



# HBZ BANK LTD

(A Subsidiary of Habib Bank AG Zurich)

Annexure - A

## ISLAMIC PROFIT AND LOSS SHARING ACCOUNT - GENERAL TERMS AND CONDITIONS

### 1. DEFINITION OF TERMS

- a. "The Bank" means HBZ Bank Limited, registration number 1995/006163/06
- b. "PayShap" refers to the payment service and associated products which allows a Payer and/or Recipient/Beneficiary to make and/or receive real-time payments using pay by account, pay by ShapID/Business ShapID, or Shap Name.
- c. "PayShap payment" refers to a real-time payment of money from one bank account to another which clears in up to 10 seconds if processed successfully.
- d. "Payer" refers to the individual or juristic person who makes a PayShap payment to another individual or juristic person.
- e. "Recipient" or "Beneficiary" refers to the individual or juristic person who receives a PayShap payment from another individual or juristic person.
- f. "ShapID" refers to the registered proxy for your personal bank account details which is a combination of your bank-registered cellphone number and bank name linked to your current or savings bank account. Your ShapID is displayed as: 'cellphone number@bank'.
- g. "Business ShapID" refers to the registered proxy for your business bank account details which is a combination of your bank-registered cellphone number linked to one of your business bank accounts. Your Business ShapID is displayed as: 'cellphone number@bank'.
- h. "HBZ ShapID" means the ShapID provided to you by HBZ Bank. It is your registered cellphone number linked either to your current or savings HBZ bank account for personal banking. Your HBZ ShapID is displayed as: 'your cellphone number@hbz'.
- i. "Primary ShapID" refers to the registered default proxy for your bank account details which is your bank-registered cellphone number linked to your bank account. Your Primary ShapID is displayed as: 'your cellphone number'.
- j. "HBZ Primary ShapID" refers to the registered default proxy for your HBZ bank account details which is your bank-registered cellphone number linked to your bank account at HBZ Bank. Your Primary HBZ ShapID is displayed as: 'your HBZ Bank-registered cellphone number'.
- k. "Shap Name" refers to a custom proxy which is a unique alpha numeric identification and bank name, linked to your selected business bank account. At present, HBZ Bank customers can make a payment using a Shap Name instead of bank account details.
- l. "Participating bank" means a bank which is authorised by the Payments Association of South Africa to offer PayShap.

### 2. INTRODUCTION

- 2.1. These Terms and Conditions ("Terms") set out the terms and conditions applicable to your account with HBZ Bank Ltd. References to "we", "us" and "our" are references to HBZ Bank Ltd. References to "you" and "your" are references to you, as the person or entity applying to open an account ("Account") with us.
- 2.2. These Terms form a legal agreement between you and us and contain important information regarding the services that we will provide to you, so please ensure that you understand all of them. There are clauses in these Terms that require your careful consideration. For your reference, those terms which may limit any of your rights, or which provide for specific acknowledgements or warranties required by / from you, are in bold font. You acknowledge that you have read and appreciated the importance of the terms and clauses in bold font.
- 2.3. These Terms are legally binding on both you and us ("Parties"). By completing the attached application form ("Application") you acknowledge that you have read these Terms and that you fully understand the contents of these Terms and you agree that your use of your Account and any banking facilities we may offer you will be

governed by these Terms. You must let us know as soon as possible (and in any event before using our services) should you require clarity on anything you do not understand.

### **3. WARRANTIES AND UNDERTAKINGS**

- 3.1. When you submit the Application to us and each time we effect an instruction in relation to your Account, you will be deemed to represent and warrant to us that:
- 3.1.1. you are fully authorised and legally entitled to enter into these Terms, to transact with us and to perform your obligations under these Terms;
  - 3.1.2. you will not use our name or any of our trademarks in any way without our prior written consent;
  - 3.1.3. you are of legal age in the country in which you reside;
  - 3.1.4. these Terms has been duly authorised, executed, signed and delivered by you;
  - 3.1.5. you will ensure that any person authorised by you to act on your Account complies with these Terms;
  - 3.1.6. all information provided by you in terms of these Terms is true and correct, and that we may rely on the truthfulness and correctness of that information.
- 3.2. Any breach of undertaking will entitle us, for as long as the breach is not remedied and in our absolute discretion, to either close the Account and/or to suspend your access to the Account, after providing you with reasonable prior notice.
- 3.3. You undertake that you will, as soon as reasonably possible , (i) inform us and (ii) confirm the information in writing if there is any change in your contact or any other details as set out in the Application.
- 3.4. Minimum Balance thresholds - You undertake to maintain a minimum monthly average balance of R100,000 at all times. The Bank reserves the right to close your account after providing you with reasonable prior notice should you not maintain the required minimum balance in your account.**
- 3.5. You authorise us to carry out any credit and / or identity checks, which we deem appropriate including obtaining references from your employer and another bank and / or contacting a credit reference agency. Should we reject your Application, we will, upon receipt of a written request from you in this regard, provide you with reasons for our rejection of your Application.
- 3.6. Subject to any applicable legislation, we as well as any of our divisions, affiliated or subsidiary companies, are authorised to furnish or to disclose any information with regard to your Application and any agreement arising from or as a result of your Application, as well as the performance or compliance in respect thereof to any credit bureau and/or any other person as allowed in terms of the Protection of Personal Information Act No. 4 of 2013.
- 3.7. All legal costs incurred by us because of any default of the provisions of these Terms shall be payable on demand by you on the scale as between attorney and own client and shall include collection charges, the costs we have incurred in trying to enforce our rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgement awarded in favour of us in relation to its rights in terms of or arising out of these Terms.
- 3.8. We undertake to render bank statements to you from time to time, in accordance with your instruction as set out in the Application. Unless you lodge an objection against any bank statement rendered to you within ten days of despatch by us of that bank statement, the statement will be deemed to be correct.
- 3.9. Should any stop orders be effective on your Account, you undertake that you will not be entitled to stop payment of any stop orders on your Account. Should such instruction be given by you and be accepted by us, and we remain liable to pay any amount to a third party in terms of the stop order then you accept liability for any such payment made by us.
- 3.10. You accept that we will use your most recent address recorded in our records for all correspondence regarding your Account.
- 3.11. You indemnify and hold us harmless against any damage, loss, costs or expenses which we may suffer or incur as a result of you breaching any of these terms and conditions, including but not limited to:
- (i) you not having the required funds available to fulfil any payment instructions;
  - (ii) not fulfilling your obligation to deliver such funds pursuant to an instruction effected by you; or
  - (iii) us receiving incorrect or unauthorised instructions from you and acting on such unauthorised instruction, except in as far as we may act fraudulently or in bad faith in effecting any instruction, in which case, our liability shall be restricted to the loss incurred.

