



## AFGRI eACCOUNTS TERMS AND CONDITIONS

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Unless the context indicates otherwise, the following terms shall have the following meanings:
- 1.1.1 **“call centre”** means the AFGRI Financial Solutions telephone call centre putting the User in touch with a consultant;
- 1.1.2 **“communication”** means communications between the client and AFGRI Financial Solutions exchanged by means of an e-communication, fax, telephone, call centre and such other means of communication AFGRI Financial Solutions may allow or use from time to time;
- 1.1.3 **“consultant”** means the AFGRI Financial Solutions employee operating in the call centre or in such other department or division as AFGRI Financial Solutions may determine from time to time;
- 1.1.4 **“e-communication”** means a communication in the form of a data message as defined in the ECT Act and includes communications exchanged by means of the website, email and mobile phone (e.g. WIG, WAP, SMS);
- 1.1.5 **“ECT Act”** means the Electronic Communications and Transactions Act No 25 of 2002;
- 1.1.6 **“General Terms”** means the account or facility terms and conditions governing the account and/or facility held with AFGRI Financial Solutions;
- 1.1.7 **“instructions”** means an instruction from the User by means of a communication to perform a transaction;
- 1.1.8 **“mobile eACCOUNTING”** means access to the service via mobile phone (including devices which perform mobile phone functions such as tablets) and forms part of the online service;
- 1.1.9 **“NCA”** means the National Credit Act No 34 of 2005;
- 1.1.10 **“eACCOUNTING”** means access to the service via the website and forms part of the online service;
- 1.1.11 **“online service”** means the service via online banking and mobile banking;
- 1.1.12 **“service”** means the AFGRI Financial Solutions financial related service accessed or used by the User by means of communications and includes the online service;

- 1.1.13 **"transaction"** means a transaction in respect of the service including User set- up, payments, transfers and account enquiries;
- 1.1.14 **"monthly fee"** means fee charged to an account of the User's choosing;
- 1.1.15 "personal information" means personal information as defined in section 1 of the POPIA;
- 1.1.16 "POPIA" means the Protection of Personal Information Act, No. 4 of 2013;
- 1.1.17 **"AFGRI Financial Solutions"** means AFGRI Financial Solutions (Pty) Limited, registration number insert;
- 1.1.18 **"AFGRI Group"** means AFGRI Financial Solutions, its subsidiaries, holding company and the subsidiaries of its holding company;
- 1.1.19 **"User"** means the AFGRI Financial Solutions client authorised to use the service and to exchange communications and, where applicable, includes such person's duly authorised representative(s);
- 1.1.20 **"User ID AND PIN"** means the User's personal AFGRI Financial Solutions identification number and internet pin number which must be used to access the service;
- 1.1.21 **"OTP"** means the one-time password sent by AFGRI Financial Solutions to a User's mobile phone to provide additional validation following the User ID AND PIN process, and which is valid only for the User's current online banking session;
- 1.1.22 **"verification mechanism"** means any mechanism, device or process used by AFGRI Financial Solutions to verify the identity of a User in the exchange of communications, including the User ID AND PIN and OTP or any other mobile authentication message;
- 1.1.23 **"verification criteria"** means the minimum requirements that must be met by the User in order to verify the User's identity telephonically or otherwise, as determined by AFGRI Financial Solutions; and
- 1.1.24 **"website"** means the AFGRI website (including all its constituent web pages) on which AFGRI Financial Solutions provides the service from time to time, including all pages in respect of whose content AFGRI Financial Solutions exercises control.
- 1.2 Wording importing:
- 1.2.1 any one gender includes the other gender; and
- 1.2.2 the singular includes the plural and *vice versa*.
- 1.3 Any reference to an enactment is to that enactment as at the date of the conclusion of a transaction in respect of the service and as amended or re-enacted from time to time.
- 1.4 If any definition contains a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of these terms, notwithstanding that it is only in the definition clause.

- 1.5 Words and expressions defined in a sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.6 When any number of days is prescribed, same shall be reckoned inclusively of the first and exclusively of the last day.
- 1.7 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.8 The word 'including' is used by way of illustration or emphasis only and shall not be construed as limiting the generality of any of the preceding words.
- 1.9 The words 'other' and 'otherwise' shall not be construed *eiusdem generis* with any foregoing words where a wider construction is possible.

## **2. APPLICATION**

- 2.1 These online banking terms and conditions (hereinafter referred to as the/these "terms") apply to online banking, mobile banking (including telephone banking) and banking conducted via the call centre.
- 2.2 The service shall, in addition to these terms, also be subject to the account or facility terms and conditions ("further terms") which terms are incorporated into these terms by reference and a User's use of the Solutions will also be subject to such further terms.
- 2.3 These terms (governing online banking) must be read together with and form part of the further terms. In the event of conflict between these terms and the further terms, the provisions of the further terms will prevail to the extent of the conflict.

