



Legal terms



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Definitions and interpretation

1.1. Definitions

In the agreement:

additional fee means a charge you must pay us for the supply of any services outside of a request, which charge must be made at our then current standard prices and rates, unless otherwise agreed in writing between the parties;

administrator means an authorised user in your employ who is authorised to provision, manage, and administer certain services;

AFSA means the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead);

agreement means the agreement between us and you, consisting of the terms and any requests the parties enter into;

authorised user means you or a user in your employ where you are a juristic person, who has been assigned credentials;

business day means any day other than a Saturday, a Sunday, or a holiday (including a public or bank holiday) in the jurisdiction where our entity that entered into the relevant request is organised;

business hours means our normal business hours on business days;

calendar day means a day counted from midnight to midnight. It includes all days of the month, including weekends (Saturday and Sunday) and public holidays.

contract year means, in respect of a request, each successive 12 calendar month period during the term of the request, calculated from the effective date;

credentials means a unique user ID and password that has been assigned to an authorised user;

dashboard means the section on any of our Sites accessible by you through the use of your credentials;

device means any computer or other electronic device that you may be using including any laptops, mobile phones, or tablets;

effective date means in respect of each request, the effective date stipulated in each request, in the absence of which it will be the date the request is accepted by us;

existing material means any code, forms, algorithms or materials developed by or for either party independently and outside of the agreement and provided during the course of the agreement;

fees means the fees, charges, or purchase consideration that you will pay to us in respect of services we provide under requests;

'jailbroken' or 'rooted' device means that the operating system installed on the device by the manufacturer has been modified by a party other than the manufacturer or outside the manufacturer's allowances.

our technology means any technology that we have created, acquired or otherwise have rights in and may, in connection with the performance of our obligations under the agreement, employ, provide, modify, create or otherwise acquire rights in and includes any: concepts or ideas; methods or methodologies; procedures or processes; know-how or techniques; function, process, system, data, or object models; templates; the generalised features of the structure, sequence and organisation of software, user interfaces and screen designs; general purpose consulting and software tools, utilities, routines or frameworks; logic, coherence and methods of operation of systems; and patches or enhancements to open source libraries;

personnel means any representative, including any director, employee, agent, affiliate, consultant, or contractor;

related and related persons means natural and juristic persons who are connected to one another in the manner contemplated in applicable law;

request means a services request agreed to and signed by both the parties describing the specific services that we will provide to you;

services means any services we or related persons provide to you through the sites, under requests;

service levels means the levels according to which we will provide each service as agreed by the parties in writing and signed;

sign means the handwritten signature, an advanced electronic signature, or an electronic signature that the parties agree to use, of each of our duly authorised representatives;

signature date means the date of signature by the party signing last;

sites means collectively all of our websites, including the website available at the domain 'alexanderforbes.co.za', and all of our applications, including the Alexander Forbes mobile application or any other mobile or online application software that is provided by or is connected with us. This includes applications that you may install or download from an online application store and access via a mobile device, as well as applications that are accessed directly from a mobile device;

tax means any:

- tax (including value added tax, income taxes, pay-as-you-earn tax or other taxes levied in any jurisdiction);
- duty (including stamp duty);
- tariff, rate, levy; or
- any other governmental charge or expense payable;

terms means the terms, consisting of:

- these legal terms; and
- any other relevant specific terms, policies, disclaimers, rules and notices that the parties agree on, (including any that may be applicable to any specific services);

third party contractor means any contractor, supplier, licensor, or service provider of a part of the services, which is not a party to the agreement;

third party software means all third party software owned by a third party but legally licensed to us for use in providing the services;

we, us, or our means Alexander Forbes Group Holdings (Pty) Limited (Registration number: 2006/025226/06) and all of its direct or indirect subsidiaries, related parties and affiliates, the owner of the sites;

writing means the reproduction of information or data in physical form (includes handwritten documents, hard copy printouts and fax transmissions) or any mode of reproducing information or data in electronic form that the parties agree to use (such as PDF), but excludes information or data in the form of email;

you or your means:

- in the section titled 'Use of Sites' only – the visitor to any or our Sites, including any other person, website, business, or agent (including any virtual or robotic agent) associated with the visitor; and
- in the rest of these legal terms – the client or customer that enters into a request and, if specified in the request, those related to it;

your data means any data belonging to you or your client or customer (including information about an identifiable person) that:

- you or your client or customer (or any third party on your behalf) provide to us; or
- we generate, process, or supply to you or your client or customer in providing the services;

but excludes any derived data that we create for our own internal purposes or which is proprietary or confidential to us or our third party contractors;

1.2. Definitions in the request

Words defined (or assigned a meaning) in a request will have that meaning in the terms, unless the context clearly indicates otherwise.

1.3. Interpretation

All headings are inserted for reference purposes only and must not affect the interpretation of the agreement. Whenever “including” or “include”, or “excluding” or “exclude”, together with specific examples or items follow a term, they will not limit its ambit. Terms other than those defined within the agreement will be given their plain English meaning. References to any enactment will be deemed to include references to the enactment as re-enacted, amended, or extended. A reference to a person includes a natural and juristic person and a reference to a party includes the party’s successors or permitted assigns. Unless otherwise stated in the agreement, when any number of days is prescribed in the agreement the first day will be excluded and the last day included. The rule of construction that an agreement must be interpreted against the party responsible for its drafting or preparation does not apply. GMT +2 will be used to calculate any times.

1.4. Conflict

If there is a conflict of meaning between these terms and any request, the request will prevail in respect of the relevant goods or services.

2. Use of Sites

2.1. Application and agreement

This section applies to your use of our Sites, regardless of whether you register for any of our online services or not. They are the general terms of the relationship between us, as the owner of our Sites, and you, as a visitor to one or more of our Sites. This section covers all use of our Sites. You agree to be legally bound by this section merely by visiting any of our Sites. Please do not use our Sites if you do not agree to this section.

2.2. Licence

We grant you a limited licence to use our Sites on the terms in this section. We may cancel your licence at any time for any reason. Your licence is automatically cancelled if you do not get our written permission before using any of our Sites in a way that this section does not allow.