- 3.12. You renounce the benefits of the defences and exceptions of no value received, money not paid over, no cause of debt, errors of calculation and revision of accounts, the full force, meaning and effect whereof you declare yourself to be acquainted.

#### **4. ELECTRONIC AND ALTERNATIVE AUTHORISED SIGNATORIES**

- 4.1. The Parties agree that this Application may be signed by each of them:
- 4.1.1. By way of electronic signature in accordance with section 13 (3) of the Electronic Communications and Transactions Act, 25 of 2002 (ECTA) or any other relevant electronic or communications legislation or regulation governing the signing of a document by relevant signatory; or
- 4.1.2. By a wet ink signature of a hard copy of this Application, that may be provided to us in original form or by scanning in a PDF version of this Application, and then transmitting such signed, PDF version by email to us.
- 4.2. Subject to clauses 6 and 16.3 below, the Parties agree that any reference to “sign” or “signature” in this Application includes the use of an electronic signature in accordance with ECTA or any other relevant electronic or communications legislation or regulation governing the signing of a document by relevant signatory in the jurisdiction in which the signatory signs
- 4.3. You or any person authorised by you may sign all documents in connection with any transaction between you and us. You will from time to time provide us with specimen signature(s) of you or any other person authorised to sign any document(s) on your behalf. Specimen signature(s) provided to us shall remain valid until revoked in writing and us having confirmed that the revocation has been implemented. You undertake to advise us of any amendments to the authorised signatory (ies) which will become valid when specimen signature(s) on the appropriate form has been supplied to us and we have confirmed receipt of the new instructions.

#### **5. ELECTRONIC INSTRUCTIONS**

- 5.1. To the extent that you have in the Application authorised us to accept instructions in relation to your Account either telephonically, e-mail or by email, you confirm that we are not obliged to confirm receipt of such Electronic Instructions to you in writing or otherwise.
- 5.2. We may require multiple identity authentication steps as well as to make use of any other security measures or controls we deem appropriate for the purposes of verifying your identity or the authority of persons providing the Electronic Instruction

#### **6. IMPACT OF THE NATIONAL CREDIT ACT, 2005 (NCA)**

- 6.1. We may from time to time, and at your request, extend credit facilities to you. The extension of credit may be subject to the provisions of the NCA, in light of which you will be required to complete an additional credit application form and sign additional credit terms and conditions (“Credit Terms”) applicable to our provision of credit to you. In addition to these Terms, the contract between you and us also includes, where relevant, the Credit Terms.
- 6.2. In the event of any conflict between the provisions of these Terms and the Credit Terms applicable to you, the provisions of the Credit Terms shall apply to any credit facility that we have extended to you.
- 6.3. In this clause 5, the Parties agree that the reference to “sign” refers only to a wet ink signature or an advanced electronic signature in terms of ECTA, and the use of an electronic signature in terms of section 13 (3) of ECTA will be of no force of effect.

#### **7. CONDITIONS OF USE OF PAYSHAP SERVICE**

- 7.1. The Bank has automatically registered your HBZ ShapID. This means that your bank-registered cellphone number has been linked to your current or savings account for personal banking, thereby allowing you to use your HBZ ShapID as a proxy for your HBZ bank account details when receiving payments via PayShap.
- 7.2. You may decide to set your HBZ ShapID as your Primary ShapID. In this case, when you provide only your cellphone number for payment, your linked HBZ bank account will be credited.