## **3. SERVICE AND SECURITY MEASURES**

- 3.1 In order to access mobile banking, the User must be a registered online banking client.
- 3.2 The User shall be responsible for all steps necessary to acquire access to the online service and for ensuring the security and confidentiality of any hardware, software or medium of access ("equipment") at the User's expense.
  - 3.3 Furthermore, the service must be used in accordance with the Website Terms of use and Disclaimer, which is available at <https://afgri.eaccounts.co.za> as may be amended from time to time. The User's attention is specifically drawn to the risks of spoofing and phishing and what to do/not to do as set out in the Security Policy.
- 3.4 The service may only be used on completion and acceptance of the requisite application forms, questionnaires, mandates, and other documents provided or specified by AFGRI Financial Solutions from time to time, or as required under any applicable law.

- 3.5 AFGRI Financial Solutions shall not be bound in any manner until such requisite documents have been completed and/or submitted by the User and accepted by AFGRI Financial Solutions. AFGRI Financial Solutions reserves the right to reject in its discretion, any application for the service.
- 3.6 The User consents to AFGRI Financial Solutions performing credit risk enquiries for access to the service from time to time and agrees that AFGRI Financial Solutions shall be entitled to use any information supplied by the User for this purpose.
- 3.7 In the event of a change in the User's personal information (including but not limited to the User's name, identity number, passport number, address and contact numbers), the User shall be responsible for advising AFGRI Financial Solutions of such changes as soon as is reasonably possible.
- 3.8 AFGRI Financial Solutions shall be entitled in its sole discretion to terminate the User's entitlement to access the online service (without terminating the applicable further terms of a User) with immediate effect should the User fail to abide by these terms, notwithstanding demand.
- 3.9 AFGRI Financial Solutions may publish on the website and/or send the User e-communications regarding security measures from time to time. The User agrees to implement such measures and/or refrain from any of the activities prescribed by AFGRI Financial Solutions from time to time.

#### **4. VERIFICATION**

- 4.1 AFGRI Financial Solutions may specify the verification mechanisms and verification criteria required to obtain access to the service from time to time.
- 4.2 The User must satisfy the verification criteria when engaging a consultant in respect of the service.
- 4.3 AFGRI Financial Solutions shall be entitled to refuse to give effect to communications from a User and/or refuse a User access to the service should a User fail to use the verification mechanism or fail to satisfy the verification criteria, as the case may be.
- 4.4 Only the User to whom the verification mechanism is allocated shall be entitled to use the service.
- 4.5 If the verification mechanisms and/or verification criteria fail, AFGRI Financial Solutions will not be held liable in any manner whatsoever for any loss the User may suffer as a result and the User indemnifies AFGRI Financial Solutions accordingly.
- 4.6 The User undertakes to change the PIN on using the service for the first time and on a regular basis thereafter.
- 4.7 AFGRI Financial Solutions may, in its sole discretion and for whatever reason, require the User to change his verification mechanism or parts thereof from time to time and the User undertake to comply with such requirement unconditionally.
- 4.8 The User undertakes to ensure the confidentiality of the verification mechanism at all times, and shall without limitation, ensure that the verification mechanism is

neither easily accessible nor disclosed to anyone else. Unless the contrary is proven, storing or recording the User ID and/or PIN on the User's computer, phone or network shall be presumed to be the proximate or effective cause of an unauthorised person having performed an unauthorised transaction and will be regarded as prima facie proof of negligence on the part of the User.

- 4.9 Where a User reasonably suspects that the verification mechanism has been or will soon be compromised, the User shall notify AFGRI Financial Solutions immediately by phoning the Client Support Centre on 011 063 2025. On receipt of the User's notification, AFGRI Financial Solutions reserves the right to:
  - 4.9.1 reject all instructions received after the User's notification; and/or
  - 4.9.2 suspend the processing of all instructions not yet executed; and/or
  - 4.9.3 reverse (if possible) all executed transactions with effect from such date and time as AFGRI Financial Solutions may reasonably determine the unauthorised use to have commenced; and/or
  - 4.9.4 deactivate access to the service without further notice to the User.
- 4.10 Any delay in providing notification as set out in 4.9, shall be presumed to be prima facie proof of negligence on the part of the User and the User shall bear the onus of proving the contrary.
- 4.11 Subject to 4.9, if any unauthorised person obtains any verification mechanism in any manner whatsoever, such person shall be regarded as the User's duly authorised agent with full authority to use the service on the User's behalf, unless such unauthorised person has obtained the verification mechanism due to gross negligence or fraud on the part of AFGRI Financial Solutions.
- 4.12 The User agrees that the verification mechanism used by AFGRI Financial Solutions will be sufficient confirmation of the User's identity and the User indemnifies AFGRI Financial Solutions accordingly.