2.3. Breach

If you breach any of the terms in this section or infringe any other person’s rights (including copyright), we may cancel your licence, block you from using any of our Sites, claim specific performance or damages against you, and take any other steps the law allows, without affecting our rights.

2.4. Framing and linking

You may not frame any of our Sites or any of their pages. You may only link to the home page of any of our Sites. You may not deep link (link to any other page) or link in any way that could suggest that we endorse or support you, or that you have any rights in any of our Sites or intellectual property, unless we have given you permission to do so.

2.5. Virtual agents

You may not use any technology (including spiders, crawlers, bots, and similar virtual agents) to search or gain any information from any of our Sites, unless we have given you our permission to do so.

2.6. Capacity

You confirm that you are entitled to visit our Sites and agree to the terms in this section because you:

- are at least 18 years of age (or regarded as legally adult), and have the legal right and capacity to do so; or
- are not 18 years of age yet, but have permission from your parent (or legal guardian) to do so.

2.7. Accurate information

You warrant that you will only give accurate information to us and any of our Sites.

2.8. Intellectual property ownership

Except as provided to the contrary in the terms in this section, all right, title, interest, and ownership (including all rights under all copyright, patent, and other intellectual property laws) in, to, or of any of our Sites are our sole property or will vest in us or a third party licensor. All moral rights are reserved.

2.9. Trademarks

Our logo and sub-logos, marks, and trade names are our trademarks and no person may use them without our permission. Any other trademark or trade name that may appear on our marketing material is the property of its respective owner.

2.10. Restrictions

You may not change, hire out, reverse engineer, or copy any of our Sites without our permission.

2.11. Own risk

We provide our Sites 'as is'. We do not give any express or implied warranty or make any other warranties about our Sites. For example, we do not warrant that they are good quality, fit for any particular purpose, accurate, complete, up-to-date, legally effective or secure. We also do not warrant that they are free of latent defects, errors, malicious software or infringing content, or that you will have quiet or uninterrupted use of any of them.

2.12. Indemnity

You indemnify (or warrant to protect) us against any claim, demand, loss, damage, cost, or liability (including attorneys' fees on the attorney-client scale) related to your use of any of our Sites.

2.13. Faults

We will do our best to fix any faults in any of our Sites as soon as reasonably practical after we find out about them. This is the limit of our responsibility and liability for any fault in any of our Sites.

2.14. Direct damages excluded

We will never be responsible to you for any claims for direct damages related to your use of any of our Sites. This applies whether a claim is based on contract, delict (tort), or any other legal cause of action.

2.15. Indirect damages excluded

We will never be responsible for any indirect or consequential damages or losses related to your use of any of our Sites to the extent allowed by applicable law, even if we should have foreseen them. These may include any loss of profit, loss of goodwill, loss of use or damages related to lost or damaged data.

2.16. Other websites and applications

We are not responsible for your use of anyone else's websites or applications.

2.17. Changes to Sites

We may change or stop publishing any of our Sites without notice and will not be responsible for any consequences.

2.18. Changes to this section

We may change the terms of this section at any time by placing a notice on the relevant Site or updating these legal terms. If you do not agree with the change, you must stop using the relevant Site or the changed terms will apply to you.

2.19. Facts about Sites

If an administrator of the relevant Site signs a letter confirming any fact related to that Site, that letter is conclusive proof of its contents. These may include the version of the terms in this section that apply to any dispute, or what content or functions the relevant Site had at a particular time or date.

2.20. Disclaimer

The information on the site is not advice nor is it intended as a personal recommendation, guidance or a proposal on the suitability of any financial product or course of action as defined in the Financial Advisory and Intermediary Services (FAIS) Act. While care has been taken to present correct information, Alexander Forbes and its directors, officers and employees take no responsibility for any actions taken based on this information, all which require advice. Please speak to your financial adviser for tailored advice based on your individual financial needs before you make financial decisions based on this information. The graphs and charts on the site are for illustrative and information purposes only.

The information on the site belongs to Alexander Forbes. You may not copy, distribute or modify any part of the content without the express written permission of Alexander Forbes.

3. Application

The rest of these terms are the general terms of the relationship between us and you once you have registered for our online services (except for the section titled 'Community rules', which applies regardless of whether you have registered for any of our online services or not). The terms cover any transactions where we provide services to you. The commercial terms of any transaction will be contained in a request that will incorporate these terms. The request

will prevail if there is a conflict of meaning. Nothing in the terms obligates any party to enter into any requests.

4. Duration

The terms commence on acceptance and continue until terminated. Where the duration of this agreement is specified in a request, if you are a “consumer” for purposes of the Consumer Protection Act, you may terminate the relevant service prior to the expiry of the term on 20 business day’s written notice to us. However, we may charge you an early termination fee. The terms commence on acceptance and continue until terminated.

5. Requests

5.1. Capacity

You represent and warrant that you (and any person who places a request):

- are old enough under applicable law to enter into the agreement;
- are legally capable of concluding any transaction;
- possess the legal right, full power, and authority to enter into the agreement;
- are authorised to use the credentials required for any account; and
- will submit true, accurate and correct information to us.

If you are younger than 18 years of age, you warrant that you have the consent of your legal guardian to enter into the agreement or that you have obtained legal status in another manner.

5.2. Invitation to do business

The marketing of the services by us is merely an invitation to do business or for you to place a request to procure services. The parties only conclude a valid and binding request when we accept the offer made by you. We only accept an offer relating to services, when we begin providing the services. We may accept or reject any offer. If we do not accept any offer, then we will refund any monies already paid by you.

5.3. Deemed request

You will be deemed to have placed a request in regard to services when you start consuming any services you have requisitioned automatically from the dashboard. Where the services are paid services, you agree that each click of a button to requisition a service constitutes a billable event.

5.4. Cancel

Unless otherwise agreed, we may cancel any request at any time in our absolute discretion. We will refund any monies already paid by you.

5.5. Fees

Despite our best efforts, the stated fees may be incorrect. We will confirm the fees for any services when we accept your offer.

5.6. Time and place

The parties conclude any agreement between themselves at the time when our duly authorised representative accepts the relevant request and at the place where we have our head office. We do not need to communicate the acceptance of the offer to you.

