

These terms and conditions record the respective rights and obligations of the client and Investec in relation to the provision and usage of the Corporate Cash Manager system. **The client should ensure that they read and understand the terms and conditions and that special attention is paid to all terms printed in bold.**

1. Definitions

The following expressions have the following meanings:

- 1.1 **“account”** means a Corporate Cash Manager account opened for an end client, or the client, as the case may be, on the Corporate Cash Manager system;
- 1.2 **“agreement”** means these terms and conditions as well as the product rules, all as amended from time to time, including all notices and correspondence that Investec may send to the client;
- 1.3 **“applicable law”** means any of the following from time to time, to the extent it applies to any party: (i) any statute, regulation, policy, by-law, directive, notice or subordinate legislation; (ii) the common law; (iii) any applicable industry code, directive, policy or standard enforceable by law; or (iv) any applicable direction, policy or order that is issued by a regulator having the force of law;
- 1.4 **“Attorneys Act”** means the Attorneys Act, 1979;
- 1.5 **“business day”** means any day other than a Saturday, Sunday or official public holiday in South Africa;
- 1.6 **“Cash Manager guarantee”** means a fully cash-backed guarantee issued by Investec from time to time exclusively in the format required by in the Corporate Cash Manager system, and in accordance with the provisions of clause 6 (if applicable);
- 1.7 **“client”** means the person or corporate entity which Investec allows to make use of the Corporate Cash Manager system in order to open accounts;
- 1.8 **“Corporate Cash Manager system”** means the proprietary banking system owned by Investec, designed to facilitate and manage investments and other related transactions by a client on behalf of its end clients from time to time, as more fully described on the website;
- 1.9 **“corporate entity”** means any entity that is not a natural person;
- 1.10 **“CRS”** means the “Common Reporting Standard” as specified and required under the Tax Administration Act, 2011 for the automatic exchange of financial account information;
- 1.11 **“end client”** means any end client of the client with whom the client has concluded a trust account mandate and for whom an account has been opened or will be opened;
- 1.12 **“Estate Agency Affairs Act”** means the Estate Agency Affairs Act, 1976;
- 1.13 **“excluded account”** means an account that is not subject to the due diligence and reporting obligations in terms of the IGA and CRS regulations, issued under the Tax Administration Act, 2011;



- 1.14 **“FATCA”** means the US Foreign Account Tax Compliance Act;
- 1.15 **“FICA”** means the Financial Intelligence Centre Act, 2001;
- 1.16 **“IGA”** means the intergovernmental agreement that the South African and United States governments have concluded to improve international tax compliance and to implement FATCA;
- 1.17 **“insolvency event”** means the occurrence of any of the following events in relation to the client:
- 1.17.1 the client is wound-up, liquidated, deregistered or placed under business rescue, in any such event whether provisionally or finally and whether voluntarily or compulsorily, or the client passing a resolution providing for any such event and/or taking any procedural steps in relation to any such event;
- 1.17.2 the client is or becomes insolvent or commits any act which is or, if it were a natural person, would be an act of insolvency as defined in the Insolvency Act, 1936;
- 1.18 **“Investec”** means Investec Bank Limited and/or any duly appointed agent of Investec;
- 1.19 **“Investec brand”** means the name, logo, product description and or trademarks of Investec from time to time;
- 1.20 **“parties”** means Investec and the client;
- 1.21 **“personal information”** means personal information as defined in POPI;
- 1.22 **“POPI”** means the Protection of Personal Information Act, 2013;
- 1.23 **“process/processing”** has the same meaning assigned thereto in POPI;
- 1.24 **“product rules”** means the specific conditions applicable to the Corporate Cash Manager system, or an account, as the case may be;
- 1.25 **“sanctions”** means the economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by any sanctioning body;
- 1.26 **“sanction list”** means any of the lists of specially designated nationals or designated persons or entities (or equivalent) held by a sanctioning body, each as amended, supplemented or substituted from time to time and/or any other sanctions lists that Investec may from time to time deem necessary or be required to screen against;
- 1.27 **“sanctioning body”** means any one or a combination of the following entities:
- 1.27.1 the Office of Foreign Assets Control of the Department of Treasury of the United States of America;
- 1.27.2 the United Nations Security Council;
- 1.27.3 the European Union or any participating member state of the European Union;
- 1.27.4 Her Majesty's Treasury of the United Kingdom; and
- 1.27.5 any other sanctioning body of a foreign country in whose currency Investec may facilitate payment;