## **5. PROCESSING OF INSTRUCTIONS**

- 5.1 The User's instruction contained in a communication becomes irrevocable once submitted to AFGRI Financial Solutions. Unless otherwise specified, an instruction is deemed to have been submitted once the User has positively indicated his verification of the instruction by means of the functionality available on the website or his mobile phone, whichever is applicable.
- 5.2 Subject to 5.5, AFGRI Financial Solutions will use reasonable endeavours to carry out the User's instructions received through the service in a prompt and timeous manner. However, AFGRI Financial Solutions shall not be responsible, and disclaims all liability for, any claims arising from the late or delayed attendance by AFGRI Financial Solutions to the User's instructions, it being agreed that such instructions are issued through the service solely at the User's own risk.
- 5.3 AFGRI Financial Solutions shall not be obliged to verify the User's transaction information, including but not limited to, the account numbers, account holder names or amounts involved in any instruction.

- 5.4 AFGRI Financial Solutions shall use the steps provided for in these terms to verify the authenticity of a communication which purports to emanate from the User (“purported communication”). However, unless the User has notified AFGRI Financial Solutions within the periods provided for in these terms not to perform a transaction, the User authorises AFGRI Financial Solutions to give effect to any purported communication, whether or not such communication was sent or authorised by the User and the User agrees to be bound thereby.
- 5.5 AFGRI Financial Solutions reserves the right to reject or suspend the execution of an instruction at any time should the value or frequency of the instruction appear suspicious or out of the ordinary to AFGRI Financial Solutions. On so rejecting or suspending an instruction, AFGRI Financial Solutions undertakes to contact the User within a reasonable period of time and to verify the instruction by such means as AFGRI Financial Solutions may determine, in its sole discretion.

## **6. TRANSACTIONS**

- 6.1 The User hereby instructs AFGRI Financial Solutions via the service to effect transactions in accordance with the provisions of these terms, the rules and procedures that apply to the service from time to time, the further terms and in accordance with the instructions of the User.
- 6.2 The User undertakes to complete and furnish AFGRI Financial Solutions with all documents, questionnaires, details, authorisations, and the like which AFGRI Financial Solutions deems necessary to prove that the User holds the necessary authority to transact and to enable AFGRI Financial Solutions to facilitate the use of the service and any transaction. The User authorises AFGRI Financial Solutions to obtain all such necessary documents, details, authorisations, verifications, and the like from any source whatsoever.
- 6.3 The User shall not be entitled to countermand or amend any transaction once received and/or effected by AFGRI Financial Solutions.
- 6.4 AFGRI Financial Solutions shall be entitled, but not obliged, to affect any transaction which the User has identified in an instruction through use of the service. If the User requests more than one transaction to be executed, AFGRI Financial Solutions shall be entitled to determine, in its sole discretion, the order in which such transactions are to be executed.
- 6.5 The User undertakes to logoff from the online service in the prescribed manner.
- 6.6 Failure to logoff could result in unauthorised transactions for which AFGRI Financial Solutions will not be held liable.

## **7. CALL CENTRE INSTRUCTIONS**

- 7.1 Users may provide instructions via the call centre.
- 7.2 Users must satisfy the verification criteria, provided that even if a User has satisfied the verification criteria, a consultant shall at all times have the discretion to refuse to give effect to an instruction without having to give reasons therefor and AFGRI Financial Solutions shall not be liable when a consultant exercises such discretion in a bona fide manner. Permissible reasons for such refusal may include, but not be limited to:

- 7.2.1 reasonable suspicion of attempted fraud;
- 7.2.2 reasonable suspicion of the User being forced against his will to perform a transaction;
- 7.2.3 AFGRI Financial Solutions having notified a consultant not to execute instructions from a particular User or category of Users for whatever reason; or
- 7.2.4 a User being abusive towards a consultant.
- 7.3 Consultants may require written confirmation from a User before giving effect to an instruction, in which event the instruction shall only be deemed to be received as provided for in clauses 11.1 and 11.4.
- 7.4 The User grants AFGRI Financial Solutions the express authority to record telephone communications for future reference.
- 7.5 A recording of a telephone communication of a User shall be deemed prima facie to have been made by the User and the submission of recordings shall be prima facie admissible and an accurate reflection of the communications exchanged.