5.7. Requests

The terms in effect at the time you make an offer will govern the request. Each request will create a separate agreement. Despite that, we may consider the breach of any one request to constitute a breach of any or all requests.

5.8. Availability

We may not always have the services on which you make offers available. If the services are not available, you may cancel the offer or make another offer on the part of the services that are available.

6. Online services

6.1. Registration

Each authorised user must provide their member or personal details, their contact details, and any other information requested by us to complete the registration process.

The required member or personal details may include:

- title;
- initials;
- first name;
- middle name;
- surname or last name;
- date of birth;
- gender;

- marital status;
- identifier or identity type;
- identity or passport number;
- whether they are a smoker;
- planned or targeted retirement age; and
- number of dependants.

The required contact details may include:

- preferred contact method;
- convenient contact time;
- email address;
- telephone number;
- mobile number;
- fax number;
- postal address; and
- postal code.

6.2. Access

Only authorised users may access the services by using the credentials issued to them.

6.3. Authorised user obligations

Each authorised user agrees:

- to keep their credentials secure;
- not to provide access to any person other than an authorised user;
- not to interfere with the functionality or proper working of the service;
- not to introduce any viruses, worm, logic bomb, trojan, wares, potentially unwanted program (PUP) or other malicious software into the service; and
- not use the service for direct marketing, spamming, unsolicited communications, or other advertising or marketing activities prohibited by applicable law.

6.4. Administrator obligations

Each administrator agrees:

- not to use bots or other automated methods to register authorised user accounts;
- to only create one account per email address per authorised user;
- to make a list of all authorised users available to us on request;
- to immediately notify us in writing of any lost credentials by an authorised user;
- to ensure that authorised users who are no longer authorised to use the service do not use the service;
- to notify us of any known breach of our privacy policy;

- to take reasonable measures to ensure that authorised users do not introduce any viruses, worm, logic bomb, trojan, wares, potentially unwanted program (PUP) or other malicious software into the service.

6.5. Security

Each authorised user is responsible and liable for activities that occur under their account. You authorise us to act on any instruction given by an authorised user, even if it transpires that someone else has defrauded both us and you, unless you have notified us in writing prior to you acting on a fraudulent instruction. We are not liable for any loss or damage suffered by you attributable to an authorised user's failure to maintain the confidentiality of their credentials. We are not liable for any loss or damages suffered by you if you use a 'jailbroken' or 'rooted' device to access our Sites or services.

6.6. Digital client or customer records

- Alexander Forbes confirms and warrants that digital, electronic or similar records displaying values are for illustrative purposes only.
- These illustrative values are based on the latest available unit prices or interest rates.
- All benefit payments will be subject to applicable and relevant legislation from time to time and paid in accordance with the rules of the legal entity.
- Values are reflected in the currency of the country that the legal entity is registered in and of which you are a member.
- The retirement savings value represents the total amount of assets held in the legal entity in your name currently administered by Alexander Forbes and may include values from retirement products, administered by other registered service providers, which you may have added on the Alexander Forbes digital platform.
- The other savings value may include values from non-retirement funding products, administered by other registered service providers, which you may have added or modified on an Alexander Forbes digital platform.
- Alexander Forbes can only be responsible for the displaying of the illustrative values reflected on products administered by us. We are not responsible and cannot be held liable for values which have been added or modified.
- Alexander Forbes will not be responsible and cannot be liable for ANY decisions you make based on these illustrative values.

7. Services

7.1. Not advice or an intermediary service

The services that we provide through our Sites are general in nature and do not amount to advice or an intermediary service in terms of the Financial Advisory and Intermediary Services Act 37 of 2002 (FAIS), unless we explicitly say otherwise in writing. They are intended to supplement, but not replace, the services of a financial advisor. The services cannot determine whether a particular financial service or product will be appropriate or beneficial to you. Please talk to a financial advisor before signing up for a particular financial service or product.

7.2. Additional products or services

Any additional products or services that we or others provide to you through our Sites are subject to confirmation and their own legal terms whenever the parties finalise the relevant transaction.

7.3. Links

We may provide you with links to other websites or applications as part of the services. We do so for your convenience and in no way imply that we endorse or are associated with the linked website in any way.

7.4. Grant of right

We grant you a limited, non-exclusive, non-transferrable, revocable right to use our services in accordance with the terms and the terms of any third party agreement. Any person wishing to use the services contrary to the terms or third party agreement must obtain our prior written consent.

7.5. Consent to monitoring

You consent to us monitoring your use of the service for security purposes and to ensure that the service is always running and functioning as it should.

7.6. Service levels

We will provide the services to you at the service levels. We may communicate the service levels to you in writing from time to time, but are under no obligation to do so.

7.7. Third party content

Third parties external to our organisation may provide some of the information, content, or tools available through the Sites. These third parties may include independent practitioners in the financial services industry. We are not responsible and cannot be held liable for any information, content, or tools that these third parties provide.

7.8. Third party software

Some software used in our services may be third party software that we will make available to you in accordance with third party software license terms. You agree that the use of the services is subject to these third party software license terms and that they may change from time to time. Please note that there may be provisions in the third party software license agreement that expressly override some of these terms.

8. Your data

8.1. Protecting your data

We take the protection of your data very seriously and will do our best to ensure that it is not damaged, compromised, or lost in any way. However, you store your data on our system at your own risk and we are not responsible for any of your data stored on our system to the extent allowed by applicable law.

8.2. Location of your data

We are able to provide the services in multiple locations from equipment that is located in different countries. Your data will remain in whatever location we place it initially, unless we have to transfer it across a country border to enable us to comply with our obligations under the agreement.

8.3. Privacy and data protection

8.3.1. Legal obligations

We are responsible for complying with our obligations and you are responsible for complying with your obligations under applicable laws governing your data. We both acknowledge that we are not investigating the steps the other is taking to comply with any applicable privacy and protection of data or personal information laws.

8.3.2. Responsible party

You remain the responsible party for determining the purpose and means of our processing of your data to the extent allowed by applicable law, including that processing will not place us in breach of any laws.

8.3.3. Cross-border transfers

You consent to us transferring your data across a country border to enable us to comply with our obligations under the agreement.