- 1.28 **“sanctioned country”** means a country which is subject to general sanctions or embargo by a sanctioning body;
- 1.29 **“sanctioned transaction”** means either the use by any end client or the client of amounts in an account for the purpose of financing directly or indirectly the activities of any person or entity which appears on a sanctions list or which is in a sanctioned country, and/or the contribution or making available of amounts paid from an account to any person or entity, if the relevant end client or client has actual knowledge that such person or entity intends to use such funds for the purpose of financing the activities of any person or entity which is in a sanctioned country and/or appears on a sanction list, in each case to the extent that such financing or provision of funds would be prohibited by sanctions;
- 1.30 **“security policy”** means Investec's computer security policy, as amended from time to time by Investec;
- 1.31 **“transaction”** means a transaction effected on an account including, without limitation, the opening and closing of the account, a deposit, withdrawal or transfer and, where applicable, an encumbrance for purposes of the issue of a guarantee and/or noting of a cession or a pledge in respect of the account;
- 1.32 **“trust account”** means a trust account opened in terms of the provisions of the Attorneys Act or the Estate Agency Affairs Act, as the case may be;
- 1.33 **“trust account mandate”** means a written contract of agency concluded between the end client and the client in accordance with clause 9;
- 1.34 **“website”** means www.investec.com.

2. Interpretation

- 2.1 The headings in these terms and conditions are for reference only and shall not affect the interpretation of any of the provisions to which they relate.
- 2.2 Words importing one gender include the other genders; words in the singular include the plural and vice versa; and natural persons include corporate entities.
- 2.3 A reference to legislation is a reference to the legislation as at the date of enactment of the legislation or as it is amended or re-enacted from time to time, and includes all regulations issued under that legislation.
- 2.4 The agreement shall be binding on and enforceable by the permitted assigns, curators, business rescue practitioners or liquidators of the client and reference to the client shall be deemed to include the client's permitted assigns or liquidators, curators, and business rescue practitioners as the case may be.
- 2.5 When any number of business days is prescribed in the agreement, same shall be reckoned exclusively of the first and inclusively of the last business day.



- 2.6 Should the day for the performance of any obligation in terms of the agreement fall on a day which is not a business day, then such obligation shall be performed on the immediately following business day.

3. Relationship between Investec and the client

- 3.1 Investec will not allow the client to use the Corporate Cash Manager system and shall not be bound in any manner to do so, until the client has duly completed, signed and submitted all forms and provided all supporting documentation required by Investec and all information contained therein has been verified and accepted by Investec. Investec may refuse to allow a client to use the Corporate Cash Manager system at its sole discretion.
- 3.2 The relationship of the parties shall be governed by the terms of the agreement and nothing herein contained shall be deemed to constitute a partnership, joint venture, agency or the like between them.
- 3.3 In using the Corporate Cash Manager system and in effecting any transaction relating thereto the client shall not act nor purport to act as the agent or mandatary of Investec.
- 3.4 It is recorded and agreed that:
- 3.4.1 the client is an attorney or an estate agent and wishes to utilise the Corporate Cash Manager system for purposes of opening trust accounts; and
- 3.4.2 the accounts opened for end clients shall be governed by the applicable provisions in the Attorneys Act or the Estate Agency Affairs Act, notwithstanding anything to the contrary contained in this agreement.
- 3.5 Prior to the operation of any account or the effecting of any transaction, and from time to time thereafter as required by Investec, the client shall furnish Investec with all necessary supporting documentation required by Investec and all documents, information, details, authorisations, approvals, licences and the like which the client is obliged to provide, in terms of applicable laws.
- 3.6 All accounts and any and all transactions shall be subject to the agreement as well as Investec's terms and conditions applicable to cash investment accounts, as amended from time to time, which can be viewed at www.investec.co.za/ci-t&c. The client is at all times responsible for reading and understanding the product rules relating to an account.
- 3.7 The client is responsible to ensure that all end clients receive the terms and conditions applicable to cash investment accounts, the product rules, account statements, and IT3(b) certificates. The client is also responsible to ensure that all end clients are at all times aware of all fees which may be applicable to a transaction.

