



## 1. Introduction

- 1.1. These General Terms and Conditions (T&C's) as set-out herein, Channel and Transactional Account Specific Terms and Conditions form part of your Agreement with the Bank for the use of its Foreign Exchange facilities. The Terms and Conditions set out in this document are applicable to all Foreign Exchange Transactions entered into between the Bank and yourself. You must read these Terms and Conditions carefully prior to entering into a transaction. It contains important information about you and the Bank's legal rights and duties. If you do not understand any part of these Terms and Conditions, you must communicate with the Bank via one or more of the following portals: the Bank's email [getglobal@fnb.co.sz](mailto:getglobal@fnb.co.sz), telephone **2404 2833**. These Terms and Conditions must be read in conjunction with other terms and conditions that apply to your banking relationship with the Bank.
- 1.2. These Terms and Conditions have been drafted with reference to the guidelines set out in the Global Foreign Exchange Code as published by the Bank of International Settlements as well as all other applicable legislation, regulations, Orders and other Guidelines
- 1.3. FNB can change these Terms or any of the rules at any time after notifying you of the changes. The notification on the updates will be done via SMS, email and/or FNB App. The changes to these Terms will also be posted on FNB Website. FNB will give you the opportunity to end the Agreement you have with FNB before the date the change comes into effect; and if you do not end the Agreement, FNB can assume that you have agreed to the change.
- 1.4. You are also encouraged to frequently visit the FNB Website to see any updates made to the Terms and Conditions.
- 1.5. If any provision of these Terms and Conditions including disclaimers and limitations shall be unlawful or unenforceable, then such provision shall fall away and shall not affect the validity and enforceability of the remaining terms or any of your statutory rights which cannot be excluded by these Terms and Conditions.
- 1.6. You must keep this document for your records.

## 2. Interpretation

- 2.1. The captions appearing in these T&Cs are for reference purposes only and shall not affect the interpretation hereof;
- 2.2. Words importing natural persons shall include a reference to bodies corporate and other legal personae and vice versa;
- 2.3. Words importing the masculine shall include a reference to the feminine and other genders and vice versa;
- 2.4. Words importing the singular shall include a reference to the plural and vice versa.
- 2.5. Annexures to these T&Cs shall be deemed to have been incorporated herein and shall form an integral part hereof;
- 2.6. Any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time;
- 2.7. References to writing, written notice, written instructions and the like shall include telefax and email.
- 2.8. Defined terms used in a sentence will generally have the initial letter capitalised.
- 2.9. When any number of days is prescribed in the T&Cs, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or Public Holiday, in which case, the last day shall be the next succeeding day which is not a Saturday, Sunday or Public Holiday;
- 2.10. A reference to a document includes an amendment or supplement to, or replacement or novation of that document.
- 2.11. In this document **"you"** or **"your"** refers to the account holder. If required **"you"** and **"your"** also includes or refers to each of the account holder's representatives and **"we"**, **"us"** or **"our"** refers to FNB of Eswatini Limited, any affiliate companies, its associates, cessionaries, delegates or successors in title and/or third parties (like its authorized agents and contractors).
- 2.12. Terms printed in **BOLD** place a strict obligation on you and should therefore be carefully read and understood.



## 3. Definitions

- 3.1. **After Hours** – Means hours outside of Business Hours
- 3.2. **Agreement** – Means the Transaction form completed by you, these Terms and Conditions, the Transaction confirmation and any other documents specifically incorporated herein by reference and/or related to the services and/or products provided by the Bank.
- 3.3. **Authorized Dealer** – means for the purpose of these terms and conditions, a person authorised by the Central Bank of Eswatini (CBE), to deal in Foreign Currency;
- 3.4. **Authorised Dealer Manual** means the Currency and Exchanges Manual for Authorised Dealers issued by the Central Bank of Eswatini to Authorised Dealers under the powers delegated by the Minister of Finance. The Authorised Dealer Manual contains the permissions, conditions and limits applicable to transactions in foreign exchange that may be undertaken by Authorised Dealers and/or on behalf of their clients, as well as details of related administrative responsibilities;
- 3.5. **Authorized Person** means the person who is duly authorized to instruct the Bank and includes any person designated by you as its authorized representative;
- 3.6. **Bank** – First National Bank of Eswatini Limited (FNB).
- 3.7. **Bank's Website** means the FNB website [www.Fnbswaziland.co.sz](http://www.Fnbswaziland.co.sz)
- 3.8. **Business Day** – Means any day, excluding a Saturday, Sunday or official public holiday in the Kingdom of Eswatini in which a transaction may be processed
- 3.9. **Business Hours** – The hours between 08h00 to 17h00 (South African Standard Time) and Monday to Friday, excluding public holidays in the Kingdom of Eswatini. These differ from Currency cut-off times
- 3.10. **CBE** – means Central Bank of Eswatini
- 3.11. **CFC Account** –means the Customer's Foreign Currency Account conducted by Resident Entities with an Authorized Dealer, under the provisions of the Manual of Exchange Control Financial Surveillance or in terms of a specific authority granted by the CBE. Funds standing to the credit of such an account are deemed to be local assets denominated in Foreign Currency.
- 3.12. **Channels** – means the methods by which the Bank may from time to time make available the Services to a User.
- 3.13. **CMA** – means Common Monetary Area, which consists of Lesotho, Namibia, South Africa and Eswatini.
- 3.14. **Confidential Information** – means any information the disclosure of which is prohibited or limited in accordance with the applicable banking privileges or bank regulatory laws and regulations.
- 3.15. **Currency Cut-off times** – means the time of day when processing of the applicable Foreign Currency Transactions will cease. Any Transaction where the Trade Date occurs after the relevant currency-cut off time will be processed on the following Business Day during Business Hours. Each Foreign currency has its own cut-off time.
- 3.16. **Data**– means all financial and other information which is transferred between the Parties pursuant to the provision of services whether in electronic format or hard-copy.
- 3.17. **Data Privacy Notice** – means a statement describing how the Bank collects, uses, stores, and shares Personal information.
- 3.18. **Data Subjects** means your, your customers, employees, agents and any other individuals or entities whose Personal Information or other Data you provide to the Bank for purposes of the services;
- 3.19. **Date of Exchange** – represents the time at which ownership officially transfers.
- 3.20. **Emigrant** means a Resident (natural persons only) who is leaving or has left Eswatini to take up permanent residence or has been granted permanent residence in another country outside the CMA;
- 3.21. **Emigrant Blocked Account** means the account of an Emigrant from the CMA to which exchange control restrictions have been applied;
- 3.22. **ERS** – means the Eswatini Revenue Service;
- 3.23. **Eswatini** means the Kingdom of Eswatini;