8.3.4. Indemnity

You agree to indemnify, defend, and hold us harmless (and those related to us and our personnel, co-branders or other partners) from and against any claim, demand, loss, damage, cost, or liability (including legal costs) arising out of or relating to you failing to comply with your obligations under this clause. If permissible under applicable law, legal costs will be on an attorney and own client basis.

8.4. Access

On your reasonable written request, we will provide you with the information that we have regarding your data and its processing that is necessary to enable us to comply with our obligations under this clause and the applicable laws. You will reimburse us for our reasonable charges for our assistance.

8.5. Preservation of integrity of your data

Both of us will take reasonable precautions (having regard to the nature of each of our obligations under the agreement), to preserve the integrity of your data and prevent any unauthorised access, corruption or loss of your data.

8.6. Records

You agree that our records are prima facie evidence of the services provided to you.

9. Security of Sites

9.1. Our security responsibilities

We will ensure that:

- We host our Sites in secure server environments that uses firewall and other advanced security measures to prevent interference or access from outside intruders.
- Our Sites that we make available to you use advanced security measures in their design and configuration to prevent interference by or access from outside intruders.
- For your convenience, we host certain Sites in the form of Alexander Forbes applications in electronic stores including the Google Play Store and Apple iStore, which are downloadable at your convenience under their legal terms.
- The information you give to us that is stored on or passes through our systems is protected. We use encryption to protect the personal information you give us where appropriate.
- The links from our systems to systems under the control of third parties are secure.
- We perform regular backups of data to ensure it can be recovered in the case of a disaster.

9.2. Our security disclaimers

Please note the following:

- The third parties whose systems we link to are responsible for the security of information while it is collected by, stored on, or passing through the systems under their control.

- We will use all reasonable measures to ensure that our Sites and your information is not compromised. However, we cannot guarantee that no harmful code will enter our Sites (for example viruses, bugs, trojan horses, spyware or adware). You should be aware of the risks associated with using websites and applications (addressed below).
- If you experience a problem or loss that is caused by information you provided to us, your device, being compromised in some way, or by something beyond our control, we cannot take responsibility for causing the problem. This includes, for example, your device being compromised as a result of it being 'jailbroken' or 'rooted'. We will, however, help you if we can.

9.3. Recommended security responsibilities

You should:

- Install and activate appropriate security software on your device. This should include anti-virus, anti-spyware, and anti-spam software.
- Run regular scans of your device for viruses where applicable.
- Update your security software to ensure you are always running the current version.

9.4. Additional security responsibilities

Other steps you should take to help protect your device include:

- Check your Internet browser's security settings for ways to make your browsing more secure.
- Make sure that you have entered secure pages when filling in your sensitive personal information. Look for a small yellow lock commonly seen at the bottom right of your browser and check to make sure that 'http' changes to 'https' in the address bar.
- Log out after you have transacted electronically.
- Ensure that you are using the latest application version as released on the electronic store.
- Regularly install internet browser and application updates when released.
- Ensure the necessary security of your device by utilizing functions such as device auto-lock and making use of biometric or pin access codes.
- Be aware of and take steps to mitigate the risks that you may face if you have 'jailbroken' or 'rooted' your device, including increased vulnerability to malware.

9.5. Protecting your password

You should:

- Never share your password with anyone.
- Never send your password via email.
- Never reveal your password to anyone on the phone.

- Regularly change your password (for example every 60-days or when you suspect that your password might have been compromised) and ensure that you report any incident of your password being compromised immediately.
- Never write passwords down and store them anywhere in your office or home. Do not store passwords in a file on a computer system or mobile devices (phone or tablet) without encryption.
- Do not use the 'Remember Password' feature of applications for example, web browsers.
- Make your password as strong as possible. E.g. use a combination of numbers, letters and special characters), and ensure that it is of a sufficient length, such as a minimum of 8-characters.

9.6. Secure URL

When accessing the Sites through your browser, you must only log in to your account from a page that begins with <https://online.alexanderforbes.co.za/>.

9.7. Phishing

We will never ask you to confirm your username and password or other sensitive information by clicking on any links in an email other than the email link we send you at registration to verify your email address. Be aware of 'phishing' attacks where criminals attempt to obtain your sensitive information by sending you an email, masquerading as an email from us, asking you to access your account or verify information via links in the email, or diverting you to a fake Alexander Forbes website or application. Please report any suspected phishing attacks to us immediately to prevent any harm to you or other users.

9.8. Contact us

Please report any suspicious or unauthorised activity relating to your use of our Sites to us directly, because it will help make our Sites as secure as we can. You can contact us on: ITSecurityReports@aforbes.co.za.

9.9. Our right to take action

We reserve the right to take whatever action we may deem necessary at any time to preserve the security and reliable operation of our system. You undertake not to do (or permit anything to be done) that may compromise the system under our control.

10. Intellectual property

10.1. Your data

You own all your data. We do not own your data or other third party content used as part of the services. All title, ownership rights and intellectual property rights in and to the content accessed through the services belong to you or the applicable content owner and may be protected by applicable copyright or other law.

10.2. Your data license

When you upload your data to any of our Sites, you give us a worldwide license to use, host, and store your data, solely for purposes of providing the services.

10.3. Retention of rights

We have created, acquired, or otherwise obtained rights in our technology and despite anything contained in the agreement, we will own all right, title, and interest in our technology.

10.4. Use of our technology

- If we utilise any of our technology in connection with our performance under a request, our technology will remain our property and you will not acquire any right or interest in it.
- To be able to access the digital service channels you must have the necessary hardware, software and access to third-party communication services.
- To access online services you will need an active account with an Internet Service Provider (ISP) and an Internet browser software program.
- To access mobile services you need to be connected via your mobile device and mobile network service provider.
- We have no control over the equipment, software or service providers.
- You will be responsible for any associated costs linked to the services you choose.
- In order to ensure proper access to any digital service you are at all times responsible for keeping your hardware up to date.

10.5. Trademarks

Our logo and sub-logos, marks, and trade names are our trademarks and no person may use them without permission. Any other trademark or trade name that may appear on our marketing material is the property of its respective owner.

10.6. Restrictions

Except as expressly permitted under the agreement, the services may not be:

- modified, distributed, or used to make derivative works;
- rented, leased, loaned, sold or assigned;
- decompiled, reverse engineered, or copied; or
- reproduced, transferred, or distributed.