4. Relationship between Investec and the end client

- 4.1 While Investec will primarily liaise solely with the client for the purpose of implementing the Corporate Cash Manager system, nothing in the agreement may be construed as preventing Investec from engaging directly with any of the end clients.



4.2 Investec is accordingly entitled to, without limitation, send statements to end clients in any medium, and obtain or confirm end client information to enable Investec to report appropriately and timeously to any regulatory authority. The client accordingly undertakes to accurately capture all end clients' email and postal addresses and other contact details on the Corporate Cash Manager System.

5. Accounts

5.1 With effect from the date on which Investec advises the client that it is able to do so, the client shall be entitled to effect transactions on accounts on behalf of end clients strictly in accordance with the trust account mandates and the terms and conditions of this agreement.

5.2 Investec will allocate separate accounts for each end client.

6. Cash Manager guarantees

6.1 If the client is an attorney, the client may advise Investec that it wishes to make use of functionality provided by the Corporate Cash Manager system to issue Cash Manager guarantees on behalf of end clients. Once Investec advises the client in writing that their request is approved, the provisions of this clause 6 shall apply.

6.2 The provisions of this clause 6 shall survive the termination of the agreement as long as there are outstanding obligations of Investec under a Cash Manager guarantee.

6.3 The client shall, in addition to the functionality described in clause 6.1, also be entitled to request Investec from time to time, to issue Cash Manager guarantees on behalf of end clients.

6.4 The client agrees that Investec shall only issue Cash Manager guarantees directly from the Corporate Cash Manager system, provided that:

6.4.1 in respect of immovable property related matters, the end client or his nominee is the purchaser of immovable property and is obliged, in terms of a valid agreement, to provide a guarantee to the seller of the immovable property or his nominee, to secure the payment of the whole or part of the purchase price thereof;

6.4.2 the information required in clause 6.5 below has been received by Investec, including such other information as Investec in its sole discretion requests;

6.4.3 Investec is satisfied that there are sufficient cleared funds standing to the credit of the applicable account; and

6.4.4 Investec is satisfied that the funds in the applicable account have been duly encumbered.

6.5 The client shall be obliged to provide the following information to Investec to facilitate the issuing of a Cash Manager guarantee:

6.5.1 the identity of the seller/registered owner of the immovable property;



- 6.5.2 the identity of the purchaser/end client;
 - 6.5.3 the description of the immovable property;
 - 6.5.4 a description of any other matters to be registered simultaneously with the transfer of the immovable property;
 - 6.5.5 the payee of the Cash Manager guarantee;
 - 6.5.6 the payee's account details;
 - 6.5.7 the amount of the Cash Manager guarantee;
 - 6.5.8 whether the Cash Manager guarantee is a 'plus' or 'minus' guarantee and the rate of interest applicable and the method of calculation thereof; and
 - 6.5.9 any other conditions for payment of the Cash Manager guarantee.
- 6.6 The client acknowledges that Cash Manager guarantees are only payable by means of interbank transfer to the account stipulated therein and upon due fulfilment of all conditions of the Cash Manager guarantee. The client further acknowledges that the transferring attorney or such other person as may be stipulated in the relevant Cash Manager guarantee is required to notify Investec of the registration of transfer of the immovable property and the fulfilment of all other conditions by no later than 12h00 on the date of such registration, failing which payment under the Cash Manager guarantee shall occur the next business day. It shall nevertheless at all times be the responsibility of the client to ensure that all the conditions of the Cash Manager guarantee have been met before Investec is obliged to effect payment under the Cash Manager guarantee. **In the event of Investec not being notified timeously of the fulfilment of the conditions of the Cash Manager guarantee, the client shall be liable to Investec and/or the end client for any additional interest payable to the payee of the Cash Manager guarantee, from date on which payment was due until the date on which payment is made to the payee, both days inclusive.**
- 6.7 Notwithstanding anything to the contrary contained in this agreement, Investec shall be entitled on written notice to the client, to decline to issue a Cash Manager guarantee if:
- 6.7.1 any of the information provided to Investec in terms of clause 6.5 is incorrect or insufficient;
 - 6.7.2 Investec is of the reasonable opinion that it would be likely to suffer any harm, loss or damages (whether financial or reputational) if the Cash Manager guarantee was issued.
- 6.8 The client acknowledges and agrees that, notwithstanding anything to the contrary contained in this agreement, Investec shall be entitled:
- 6.8.1 in its sole discretion, to withdraw any Cash Manager guarantee after date of issue on written notice to the client without giving any reasons therefore and without incurring any liability, except to the extent that any loss or damages were occasioned by the fraud or gross negligence of an employee of Investec. Investec undertakes, to the extent permitted under applicable law, to provide reasons for such withdrawal upon request from the client;