- 3.24. **Eswatini Financial Intelligence Unit (EFIU)** – means a unit established under the Money Laundering and Financing of Terrorism (Prevention) Act of 2011 (as amended).
- 3.25. **Exchange Control Regulations** means the Exchange Control Regulations, issued under Legal Notice No.2 of 1975, as amended from time to time;
- 3.26. **Exchange Rate** – means the value of one currency for the purposes of conversion to another
- 3.27. **FCA** – means a Foreign Currency bank Account conducted by Residents with a bank outside the CMA in terms of the provisions of the Authorized Dealer Manual or a specific authority granted by the CBE;
- 3.28. **FEC** – Means a Foreign Exchange Contract also known as an outright contract.
- 3.29. **Foreign Cheque** – means a cheque payable in a Foreign Currency;
- 3.30. **Foreign Currency** – means any currency other than local currency, provided that the Minister may by notice in the Gazette declare any currency not to be foreign currency. Foreign Currency is deemed to include bank notes any bill of exchange, letter of credit, money order, postal order, promissory note, Emalangeni to or from a Non-Resident Lilangeni Account, or any other instrument of Foreign Exchange;
- 3.31. **Foreign Currency Account (FCA)** – means a foreign currency account conducted by Residents (natural persons only) and Non – Residents with Authorised Dealer, in terms of the provisions of the Manual of Exchange Control – Financial Surveillance or specific authority granted by the CBE.
- 3.32. **Foreign Investment Allowance** means an annual (calendar year) amount as approved by the CBE that a Resident can invest offshore;
- 3.33. **Foreign Nationals** – means natural persons from countries outside the CMA who are temporarily residents in Eswatini, excluding those on holiday or business visits;
- 3.34. **Future Dated Payments** means a Transaction with a Value Date not more than 365 (three hundred and sixty-five) days from the date the Transaction is captured by you. All Future Dated Payments will be warehoused by Bank and will only be processed 2 (two) Business Days prior to the Value Date;
- 3.35. **Immigrants** means natural persons who immigrated from countries outside the CMA with the firm intention of taking up or having taken up permanent residence in Eswatini;
- 3.36. **ISDA** means the International Swaps and Derivative Association Inc.;
- 3.37. **Lilangeni/SZL** means the monetary unit of Eswatini as defined in Section 21 of the Central Bank of Swaziland Order of 1974;
- 3.38. **Limit Order** means a firm instruction from you to the Bank to monitor and automatically execute a Spot Transaction when the order level is reached taking into account the Liquidity available. All orders are good till cancelled, expired or executed but can only be left open for a maximum period of 12 (twelve) months. All Limit Orders will be executed on a best effort basis subject to the Liquidity available to the Bank;
- 3.39. **Limit Order Fill** – means your Limit Order has been executed for the full amount specified by the Limit Order instruction;
- 3.40. **Liquidity** – means the availability of pricing and the depth of pricing available in the market to execute the Limit Order (i.e. the size of the transaction at each price level);
- 3.41. **Margin** – means a sales margin added to the wholesale rate;
- 3.42. **Net Asset Value** – means the excess of a party's assets over its liabilities, as determine from its most recent financial statements provided that if a party's liabilities exceed its assets, its net asset value will be deemed to be zero;
- 3.43. **Nominated Bank Account** – means the bank account selected by you, into which the Bank shall pay all monies due to you and from which the Bank may debit any amounts owed by you;
- 3.44. **Non-Resident** – means a person (i.e. either a natural person or a legal entity or both as the context indicates) whose normal place of residence, domicile or registration is outside the CMA;
- 3.45. **Party or Parties** – means either the Bank or you, or both, as the context indicates
- 3.46. **Personal Information** – means personal information as referred to in the Data Protection Act no. 05 of 2002 as amended from time to time



- 3.47. **Product, Channel and Account Specific Terms and Conditions** – means the terms and conditions governing the respective Channels, accounts and products;
- 3.48. **Rate of Exchange** – means the rate at which the Bank buys or sells Foreign currency. This rate is determined by the global currency market;
- 3.49. **Resident** – means any person (i.e., a natural person or a legal entity or both as the context indicates) who has taken up permanent residence, is domiciled or registered in Eswatini. For natural persons, Resident means a person who is 18 years and older. For the purpose of the Authorised Dealer Manual, this excludes any approved offshore investments held by Residents outside the CMA. However, such entities are still subject to Eswatini exchange control rules and regulations;
- 3.50. **Resident Entities** – means a legal entity that is registered in Eswatini
- 3.51. **Single Discretionary Allowance (SDA)** – means the specified amount set by the CBE that a Resident (natural person) 18 years and older may avail of per calendar year.
- 3.52. **Settlement Date** – means the agreed maturity date of a Transaction provided always that settlement must always occur on a Business Day within the prevailing Currency cut-off time for the Foreign currency that is the subject of the applicable Transaction;
- 3.53. **Slippage** – means the difference between the stipulated rate of a Limit Order and the rate at which the Limit Order is transacted. Once a limit order is triggered it stays active until filled. This will be at prices available given the Liquidity at the time until the Limit Order is executed in full. Our principle of first in first filled, order size and time of day plays a major role in determining available Liquidity;
- 3.54. **Spot Deal** – means a Transaction where the value Date is (two) Business days after the instruction date.
- 3.55. **Spot Rate** – means the rate is booked and the Transaction is settled within 2 (two) Business days.
- 3.56. **SWIFT** – Society for Worldwide Interbank Financial Telecommunication, an electronic communications platform across which banks effect cross border payments.
- 3.57. **Trade Date** – means a date upon which a Transaction is concluded;
- 3.58. **Transaction** – means a currency transaction concluded between the Parties and comprising of either a spot, pre-spot, forward or swap transaction.
- 3.59. **Value Date** – means the agreed date of settlement of a Transaction.

## 4. General

- 4.1. The Bank is an Authorized Dealer
- 4.2. All Transactions are processed during Business Hours subject to the relevant Currency cut-off time. Transactions concluded on electronic platforms outside of Business hours will only be processed during Business hours
- 4.3. The provision of Foreign Currency involves special risks which may affect the value of an order placed by virtue of fluctuation in exchange rate as a result of changes in financial markets. These changes are outside of the control of the Bank.
- 4.4. Please note that Foreign Currency availability may be subject to monetary limits (in respect of the value and quantity of the Transaction processed), Currency cut-off times, currency exchange restrictions and anti-money laundering regulations.
- 4.5. Each Transaction shall be subject to and conditional upon compliance with the Terms and Conditions and any relevant laws, including, without derogating from the generality of the foregoing, the Exchange Control Regulations, and any rulings, laws, rules, regulations and directives of any competent authority in force at the time of entering into any Transaction with the Bank or which may come into force thereafter but be applicable to any Transaction already entered into.
- 4.6. The onus is on you to ensure that all Transactions comply with relevant laws, both local and international and monetary limits.
- 4.7. The Bank shall have no liability whatsoever in relation to any demands, claims, actions, losses, costs and damages of whatever nature you may suffer as a result of your failure to comply with the Terms and Conditions and any related local and international rules, laws and regulations.