10.7. Prosecution

All violations of proprietary rights or the agreement will be prosecuted to the fullest extent permissible under applicable law.

11. Non-solicitation

You will not, during the currency of any request or for a period of 12 calendar months following termination, directly or indirectly solicit, offer employment to, employ, or contract in any manner with any of our personnel who were involved in the implementation or execution of the request.

12. Our warranties

12.1. Service warranties

We warrant that in relation to the services:

- we and our personnel will possess knowledge and expertise sufficient to enable us to provide the services;
- we will employ a sufficient number of suitably trained personnel to provide the services and to achieve the service levels; and
- we will provide the services in accordance with all applicable laws, enactments, and regulations.

12.2. General warranties

We warrant further that:

- we have the legal right and full power and authority to execute and deliver, and to exercise our rights and perform our obligations under the agreement; and
- we and our personnel will not knowingly introduce any malicious software into your material or your system.

12.3. Additional warranties

The warranties in this clause are in addition to any warranties given in any request.

13. Disclaimer of warranties

13.1. Disclaimer

You use our services at your sole responsibility and risk. We provide the services on an “as is” and “as available” basis. Except for the warranties given in this agreement and to the extent allowed by law, we expressly disclaim all representations, warranties, or conditions of any kind, whether express or implied, including:

- any implied warranties or conditions of satisfactory quality, no latent defects, merchantability, fitness for a particular purpose, accuracy, system integration, quiet enjoyment, title, and non-infringement;
- any warranties regards third party software; or
- that the services, including any information, content, tools, or materials available through our Sites, will meet your requirements or be uninterrupted, legally effective or complete, timely, secure, error-free or free from infection by malicious software.

13.2. Exclusion of liability

Despite any warranty we give, we will not be liable as regards any defect arising from negligence, failure to follow our instructions (whether oral or in writing) or misuse;

We will not be liable as regards any direct or indirect loss you may suffer as a result of having ‘jailbroken’ or ‘rooted your device.

14. Your warranties

You warrant that:

- you have not been induced to enter into the agreement by any prior representations, warranties or guarantees (whether oral or in writing), except as expressly contained in the agreement;
- by entering into a request you are not acting in breach of any agreement to which you are a party;

and you agree to indemnify, defend, and hold harmless us (and those related to us and our personnel, co-branders or other partners) from and against any claim for damages by any third party as a result of the breach of these warranties, including all legal costs. If permissible under applicable law, legal costs will be on an attorney and own client basis.

15. Fees and payment

15.1. Due dates

Where the services are paid services, you will be liable for and pay the fees specified in the request and any additional fees promptly on the due date, without any deduction, set off, or demand and free of exchange in the currency specified in the request.

15.2. Manner of payment

- You must make payment in the manner specified.
- Investment and administration fees are deducted in terms of the rules of the fund.

15.3. Late payments

Any additional surcharges and penalties specified will apply to any payment received after the due date to cover collection fees and additional administration costs. You must pay the surcharges and penalties to us on-demand. We may halt the provision of any services until you have paid all amounts that are due.

15.4. Interest on overdue amounts

To the extent permitted by applicable law, any amount not paid by you on the date of the statement of outstanding invoices will bear interest for our benefit, from the due date until the date you pay it. The rate of interest will be either 2% above the published prime overdraft rate from time to time of our bankers or 15%, whichever is higher. A letter signed by a general, branch or other bank manager setting out their rate will be proof of the rate. Interest will be payable on a claim for damages from when the damages were suffered.

15.5. Appropriation

We may appropriate any payment received from you towards the satisfaction of any indebtedness of you to us under the agreement.

15.6. Withhold payment

You may not withhold payment of any amount due to us for any reason.

15.7. Certificate

A certificate, signed by an accountant appointed by us, of the amount due by you and the date on which it is payable will be proof of the correctness of the certificate's contents.

15.8. Tax

All fees exclude any tax (unless indicated otherwise), which will be payable where applicable by you in addition to the fees.

15.9. Payment profile

You and any signatory consent and agree that we may provide any registered credit bureau with information about the payment of amounts.

15.10. Reimburse costs

If we suspend a service that we supplied, you will pay us the costs that we incurred (including redeployment, travel and associated expenses) in remobilising our employees affected by the agreement and recommencing the services.

16. Intellectual property infringement

16.1. Defence

We will defend you against any claims made by any third party that any services infringe its patent, design, copyright, or trade mark and will pay the amount of any resulting adverse final judgment (or settlement to which we consent), provided that you notify us of the claim in writing and give us sole control over its defence or settlement. If this is the case, then we will reimburse you with all costs you incurred in connection with assisting us with the defence of the action immediately on demand (including attorneys fees on an attorney and own client basis).

16.2. Consequences of successful claim by third parties

If any third party succeeds in its claim for the infringement of any intellectual property rights, we may within 30 calendar days of the infringing item having been found to so infringe:

- obtain for you the right to continue using the infringing item or the parts that constitute the infringement;
- replace the infringing item or the parts that constitute the infringement with another product that does not infringe and that in all respects operates substantially in accordance with its specifications;
- alter the infringing item in a way as to render it non infringing while still in all respects operating substantially in accordance with its specifications; or
- withdraw the infringing item and refund to you all fees paid by you to us under the relevant request specifically with regard to the infringing item in the preceding six calendar month period.

16.3. Exclusion

We will not be liable for any claim that arises out of goods or services you select and acquire from third parties.

16.4. Survival

This clause will survive termination of the agreement.

17. Limitation of liability

17.1. Direct damages limited

To the extent permitted by applicable law, regardless of the form (whether in contract, delict or any other legal theory) in which any legal action may be brought, our maximum liability to a you for direct damages for anything giving rise to any legal action will be an amount equal to the total fees already paid by you to us for the services related to the claim. The aggregate amounts for all claims will not be greater than the maximum amount. If the services were free, then the amount will be zero.

17.2. Indirect damages excluded

To the extent permitted by applicable law, in no event will we (or our personnel) be liable for any indirect, incidental, special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including loss of profits, loss of goodwill, damages relating to lost or damaged data or software, loss of use, damages relating to downtime or costs of substitute products) arising from the agreement.

