to FNBCI is not denominated in the same currency as the currency of your account, the payment may be rejected. Under certain circumstances, and at the discretion of FNBCI, the payment may be accepted. Should such a payment be accepted, you may incur additional charges due to a currency conversion process which is required to clear the funds into your account. The currency conversion shall take place at an applicable exchange rate referenced by FNBCI at the time and date of conversion. Any additional charges will be debited to the account receiving the deposit, and the Bank will not be held liable for any losses or damages you may suffer as a result of these additional charges being applied, or, as a result of the conversion that is required including any resultant delay in the crediting of your account.

19.1.2. Outward Payment Transfers

- 19.1.2.1 The Client may not transfer funds to an offshore account held in the Client's name without providing the Bank with the requested documentation/information, if required. Should the Client not be able to provide the Bank with the requested information/documentation and the Client wishes to cancel the Transaction as a result thereof and/or amend or cancel the Transaction due to the Client no longer wishing to proceed with the Transaction, the Client will be held liable for any costs incurred as a result thereof i.e. exchange rate movement costs etc. You will be charged fees for carrying out outward payment transfers. These will be debited from your Nominated Account and may change from time to time.



20. Channels

The Channel Specific Terms and Conditions have to be read in conjunction with the General Terms and Conditions detailed above, the Remote Banking terms and conditions, the FNBCI Banking terms and conditions and any other terms and conditions applicable to the products and services utilised by the Client.

20.1. Online

- 20.1.1. The Bank will provide the Client with the ability to purchase and sell Foreign Currency online, via the Bank's online banking platform and banking app, provided that the Client has a Transactional account with the Bank and the Client is registered to use the online banking platform or banking app. Clients will also be able to transfer funds between accounts held at FNBCI through Online Banking or the banking app.
- 20.1.2. The online banking platform and banking app are only available for the currencies listed from time to time on the Bank's website.
- 20.1.3. The exchange rates quoted by the Bank are updated as market conditions prescribe.
- 20.1.4. By accepting the online quote, the Client agrees to purchase the Foreign Currency at the exchange rate quoted at the time of the Client's application.
- 20.1.5. None of the information provided in connection with the online service constitutes financial advice, nor should it be construed as financial advice. The Bank shall not be liable for any investment or other decisions made on the basis of the information provided or relied upon.