- 4.8. No Transaction will be processed unless the required application form has been fully completed and submitted and all requested information and/or documentation has been received by the Bank.
- 4.9. The Bank may request you to provide additional information/documentation as required in terms of the Exchange Control Regulations and/or other pieces of legislation.
- 4.10. Your failure to provide the Bank with the requested documentation and information on time will result in:
  - 4.10.1. The Transaction being cancelled, with all costs, including administration fees, debited to your account (the account from which the underlying transaction was initiated); and/or a delay in processing your Transaction until such time that all outstanding documentation/information has been received by the Bank.
  - 4.10.2. The Bank shall not be held liable for any loss you incur as a result of a delay in processing the Transaction. Should any exchange rate loss occur you will be held liable for the loss.
- 4.11. Any delay on your part in providing information and documentary evidence of your underlying commitment in order to obtain exchange control approval by the Settlement Date will, without exception, prevent a settlement and could result in possible costs to your account and/or your payment not being effected timeously, in which case the Bank shall not be liable for these costs or for your payment not being effected timeously.
- 4.12. No indulgence given to either Party shall constitute a waiver of any of either Party's rights.
- 4.13. You may not cede and/or assign its rights and/or obligations in terms of any Transaction to any third party without written notification to the Bank.

## 5. Channels

- 5.1. Foreign Currency is offered through the below various channels. The Channel Specific Terms and Conditions have to be read in conjunction with these Terms and Conditions.

### 5.2. Online

#### 5.2.1 General

- 5.2.1.1 The Bank will provide you with the ability to deal, purchase and sell Foreign Currency online, via the Bank's online banking platform, provided that you has a Transactional account with the Bank and you is registered to use the online banking platform.
- 5.2.1.2 The online banking platform is only available for the currencies listed from time to time on the Bank's website at Foreign exchange | Rates | FNB (fnbswaziland.co.sz)
- 5.2.1.3 The exchange rates quoted by the Bank are updated as market conditions prescribe.
- 5.2.1.4 By accepting the online quote, you agrees to purchase the Foreign Currency at the exchange rate quoted at the time of your application.
- 5.2.1.5 None of the information provided in connection with the online service constitutes financial advice, nor should it be construed as financial advice. The Bank shall not be liable for any investment or other decisions made on the basis of the information provided or relied upon.

### 5.3 Telephone

- 5.3.1 Foreign Currency can be purchased and sold via the telephone banking channel.

#### 5.3.2 Recording

- 5.3.2.1 It is the Banks practice to record all telephone conversations with regard to Transactions. The Bank may use the recording of and/or a transcript thereof in any disputes.
- 5.3.2.2 Notwithstanding clause 5.3.2.1, the Bank has no obligation to you to:



- 5.3.2.2.1 retain its practice of recording telephone conversations;
- 5.3.2.2.2 retain such recordings for any period of time;
- 5.3.2.2.3 make such recordings available to you; or
- 5.3.2.3 to ensure that its recording equipment is in a working condition and any failure to have a recording for any of the reasons (or any other reason) will not give rise to an adverse inference against the Bank.

## 5.4 Branch

- 5.4.1 Foreign Currency can be purchased and sold via the Branch channel.

## 6 Accounts

- 6.1 You must read the Transactional Account Specific Terms and Conditions in conjunction with these Terms and Conditions. You may use the below accounts for any foreign currency Transactions.

### 6.2 Resident (natural person) Global Account

- 6.1.1 To qualify for a Global Account you must:
  - 6.1.1.1 have an existing Eswatini Transactional/cheque account with the Bank
  - 6.1.1.2 be a Resident
  - 6.1.1.3 be at least 18 (eighteen) years old
  - 6.1.1.4 be a taxpayer in good standing with ERS.
- 6.1.2 When you fund your Global Account from your cheque account held with the Bank, the following documents are required. The list is not exhaustive:
  - 6.1.2.1 If using your Foreign Investment Allowance:
    - 6.1.2.1.1 Original tax clearance certificate in respect of Foreign Investment Allowance; and
    - 6.1.2.1.2 a certified copy of your identity document
  - 6.1.2.2 If using your Single Discretionary Allowance for investment purposes:
    - 6.1.2.2.1 a certified copy of your identity document;
    - 6.1.2.2.2 your Tax number.
  - 6.1.2.3 If you instructs the Bank to conclude all incoming transfers at the Spot Rate the Bank will not provide you with a quote for the incoming transfers. The Bank will conclude ALL incoming transfers at the Spot Rate for that day and will credit the Bank's linked Global Account.
  - 6.1.2.4 When you withdraw cash from your Global Account and you require payment in a currency other than that of your Global Account, conversion will take place at the exchange rate quoted by the Bank at the time of withdrawal.

### 6.2 Resident Entity Global Account/CFC Account

- 6.2.1 The Currency and Exchanges Manual contains strict criteria that have to be fulfilled in order to avail of this type of account. The account is only available for very specific types of businesses and or transactions.



6.2.2 Funding of the account must be in accordance with the purpose for which the account was approved and any Transactions that deviate from the purpose for which the account was opened will be invalid and will have to be unwound. Any loss occasioned from unwinding the offending Transaction will be for your account.

6.2.3 It is your responsibility to ensure that at all times you conduct this account in accordance with the provisions of the Global Account Terms and Conditions.

## 7 Foreign Exchange Control Regulations (Outward SWIFT)

### 7.1 General Regulations

7.1.1 Foreign Currency bought by you may only be used for the purposes for which it has been made available.

7.1.2 You are not allowed to apply for the same Foreign Currency Transaction with another Authorised Dealer.

7.1.3 Foreign Currency purchased for travel purposes may not be bought more than 60 (sixty) days prior to your date of departure.

7.1.4 Any unused Foreign Currency purchased for travel purposes must be sold to an Authorised Dealer within 30 (thirty) days of your return to Eswatini.

7.1.5 You are responsible for adhering to the exchange control limits as set by the CBE.

7.1.6 You are limited to having in its possession a maximum of E15, 000.00 cash in Emalangenani when travelling outside the CMA.

7.1.7 Foreign Currency can only be bought by Residents of Eswatini. Residents of other CMA countries may not use this service.

7.1.8 The Bank must report all cross-border Transactions to the CBE. Outwards payments may in certain circumstances require supporting documents as outlined in the Authorised Dealer Manual before the transaction can be processed. You must contact the Foreign Exchange Advisory Team on 2404 2833 should you require any further information in this regard.

### 7.2 Single Discretionary Allowance (SDA)

7.2.1 Resident (natural persons) who are over the age of eighteen (18) years may be permitted to avail of a SDA within an overall limit of E1million per individual per calendar year, without the requirement to obtain a Tax Clearance Certificate to cover the discretionary allowances as outlined in the Exchange Control Manual.

## 8 Exchange Rate Quotations and Acceptance

8.1 The Rate of exchange offered by the Bank for any Transaction is influenced by factors such as Channel used, your profile, Transaction currency and amount, date and time the Transaction is initiated and prevailing market conditions.

8.2 By accepting a quote from the Bank, you agree to purchase or sell the Foreign Currency at the rate quoted by the Bank and accepted by you and will be settled for the specified Value Date.

8.3 When carrying out certain Transactions through certain Channels you may be provided with an indicative quote which may reflect information regarding the Transaction you wish to undertake.