17.3. We are not liable for your default

We will not be liable for any loss or damage suffered by you arising out of or in connection with: any breach of the agreement by you; any act, misrepresentation, error, or omission made by or on behalf of you or your personnel; or as a result of accessing our Sites or services using a 'jailbroken' or 'rooted' device.

17.4. Other goods or services

We are not liable for any other deliverable, including websites, goods, or service provided by any third party.

17.5. Indemnity

We agree to indemnify, defend and hold you (and your personnel) harmless against any and all:

- loss of or damage to any property or injury to or death of any person; and
- loss, damage (including attorneys' fees on an attorney and own client basis), costs and expenses that you may suffer or incur arising directly or indirectly from: (i) any willful misconduct or fraud by us or our personnel; or (ii) a breach by us of your proprietary or confidential information, or intellectual property.

18. Breach and termination

If a party:

- does not fix any breach of this agreement (failure to comply with it) within seven days of receiving written notice from the other party to do so;
- breaches this agreement materially twice or more in any six month period;
- is insolvent (bankrupt), or has some legal disability, for example, if they are placed under administration;
- takes steps to deregister itself (close down) or is deregistered;
- makes any settlement or arrangement with its creditors; or
- fails to pay a court order against it (does not satisfy a writ of execution) for more than one million rand, within 21 days; then the other party may, without prejudice to any of its rights:
- claim specific performance of this agreement (make the party comply with this agreement); or
- immediately cancel this agreement in writing; and
- claim damages from the other party, including any claim for any fees already due.

19. Suspension of service

19.1. Immediate suspension

We may immediately suspend your right to use any of the services in any of the following circumstances:

- you attempt a denial of service attack on any of the services;
- you seek to hack or break any security mechanism on any of the services;
- we determine in our sole discretion that your use of the services poses a security threat to us, or to any other user of the services;
- you otherwise use the services in a way that disrupts or threatens the services;
- we determine, in our sole discretion, that there is evidence of fraud with respect to your account;
- we receive notice, or we otherwise determine, in our sole discretion, that you may be using the services for any illegal purpose or in any way that breaches the law or infringes the rights of any third party; or

- we determine, in our sole discretion, that our provision of any of the services to you is prohibited by applicable law, or has become impractical or infeasible for any legal or regulatory reason.

19.2. Preservation of data (suspension)

In the event that we suspend your access to any services, we will not take any action to intentionally erase any of your data in our possession during the period of suspension and any applicable fees will continue to accrue.

20. Termination

20.1. Termination for good cause

We may immediately terminate this agreement at any time by giving you notice in writing if:

- we discontinue the services;
- we believe providing the services could create an economic or technical burden or material security risk for us;
- termination is necessitated by us having to comply with any applicable law or requests of governmental entities; or
- we determine that your use of the service or the provision of any of the services to you has become impractical or infeasible for any legal or regulatory reason.

20.2. Termination for convenience

You may, in your discretion, terminate the agreement or a specific request, upon at least 60 days prior written notice to us.

20.3. Duties on termination

On termination, cancellation, or expiry of this agreement:

- we will stop providing the services;
- your access rights will cease to exist; and
- we will erase your data, unless we have agreed to provide you with post termination assistance in writing.

20.4. Survival

The termination, cancellation, or expiry of this agreement will not affect the enforceability of the terms that are intended to operate after expiry or termination.

21. Effect of termination

21.1. Amounts due to us become due and payable

On termination, cancellation, or expiry this agreement, all amounts due to us for services rendered before termination will become due and payable even if we have not yet invoiced them. You may not withhold the amounts for any reason, unless the arbitrator directs otherwise.

21.2. Post termination assistance

Following termination, you may take advantage of any post-termination assistance that we may generally make available (such as data retrieval arrangements). We may provide you with post-termination assistance, but we will not be under an obligation to do so. Your right to take advantage of any post termination assistance will depend on your acceptance of and compliance with any additional fees and terms that we may impose for such assistance.

21.3. No expectation

We acknowledge and confirm that no expectation has been created by anyone, by the agreement or any other agreement, entitling us or you to expect:

- continued service for any period whether definite or indefinite;
- the renewal or extension of the term of any agreement; or
- the conclusion of any further agreement between you and us or our personnel.

21.4. Survival

The termination, cancellation, or expiry of this agreement will not affect the enforceability of the terms that are intended to operate after expiry or termination.

22. Resolving disputes

22.1. Notifying each other

There will be a dispute about or from this agreement if a party writes to the other about it and asks for it to be resolved under this clause. The parties must refer any dispute to be resolved by:

- negotiation (direct talks to try and agree how to end the dispute); failing which
- mediation (talks in which a neutral third party tries to help the parties agree how to end the dispute); failing which
- arbitration (a hearing after which a neutral third party makes a binding decision about the dispute).

22.2. Negotiation

Each party must make sure that their chosen representatives meet within 10 business days of notification, to negotiate and try to end the dispute by written agreement within 15 more business days.

22.3. Mediation

If negotiation fails, the parties must refer the dispute to mediation under AFSA's rules.

22.4. Arbitration

If mediation fails, the parties must refer the dispute within 15 business days to arbitration (including any appeal against the arbitrator's decision) under AFSA's latest rules for expedited arbitrations. The arbitration will be held in English in Johannesburg. The parties will agree and appoint one arbitrator. If the parties cannot agree on the arbitrator within 10 business days after the referral, the Secretariat of AFSA will appoint the arbitrator.

22.5. Agree otherwise in a request

The parties may agree otherwise in a request.

22.6. Periods

The parties may agree in writing to change the periods for negotiation or mediation.

22.7. Urgent interim relief

This clause will not stop a party from applying to court for urgent interim relief (temporary help) while the dispute resolution process is being finalised. An example might be an interdict (type of court order).

22.8. Severability

This clause is separate and divisible from the rest of this agreement and remains effective even if this agreement ends or is invalid.

23. Notices and domicile

23.1. Notices

The parties will send all notices, authorisations, disclosures, acknowledgements, or requests by hand delivery, prepaid registered post, fax, or email to an address or number given in the specific terms.

