

STONEHAGE FLEMING FIDUCIARY LIMITED

TERMS AND CONDITIONS



STONEHAGE  
FLEMING

NOW AND FOR FUTURE GENERATIONS

This document sets out Stonehage Fleming Fiduciary Limited's ("Stonehage Fleming") standard terms and conditions of business, and must be read together with the engagement letter, which sets out the specific client mandate and charges and the general disclosure notice. References to "you" in this document is a reference to a party Stonehage Fleming has issued an engagement letter to.

## 1. REGULATORY "KNOW-YOUR-CLIENT" DUE DILIGENCE

- 1.1 To comply with statutory regulations, in particular the Financial Intelligence Centre Act 38 of 2001 (FICA), we are required to obtain and retain on record documentary proof of the identity of our clients, both natural and legal persons, proof of their residential or business address, as well as information concerning the source of funds that are placed in trust and their source of wealth.
- 1.2 We realise that this involves a lot of paperwork and would gladly provide further assistance and guidance should you have any questions about the completion of our individual client questionnaire.
- 1.3 You agree to inform us, as a matter of priority, of any changes to your personal details, for example a change in your residential or business address, contact details, or a change of name.

## 2. REGULATORY FOREIGN ACCOUNT TAX COMPLIANCE ACT

- 2.1 To comply with statutory regulations, in particular the United States Foreign Account Tax Compliance Act (US FATCA), the extensions of that legislation incorporated into the UK's Automatic Exchange of Information agreements with its Crown Dependencies of Overseas Territories, as well as the extensions by international agreements based upon the OECD's Common Reporting Standard, we are required to obtain, retain and report on additional information of our clients, both natural and legal persons. This additional information may change from time to time, but includes information such as (but is not limited to) tax identification numbers in other countries, all nationalities and citizenships, country of birth or incorporation or registration, etc.
- 2.2 We realise that this also involves a lot of paperwork and would gladly provide further assistance and guidance should you have any questions about the completion of our individual client questionnaire.
- 2.3 You agree to inform us, as a matter of priority, of any changes to your personal details such as a change in your residential or business address, should you become a tax payer, resident, citizen in another jurisdiction, and so forth.

## 3. INFORMATION AND CONFIDENTIALITY

- 3.1 All information you provide to and any person associated with our fiduciary services will be kept confidential and will not be disclosed to third parties, except:
  - 3.1.1 As you otherwise agreed to in writing,
  - 3.1.2 As you otherwise authorised (whether specifically or by implication), or
  - 3.1.3 If required by law, any regulatory or government authority or any compliance rules applicable to Stonehage Fleming, in which instance we will advise this regulatory or government authority that the information has been provided under obligations of confidentiality and/or privilege and will seek to limit the disclosure as far as reasonably possible, while still complying.
- 3.2 When the fiduciary services that Stonehage Fleming provides involve opening a bank account or making other arrangements with other service providers, we may provide these entities with the information they need to fulfil their account-opening requirements.



- 3.3 Stonehage Fleming will not be required or obliged to take any action that we consider to be unlawful or improper, or which may cause Stonehage Fleming or any of our employees to incur any personal liability, and we shall not be liable for any consequences arising from a refusal to take any such action.
- 3.4 Over and above the previous, Stonehage Fleming is required to obtain, verify and maintain certain prescribed information concerning all parties we directly or indirectly provide services to (including persons associated with the services), and all transactions involved with any assets under its control or administration. Failure by a party to provide information or documentation we requested may result in the termination of Stonehage Fleming's services and we will then not be liable for any consequential loss or damage arising from the termination of Stonehage Fleming's services.
- 3.5 Any report, letter, information, or advice we provide to any person associated with Stonehage Fleming's services or arising from it, is considered private and given in confidence solely for that purpose. This information is provided on condition that the information will remain confidential and will not be disclosed to any third party without Stonehage Fleming's prior written consent.
- 3.6 Stonehage Fleming may use client information held in our database for marketing purposes and may for this purpose, pass client information on to colleagues within the Stonehage Fleming firm. You give your consent to this and acknowledge that you have the right to withdraw any consent you have previously given us should you wish to stop receiving any marketing information from us.