- 6.8.2 to enter into any discussions, negotiations or arrangements with the payee of the Cash Manager guarantee of any nature whatsoever (without derogating in any manner from Investec's obligation to make payment in accordance with the terms of a Cash Manager guarantee).
- 6.9 The client warrants that the end client has provided the client with the necessary authority and instruction (contained in the trust account mandate, or otherwise) to:
- 6.9.1 arrange for the issue of the relevant Cash Manager guarantee and to utilise the funds standing to the credit of the relevant account, in order to enable Investec to effect payment under the Cash Manager guarantee ("Guaranteed Funds");
- 6.9.2 cede and pledge to Investec on the basis as set out in clause 6.10, all of the end client and/or the client's rights to the Guaranteed Funds as security for the obligations in terms of clause 6.10 and to provide Investec with an irrevocable power of attorney as if in its own cause (in rem suam) as contemplated in clause 6.11.
- 6.10 The client hereby undertakes to transfer and/or make available the Guaranteed Funds. As security for this obligation, the client hereby irrevocably and unconditionally cedes and pledges in securitatem debiti to Investec all of the client and the end client's present and future rights, title and interest in and to the Guaranteed Funds ("Security Cession") which Security Cession shall continue for as long as there are any outstanding obligations of Investec under a Cash Manager guarantee.
- 6.11 The client hereby provides Investec with an irrevocable power of attorney as if in its own cause (in rem suam) and irrevocably authorises Investec pursuant to the undertaking referred to in clause 6.10 and the Security Cession to appropriate the Guaranteed Funds solely for the purposes of fulfilment of Investec's obligations under the Cash Manager guarantee.
- 6.12 If the client is required to arrange a Corporate Cash Manager guarantee, in respect of which interest is payable, the client shall ensure that there are sufficient funds standing to the credit of the relevant account to meet payment of the Guaranteed Funds and the interest. **If Investec is not satisfied that there are sufficient funds in the account, Investec shall be entitled in its sole discretion to limit the total amount payable under the Cash Manager guarantee, to the amount standing to the credit of the relevant account, notwithstanding the client's instructions to the contrary. Investec will at no time be liable for any shortfall under a Cash Manager guarantee.**

7. Security policy

- 7.1 The client warrants that it will comply with Investec's security policy, as provided to it by Investec from time to time, at all times during the currency of the agreement.
- 7.2 Investec may from time to time update the security policy and will notify the client of such updates.



8. Investec brand

- 8.1 The client shall not be entitled to use the Investec brand or mention Investec's name (other than to comply with applicable law), whether in printed, video, audio or digital form, without Investec's prior written consent.
- 8.2 Investec reserves the right to either provide the client with the artwork in respect of the Investec brand or to provide the client with guidelines (including measurements and specifications) for the correct use of the Investec brand.
- 8.3 Notwithstanding the aforesaid, Investec may at any time require the client to remove all reference to Investec's brand from its website or other material.

9. Trust account mandates

The client shall not be permitted to utilise the Corporate Cash Manager system for any transactions unless it has concluded a trust account mandate with its end client which, in addition to all such other provisions as may be usual or customary to mandates of this nature, confirms that the client is authorised to invest the end client's money in terms of the relevant provisions of the Attorneys Act or the Estate Agency Affairs Act, as the case may be, utilising the Corporate Cash Manager System.