23.2. Service (delivery) address for legal documents

Each party chooses its street addresses and numbers as its domicilium citandi et executandi (its address for the service of any document used in legal action) for this agreement.

23.3. Change of addresses or numbers

Each party may change the addresses or numbers in the specific terms to any other addresses or numbers in South Africa by writing to the other party 14 days before the change.

23.4. Deemed delivery

Notice will be considered to be delivered on the date shown on any hand-delivered, prepaid registered post, courier, fax or email confirmation of delivery.

23.5. Notice actually received

If a party actually receives any notice or other communication, this will be good enough.

24. Beyond human control

24.1. Parties not liable

No party will be responsible for any breach of this agreement caused by circumstances beyond its control, including flood, fire, earthquake, war, tempest, hurricane, industrial action, government restrictions, or acts of God.

24.2. Party affected to notify other party

If there is an event beyond human control, the party affected will tell the other immediately, and they will meet within seven days to negotiate other ways to carry out any affected responsibilities under this agreement. The parties will continue to comply with the responsibilities that are not affected by the circumstances.

24.3. Right to cancel

If a party cannot fulfill a material (significant) part of its responsibilities under this agreement for more than 60 days because of an event beyond human control, the other party may cancel this agreement by written notice.

25. Assignment and subcontracting

25.1. No assignment

You may not delegate your duties under this agreement or assign your rights under this agreement, in whole or in part. We may assign this agreement to any successor or purchaser of our business or some of our assets.

25.2. Our cession and assignment

We may cede and assign all rights and obligations under this agreement to a related person without your prior written consent, provided that we notify you within a reasonable time of the event occurring.

25.3. Our third party contractors

We may sub-contract or delegate our obligations under this agreement to third party contractors. We will remain liable for performance of the third party contractors. No one may require us to disclose the terms (including payment terms) of any sub-contract entered into with respect to our obligations under this agreement.

26. Relationship

Nothing in this agreement will be construed as constituting a temporary employment service or as creating a partnership between the parties and no party will have any authority to incur any liability on behalf of the other or to pledge the credit of the other party.

27. Protecting your information

For us to provide a continued service to you, you must give us the personal information we ask for. We will process your personal information for valid and lawful reasons only.

Why we need your personal information

We collect your personal information so that we can:

- administer your portfolio (investments and products)
- administer any claim

- communicate with you
- share it with a third party contractor, who we contract with to provide services and products
- share it with a third party contractor who we contract with to provide services to you

Other parties that may get your personal information from us

We have the right to share your personal information with the following parties:

- regulators or government entities so that they can perform their duties to us
- our auditors so that they can perform their duties to us
- any person or organisation that has a legal right to access your information

Keeping your personal information safe and confidential

- We will take care to keep your personal information safe and obey any legal requirements relating to the protection of your personal information.
 - we will not share your personal information except in the aforementioned circumstances.
 - we will keep your personal information for as long as:
 - we need it to achieve the purposes set out above
- any law or contract requires us to keep the information
- the financial service provider may need it for lawful purposes linked to its functions.
- Once the financial service provider is no longer authorised to keep your information, the financial service provider has the right to take any one or more of the following actions:
 - destroy the information
 - delete the information
 - de-identify the information
- We do not have to let you know when we take any of these actions

28.1. Entire agreement

The agreement is the entire agreement between the parties on the subject.

28.2. Changes to the terms

We may change the terms at any time and where this affects your rights and obligations, we will notify you of any changes by placing a notice in a prominent place on our Sites or by email. If you do not agree with the change you must stop using the services. If you continue to use the services following notification of a change to the terms, the changed terms will apply to you and you will be deemed to have accepted such terms.

28.3. Changes to any third party software license agreement

We will notify you of any changes to any third party software license terms by placing a notice in a prominent place on our relevant Site, or notifying you by email. The updated third party

software license terms will be effective immediately and you will be deemed to have accepted them upon notification.

28.4. Acceptance of changes

If you do not agree with the changes, you must stop using the services. If you continue to use the services following notification of a change, the changed terms will apply to you and you will be deemed to have accepted them.

28.5. Waiver (giving up of rights)

Any favour we may allow you will not affect or substitute any of our rights against you.

28.6. Severability

If any term is void (invalid), unenforceable, or illegal, the term may be severed (removed) from and will not affect the rest of this agreement if it does not change its purpose.

28.7. Governing law

South African law governs this agreement.

28.8. Jurisdiction

You consent to the jurisdiction of the Magistrate's Court in respect of any action or proceedings that we may bring against you in connection with this agreement, even if the action or proceedings would otherwise be beyond its jurisdiction without prejudice to our right to institute any action in any other court having jurisdiction.

28.9. Non-exclusivity

We may provide any services to any other person or entity.

28.10. Right to reference

You consent to us using your name and a general description of the services in any marketing or sales material.

29. Community rules

29.1. Introduction

These are our official community rules. Please familiarise yourself with them because they apply to you as a member of one of our social media communities. These rules refer to social media communities which include our Sites and social media forums.

29.2. Purpose

We encourage you to engage with us and other community members. But, we also need to make sure that any conversations through our social media communities stay respectful, do not cause harm, are appropriate, do not break any laws, and are consistent with our policies. The purpose of this policy is to ensure that you and our other community members have a friendly and rewarding experience interacting with us and each other on our social media communities. But, what you and other community members publish on the social media communities do not necessarily reflect our views. In fact, the views you and other community members express are yours or theirs alone and not ours.

29.3. Communities

This policy applies to your conduct on any of our social media communities (which are our Sites and social media forums). Social media includes:

- social networking services – such as Facebook;
- micro-blogging services – such as Twitter or Tumblr;
- professional networking services – such as LinkedIn;
- video and photo sharing services – such as YouTube, Vimeo, Instagram, or Flickr;
- blogs – such as corporate or personal blogs;
- forums and discussion boards – such as Reddit;
- wiki websites – such as Wikipedia;
- instant messaging applications – such as Whatsapp, WeChat, or iMessage when used to send group messages; and
- any other electronic communications – such as email or SMS when used to send the same message to multiple recipients.