- 7.3. Should you wish to set your HBZ ShapID as your Primary ShapID, it is your responsibility to ensure that you have not already set a Primary ShapID with another bank. If you have set up a Primary ShapID with another bank, you will need to deregister this Primary ShapID in one of the channels provided to you by the relevant bank before you can set up your Primary ShapID with HBZ Bank.
- 7.4. If you change your cellphone number, it is your responsibility to inform HBZ Bank of your new cellphone number. Your new cellphone number will become your new HBZ ShapID. HBZ Bank will not be liable for any loss resulting from a failure to register and update your cellphone number.
- 7.5. Your ShapID will contain the following details, your cellphone number and Bank name. Your account name and account number are masked when using your ShapID for payment. By using your ShapID, you consent to the sharing and processing of your personal information in accordance with these terms and conditions.
- 7.6. When sharing your ShapID to receive a payment, it is your responsibility to ensure that the correct details are provided to the payer. HBZ Bank will not be liable for any loss or damages resulting from the incorrect or incomplete sharing of your HBZ ShapID or HBZ Primary ShapID.
- 7.7. PayShap payments can only be made between participating banks and are irreversible and cannot be disputed.
- 7.8. HBZ Bank will not be liable for any loss or damage of any nature because of errors or omissions made by you when making a PayShap payment. HBZ Bank is not liable for any loss or damage of any nature because of system, technical, or manual failures outside of the bank's control.
- 7.9. It is your responsibility to ensure that you provide correct and complete information for the payment instruction including but not limited to beneficiary's name, bank account number, and bank.
- 7.10. The Bank does not verify the beneficiary's bank account details nor check the identity of the beneficiary prior to process the PayShap payment instruction. The payment instruction is carried out on the information you provide.
- 7.11. The Bank will not be responsible for any loss or damage incurred as a result of incorrect information you provided.
- 7.12. To receive a PayShap payment when providing your HBZ ShapID, it is your responsibility to ensure that you provide the payer with the correct information for your HBZ ShapID including but not limited to your cellphone number and the name of your bank (HBZ Bank). HBZ Bank will not be responsible for any loss or damage incurred as a result of the incorrect information you provided.
- 7.13. To make a PayShap payment using a ShapID/Primary ShapID/Business ShapID/Shap Name, it is your responsibility to ensure that you provide correct and complete information for the payment instruction including but not limited to beneficiary's name, ShapID/Primary ShapID/Business ShapID/Shap Name, and bank. HBZ Bank will not be responsible for any loss or damage incurred as a result of the incorrect information you provided.
- 7.14. Prior to making a PayShap payment using ShapID/Primary ShapID/Business ShapID/Shap Name, the proxy is validated by the relevant participating bank in the National Payments System. Once validated, you may proceed with payment to the ShapID/Shap Name.
- 7.15. If it is deemed that your ShapID has been involved with suspicious behaviour or transactions, we reserve the right to restrict the use of your ShapID and the service and share the information with the PayShap service operator as well as participating banks.
- 7.16. By using the PayShap service, you acknowledge that you have read and understand the terms and conditions of the service, including any associated terms and conditions.
1. You understand and agree that you use the service at your own risk.
  2. You indemnify us against and hold us harmless from all demands, claims, actions, losses and damages that may be made, instituted or brought against us or that we or you may incur, sustain or suffer because:
    - 2.1 you used the PayShap service;
    - 2.3 you, or any other person acting on your behalf, gave us a PayShap instruction;
    - 2.3 beneficiaries did not receive their money within the stipulated clearing times; or
    - 2.4 there was an error (eg an incorrect account number, ShapID or amount) in the PayShap instruction

## **8. REPAYMENT, PROFIT / RENTAL AND CHARGES**

- 8.1. You agree that any banking facility, including any credit facility that may be granted by us to you is repayable upon demand. You agree and undertake to pay profit on any Islamic banking facility owing to us at the rate as determined by us from time to time and to pay all bank charges which we may levy from time to time in accordance with our applicable banking practice. We will inform you of any additional charges that you may have to pay us if your Islamic limit is exceeded without prior agreement. The Bank may, at any time to change the rate of profit charged on any Islamic banking facility and any other conditions, bank charges or commission rates relating to such Account, subject however, to the condition that the profit rate will not exceed the maximum profit rate prescribed in any applicable legislation, including without limitation, the NCA. We undertake to advise you of any such change in the applicable profit rate and other banking charges charged by us from time to time.
- 8.2. You confirm that the Bank is authorised to debit your Account from time to time for other charges consistent with our banking practice. Additional charges may be levied and payable by you from time to time to make provision for any new fees, including without limiting the generality of the above, any administration fees, commissions, taxes, costs, charges or any other costs (other than cost of funds) which we may become subject to or which may be associated with the performance of our obligations under these Terms. New or additional charges shall be imposed by us at our sole and absolute discretion from time to time.
- 8.3. **The Bank may amend the charges associated with your Account, as well as to introduce new charges applicable to your Account, where necessary and from time to time. You will be notified of any amendment to the applicable charges, either via our website, or through your preferred method of communication one month in advance. You acknowledge that by continuing to transact on your Account and /or using any of the banking services we have made available to you following any notice of the new or amended charges, such activity shall be subject to the new or amended charges, and you agree to be bound by any new or amended charges.**
- 8.4. By using our products and services, you accept that neither we nor any of our directors, employees, representatives or agents shall be liable for any loss sustained by or damage caused (including indirect, incidental or consequential loss or damage) to any person as a result of anything done or omitted by us. Without limiting the generality of the above, we shall not be liable for any loss or damage arising as a result of (i) the implication of an instruction; (ii) the proper fulfilment of any function or obligation as provided for in these Terms; (iii) theft of any nature (including without limitation, robbery, break-in or fraud); (iv) any deficient or forged documentation, or from non-discovery of any forgery or from any act associated with instructions provided by you to us; and (v) the use of electronic equipment, fax or postal service by reason of delay, theft, fraud, mistake, distortion or duplication.

## **9. AUTHORITY TO DEBIT THE ACCOUNT**

- 9.1. Subject to applicable law, you will reimburse us for all payments which we have made, or are required to make, for and on your behalf in respect of any transaction.
- 9.2. You acknowledge and agree that when cash deposits are made at any other bank:
- 9.2.1 we are not liable for errors resulting from incorrect information furnished by you or on your behalf; and
- 9.2.2 we are entitled to reverse any amount incorrectly credited to your Account.

## **10. SET-OFF**

- 10.1. You agree that the assets or funds in any of your Accounts and all rights you may have against us will be subject to a first, perfected, and prior lien, security, and right of set-off and held as security by us for the discharge of any indebtedness or any other obligation you may have to us, however such obligation may have arisen.
- 10.2. In all instances of indebtedness, the assets in your Account will be held by us as security for payment of any liability you may have. You agree to satisfy any indebtedness to us and pay any debit balances in your Account on demand.

- 10.3. We will not be liable to you for any losses that arise out of or relate to any such transactions, including tax consequences you may face as a result of such actions. In the event we set-off your assets to satisfy a debt, we reserve the right to restrict or close your Account, after providing reasonable prior notice to you, and to seek payment of any residual indebtedness through any legal means possible, including but not limited to, reporting such debt to credit agencies.