10. Documentation, retention and access

- 10.1 The client undertakes to retain all trust account mandates concluded with its end clients and all supporting documents relating to the information collected in terms of clause 11 for a period of at least seven years (or longer as advised by Investec from time to time if required by applicable law) from date of the last transaction with each end client or date of termination of its relationship with each end client, as applicable, and undertakes to furnish true copies thereof to Investec as soon as possible but no later than one business day after a request is received from Investec.
- 10.2 The client hereby gives Investec or its nominee or agent free and easy access to its trust account mandates and to the documentation collected and recorded in terms of its obligations under clause 11, and for these purposes will allow Investec at all reasonable times to conduct onsite visits to:
- 10.2.1 inspect such records; and
- 10.2.2 audit the client's compliance with all applicable laws and the provisions of the agreement.
- 10.3 Investec shall be entitled to conduct batch sample testing on such reasonable terms as Investec may determine in order to determine compliance by the client.

11. Regulatory compliance

- 11.1 The client undertakes to capture correctly and fully all end client information that Investec indicates as being mandatory to capture onto



the Corporate Cash Manager system in respect of each end client. Investec may from time to time, in its sole discretion, update which information is mandatory to capture.

- 11.2 Investec reserves the right to require that further information be captured onto the Corporate Cash Manager system, after an account has already been opened for an end client, in order to comply with applicable law.
- 11.3 The client agrees to procure that, **prior to opening an account for an end client**, the end client completes and signs the Investec form entitled "Tax Related Information Form" (or any similar form that Investec provides the client with from time to time) or the client's own form which includes all the fields and declarations in the Investec Tax Related Information Form. The client shall retain all Tax Related Information Forms in terms of the provisions of clause 10 and/or shall provide Investec with the original or a copy thereof forthwith upon the account being opened for an end client.
- 11.4 Where Investec advises the client that an account is an excluded account, or where the Corporate Cash Manager system allows the client to make this determination, the Tax Related Information Form is not required to be completed. Investec will from time to time advise the client which account types are excluded accounts and may in its sole discretion revoke such determination. The client undertakes to obtain and retain all documents and information used to support the determination that the account is an excluded account and acknowledges that Investec may be required to request this information and/or copies of such documentation for verification or reporting purposes. Where Investec has revoked its determination that an account is an excluded account, Investec will notify the client and the client undertakes to obtain a current, completed and signed Tax Related Information Form within 30 days from such notification. Where the client becomes aware that an account no longer meets the criteria for an excluded account, the client must notify Investec forthwith.
- 11.5 The client acknowledges that, in compliance with the IGA, CRS or any other applicable law, Investec may be required to report details relating to an end client or an account (including a status of non-compliance where Investec is not in receipt of the required documents and/or information) to the relevant authorities and the client undertakes to ensure that end clients are made aware of this. The client further acknowledges that Investec may suspend an account that is not an excluded account, until a valid and signed Tax Related Information Form is received to Investec's satisfaction.
- 11.6 The client acknowledges that, in order to timeously furnish all relevant authorities with required information, Investec may contact end clients directly to obtain all and any information and/or supporting documents and/or verification of same.
- 11.7 The client shall further ensure that, in compliance with POPI, end clients are directed to take note of Investec's data protection statement on the website.
- 11.8 The client undertakes to keep all information collected and recorded in terms of this clause 11 accurate and up to date and undertakes to update the Corporate Cash Manager system from time to time.
- 11.9 Investec shall process the information captured by the client onto the Corporate Cash Manager system in accordance with applicable laws.