8.4 The indicative quote – you are provided with merely an indication of the possible rate you may qualify for. The Bank does not guarantee that this is the rate you will receive when a formal application is made and the Bank cannot be bound to the information provided in an indicative quote.

8.5 The indicative quote is merely a tool to assist you when planning foreign exchange Transactions.





- 8.6 **UNLESS THE BANK CONFIRMS YOUR ACCEPTANCE OF A RATE OF EXCHANGE, YOU DO NOT HAVE A RATE OF EXCHANGE AND CANNOT RELY ON THE QUOTED RATE AS THE AGREED RATE OF EXCHANGE.**
- 8.7 The Foreign Exchange Rate, as set out when you confirm the Foreign Exchange order online, is fixed by the Bank and is the rate at which you agree to purchase the Foreign Exchange. Should you apply after hours and the markets are closed, you will be presented with the last available rate, which cannot be booked until the markets are opened. As a result, the rate you accepted and the rate booked may differ accordingly.
- 8.7.1 Additionally, if you delay in producing relevant supporting documents relating to exchange control compliance, the rate you accepted online and the rate booked may differ.
- 8.8 The Bank shall under no circumstances be liable for any loss, damages, demands, claims or penalties incurred as a result of your reliance on the information provided in the indicative quote.
- 8.9 When transacting on one of the Banks electronic channels, any indicative quote that is provided will only be displayed for a limited duration, with the result that the applicable rate displayed will also only be valid for the duration that the quote is displayed. Different rates may display with each enquiry and is based on a number of factors.
- 8.10 Should a Transaction in respect of Foreign Currency be entered into by you using any of the Bank's electronic banking Channels and the rate at which such Transaction was entered into was off-market at the time of conclusion of the Transaction, and the Bank is of the view that the off-market rate of the Transaction was as a result of a malfunction of the electronic Channel, the Bank will be entitled to reverse or amend the Transaction, as appropriate, to reflect the rate that should have applied at the time the Transaction was initiated by you. The Bank will accordingly notify you thereof and if the Transaction has already settled, the Bank will pay you, or require payment from the you, as the case may be, of the amount required to reflect the rate at which the Transaction should have been entered into.
- 8.11 Any discrepancies contained in the Transaction confirmation must be advised to the Bank in writing during Business Hours on the Trade Date referred to in the Transaction email confirmation. your failure to revert to the Bank prior to the aforementioned time period will constitute your agreement to the content of the Transaction email confirmation and the Terms and Conditions contained herein.

## 9 Processing of Outward Cross Border Transactions

- 9.1 All Transactions are processed over the SWIFT network according to the following rules:
- 9.2 SWIFT processes Transactions according to the beneficiary account number provided in the SWIFT Transaction message ONLY and can only verify that the account number provided is a valid account number.
- 9.3 **SWIFT does NOT verify the beneficiary account name with the beneficiary account number.**
- 9.4 In the event of a conflict between a Nominated Account provided to the Bank and a beneficiary account stated in a SWIFT Transaction message, Settlement of the Transaction will be to the beneficiary account as provided in the SWIFT Transaction message.
- 9.5 The processing of SWIFT Transactions takes approximately 2 (two) Business Days.
- 9.6 In the event of a Transaction being cancelled or recalled, the Bank cannot guarantee that same will be successful despite the recall or cancellation instruction being received within the 2 (two) Business Days period referred to in 9.5.
- 9.7 **You is solely responsible for ensuring that the beneficiary account details and account numbers are correct.**





9.8 As provided for in 9.2 above, SWIFT processes Transactions with reference to the account number only; and

9.9 The Bank may not be able to assist in recalling or cancelling transactions processed into the incorrect account without the relevant accountholder's consent

## 10 Dealing And Derivatives

### 10.1 Dealing

10.1.1 Dealing involves the buying and selling of Foreign Currency.

10.1.2 Pre-spot, Spot, Forward (outright):

10.1.2.1 All foreign exchange dealing is governed by Exchange Control Regulations and it is your responsibility to ensure that they act in accordance with the Exchange Control Regulations and Authorised Dealer Manual before entering into a Transaction;

10.1.2.2 Foreign exchange is quoted on a bid and offer rate based on the specified Settlement Date;

10.1.2.3 General Market practice is to establish deals for value of a Spot Deal;

10.1.2.4 The Bank endeavors to process Transactions sooner than a Spot Deal, i.e. processing a Transaction on the same day or the next Business Day, this is dependent on the type of Transaction, time of day and currencies involved;

10.1.2.5 Future Dated Payments will be processed 2 (two) Business Days prior to the Value Date at which time all required supporting documentation will be vetted and the Spot Deal will be booked and processed without any confirmation required by you;

10.1.2.6 If you qualify, you will be able to deal in FEC and derivative instruments provided that you have a pre-settlement credit line with the Bank and has met the Exchange Control Regulation requirements required to deal in FEC and derivative instruments;

10.1.2.7 In terms of the Authorised Dealers Manual, a FEC may be sold to Residents subject to the FEC being required to cover a firm and ascertainable foreign exchange commitment, due to a Non-Resident arising from a Transaction that is either permissible in terms of the Exchange Control Regulations, or in respect of which a specific authority has been granted by the CBE;

10.1.2.8 A FEC that is shorter than 12 (twelve) months (when originally entered into), does not require supporting documents at time of establishment, however, at the time of pay away, supporting documentation must be provided. These contracts may be actively managed by entering and exiting the foreign exchange market to manage possible losses arising from adverse movements in foreign exchange rates;

10.1.2.9 A FEC that is longer than 12 (twelve) months requires documents to be presented to the Bank within a period of 14 days of conclusion of the Transaction;

10.1.2.10 A firm and ascertainable foreign exchange commitment can only be confirmed by furnishing one or more of the following documents to an Authorised Dealer: purchase order; pro forma invoice; copy of letter of credit; order confirmation and/or original invoice;

10.1.2.11 It should be noted that the documents referred to above must be presented to your preferred Channel, within the prescribed period after the establishment of the FEC. Any delay on your part in providing documentary evidence of your underlying commitment in order to obtain exchange control approval by the Settlement Date will, without exception, prevent a settlement and could result in possible costs for your account and/or settlement of your Transaction not being effected timeously;



10.1.2.12 Applications for drawing under the FEC must be advised to the Bank 2 (two) Business Days in advance, and due to Exchange Control Regulations, a FEC cannot fall past its due date;

10.1.2.13 The Bank is obligated to cancel any and all Transactions not settled by the Settlement Date

## 10.2 Foreign Exchange Derivatives (Foreign Exchange Option Contracts)

10.2.1 Derivative transactions are governed by the definitions and provisions contained in the 1998 Foreign Exchange and Currency Option Transaction Definitions (as amended from time to time), as published by ISDA, the Emerging Markets Traders Association, and the Foreign Exchange Committee. In the event of any inconsistencies between those definitions and the confirmation provided by the Bank, the terms of the confirmation will prevail.