## **11. TAXES**

- 11.1. You are responsible for all taxes, including without limitation Income Tax, Value Added Tax and withholding tax as imposed by the USA Foreign Account Tax Compliance Act that may arise in relation to your Account and/or use of the banking facilities we have made available to you, whether under current or changed law or practice.
- 11.2. If we become responsible for making any payment or payments relating to your trading, you authorise us to deduct any such payment from your Account or otherwise require you to pay or reimburse us.
- 11.3. We are not responsible for notifying you of a change in tax law or practice and we recommend that you consult a suitably qualified tax professional for independent tax advice on any tax implications relating to your accounts.
- 11.4. The Bank will report information on your account/s under the Tax Administration Act 28 of 2011 and any international agreement administered under this Act. We will issue income tax certificates according to the rules and guidelines of SARS.
- 11.5. You are responsible for any tax implications under the Income Tax Act 58 of 1962 from an account you opened on behalf of a minor.

## **12. AUTOMATIC EXCHANGE OF INFORMATION / COMMON REPORTING STANDARD (AEI / CRS)**

You understand and acknowledge that:

- 12.1. We may provide and / or disclose, directly or indirectly, to any relevant tax authorities or any party authorised to audit or conduct a similar control over us for tax purposes, any of your tax information that we may have in our possession. You further acknowledge that such tax information and information regarding income paid or credited to or for the benefit of your Account(s) may be reported to the tax authorities of the country in which such income arises and that those tax authorities may provide the information to the country or countries in which you are a resident for tax purposes pursuant to and in accordance with the relevant tax regulations as per the Tax Administration Act No. 28 of 2011 (OECD, CRS); and
- 12.2. We may provide and / or disclose, directly or indirectly, information regarding income paid or credited to or for the benefit of the Account(s) to: (i) any person that has control, receipt, or custody of income to which said information relates; (ii) any person that can disburse or make payments of income to which said information relates; or (iii) any party authorised to audit or conduct a similar control of aforementioned persons for tax purposes.
- 12.3. For the duration of the contractual relationship with the Bank, you confirm that you undertake to notify the Bank on your own initiative, if changes in circumstances make any information on this form incorrect and undertake to provide a suitably updated form within 30 days of such change.
- 12.4. Further, you confirm that you understand and acknowledge that reporting and / or disclosure consequences may occur if you fail to comply with your obligations to submit the necessary forms and / or documentation following a change in circumstances.
- 12.5. Further, you confirm that you've examined the information provided under the heading CRS in the account opening form and that to the best of your belief it is true, correct and complete.

## **13. FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)**

- 13.1. FATCA was signed into U.S. law on 18 March 2010. It is aimed at preventing U.S. taxpayers from using accounts held outside of the U.S. to evade taxes. Any financial institution that fails to comply with FATCA will face a 30%

withholding tax on a wide range of U.S. sourced payments to its clients. In terms of the Intergovernmental agreement ("IGA") signed between South Africa and the U.S., we are required to request certain taxpayer information from certain persons who maintain an account with us (whether such persons are U.S. taxpayers or not). Information collected will be used solely to fulfil our obligations under the IGA and will not be used for any other purpose.

13.2. By completing the FATCA section of the Application, you warrant that you:

13.2.1 are the beneficial owner according to U.S. tax principles of the assets and income related to your Account, or, if there is another beneficial owner, that such beneficial owner is not a U.S. person under U.S. tax principles; and

13.2.2 will notify us within 30 business days, if there is any change to your status (or that of another beneficial owner) as a non U.S. person under U.S. tax principles.

#### **14. PROTECTION OF PERSONAL INFORMATION**

14.1. You acknowledge that by opening an Account with us and you will be providing us with personal data, which shall be protected by data protection legislation, including the Protection of Personal Information Act, 2013. You authorise us to process all such personal data and to transmit any such personal data to any of our divisions, affiliated or subsidiary companies ("Affiliate") or third party providers, which Affiliate and/or third party providers may also process such personal data, for the purposes of performing our obligations under these Terms and in furtherance of our legitimate interests including statistical analysis, marketing of our services and credit control. You further consent to any disclosure of personal information where such disclosure is required by applicable law.

14.2. You acknowledge that we are subject to various anti-money laundering laws, including without limitation, the Financial Intelligence Centre Act, 2001, as amended, the Prevention of Organised Crime Act, 2002 and the Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004. In keeping with our obligations under these laws:

14.2.1 we may be required, without prior notice to you, to report certain information relating to your Account to the relevant regulator or Authorities, and where we reasonably believe that your Account is being used for fraudulent and/or illegal purposes, close the Account, revoke your access to the Account and/or suspend activity in the Account; and

14.2.2 we may request that you provide us with certain verification documents to confirm amongst other things, your identity number, physical address and tax, customs & VAT numbers and the underlying transactions in your account. Failure to provide these documents upon our request may result in our refusal to open the Account for you, close the Account, revoke your access to the Account and / or suspend activity in the Account.

#### **15. THIRD PARTY FUND TRANSFERS THROUGH HBZBANKWEB**

15.1. The Customer must ensure that there is sufficient balance in the account to which the Bank service relates before requesting for a Third Party Fund Transfer. Should sufficient funds not be maintained, the Bank will not process the transaction and consider such request as void without referring back to the Customer.

15.2. The Customer understands that transfers to third party banks may take up to 3 business days.

15.3. The Customer understands that in regard to the transfer request, neither the bank nor its correspondent bank(s) in the case of payments being made to a party based in another country (Correspondent Bank) are responsible for any delay, mistake or omission however caused or damage arising in the communication of any kind whatsoever by the electronic system.

15.4. The Customer understands that any request made through HBZBankweb for Third Party Fund Transfer will bear the date and time of Banks main computer in Zurich.

15.5. The Customer understands that any service rendered through HBZBankweb will be charged as per Banks schedule of charges.