## **8. EMAIL INSTRUCTIONS**

- 8.1 As a rule, Users may provide instructions via email without such email being accompanied by a form of electronic signature where a third party has verified the identity of the User.
- 8.2 AFGRI Financial Solutions shall be entitled to refuse receipt of certain instructions by email for security and/or evidentiary reasons.
- 8.3 A User authorises AFGRI Financial Solutions to give effect to an email which purports to originate from the User, whether or not that email was sent or authorised by the User and the User agrees to be bound thereby.

## **9. NOTIFICATIONS**

- 9.1 Unless the user has opted out of such function, AFGRI Financial Solutions will automatically send a real-time SMS notification ("notification") to the User's mobile phone in respect of certain activities performed during an online banking session, including the setting up or amending of beneficiaries and the making of ad hoc or beneficiary payments.

- 9.2 Unless the contrary is proven, the User will be deemed to have received the notification within 10 (ten) seconds of the time indicated on the applicable transmission logs as being the time at which the notification was sent.
- 9.3 Unless the User informs AFGRI Financial Solutions immediately after receipt of the notification that the applicable transaction was unauthorised, the transaction shall be deemed to have been performed or authorised by the User.
- 9.4 In the event that a User performs a transaction for which he/she should have received a notification but has not received one within 10 (ten) minutes of having completed the transaction, the User must inform AFGRI Financial Solutions without delay in order to determine and rectify the cause of such failure.
- 9.5 Where applicable, the User must inform AFGRI Financial Solutions of his/her new mobile phone number without delay.
- 9.6 The provisions of this clause shall apply irrespective of the fact that the User's mobile phone malfunctions or is disabled, lost or stolen.
- 9.7 In the event that the User opts out of the notification function or fails to inform AFGRI Financial Solutions of his/her new mobile phone number, the User authorises AFGRI Financial Solutions to treat all transactions as having been lawfully performed by or on behalf of the User and for AFGRI Financial Solutions to duly give effect to any instructions.

## **10. DEEMING PROVISIONS IN RESPECT OF COMMUNICATIONS**

- 10.1 Subject to clause 16:
- 10.1.1 a communication (other than a fax communication) will be deemed to have been sent from and received at:
- 10.1.1.1 the User's physical address as provided to AFGRI Financial Solutions;
- 10.1.1.2 AFGRI Financial Solutions' address specified in the relevant further terms concluded with AFGRI Financial Solutions for receipt of notices and service of legal process.
- 10.2 An e-communication is deemed to have been sent:
- 10.2.1 by the User, at the time at which AFGRI Financial Solutions is capable of accessing such e-communication;
- 10.2.2 by AFGRI Financial Solutions, at the time shown on the e-communication as having been sent or, if not so shown, at the time shown on AFGRI Financial Solutions' transmission logs as having been sent.
- 10.3 An e-communication is deemed to be received:
- 10.3.1 by the User, once it becomes capable of being retrieved;
- 10.3.2 by AFGRI Financial Solutions, once AFGRI Financial Solutions has confirmed receipt thereof to the User or otherwise responded thereto, whichever occurs first.

- 10.4 A fax communication is deemed to be received:
- 10.4.1 by the User, at the time shown on the fax transmission receipt or in the absence of such transmission receipt, by close of business of the date appearing on the fax, whichever is the earlier;
- 10.4.2 by AFGRI Financial Solutions, irrespective of the date on the fax or the fax transmission receipt, once AFGRI Financial Solutions has confirmed receipt thereof to the User or otherwise responded or gave effect thereto, whichever occurs first.

## **11. SERVICE CHARGES**

- 11.1 AFGRI Financial Solutions may charge the User for use of the service.
- 11.2 In the event that AFGRI Financial Solutions does charge the User for the use of the service, the User shall authorise AFGRI Financial Solutions to debit his account at AFGRI Financial Solutions nominated by the User with a charge (inclusive of Value Added Tax) per transaction in consideration for the use of the service. The User is however responsible for any service provider charges for online banking and mobile banking.
- 11.3 AFGRI Financial Solutions shall, after giving the User reasonable notice by either letter, fax, SMS, email, account statement, publication on the website and/or advertisement in the media, be entitled to vary the above charge from time to time subject to any applicable law.
- 11.4 If any such variation in the charge is published on the website, it shall be binding on the User from the date of such publication.