#### 4. CLIENT COMMUNICATION

- 4.1 Stonehage Fleming's preferred methods of communication are electronic (e-mail), facsimile (fax) or post.
- 4.2 Please be aware that e-mails may be subject to data corruption, delay, non-delivery, interception, unauthorised amendment, and the unintentional transmission of viruses. Unless you inform Stonehage Fleming that you do not want to communicate by e-mail, we will assume that you accept these associated risks.
- 4.3 Statements, notices and correspondence from Stonehage Fleming will be considered to be properly dispatched when sent to the address you nominated from time to time in writing or delivered to you personally. The date of dispatch will be presumed to be the date appearing on Stonehage Fleming's copy of the correspondence.

#### 5. NO LEGAL PRIVILEGE

Communications of an engagement with Stonehage Fleming will not be privileged unless made to an attorney to seeking legal advice and/or for pending litigation.

#### 6. DEPOSIT

- 6.1 It is our standard practice to require clients to provide us with funds on account of our anticipated fees and expenses (disbursements) before we start working on a matter. These funds are held in our client account and are used to settle invoices for work that has been done and for expenses (disbursements) incurred. Funds held on deposit will be used to settle any outstanding accounts you owe to the firm.
- 6.2 We reserve the right to ask you to pay us a deposit. If we do ask you for a deposit, please pay the deposit within 14 (fourteen) days of our request, failing which we reserve the right to stop doing any further work on your matter. If any deposit is depleted, we may ask you for further sums we will hold on account.



## 7. MONEY HELD BY STONEHAGE FLEMING

- 7.1 Under the Trust Property Control Act, all trusts are required to have a bank account. Stonehage Fleming can offer this service through Investec Corporate Cash Manager.
- 7.2 All monies we receive for the trust will be held in the trust's designated bank account.
- 7.3 Stonehage Fleming will use all reasonable ways to make sure that amounts held in trust are interest bearing at reasonably competitive rates of annual interest, which rates are available on request.
- 7.4 Interest earned on monies held in trust will accrue to the trust, after fees have been levied.

## 8. PROFESSIONAL CLIENT ACCOUNTING AND TAX COMPLIANCE SERVICES

If the Trustees of a trust under Stonehage Fleming's corporate Trusteeship and/or administration do not make use of our client accounting and/or tax compliance services, we require that the client appoints independent professional tax advisers and/or accountants to attend to these compliance requirements on behalf of the Trustees.

## 9. INDEMNIFICATION

- 9.1 Nothing in these documents will increase the liability of Stonehage Fleming for any losses caused by its negligence or wilful default beyond those available under the general law, nor will this exclude any defence that would otherwise be available to us.
- 9.2 Nothing in these documents will exclude or restrict any liability of Stonehage Fleming for fraud or dishonesty or to the extent that it cannot do so by law.
- 9.3 Unless and to the extent that they have been finally and judicially determined (including by the conclusion of any appeal) to have been caused by the fraud, wilful default or gross negligence of Stonehage Fleming, you will indemnify and hold Stonehage Fleming harmless against all actions, claims, proceedings, losses, damages, costs and expenses arising from or in any way connected with this engagement.
- 9.4 In this document, "Stonehage Fleming", "we", "us" and "our" refer to all the entities in the Stonehage Fleming Group, their respective partners, directors and staff, and in all cases any successor or assignee (each an "indemnified person").
- 9.5 You agree with the provisions of these documents, both for our benefit and as Trustee, for the benefit of each indemnified person.
- 9.6 You agree that you have fully considered the provisions of these documents and that they are reasonable for this engagement. If any terms or provisions of these documents are or become invalid, illegal, or unenforceable, the remainder will stay unaffected.

## 10. DISCLAIMER

- 10.1 Any advice given to you by Stonehage Fleming will be based on the information received from you. You agree to make sure that Stonehage Fleming is given all information that may have an impact on the advice, including informing us immediately of any change in circumstances that may affect the position. We will not be responsible for determining the accuracy of the information provided and will not perform any audit, due diligence, or other procedure to verify such information.
- 10.2 Stonehage Fleming does not accept any liability or responsibility for the success or otherwise of any plans undertaken by or on behalf of any person associated with advice given by Stonehage Fleming, and we do not offer any form of assurance that the arrangements suggested or implemented will achieve the intended objectives and advantages.