10.2.2 Each Party will be deemed to represent to the other Party on the date on which it enters into a Transaction that (absent a written agreement between the Parties that expressly imposes affirmative obligations to the contrary for that Transaction):

10.2.2.1 Non-Reliance. It is acting for its own independent decision to enter into a Transaction and as to whether the Transaction is appropriate or proper based upon its own judgement and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other Party as investment advice or a recommendation to enter into a Transaction. It being understood that information and explanations related to the terms and conditions of a Transaction shall not be considered investment advice or a recommendation to enter into a Transaction. No communication (written or oral) received from the other Party shall be deemed to be an assurance or guarantee as to the expected results of a Transaction.

10.2.2.2 Assessment and Understanding. It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of a Transaction. It is also capable of assuming, and assumes, the risks of a Transaction.

## 10.3 Notice Regarding Foreign Exchange Option Contracts

10.3.1 The Parties agree to make the following amendments to any option contracts which are entered into by and between you and the Bank as follows:

10.3.1.1 You may instruct the Bank to extend option contracts and any extension will be subject to credit approval granted by the Bank's applicable credit committee and the rollover of any option contract will also be subject to maturity restrictions as imposed by the Banks credit committee;

10.3.1.2 the Bank will not extend, restructure or enter into an option contract where the option strike price is more than 10% (ten percent) differential from the prevailing spot exchange rate, without the necessary cash flows being exchanged to bring it back within the required 10% (ten percent) differential from the prevailing spot exchange rate limit;

10.3.1.3 the Bank will not execute new option contracts or roll existing option contracts with you where the mark-to-market valuation is greater than the available pre-settlement credit line, unless suitable collateral is placed or pledged;

10.3.1.4 The option contract products available are limited to the Bank's approved products as communicated in the facility letter concluded between you and the Bank. The products the Bank makes available to you may be amended from time to time at the sole discretion of the Bank;



- 10.3.1.5 The outright purchase of option contracts by you is permitted.
- 10.3.2 Currency option contract products are available to you at the sole discretion of the Bank and the Bank may at any time review its decision to make option contract products available to you.
- 10.3.3 You need to be pre-approved in order to be able to trade currency option contract product.
- 10.3.4 Any negative mark to market on your option contract will negatively affect the limit available on your pre-settlement facility.

## 10.4 Cancellations, Partial Payments, Early Draw-downs and Extension of Transactions

- 10.4.1 In the event of you want to:
  - 10.4.1.1 cancel a Transaction in whole or in part;
  - 10.4.1.2 effect partial settlement of a Transaction;
  - 10.4.1.3 make an early drawdown; and/or
  - 10.4.1.4 extend the Value Date of a Transaction;
- 10.4.2 You must instruct the Bank, at least 2 (two) Business Days prior to the Value Date or the proposed earlier Value Date of the Transaction, as the case may be, to affect such variation.
- 10.4.3 Such instructions shall be by way of your preferred Channel of communication with the Bank.
- 10.4.4 In the event of any loss or profit arising as a result of a request to vary the initial Transaction instructions as contemplated above and as determined by the Bank in accordance with its standard procedures, such loss will be for your account and will be payable at the time of such variation, and/or on the originally agreed Value Date of the Transaction. You authorizes the Bank to debit your Nominated Bank Account, or any account held in your name with the Bank, with the amount of the loss incurred due to the variation contemplated above.
- 10.4.5 The Bank will not be responsible for any costs, claims, damages and loss incurred as a result of a reversal and/or cancellation of a Transaction. You authorizes the Bank to debit any fees and costs incurred from the Nominated Bank Account or any other account held in your name with the Bank.

## 10.5 After Hours Dealing

- 10.5.1 The Bank will in its sole and absolute discretion make After Hours dealing available, subject to the following provisions:
- 10.5.2 A limited number of currencies will be available for After Hours dealing and the availability of these currencies are subject to change without notice; and
- 10.5.3 The Bank does not guarantee the availability of exchange rates and the Liquidity thereof.

## 10.6 Limit Orders

### 10.6.1 General

- 10.6.1.1 Limit Orders is the buying and selling of Foreign Currency at a specified rate, through Spot Deals which must remain valid for a maximum period of 12 (twelve) months of an order being placed and are executed by the Bank on a best effort basis
- 10.6.1.2 Limit Orders are triggered at levels before being filled at available Liquidity. The Bank uses widely accepted market rates as well as that of major banks to determine trigger levels. You needs to take Margin into account when placing orders



- 10.6.1.3 The bank may prevent the placing of orders too close to prevailing Spot Rates.
- 10.6.1.4 In the event of large market moves past the agreed order price, the Limit Order will take place at the specified price depending on the direction of market rate movements and depending on Liquidity at said level. If there is no Liquidity at the order price then the order will execute at the next available price and Slippage could apply:
  - 10.6.1.4.1 On a Limit Order Fill, the resulting Transaction becomes binding and a settlement will take place on Value Date.
  - 10.6.1.4.2 You may make multiple amendments; however, you will be responsible for the cost incurred in respect of each amendment.
  - 10.6.1.4.3 **NOTE: Limit Orders can be booked and triggered After Hours but can ONLY be cancelled during Business Hours, see 10.6.2.1.3 below.**

## 10.6.2 Cancellations of Limit Orders

- 10.6.2.1 In the event you want to cancel a Limit Order application:
  - 10.6.2.1.1 You shall instruct the Bank prior to the Limit Order expiry date. Such instruction shall be by telephone or in writing or through your preferred Channel.
  - 10.6.2.1.2 If the Limit Order has been executed and the deal has been booked you shall be liable for any loss or profit arising from the cancellation of the deal booked. The profit/loss will be for the account of you and will be payable at the time of such variation, or on the originally agreed Value Date for the Transaction, as determined by the Bank.
  - 10.6.2.1.3 Cancellation requests cannot be initiated on any of the Bank's Channels After Hours. Cancellation requests can only be initiated through the Bank's Channels during Business Hours and will therefore only be processed by the Bank during Business Hours.

## 10.7 Deal Confirmation

- 10.7.1 The deal acceptance on self-service channels will serve as confirmation of a deal.
- 10.7.2 Deals executed by the Bank on your behalf, i.e. by the dealing desk:
  - 10.7.2.1 All Transactions that are concluded between the Bank and yourself telephonically these calls are recorded. A confirmation in respect of each Transaction shall be made by the Bank to you promptly on the Trade Date;
  - 10.7.2.2 **The Bank does not provide confirmations in respect of Spot Deals unless you requests same.**
  - 10.7.2.3 A confirmation of a Transaction will be provided by the Bank to you. A confirmation will be provided in the form of a PDF document, any confirmation provided in the CSV format is for the sole use of automation so that the confirmation can be imported into your computer system for editing;
  - 10.7.2.4 Written confirmation of the Spot Transaction resulting from a Limit Order Fill will be communicated to you by electronic mail in the form of a PDF document;
  - 10.7.2.5 The failure by the Bank to provide a confirmation as stated shall not invalidate the Transaction concerned;
  - 10.7.2.6 A confirmation which has been provided by the Bank shall constitute prima facie proof of the subject matter of the Transaction concerned unless you notify the Bank in writing (which may be sent by telefax or email) or by telephone, that it disputes the confirmation as soon as possible but not later than the Business Day following receipt of such confirmation;



10.7.2.7 All Derivative Transactions will either be executed under the ISDA Master Agreement terms and conditions where applicable or a long form confirmation.