11.10 Warranties and undertakings relating to regulatory compliance

- 11.10.1 The client warrants to and in favour of Investec as a material warranty inducing Investec to enter into the agreement that:
- 11.10.1.1 it is an accountable institution as defined in FICA and is duly registered with the Financial Intelligence Centre;
 - 11.10.1.2 it has a documented risk management and compliance programme as required by FICA;
 - 11.10.1.3 it shall:
 - 11.10.1.3.1 comply with part 1 of Chapter 3 of FICA regarding customer due diligence and the identification and verification of end clients;
 - 11.10.1.3.2 comply with sections 22 and 22A of FICA regarding the obligation to keep records;
 - 11.10.1.4 upon request by Investec, it shall provide:
 - 11.10.1.4.1 written confirmation to the satisfaction of Investec, that it has established and verified the identity of the end client in accordance with the prescribed requirements under FICA; and
 - 11.10.1.4.2 copies of the records held by the client in accordance with FICA, which records must be capable of being reproduced in a legible format;
 - 11.10.1.5 where the account is not an excluded account, it will not open an account for an end client unless it is in possession of a completed and signed Tax Related Information Form;
 - 11.10.1.6 all information captured by the client onto the Corporate Cash Manager system will be true and correct in all respects; and
 - 11.10.1.7 it does comply and will continue to comply with all applicable laws for the duration of this agreement.
- 11.10.2 The client undertakes to notify Investec forthwith in writing in the event that it has knowledge or forms a reasonable apprehension that any of its warranties in clause 11.10.1 or elsewhere in the agreement are or may be inaccurate, untrue or incorrect in any manner and for any reason whatsoever provided that such notice shall not in any manner whatsoever prejudice Investec's rights in respect of any breach of the warranties in the agreement nor create any duties or obligations on the part of Investec in relation thereto.**



12. Sanctions

- 12.1 The client acknowledges that Investec reserves the right to conduct the necessary due diligence in respect of all end clients to ensure that they are not on any sanction list, not located in any sanctioned country and that the account is not used to directly or indirectly finance or fund a sanctioned transaction. The client acknowledges that Investec reserves at all times the right to close such an account forthwith and that Investec shall in accordance with applicable laws be entitled to freeze property and transactions.
- 12.2 The client undertakes to comply with all applicable laws in relation to compliance with sanctions and to advise Investec of all information that comes to its knowledge regarding breach or potential breach of sanctions by any end client.
- 12.3 The client warrants that it is not on any sanction list and is not registered or has a place of business in a sanctioned country.

13. Transaction requirements

- 13.1 For electronic transactions, the client shall ensure that only those representatives who are authorised to do so have access to the Corporate Cash Manager system and undertakes that all information entered into the system shall be true and correct.
- 13.2 In effecting any transaction the client undertakes to comply with:
 - 13.2.1 this agreement; and
 - 13.2.2 the terms and conditions referred to in clause 3.6.

14. Computer hardware and software

- 14.1 In the event that Investec supplies the client with any computer hardware or software, all such hardware, the intellectual property rights in respect of the software and all related components and materials of such hardware or software shall remain the property of Investec. Any installation and/or use thereof shall be at the client's own risk and expense and, in relation to the software, shall be subject to the terms of any applicable software license agreements, provided that the terms of the agreement shall prevail in the event of any conflict between such software license agreements and the agreement.
- 14.2 The client shall not be entitled to use the hardware for any purpose other than that contemplated in the agreement and shall not reverse engineer the software in any manner nor make nor permit to be made any reproductions of the software (except to the extent necessary to produce back-up copies), or modifications, changes, enhancements, maintenance or upgrades to the software or hardware, as applicable, without Investec's prior written consent first being had and obtained.
- 14.3 On termination of the agreement for any reason whatsoever, the client shall be obliged to return the hardware, including all related components and material thereof and all copies of the software documentation and other related components and materials thereof to Investec on demand.



- 14.4 On termination of the agreement for any reason whatsoever, the client shall be obliged to remove all references to Investec from any of its marketing material and website.

15. Warranties

- 15.1 The client hereby warrants to and in favour of Investec as a material warranty inducing Investec to enter into the agreement that:
- 15.1.1 it has the necessary capacity, powers and authority to enter into the agreement and any person signing on its behalf or effecting transactions is duly authorised and empowered to do so; and
 - 15.1.2 it has sufficient insurance cover (whether fidelity insurance or otherwise) in respect of all such risks as may be reasonable in relation to the Corporate Cash Manager system and undertakes to provide proof thereof to Investec on request.

16. Security measures

The client hereby consents to Investec taking whatever security precautions it may consider necessary in relation to usage of the Corporate Cash Manager system, including recording of telephone conversations with or without use of an automatic tone warning device. Any recordings shall be and remain the sole property of Investec and the client agrees that Investec may deliver copies or transcripts of recordings to any court or regulatory authority. Investec is not required to maintain copies of such records and transcripts.