- 15.6. The Customer understands that the Bank shall not be responsible for any erroneous payment to Account, Bank, Credit Institution and Credit Card, arising out of the wrong input of Name, Account, Banks Name, Branch, Credit Card Number etc by the Customer.
- 15.7. The Customer undertakes to indemnify the Bank in respect of any overpayment resulting from such mistake and authorizes the bank to make a direct debit to the customer's account for such overpayment.
- 15.8. The Bank has full freedom to select the channel for Third Party Fund Transfers, including, method of payment, and Correspondent Bank(s). The Customer agrees to waive any right for holding the Bank responsible for any mistake or omission caused by or due to the channel selected by the Bank and the Correspondent Bank(s) unless caused by the intentional conduct or gross negligence of the Bank. This means you will have no claim against the Bank for harm you suffer as a result of the Bank's choice of channel, even if they were negligent.
- 15.9. The Customer understands that the bank will not be liable to the Customer if the bank is unable to perform its obligation under this agreement due to (whether direct or indirect): -
- a) The failure of any machine, data processing system or transmission line, or
  - b) Any period of essential maintenance, critical change, repairs, alterations to or failure of computer system, or
  - c) Any industrial dispute beyond the Banks control, or
  - d) Strike, riots, and civil commotion or due to any natural catastrophe, or
  - e) Epidemics, pandemics, global health emergencies as determined by the World Health Organisation, infectious or contagious diseases, and quarantines.
- 15.10. The Customer undertakes not to disclose the HBZBankweb password and or the User name allocated to it to any other person. In the event that this becomes known to someone other than the subscriber, the Customer must immediately inform the Bank.
- 15.11. The customer hereby, irrevocably and unconditionally, accepts all debits arising from the use of HBZBankweb.
- 15.12. The Banks record of any transaction processed by the use of HBZBankweb will be conclusive evidence of such transactions and binding on the Customer for all purposes.
- 15.13. Without limiting its other rights or remedies, the Bank may, at its discretion, suspend or terminate any account to which the Customer is a signatory, or this Agreement in its entirety, with immediate effect by giving written notice to the Customer if the Customer or its representatives engages in any conduct which could negatively affect the Bank's operations or reputation in any way.

#### **Multiple accounts**

- 15.14. This section is only applicable to the Customer if the Customer has more than one account in respect of which they are an authorised signatory, and to which the Bank has granted the Customer with HBZBankweb Internet access.
- 15.15. The Customer has instructed the Bank to enable the option to connect multiple accounts using a single login credential, being the link emailed to the Customer on their registered email address ("single login functionality").
- 15.16. By activating the single login functionality, the Customer agrees that the Master User, and sub login users if applicable, will be able to access all accounts on which the Customer is an authorised signatory. Such access will include:
- a) the ability to view all details of such accounts (for example account registration information, detailed balances, transaction history, statement history, EFT confirmations, and to change the daily transaction limit); and
  - b) the ability to transact on those accounts (for example make payments, investments, transfer funds between accounts).
- 15.17. The Customer must read the relevant terms of use, operating manuals and/or any other documentation that the Bank may make available to the Customer, and as may be updated by the Bank from time to time, regarding how to use the single login functionality and how to ensure mobile device compatibility ("documentation"). The Customer is responsible for reading and understanding the documentation, and implementing whatever further steps are required to ensure their compliance with the documentation. The Customer indemnifies the Bank against claims that may arise as a result of any errors that may occur as a result of its failure to comply with the documentation.



- 15.18. All other sections of these Terms and Conditions are applicable to the single login functionality and bind the Customer accordingly.

#### **SMS service**

- 15.19. The Customer indemnifies the Bank against:
- a) Unauthorised use of the account information being transmitted over the SMS network including but not limited to the Customer's account details being disclosed to others due to the Customer specifying an incorrect mobile device number or misplacing the SMS mobile device.
  - b) Any network failure/error by the Customer's mobile device service provider.
- 15.20. The Customer understands that:
- a) An SMS message will not be delivered, if the mobile device is switched-off for an extended period.
  - b) The SMS service can be discontinued by the Bank at its discretion at any time, with prior notification to the Customer.

#### **E-statement service**

- 15.21. When I/we subscribe to eStatement all my/our statements will be eStatements with a monthly frequency unless otherwise specified on the application form. If there are no transactions in an account during the defined frequency for eStatement generation then no eStatement will be generated and sent to the Customer.
- 15.22. The Bank has the right, at its sole discretion, to refuse this or any other application or stop the eStatement service at any time with prior notice to me/us and I/we will receive only paper statements.
- 15.23. In case of no dispute about the contents or any entry in the account within 15 days from the date of receipt hence, the records of the Bank shall be conclusive evidence of the correctness of all debits and credits and balances of the account(s).
- 15.24. This eStatement service is provided entirely at my/our sole risk and in the case of disclosure of the released statement, the Bank will not be liable to me/us for any direct, indirect, special, incidental or consequential loss or damage which may arise in respect of this disclosure and/or delivery of this eStatement service through the email address(s) stated.
- 15.25. I/We understand that the eStatement Service is free of charge.
- 15.26. In the event that the Customer has not provided the Bank with an email address, only a paper based statement will be provided to the Customer subject to the payment of any applicable fees stated in the Schedule of Charges.
- 15.27. The Bank will be deemed to have delivered the eStatement to the Customer on receipt by the Account Holder of the email from the Bank containing such eStatement to the email address.
- 15.28. I/We are the owner and designated user of the designated email and must take all necessary security measures and precautions to ensure that the designated email is not accessed by any unauthorised party. I/We agree and confirm that the Bank does not warrant the timelines, security, confidentiality or availability in the transmission of the eStatements to the designated email.
- 15.29. I/We may terminate the eStatement Service at any time by completing a designated form and returning it to the Bank. I/We understand that the Bank will then only send me my statements in paper format to the last mailing address appearing on the Bank's records subject to the payment of any applicable fees stated in the Schedule of Fees and Charges for additional copies of statements.
- 15.30. I/We agree that from time to time the Bank may advertise its products and services through the eStatement Service.
- 15.31. The Bank will use its best endeavours to ensure the security of the Service. Despite this Bank is not liable in any manner for any disruption, unavailability of the Service, communication, electrical or network failure that may result in the eStatements being incomplete, unavailable or delayed in transmission. The use of and the transmission of information via email and/or internet may not be guaranteed to be secure and may therefore be liable to error, viruses, delay, interception, modification or amendment by unauthorised persons and transmission may be disrupted, interrupted, delayed or incorrect. I/We shall not hold the Bank responsible for any errors, viruses, delay, inaccuracy, losses and damages whatsoever arising from or in connection with my/our use of the sService (including but not limited to any interception, modification or amendment, disruption, interruption, delay or inaccuracy of emails or internet transmission or other communication equipment or