## **11 Exchange Control Requirements and Limits for Global Receipts (Inward SWIFT)**

- 11.1 The Central Bank of Eswatini requires the Bank, as an Authorized Dealer, to report on Balance of Payments (BOP) and therefore creating some obligations for both the bank and you. The following is required of you when inwards funds are received for your account:
  - 11.1.1 You will be notified through a push notification via FNB App.
  - 11.1.2 The notification will require you to confirm knowledge and purpose of funds by following the prompts displayed in the notification.
  - 11.1.3 You will be required to complete an integrated form with a declaration (obtainable from the Bank) to the effect that the information supplied is true and correct.
  - 11.1.4 The Bank may sign the form on behalf of you after you has given authorization to do so.
- 11.2 No Transaction will be processed unless the required application form has been fully completed and submitted and all requested information and/or documentation has been received by the Bank.
- 11.3 If the inward payment presented by the Bank does not belong to you, it is your responsibility to inform the Bank as soon as is reasonably possible that the money should be returned. Failure to advise the Bank within a reasonable time could result in fraud charges being instituted against you by the Bank.
- 11.4 If the inward payment is recalled or cancelled for whatever reason by the remitting bank on the instructions of the sender, the Bank will take whatever action is necessary to process that request including freezing the relevant funds and/or your Bank account/s and doing all such things as provided in the relevant Account Terms and Conditions and any applicable legislation;
- 11.5 The Bank will endeavour to process recall/cancellation requests as quickly as possible however this process is entirely dependent on the remitting bank and any other parties involved including the sender of the funds and any law enforcement agencies that may be involved in the recall/cancellation requests. The relevant funds and/or your Bank account/s will remain frozen during this period until the recall/cancellation request has been finalised;
- 11.6 The Bank will not be held liable for any damages, losses, legal actions and costs you may incur as a result of you failing to truthfully declare that the monies are not that of you.
- 11.7 The Bank reserves the right to debit the account into which the monies were incorrectly or erroneously paid with the full amount including any interest or exchange rate fluctuation losses incurred. In the event the Bank is unable to debit the account with the outstanding amount you will remain liable to repay the Bank the full amount including any interest or exchange rate losses.

## **12 Settlement of Transactions**

- 12.1 The Authorised Dealer Manual as well as the Exchange Control Regulations determines the conditions or prerequisites under which settlement of Transactions will take place. This inter alia requires documentary proof for substantiating the reason for payment.
- 12.2 Payments to you in terms of a Transaction will be made to the account specified by you in terms of the settlement instructions provided by you to the Bank and accepted by the Bank or, if no such instructions have been provided, to the account specified by you when the Transaction is entered into, and recorded in the confirmation, or as otherwise agreed. If no account is so specified, and accepted or recorded, and if no other arrangement has been agreed, you will be obliged to advise



the Bank in writing of the account to which the payment must be made by no later than 2 (two) Business Days prior to the Settlement Date, and failure to do so will entitle the Bank:

- 12.2.1 to cancel the Transaction concerned, and any loss or profit arising on such cancellation (as determined by the Bank in accordance with its standard procedures) will be for the account of you; or
  - 12.2.2 to take whatever action is required to ensure that settlement of the Transaction takes place (but without any obligation on the Bank to do so) which will include, but not be limited to, payment of Rand to your Nominated Bank Account maintained with the Bank (if any).
  - 12.2.3 It's your responsibility to ensure that adequate funds or limits are available for settlement of any Transaction.
- 12.3 The foregoing shall not prejudice any rights which the Bank may have as a result of your failure to pay amounts due to the Bank.
- 12.4 Payment of the funds received will be made to your Bank Account within a period not exceeding thirty (30) days.

## 12.5 Formal Standing Settlement Instructions for Inward Receipt of Funds:

- 12.5.1 The Bank allows you to put in place a formal standing settlement instruction (SSI). A SSI for inward payments is where you have agreed for the Bank to process the inward SWIFT payment according to set rules without the Bank contacting you.
  - 12.5.2 In the event of a conflict between the account number provided in the SSI and the account number provided in the SWIFT message, the Transaction WILL settle to the account number stated in the SWIFT message.
- 12.6 The Bank is irrevocably authorised by you to debit any account held in your name with the Bank and/or your Nominated Bank Account, with:
- 12.6.1 any amount incorrectly credited to the Nominated Bank Account;
  - 12.6.2 any amount overpaid to you;
  - 12.6.3 any amount paid in error;
  - 12.6.4 fees and charges in respect of the relevant Transaction and/or any other out of pocket expenses including VAT or similar tax which the Bank incurs in connection with maintaining and enforcing the Bank's rights in respect of any Transaction;
  - 12.6.5 any legal fees associated with the recovery of any and all sums from you;

## 12.7 Interest on outstanding amounts

- 12.7.1 Interest will be charged as provided in the terms and conditions that govern your Nominated Bank Account. Interest is calculated from the date on which you should have made payment to the Bank up to and including the date on which you actually pay the Bank the overdue amount.
- 12.8 The Bank has the right where you are in default of any Transaction and/or where an amount was overpaid to you or paid in error to you to immediately:
- 12.8.1 place any of your funds (credits) on hold; or
  - 12.8.2 debit any account held in your name with the Bank and/or your Nominated Bank Account with the amount in question; or



12.8.3 set-off any outstanding amounts that are due and payable against funds (credits) available in your accounts held with the Bank as the law allows.

12.9 The authorisations granted to the Bank above shall not preclude the Bank from any other remedy available to it whether in terms of these Terms and Conditions, any other terms and conditions governing the Bank/Client relationship or by law.

## 13 Collection of Foreign Currency from the Bank

13.1 For collection at your chosen FNB branch, the Bank requires the following documentation:

13.2 Identity **Document (ID) of the person collecting the Foreign Currency:**

13.2.1 On collection of your Foreign Currency, you will be required to complete and sign a confirmation of the Transaction, as provided by the relevant FNB Branch;

13.2.2 FNB offers you the service of collection of the order of Foreign Currency by an authorised third party (if required or requested), in which case the necessary documentation must be made available by the authorised third party at the time of collection.

13.3 Collection at FNB branches can be done between 08h30 to 15h30 on Mondays to Fridays and 08h30 to 12h00 on Saturdays.

## 14 Authorised Persons

14.1 If you provides to the Bank a list of persons who are authorised to provide, instructions, notices, requests or to acknowledge confirmations, including any third party service providers (e.g. Reuters), the Bank reserves the right to rely on such, instructions, requests, notices or acknowledgements which the Bank believes are given or made by any person who is or who is believed by the Bank to be a person who is authorised or entitled under the said list to give or make such, instructions, notices, requests or confirmations on your behalf, provided that in doing so the Bank acts in good faith. The Bank shall not be required to enquire as to the authority or entitlement of any such person to give such, instructions, notices, requests or confirmations.