- 10.3 In this clause, “Stonehage Fleming”, “we” and “us” refer to all the entities in the Stonehage Fleming Group, their respective partners, directors, consultants and employees, and in all cases any successor or assignee, and the provisions of this clause shall apply to each such person.

## 11. INSTRUCTING OTHER PROFESSIONAL ADVISERS

- 11.1 Stonehage Fleming occasionally has to instruct legal and other professional advisers and when this becomes necessary, we advise our clients accordingly.
- 11.2 Any such costs incurred are in addition to our own fees and charges and require settlement upon receipt of an invoice.

## 12. INCAPACITY

Stonehage Fleming will not be responsible for any loss or liability resulting from the incapacity of any person acting on behalf of Stonehage Fleming under this engagement, or associated with Stonehage Fleming’s duties and responsibilities, unless we received written notice of this incapacity.

## 13. LIEN AND SET-OFF

- 13.1 In addition to any general lien (right to dispose of property) or similar right Stonehage Fleming may be entitled to by law, if we incur an obligation or liability concerning a particular service, we are hereby irrevocably authorised to combine or consolidate any or all services, of any or all of the persons associated with a particular service, and/or to set off any assets concerning this service against any obligations and/or liabilities of other services concerning these persons, whether such obligations and liabilities are actual, contingent, several or joint.
- 13.2 If any such claims arise, Stonehage Fleming shall be entitled, in our discretion, to sell, realise and/or otherwise dispose of any asset concerning these services and to apply the proceeds of such sale, disposal or realisation to reduce or clear such obligations and/or liabilities, provided always that the persons affected by this action shall receive at least 5 (five) business days’ notice from Stonehage Fleming of the implementation of the provisions of this clause.

## 14. AMENDMENTS

- 14.1 Stonehage Fleming reserves the right to make changes to these terms and conditions, and its fees from time to time.
- 14.2 Notice of such changes will be given by means of a letter or other suitable means of communication to the person(s) we usually correspond with concerning our services.

## 15. TERMINATION

- 15.1 Stonehage Fleming reserves the right to stop acting for you by giving 1 (one) months’ notice in writing at any time and further reserves the right to stop providing ongoing services at any time during the existence of your agreement.
- 15.2 You may terminate your agreement with Stonehage Fleming by giving us 1 (one) months’ notice in writing at any time.
- 15.3 On termination of your agreement with Stonehage Fleming, Stonehage Fleming will be entitled to retain all documents concerning our services for as long as you owe us money for fees, other charges and/or expenses (disbursements) incurred prior to termination, on the basis contained in this clause.



## 16. RETENTION OF DOCUMENTS

- 16.1 Subject to the previous provisions on termination, Stonehage Fleming will, on termination of your agreement, deliver all relevant original and/or electronic documents to any nominated third party, and we will facilitate an orderly and uninterrupted provision of services in your best interests.
- 16.2 Stonehage Fleming is required to keep all records concerning client matters for a minimum of 5 (five) years from the date we stop working on that matter, after which we may dispose of them.

## 17. GENERAL

- 17.1 The engagement letter together with its annexures (herein referred to as “your Agreement”), forms the whole agreement between us regarding its subject matter.
- 17.2 No addition to or variation or consensual cancellation of your Agreement, including this clause, has effect unless in writing and signed by the parties.
- 17.3 No indulgence by a party to another party, or failure strictly to enforce your Agreement, is to be construed as a waiver or be capable of founding an estoppel.
- 17.4 The parties undertake to do everything reasonable in their power necessary for or incidental to the effectiveness and performance of your Agreement.
- 17.5 Save as is specifically provided in your Agreement, no party is entitled to cede any of its rights or delegate any of its obligations under your Agreement without the prior written consent of the other party affected by the transfer of rights or obligations.
- 17.6 Any illegal or unenforceable provision of your Agreement may be severed, and the remaining provisions of your Agreement continue in force.
- 17.7 Your Agreement and any non-contractual obligations arising out of or in connection with it are governed by South African law.