facilities. For the avoidance of doubt, the Bank will not be responsible to pay for any losses suffered whether direct, indirect, consequential, or special loss, even if the Bank has been advised of the same.

## **16. DEBIT CARD**

16.1. In this section, unless the context requires otherwise:

“ATM” means an automated teller machine or any Debit Card operated machine or self-service device whether belonging to us or other participating banks or financial institutions nominated from time to time by the Bank which accepts the Debit Card;

“Cardholder” means the Principal Cardholder or a Supplementary Cardholder who has been issued with a Debit Card;

“Cash Advance” means any cash advance obtained by use of the Debit Card, the Debit Card number or in any manner authorized by the Cardholder for debit to the Account;

“Charges” means any charges payable by a Cardholder to us in respect of a Debit Card as notified by us from time to time including without limitation, handling charges, subscriptions, renewal fees, replacement fees, damages, legal costs and disbursements;

“Debit Card” means the Debit Card issued to the Cardholder by us;

“Merchant” means any corporate entity, person or other establishment willing to honour a Debit Card;

“PIN” means the personal identification number issued to a Cardholder;

“Principal Cardholder” means the Cardholder in whose name the Account is maintained; and

“Supplementary Cardholder” means a Cardholder nominated.

16.2. The Debit Card will be linked to your Account.

16.2.1 We shall debit your Account with the amounts of all Debit Card transactions, charges in respect of the Cardholder, any other liabilities of a Cardholder and any loss incurred by us arising from the use and / or misuse of a Debit Card. The Principal Debit Cardholder will be liable to pay us all amounts so debited whether or not a Debit Card Transaction voucher is signed by a Cardholder.

16.2.2 The Cardholder agrees that Debit Card transaction vouchers will not be provided along with the statement of account. Request for a photocopy will be provided at our sole discretion, if required, within 21 days of the date of the statement of account and will be provided as documentary proof for a charge as per the schedule of charges available at ([www.hbzbk.co.za](http://www.hbzbk.co.za)). Provision of sales slip copies may take a minimum of 45 days subsequent to the Cardholders written request to us. Copies of sales vouchers will not be provided at all for any purpose if the transaction date is over 90 days.

16.2.3 The amount of any Debit Card transaction in a currency other than the currency of the Debit Card will be converted into the currency of the Debit Card at a rate of exchange determined by us for the date when the relevant Debit Card transaction is debited to your Account.

16.2.4 Charges as per the schedule of charges will be levied on all Debit Card transactions.

16.3. Use of the Debit Card:

16.3.1 The Debit Card must be signed, by way of a wet ink signature, by the Cardholder immediately on receipt and shall only be used by the Cardholder during the validity period.

16.3.2 All Debit Cards remain our property and must be surrendered to us upon demand / termination of the agreement.

16.3.3 The Debit Card can be used to withdraw cash and make balance enquiries from ATM's at participating banks or financial institutions nominated from time to time by us; purchase goods and services from venues supporting VISA Cards, both in South Africa and outside of South Africa; and withdraw cash from participating retailers in South Africa.

16.3.4 The Cardholder acknowledges that we are obliged to report transactions occurring outside the Common Monetary Area to the South African Reserve Bank. Any transaction in a currency which is not that of the Account will be converted into the currency in which the Account is denominated at VISA's prevailing wholesale market rate of exchange, subject to any applicable exchange control regulations, on the date of posting of any such transaction to the Account and shall be shown on the Cardholder's statement in South African Rands. The Cardholder acknowledges that there may be a

delay before a transaction effected by the Cardholder in a foreign country is debited or credited, as the case may be, to the Account and the Cardholder agrees to bear the foreign exchange risk in respect of any such delay. All transactions effected by the Cardholder in a foreign country shall incur a commission fee to be determined by us from time to time. The fee will be included in the amount posted to the Account in terms of the provisions of this clause.

- 16.3.5 We are obliged to comply with laws and policies relating to international and local anti-money laundering laws and sanctions. We will therefore screen, verify and process all Cardholder and related information and thereafter monitor all information, instructions and transactions by and on behalf of the Cardholder and the business relationship on a continuous basis. This may result in the prohibition, limitation or delay in the execution of instructions or transactions and even in the suspension of the Debit Card Account and the declining or terminating of any transaction or the business relationship with the Cardholder. To the extent permitted, we shall advise the Cardholder of any action it intends to take in terms hereof. The Cardholder acknowledges and confirms that we, our employees, officers, or directors, shall not be liable for any direct, indirect or consequential loss, damage, cost or expense whatsoever that may be suffered or incurred by the Cardholder as a result of, arising from or relating to any such prohibition, limitation, delay, decline or termination due to the implementation of this clause.

**16.4. Supplementary Debit Cards:**

- 16.4.1 We may issue a Supplementary Debit Card for use by any person(s) (over 18 years of age) nominated by the Principal Cardholder as an authorized user on the Account.
- 16.4.2 The Principal Cardholder shall be liable for all Debit Card transactions of a Supplementary Cardholder and for any losses incurred by us in connection with the use of the Debit Card by the Supplementary Cardholder (including losses as a result of a breach of these conditions).