14.2 If you does not provide a list of the type contemplated in clause 11.1 to the Bank, the Bank is entitled to assume that any, instruction, notice, request or confirmation (whether in writing or not and however communicated to the Bank) has been properly authorised by you if they are given or purported to be given by an individual or person who is or purports to be and is reasonably believed by the Bank to be a director or employee of you, or your authorised agent.

## 15 Foreign Exchange Fees and Charges

15.1 A Margin on exchange rates, fees, charges and or commissions will be levied on all Transactions. Margins, commissions and charges are specific to the type of Transaction concluded.

15.2 Charges per Transaction are paid in the following options:

BEN: All charges are paid for by the beneficiary

SHA: Charges are shared

OUR: All charges including overseas charges are paid for by you

15.3 All Transaction costs, fees and charges will be credited and debited from and to your Nominated Bank Account, unless otherwise advised by you. It will be displayed on your Nominated Bank Account transaction history and/or by a confirmation provided by the Bank. Fee explanations, related fees, charges and penalty fees for the use of the service can be found in the pricing guide available at any FNB branch, on the Bank's website.





- 15.4 If no account is specified, you will be obliged to advise the Bank in writing of the bank account into which payment must be made by no later than the Value Date. Failure to advise the Bank of your bank account within the aforementioned timelines will entitle the Bank to:
- 15.4.1 cancel the Transaction concerned, and you will be liable for any loss arising as a result thereof;
  - 15.4.2 take whatever action is required to ensure that settlement of the Transaction takes place (but without any obligation on the Bank to do so) which will include debiting any such amounts from any account held in your name with the Bank.
  - 15.4.3 The foregoing provisions shall not prejudice any rights the Bank may have as a result of your failure to pay amounts due to the Bank.
  - 15.4.4 The Bank is irrevocably authorized by you to debit any account held in your name with the Bank and/or your Nominated Bank Account, with:
    - 15.4.4.1 any amount incorrectly credited to the Nominated Bank Account;
    - 15.4.4.2 any amount overpaid to you;
    - 15.4.4.3 any amount paid in error;
    - 15.4.4.4 fees and charges in respect of the relevant Transaction and/or any other out of pocket expenses including VAT or similar tax which the Bank incurs in connection with maintaining and enforcing the Bank's rights in respect of any Transaction;
    - 15.4.4.5 any legal fees associated with the recovery of any and all sums from you;
    - 15.4.4.6 Interest on outstanding amounts. Interest will be charged as provided in the terms and conditions that govern your Nominated Bank Account. Interest is calculated from the date on which you should have made payment to the Bank up to and including the date on which you actually pays the Bank the overdue amount.
  - 15.4.5 The Bank has the right where you is in default of any Transaction and/or where an amount was overpaid to you or paid in error to you to immediately:
  - 15.4.6 place any of your funds (credits) on hold; or
  - 15.4.7 debit any account held in your name with the Bank and/or your Nominated Bank Account with the amount in question; or
  - 15.4.8 freeze or close your account; or
  - 15.4.9 set-off any outstanding amounts that are due and payable against funds (credits) available in your accounts held with the Bank, in accordance with the set-off provision
- 15.5 The authorizations granted to the Bank above shall not preclude the Bank from any other remedy available to it whether in terms of these Terms and Conditions, any other terms and conditions governing the Bank/Client relationship or by law.

## 16 Declarations and Warranties

- 16.1 **You warrants that** each Transaction shall accord with approvals or permissions granted to you by the CBE and that you shall not be in contravention of any of the rules, laws, regulations or directives in respect of any Transaction.
- 16.2 the Transactions entered into are required to cover a firm and ascertained Foreign Currency receipt or commitment (as the case may be) and that the period for which such Transactions are entered into will not extend beyond the date upon which such receipt, or commitment (as the case may be), is due.



- 16.3 the Authorised Person is duly authorised and has the contractual capacity to sign to enter into a Transaction. If it is found that contractual capacity does not exist, the Transaction may be cancelled, and you will be held liable for any losses incurred in this regard. The Bank will not be responsible for any costs, claims, damages and incidental loss incurred as a result of the cancellation of the Transaction.
- 16.4 to the best of your knowledge, the Transaction does not contravene any local or international law, statute, rule or regulation.
- 16.5 you has read these Terms and Conditions and knows and understands the contents hereof and agrees to be bound by these Terms and Conditions.
- 16.6 the information furnished and documentation presented in support of this application are in all respects true and correct.
- 16.7 you will inform the Bank if any of this information changes.
- 16.8 the currency applied for will only be used for the specific purpose stated herein.
- 16.9 you have not applied for the same Transaction with another Authorised Dealer.
- 16.10 no other Foreign Currency cover exists for the obligations covered by the Transaction(s) entered into.
- 16.11 each Transaction shall accord with approvals or permissions granted to you by the CBE and that you shall not be in contravention of any of the rules, laws, regulations or directives applicable for the period of the Transaction.
- 16.12 you warrants that your taxes are up to date. You will provide the Bank with your original and valid tax clearance certificate when so requested or required.
- 16.13 you will not use the SDA to disguise transfers for other purposes and agrees that the gift and loan portion may only be sent to Non-Resident individuals and Residents Temporarily Abroad.
- 16.14 you have been informed that limits may be applicable to certain Transactions and you acknowledges that these limits will not be exceeded at the conclusion of the relevant Transaction.
- 16.15 you is aware of the fees and the Terms and Conditions that apply to the Transaction in question. and
- 16.16 you understands that information about fees and Terms and Conditions are available in the pricing guide as published on the Bank's website or from any FNB branch.
- 16.17 In the event of the warranties made by you not being and remaining true and correct while any Transaction remains outstanding, the Bank will be entitled to take such action as it considers necessary to ensure that it is in or becomes in compliance with its obligations as an Authorised Dealer, which will include, but not be limited to, terminating any non-compliant Transactions in accordance with then current Exchange Control Regulations. The foregoing is without prejudice to any other rights which the Bank may have as a result of such incorrect warranty being given.
- 16.18 **The Bank warrants that** it is an Authorised Dealer.

## 17 Indemnity

- 17.1 You specifically indemnify the Bank against and holds it harmless from all demands, claims, actions, losses, costs and damages of whatever nature that may be brought against the Bank or that the Bank or you may suffer or incur arising from any unauthorised or unlawful access to your accounts or data or any loss, destruction or theft of or damage to any of your or the Banks data or equipment.
- 17.2 You indemnify the Bank against and holds it harmless from: any penalties or fines that apply to the Transaction or are incurred as a result of the Transaction; any claim, cost, loss, damage or actual expenses it suffers or incurs because of an act, omission and/or your non-compliance.