17. Information sharing

- 17.1 Investec may only share any information obtained by Investec in terms of the agreement with any person in accordance with applicable laws and as may be appropriate at Investec's reasonable discretion with the prior written consent of the client (which shall not be unreasonably withheld) unless required to do so in terms of any applicable law.
- 17.2 Any personal information pertaining to an end client which is held by Investec pursuant to the agreement or otherwise, shall be held subject to such rights of access to which the end client may be entitled and Investec shall be entitled to inform end clients of such rights from time to time in accordance with applicable laws.

18. Indemnities

- 18.1 **The client hereby indemnifies Investec and holds it harmless against any loss, damage, expense, penalty, claim, fine, tax or liability which may be sustained or incurred by Investec or any end client or other person arising (whether directly or indirectly) out of the breach by the client of the agreement (including a breach of any warranty) or arising from any lack of authority of the client or its employees on behalf of such end client, except to the extent that such loss was occasioned by the fraud or gross negligence of an employee of Investec.**



- 18.2 The client hereby indemnifies Investec against any loss that may be incurred as a result of the client drawing against uncleared funds or funds where the normal clearance periods were waived by Investec.**
- 18.3 Investec shall not be responsible and disclaims all liability for any loss, damage, liability or expense of any nature whatsoever which may be suffered by the client or the end client or a third party as a result of or occasioned by the failure by Investec to perform or process any transaction as a result of the loss or destruction of data, hacking, computer viruses, use of system in a non-secure environment, power failures, natural phenomena, riots, acts of vandalism, sabotage, terrorism, failure or unavailability of third party systems or by any inability of any third party to process a transaction or any other event beyond Investec's control, except to the extent that such loss was occasioned by the fraud or gross negligence of an employee of Investec.**
- 18.4 The client further indemnifies Investec against any claim against it arising from the client conducting its business telephonically or by way of facsimile.**

19. Suspension and withholding

- 19.1 Investec is entitled at its sole discretion, and without notice to the client or the end client, to suspend the client's access to the Corporate Cash Manager system, to terminate this agreement and/or to withhold payment of any amount held in any account in the system or to refuse to process a transaction, if it reasonably suspects that the funds, or any part thereof, are the proceeds of a crime or result from any criminal activity or if the client is in breach of any of its warranties in terms of the agreement or if the client, end client or transaction is in contravention of any applicable law.
- 19.2 Investec shall be entitled in its discretion, to suspend the opening of any new accounts and/or to withdraw or limit access to any Investec product and/or service used by the client, on not less than 20 business days' written notice to the client.

20. Dispute resolution

- 20.1 Should any dispute, disagreement or claim arise between the parties (called hereafter "the dispute") concerning the agreement, the parties shall endeavour to resolve the parties dispute by negotiation.
- 20.2 This entails one of the parties inviting the other or others in writing to meet and to attempt to resolve the dispute within 14 days from date of written invitation.
- 20.3 If the dispute has not been resolved by such negotiation within 14 days of the commencement thereof by agreement between the parties, then the parties shall submit the dispute to mediation on the basis that:
- 20.3.1 the Mediator will be a Senior Counsel agreed to by the parties within three business days of receiving written notice of mediation, failing which a Senior Counsel determined by the Chairman for the time being of the Johannesburg Bar Council;
- 20.3.2 the Mediator shall act as an expert and not an arbitrator; and



- 20.3.3 the decision of the Mediator shall become final and binding within 14 days of delivery thereof to the parties, unless one or either of the parties disputes the Mediator's decision by written notice to the other party within the aforesaid 14 day period, in which event the dispute shall be referred to arbitration in accordance with the provisions of clause 20.4.
- 20.4 In the event of either of the parties furnishing its notice of dispute within 14 days of the Mediator's decision as envisaged in terms of clause 20.3 above, the dispute shall be submitted to arbitration for final resolution in accordance with the rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Arbitration Foundation of South Africa.
- 20.5 Unless otherwise agreed in writing by all the parties, any such negotiation, mediation or arbitration shall be held in Sandton.
- 20.6 The provisions of this clause shall not preclude either party from applying to the appropriate court of law for urgent interim relief.