**16.5. Issue, renewal and reissue of Debit Cards:**

- 16.5.1 We may, subject to satisfactory maintenance of the Account, renew and replace any Debit Card which has expired or which has been lost. Charges will be levied for these cards as per the schedule of charges.
- 16.5.2 Fees and any bank charges to the Debit Card Amount are non-refundable.
- 16.5.3 We may from time to time by giving prior written notice to the Cardholder change the Terms applicable to Debit Cards charges. Such charges shall apply on the effective date specified by us and shall apply to all unpaid fees, cash advances, charges, costs and Debit Card transactions. Any agreement so notified shall be binding on the Cardholder.
- 16.5.4 Retention or use of the Debit Card after the effective date of any change of the Terms applicable to Debit Cards shall be deemed to constitute acceptance of such changes without reservation by the Cardholder. If the Cardholder does not accept the proposed change, the Cardholder must terminate the use of the Debit Card by giving prior written notice to us and return the Debit Card cut in half to us prior to the effective date.
- 16.5.5 The Cardholder may at any time notify us in writing of his intention to convert his Debit Card from its existing type to another available type, and such a request shall be subject to approval by us, payment of a conversion fee and to such other terms and conditions as we may require.
- 16.5.6 If we approve the request of the Cardholder to convert his Debit Card, all charges and other liabilities under the Account shall be transferred to the new account. It is also understood that, if we approve the conversion, the fate of any benefits earned in the Debit Card by virtue of any applicable Customer Loyalty or similar plan or benefit shall be subject to our sole discretion.

**17. NOTICES**

- 17.1. Any notice, consent, approval or other communication in connection with these Terms ("Notice") will be in writing in English and includes a notice which is transmitted electronically in a manner and form permitted in terms of any relevant legislation or regulation.
- 17.2. You acknowledge and confirm that any Notice from us made under or in connection with these Terms may be made orally or in writing to your contact details as provided by you in the Application or subsequently amended by you.
- 17.3. Any Party may by Notice to the other Party change its address and/or the person, if any, for whose attention any Notice must be marked in clause 17.5
- 17.4. Effective on Receipt
- 17.4.1 Any Notice takes effect when received by the Party receiving it (or on any later date specified in the Notice) and, unless it is proven otherwise, is considered to be received:

- 17.4.1.1 when left at your last known home or work address or to our physical place of business;
- 17.4.1.2 if given by leaving a telephone or mobile phone or voice mail message provided the voice mail message is capable of being retrieved and processed by the receiving Party, one hour after the message being left on the relevant medium;
- 17.4.1.3 if sent by post on the day after the subsequent day (or third day in the case of air mail) after posting (excluding Sundays and public holidays);
- 17.4.1.4 if sent by private post or courier service, on the next day (or on the third day in the case of air mail) after posting (excluding Sundays and public holidays);
- 17.4.1.5 if sent by e-mail, to the Party's e-mail address of record when the data message enters the receiving Party's information system and is capable of being retrieved and processed by the receiving Party; or

17.4.2 if sent by SMS to your mobile phone, as soon as the "message sent" or like confirmation is provided by the mobile phone network. Despite anything to the contrary in these Terms, a Notice actually received by a Party is effective even though it was not sent, or delivered, or sent and delivered to any address specified in these Terms or the Application.

## 17.5. Service of legal process

17.5.1 We choose the physical address, and/or email address below as the address to which any Notice must be sent.

Physical address: 1 Ncondo Place, Umhlanga Arch, Umhlanga

Email address: [compliancekzn@hbzbank.co.za](mailto:compliancekzn@hbzbank.co.za)

For the attention of: Head of Compliance

17.5.2 You acknowledge that the postal address (personal accounts) or registered address (business accounts) specified by you in the Application will be the address at which legal process and other documents in legal proceedings in connection with these Terms may be served on you (domicilium citandi et executandi).

17.6. Any Party may by Notice to the other Party change its address at which legal process and other documents in legal proceedings in connection with these Terms may be served to another physical address in South Africa.

## 18. SHARI'AH PRINCIPLES

18.1. In the Profit and Loss Sharing Savings Account, (the "Savings Account") deposits are accepted by the Islamic Banking branch of HBZ Bank Limited (the "Bank") for and on behalf of the depositors (the "Depositors/Rabbul ul Mal") on the basis of Mudarabah.

18.2. The Depositors/Rabbul ul Mal would be eligible for sharing profit and loss with the bank / Mudarib at the rate to be determined by the Bank/ Mudarib from time to time and Bank's (Mudarib) decision in this regard will be final and binding on the Depositors/Rabbul ul Mal.

18.3. All deposits in the Saving Account shall be invested by the Bank/Mudarib in its sole discretion and strictly in accordance with the principles of Islamic Shari'ah.

18.4. To the extent that there are such profits, Depositors/Rabbul ul Mal will be entitled to profit monthly, on the basis of profit distribution weightage to be declared by the Bank/Mudarib in its sole discretion at the beginning of the period.

18.5. The gross income is the basis for the distribution of profit in between the Depositors/Rabbul ul Mal and the Bank/Mudarib. Gross income is calculated after deducting costs and expenses directly incurred in deriving that income. To earn this gross income, the Bank/Mudarib allocates the funds received from the Depositors/Rabbul ul Mal and the funds invested by it as Mudarib, to a deposit pool. These funds from the pool are utilized to provide financing to customers under Islamic modes that include, but are not restricted to, Murabaha, Ijarah and Diminishing Musharakah.