17.3 The indemnity clause shall also cover the following:

17.3.1 All demands, claims, actions, losses and damages of whatever nature which may be brought against FNB or which FNB may suffer or incur arising from its acting or not acting on any request or arising from the malfunction or failure or unavailability of any hardware, software, or equipment, the loss or destruction of any data, power failures, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, terrorism, any other event beyond the Bank's control, interruption or distortion of communication links or arising from reliance on any person or any incorrect, illegible, incomplete or inaccurate information or data contained in any Request received by FNB.

17.3.2 Any loss or damage occasioned by the failure by you to adhere to these Terms and Conditions and/or by supplying of incorrect information or loss or damage occasioned by the failure or unavailability of third-party facilities or systems or the inability of a third party to process a transaction or any loss which may be incurred by the Bank as a consequence of any breach by these terms and conditions.

17.3.3 Any damages and costs payable to FNB in respect of any claims against FNB for recompense for loss where the particular circumstance is within your control.

## 18 Limitation On The Banks Liability

18.1 The Bank shall make every effort to process a Transaction placed via the various Channels without any delay. However, you understand that delays can sometimes occur due to technical problems or matters out of the Banks control.

18.2 The Bank uses reasonable care and skill in providing the products to facilitate the dealing in Foreign Currency to you; however, the Bank does not warrant that access to these products shall be continuous and/or error free.

18.3 The Bank will not be liable to you or any other person for any loss or damage you suffers because of any one or more of the following:

18.3.1 if the Bank is unable to perform any of its obligations to you due to the failure of any technical systems or for any other reason beyond the Bank's reasonable control including amongst other things, war, civil unrest, terrorism, government action, natural disaster and industrial dispute;

18.3.2 for any damage to your computer equipment as a result of using the website or Channels to deal in Foreign Currency; and/or

18.3.3 for any claims and/or damages (including, without limitation, indirect or consequential loss, loss of profit and whether in contract or in delict) suffered by you or incurred from your use or delay or inability to use the website or Channels to deal in Foreign Currency, however caused.

18.4 The Bank's maximum liability to you in respect of each use of the Channels to deal in Foreign Currency shall be to refund the purchase price of your order. Any delay on your part in providing documentary evidence of your underlying commitment in order to obtain exchange control approval by the Settlement Date will, without exception, prevent a settlement and could result in possible costs to your account and/or your payment not being effected timeously, in which case the Bank will not be liable for these costs or for your payment not being effected timeously.

## 19 Certification of Indebtedness

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



## 20 How To Report Disputes With FNB

- 20.1 If you have any disputes or complaints, you may contact our Customer Service Centre on 8006100 or 2518600 or email [gethelp@fnb.co.sz](mailto:gethelp@fnb.co.sz) to raise them.
- 20.2 Any complaint that you may make will be investigated and determined within a period of thirty (30) days and once a decision has been made thereon it will be communicated to you forthwith. FNB will take all measures within its means to resolve your complaints within a reasonable time. All complaints will be handled in accordance with the Bank's complaints handling procedures.
- 20.3 Where a notification regarding your complaint or any other matter is expected from the Bank but not received, the complaint must be made within a reasonable time after non-receipt of such notification.
- 20.4 If you are not satisfied with any response in relation to your complaint, you may refer the matter to the Banking Ombudsman situated at the Central Bank of Eswatini.

## 21 Notices Or Domicile And Communications

- 21.1 All notices, demands or communications intended for the Bank shall be made or given to the Bank as follows:
- Foreign Exchange Product House, Sales House Building, Swazi Plaza, Mbabane**
- 21.2 You will be deemed to have elected either your registered address or your most recent physical address advised to the Bank, at the address for notices etc. and as your domicilium.
- 21.3 Any Party shall be entitled to change its domicilium from time to time, provided that any new domicilium selected by it shall be an address other than a post box number, and any such change shall only be effective upon receipt of notice in writing by the other Party of such change.
- 21.4 A notice sent by one Party to the other shall be deemed to have been received on the same day, if delivered by hand or sent by telefax and on the fifth day after posting, if sent by prepaid registered post.
- 21.5 Notwithstanding anything to the contrary contained herein a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium citandi et executandi.

## 22 Governing Law

- 22.1 This Agreement shall in all respects be governed by and construed in accordance with the laws of the Kingdom of Eswatini as constituted on the day this Agreement is entered and any amendments made thereto from time to time, and all disputes, actions and other matters in connection therewith shall be determined in accordance with such laws.

## 23 Jurisdiction

- 23.1 FNB shall be entitled, at its option to institute any legal proceedings which might arise out of or in connection with this Agreement, in any Court in the Kingdom of Eswatini that has jurisdiction.
- 23.2 You consents and submits to the jurisdiction of whichever court FNB institute proceeding at and to pay FNB's costs, fees and expenses in recovering any amounts owing to FNB or enforcing, preserving or protecting its rights in terms hereof, including legal costs on the attorney-own-client scale, collection charges, tracing fees, and VAT, on demand.

## 24 Consent To Disclosure Of Information



- 24.1 By making use of the Bank's Foreign Currency dealing products, you consents to the Bank providing information about these Terms and Conditions; your breach of the Terms and Conditions; fraudulent activities to which you are a party to; your application for Foreign Currency; and/or the Bank's termination of the Transaction.
- 24.2 This consent extends to any credit bureaux, the Financial Intelligence Centre, CBE, ERS; different divisions within FNB and FRG; fraud prevention schemes established by the Bank; and/or other international counterparty banks for purposes of such counterparty complying with its rules. The Bank will only disclose the abovementioned information when it is necessary to preserve the rights and interests of the Bank, other banks, the financial industry or the public in general.
- 24.3 The Privacy Policy can be located on the Bank's website at Privacy Policy | Legal matters | FNB (fnbswaziland.co.sz).

## 25 Declarations

- 25.1 You declare that:
- 25.2 all information supplied to the Bank is complete, correct and accurate. The Bank will not be held responsible for incorrect information supplied by you in respect of any Transactions.
- 25.3 You were informed of the risk of any losses caused by changes in the exchange rate.

## 26 Foreign Cheques

The bank does not accept, issue nor process foreign cheques.

## 27 Ending This Agreement

- 27.1 FNB has the right to end this agreement and close your account at any time after FNB gives you reasonable notice of 30 days.
- 27.2 You can end this agreement by giving FNB notice in writing.

### 27.3 Consequences of Termination

- 27.3.1 If this agreement ends the following rules apply:
- 27.3.1.1 You must still pay FNB the full amount you owe FNB for all transactions subject to any arrangements you have with FNB on your account.
- 27.3.1.2 You must not withdraw funds from your account until FNB has processed all outstanding transactions.
- 27.3.1.3 To cover what you may owe FNB after the agreement ends you agree that FNB can keep sufficient funds in your Account

## 28 Execution

- 28.1 By authorising any instruction, you agree to be bound by the terms and conditions applicable to the products, services and / or your relationship with the Bank and you acknowledge that you are duly authorised and have the contractual capacity to approve and process this instruction.
- 1.1. If it is found that contractual capacity does not exist, you will be held personally liable for losses incurred on the Bank's part.