29.4. Relevance

Our social media communities are spaces for you to discuss topics relevant to our business, for us to communicate with you about our services, and for us to connect you to our Sites. You should only publish content that is relevant. Anything contrary to our community purpose will be irrelevant, including:

- links to external websites not related to us or our services;

- advert for goods or services other than ours – such as your goods or services or those of a competitor;
- promotional competitions other than ours – such as your promotional competitions or those of a competitor;
- spam or anything else published more than once or in more than one place;
- donation requests unless we have authorised you to publish them in writing;
- acknowledgement requests – such as asking for ‘votes’, ‘likes’, or ‘retweets’;
- your personal contact information because it puts your privacy at risk – such as your email address or phone number.

29.4.1. Compliance with terms and rules

You must comply with the written terms of service and unwritten rules of etiquette for all of our social media communities. In terms of specific social media forums you must comply with the terms of service of the relevant social media service. Terms of service for the most prominent social media services that we have communities on include:

- Facebook – www.facebook.com/legal/terms; and
- Twitter – www.twitter.com/tos.

29.4.2. Network etiquette

We require users of our social media communities to be polite, courteous, and use common sense when communicating on our sites. Each social media service may have additional rules of etiquette and it is your responsibility to abide by those standards.

29.5. Response times

We will do our best to reply to anything that you publish on our social media communities or send directly to us through social media within a reasonable time, but there may be times when we take longer to reply to you. We generally moderate our sites from 08h30 to 16h30 on weekdays other than public holidays. We also generally have reduced hours for replying to anything published after hours, on the weekend, or on public holidays. We may also sometimes only reply to these on the next available working day. However, we are not liable for responding within an unreasonable time or failing to respond to you at all.

29.6. Acknowledgement is not endorsement

We do not endorse anything that you publish to our social media communities by merely acknowledging it in any way.

29.7. Prohibited conduct

We encourage communication on our social media communities. However, we will not facilitate communication that amounts to abuse. You’re allowed to respectfully disagree with

someone, but you're not allowed to attack them personally. You may not engage in any of the following prohibited conduct:

- discrimination, which means treating someone in a certain way based on prejudice – such as racism, homophobia, bigotry, or other kinds of prejudice.
- hate speech, which means attacking someone based on their attributes – such as their gender, ethnicity, religion, race, disability, or sexual orientation;
- harassment, which means harming someone or threatening to harm them – such as bullying, intimidation, or stalking; or
- trolling, which means a specific way of harassing someone online by intentionally sowing discord, starting arguments, or publishing objectionable content.

29.7.1. Prohibited content

You may not publish any prohibited content including:

- illegal content that is prohibited by law – such as child pornography, pirated content, or content that otherwise infringes someone else's copyright or other rights;
- harmful content that could cause harm to someone – such as defamatory comments, fraudulent claims, or untrue statements;
- offensive content that could reasonably offend someone – such as pornography, obscenities, or anything intended to shock someone; or
- impermissible content – contrary to any codes or standards that we subscribe to and make you aware of.

29.8. Competitions

We may run promotional competitions through our sites from time to time. These promotional competitions are regulated by rules that determine what entries we accept, how we randomly select winners, and how the competition is monitored by auditors or other monitoring parties. A copy of the rules are available to you on request if you are an entrant. Certain conduct in relation to our promotional competitions is unacceptable and may result in recourse against you in terms of these rules. You may not engage in any of the following prohibited conduct:

- unjustified outcries, which means strong expressions of public disapproval or anger based on false assumptions – such as “The competition was rigged!” (our competitions are run strictly in accordance with the law and any baseless claim is defamation against us);
- discriminatory objections, which means negative comments about the competition or its results based on attributes of the individual entrants or winners, including their gender, ethnicity, religion, race, disability, or sexual orientation
- such as “I can't believe only [insert attribute here] people won!” or “Not even a single [insert attribute here] person won!” (anyone is allowed to enter our competitions and a computer chooses the winners randomly under the supervision of an external party – no one has any control over who wins or who does not and there may be multiple winners with a single attribute and none with yours); and
- prohibited discussions, which means certain aspects of promotional competitions that we are not allowed to talk to you about in terms of our promotional competition rules, such as the personal details of the winners.

29.9. Report

You may report fellow community members to us if you have a legitimate reason to think that they have breached these rules, particularly if they have done something to negatively affect you.

29.10. Moderation

Our social media communities have features that allow us to edit or completely remove published content under certain circumstances. We have complete discretion to edit or remove anything you publish on our communities that we think is inconsistent with these rules without notice to you. We may moderate any of the following things as described above among others:

- anything that is not relevant to a social media community or the conversation in question;
- anything that results from prohibited conduct, including discrimination, hate speech, harassment, or trolling;
- prohibited content, including content that is illegal, harmful, offensive, or impermissible; or
- prohibited promotional competition related content, including unjustified outcries, discriminatory objections, or prohibited discussions.

29.11. Queries

If we have removed anything that you have published, you may ask us for reasons why it was removed. We will do our best to inform you of the reason for removal, but are not required to do so.

29.12. Recourse

There may come a time when you or another community member breaches these rules in a way that calls for action from our side. We have absolute discretion to take action if we deem you to have breached these rules and may take recourse against you in the form of a suspension or a ban.

29.12.1. Suspension

We may suspend your right to participate in any of our social media communities if you do not comply with these rules, which means that you will not be able to access it for a period of time. Some social media services do not allow the temporary suspension of community members, in which case we may ban you instead.

29.12.2. Bans

We may ban you from any of our social media communities outright under extreme circumstances, which means that you will not be able to access it for the foreseeable future.

29.12.3. Other accounts

We may also ban or suspend any other social media community accounts that we suspect you to be operating through after we have taken recourse against you through your initial account.

29.12.4. Appeals

If we have suspended or banned you, you may appeal to us to reinstate your access to the social media communities. We may provide you with steps to take to ask to be reinstated if we decide to suspend or ban you to the extent this is necessary to ensure that the process is as just and equitable as possible.

29.13. Third-party links

Links on our social media communities may lead you to third-party websites. Third-parties other than us control these websites. We are not responsible for the content on those sites.

30. Questions

If you have any questions about this policy or do not understand it, please contact us using the contact information on our client or customer services page.

Last updated: 26 August 2020