18.6. The gross income of the pool is distributed among the Depositors/Rabbul ul Mal on the basis of predetermined weightages, announced at the beginning of each month, based on their respective category/tiers. Though the ratio of sharing gross income in between the Depositors/Rabbul ul Mal and the Bank/Mudarib is 20:80 (twenty to eighty), however, Bank/Mudarib may unilaterally reduce its profit sharing ratio for the benefit of the Depositors/Rabbul ul Mal. Gross income to be calculated on average monthly balance of the Depositors/Rabbul ul Mal accounts and disbursed to Depositors/Rabbul ul Mal every month. The Depositor/Rabbul Mal and the

Bank/Mudarib are entitled to receive the profit as soon as it is deemed that the operations of Mudarabah pool of funds have led to the realization of gross income. Any amount allocated as profit/loss by the Bank/Mudarib shall be final and binding on all Depositors/Rabbul ul Mal. No Depositor/Rabbul Mal or any other person claiming under him/her shall be entitled to question the basis of determination of such profit/loss.

- 18.7. As per the rules of Mudarabah, in case of loss or losses, the whole deposit pool of Mudarabah shall bear this loss or losses, in the ratio of the respective investment amount of each Depositor/Rabbul Mal and the Bank/Mudarib with the total amount of the pool of funds of Mudarabah, in the same period in which this loss or losses is or are incurred.
- 18.8. The Depositor/Rabbul Mal shall be liable to reimburse to the Bank/Mudarib its share of loss if any, in respect of any loss incurred on the basis of yearly closing of the books of account of the Bank/Mudarib.
- 18.9. The Depositors/Rabbul ul Mal will not participate in management or in decision making concerning investment of such deposits by the Bank/Mudarib. The Bank/Mudarib shall be involved in investing such funds and administration and management of such funds.
- 18.10. The Bank/Mudarib in its sole discretion shall be entitled from time to time to re-structure the profit share methodology on prior notice to the Depositor/Rabbul Mal. The Bank/Mudarib will endeavour to be fair in computing the method of sharing the profits and will apply such methodology consistently amongst all Depositors/Rabbul ul Mal who hold Savings Accounts.
- 18.11. I/We confirm my/our understanding that (a) the Bank's (Mudarib's) profit/loss sharing scheme is limited to the profit/loss of the business of the Bank/Mudarib as banker, in South Africa and (b) the Bank/Mudarib alone will decide on the use and investment of the funds credited to my/our account and will determine the profit/loss accruing from any period and will decide the portion thereof to be allocated to my/our account, it being the intent that any such use, investment, determination, decision or allocation may be made by the Bank/Mudarib in such manner and on such basis and in accordance with such principles as the Bank/Mudarib alone may at its sole discretion decide from time to time.

## **19. GENERAL**

- 19.1. These Terms represent the whole terms between the Parties.
- 19.2. The Bank may change these terms and conditions at any time and clients will be notified of the changes via the Bank's website ([www.hbzbank.co.za](http://www.hbzbank.co.za)). If the account is used after the effective date of the changes, it means that you as the client has accepted the changes to the terms and conditions.
- 19.3. No indulgence by a Party to another Party, or failure to enforce these Terms, will be interpreted as a waiver or be capable of founding an estoppel (estoppel is a legal principle which allows a court to stop a litigant from taking an action which he/she would otherwise be able to take).
- 19.4. The Parties will do everything reasonable to ensure the effectiveness of these Terms and the performance of their obligations under the Terms.
- 19.5. If any aspect of these Terms is illegal or unenforceable, that particular term may be cancelled and the remaining terms will still operate.
- 19.6. These Terms are governed by South African law in tandem with Shariáh Law where necessary.
- 19.7. **Disputes - Clients may lodge a complaint in the event of a dispute either via one of the branches or the bank's website ([www.hbzbank.co.za](http://www.hbzbank.co.za)). All disputes/complaints shall be dealt with in terms of the bank's Handling of Complaints Policy, which is available on request.**
- 19.8. Should a client be unhappy with the resolution of a complaint lodged with the Bank, the complaint may be escalated to the The Ombudsman for Banking Services (011-712-1800) or The National Credit Regulator (011 554 2600).
- 19.9. The Parties consent and submit to the non-exclusive jurisdiction of a South African Magistrate's Court in regard to all matters arising from this Terms, irrespective of the amount in dispute.

19.10. We reserve the option to cede, assign or delegate any of our rights or obligations under or in respect of any banking facilities granted to you without your prior consent. To the extent that any such cession, assignment or delegation results in a splitting of claims against you, you consent to the splitting of claims. You may not cede, assign or delegate any of your rights or obligations under these Terms to any third party, unless we have agreed to that in writing.

Termination of the business relationship - The bank reserves the right to terminate your business relationship with you and discontinue providing a financial product or service where it is of the view that continuation of the relationship is not within the risk appetite of the bank or under circumstances in which information requested in terms of the Financial Intelligence Act 38 of 2001 has not been provided upon request. The Bank may provide you with reasonable notice before effecting the termination should it be required to in terms of the law.

19.11. **The circumstances in which the bank may terminate the business relationship with a client includes but is not limited to:**

- a. **Unsatisfactory conduct of the account, including instances in which the account is being used for a purpose other than what was indicated at the time of account opening**
- b. **Suspicion of fraud emanating from the monitoring of transactions conducted through the account**
- c. **Suspicion that the funds in the account are as result of money laundering or being used for terrorist or proliferation financing**
- d. **If the client is convicted of a criminal offence**
- e. **If the bank receives a request from the regulators to close the account**

19.12. **The Bank may provide reasonable notice (a period of 90 days) before effecting the termination by sending written communication to the email address provided at the time of account opening. You will be allowed the opportunity to appeal the decision, if warranted.**

19.13. **I confirm that the above termination clause has been explained to me in its entirety.**

Initial

19.14. Dormant Accounts - Your account will go into a dormant status after 6 months of inactivity on the account. The details of the effect and implications of maintaining a dormant account instead of closing the account may be obtained from your branch.

19.15. You may visit [www.hbzbank.co.za](http://www.hbzbank.co.za) for information on our service fees and charges.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Signature