21. Duration, termination and breach

- 21.1 The agreement shall terminate, subject to clause 21.3, on no less than 90 days' written notice of termination by either party which may be given for any reason whatsoever. Prior to the expiry of the 90 day period, the client shall close any and all accounts opened in terms of the agreement and shall ensure that all funds are transferred in accordance with any applicable law.
- 21.2 From the date that written notice of termination is given in terms of clause 21.1:
- 21.2.1 the client shall not be allowed to open new accounts on the Corporate Cash Manager system; and
- 21.2.2 no new Cash Manager guarantees shall be requested in respect of existing accounts.
- 21.3 If the client is in breach of any of the obligations, undertakings and/or warranties contained in the agreement, and if such breach is capable of being remedied, such breach as not been remedied to the satisfaction of Investec within five business days from the date of written notice given by Investec to the client to remedy the breach, Investec shall be entitled, at its election, without prejudice to any other rights which Investec may have in terms hereof or at law, to cancel the agreement with immediate effect. In this regard, the parties agree that:
- 21.3.1 any fraudulent act or omission of the client; or
- 21.3.2 any contravention by the client of any applicable law; or
- 21.3.3 the occurrence of an insolvency event,
- will constitute a breach which Investec may regard, at its discretion, as not capable of remedy and the agreement may be cancelled by Investec with immediate effect on written notice to the client on the occurrence of any one or more of such events.
- 21.4 On cancellation of the agreement for reasons other than those set out in clauses 21.3.1 to 21.3.3, Investec agrees to facilitate the transfer of funds out of the Corporate Cash Manager system in accordance with



the reasonable instructions of the client, without prejudice to any rights it may have in law and subject to the provisions of any applicable law and/or any applicable product rules.

- 21.5 On cancellation or termination of the agreement for any reason, the client shall forthwith deliver to Investec any computer hardware, documentation, stationery and any other proprietary materials of Investec in its possession or control and undertakes to take all such steps and to sign all such documents as may be reasonably required for the purpose of implementing this clause.

22. Amendments

- 22.1 Investec may from time to time amend or substitute the agreement. Where this happens, Investec shall give the client at least 20 business days' notification by any means of either mail, telefax, electronic mail, Short Message System (SMS), message on the Corporate Cash Manager system, announcements on the Investec website or otherwise.
- 22.2 Investec shall not be liable for any loss occasioned by the client if the client does not receive notification of any amendment.**
- 22.3 Should the client not accept the amendment, the client shall be entitled to terminate the agreement in accordance with the provisions of clause 21.1.

23. Interest and charges

- 23.1 The client agrees that Investec determines and amends the interest rate applicable to accounts in accordance with the product rules.
- 23.2 In the event of any dispute as to the interest rate applicable to any account or any other amount levied in terms of the agreement, the client agrees that a certificate signed by any authorised signatory of Investec (whose authority it shall not be necessary to prove) shall constitute sufficient (prima facie) proof thereof for all purposes in connection with the agreement.

24. Cession

The client shall not be entitled to cede, assign, make over or transfer any of the client's rights or obligations in respect of or arising out of the agreement without the prior written consent of Investec. Investec may without notice to the client cede, assign, make over or transfer any of its rights or both its rights and obligations under the agreement to any person, firm or company.

25. Notices and correspondence

- 25.1 Notices or other correspondence may be given to the client by hand, post, telefax or e-communication to the address, telephone number or electronic mail address provided to Investec at the time of applying to Investec to use the Corporate Cash Manager system or as notified by the client in writing from time to time.



- 25.2 Correspondence sent to the client by Investec:
- 25.2.1 by post, will be deemed to be received on the 10th business day after the date of posting;
 - 25.2.2 by telefax, will be deemed to be received at the time when the telefax machine acknowledges receipt thereof; and
 - 25.2.3 by electronic mail, will be deemed to be received by the client on the next business day after sending.
- 25.3 Correspondence given by the client to Investec will be deemed to be received by Investec only when Investec acknowledges receipt thereof.

26. Jurisdiction

The agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa. The client hereby consents to the jurisdiction of the High Court of South Africa in respect of any disputes arising in connection with the agreement or any matter related to or in connection therewith.