## **12. ACCOUNT STATEMENTS**

- 12.1 The User authorises AFGRI Financial Solutions to make his account statements available on the website without AFGRI Financial Solutions having to send account statements by postal Solutions, fax or email.
- 12.2 The User acknowledges that account statements will be downloadable from the website on a monthly basis and that AFGRI Financial Solutions is not required to notify the User of such fact each month.
- 12.3 Should the User wish to retain account statements for longer than 3 (three) months, the User must save an electronic copy of the account statements on the User's computer. AFGRI Financial Solutions shall not be obliged to retain account statements on the website for longer than 3 (three) months after the date of each statement.
- 12.4 The User who wishes to claim input VAT on his bank charges must ensure that the electronic or computer printout format in which the User retains the account statements will be acceptable by auditors and the South African Revenue Solutions.

## **13. ACCOUNT BALANCES**

- 13.1 AFGRI Financial Solutions may provide account balance notification:
- 13.1.1 by SMS and/or email; and/or

- 13.1.2 on request from the User, via the online service from time to time.
- 13.2 An account balance notification is provided for convenience and does not have legal standing. The User acknowledges that account balance notification may be delayed and therefore out-dated for various reasons, including backlogs on the email or SMS server as a result of high volumes. The User also acknowledges that any account balance notification provided by AFGRI Financial Solutions on request from the User is not provided real time and will not necessarily be an accurate representation of the User's account.
- 13.3 The User may not act on the accuracy of an account balance notification in terms of 14.1 unless the User has verified the actual account balance by contacting a consultant.
- 13.4 The ability to receive or request account balance notifications may be suspended or withdrawn by AFGRI Financial Solutions at any time without notice to the User.

#### **14. POP-UP NOTICES AND BROWSER SETTINGS**

- 14.1 AFGRI Financial Solutions may publish notices to a User of the online service by way of "pop-up" windows on the internet or mobile phone browser.
- 14.2 Pop-up notices shall be deemed to be read and accepted irrespective of whether the User has read the notice.
- 14.3 The User must ensure that his internet or mobile phone browsers permit pop-up notices from AFGRI Financial Solutions to be displayed. Failure to do so shall not entitle the User to claim non-receipt of a pop-up notification.

#### **15. AMENDMENTS**

- 15.1 AFGRI Financial Solutions may in its sole discretion amend or substitute these terms from time to time as follows:
- 15.1.1 AFGRI Financial Solutions shall give the User notification of amendment of these terms by any means of communication, including letter, fax, email, SMS or otherwise;
- 15.1.2 on notification of the existence of the amended terms, the User is obliged to visit the website and view the then current version of the terms and conditions;
- 15.1.3 unless the User notifies AFGRI Financial Solutions otherwise, the amended terms and conditions will be deemed to have been perused and accepted by the User within 5 (five) days of the notice of amendment having been mailed or within 1 (one) day of having been faxed, emailed, sent by SMS or placed on the website, as the case may be.
- 15.2 The User agrees to implement and adhere to any procedures and/or restrictions imposed by AFGRI Financial Solutions from time to time in respect of the service.

- 15.3 Subject to 16.1, AFGRI Financial Solutions' rules, processes and procedures used in the operation of the service, may be altered, replaced or withdrawn by AFGRI Financial Solutions in whole or in part in AFGRI Financial Solutions' full and absolute discretion, at any time.

## **16. UNAVAILABILITY OF SERVICE**

In order to protect the User and AFGRI Financial Solutions, AFGRI Financial Solutions reserves the right, at any time, to alter, replace or discontinue the service in whole or in part, without notice to the User, in which event AFGRI Financial Solutions shall incur no liability whatsoever.

## **17. INTELLECTUAL PROPERTY**

Copyright in all materials made available through the service is owned by AFGRI Financial Solutions and protected by both national and international intellectual property laws. Accordingly, any unauthorised copying, reproduction, retransmission, distribution, dissemination, sale, publication, broadcast or other circulation or exploitation of any such material will constitute an infringement of that copyright. The trademarks, logos and service marks displayed on the service are registered and unregistered trademarks of AFGRI Financial Solutions. Nothing contained in the service or on the website should be construed as granting any licence or right to use any trademark, logos, or service marks without the written permission of AFGRI Financial Solutions.

## **18. TRANSMISSION OF INFORMATION**

- 18.1 The User's attention is drawn to the fact that communications are susceptible to monitoring and interception.
- 18.2 The User is therefore discouraged from transmitting to AFGRI Financial Solutions any information which may be confidential, proprietary, or sensitive unless adequate security arrangements are agreed with AFGRI Financial Solutions.
- 18.3 The User shall bear all risk of transmitting such information in this manner and under no circumstances will AFGRI Financial Solutions be liable for any loss, harm or damage suffered by the User as a result thereof.
- 18.4 AFGRI Financial Solutions reserves the right to request independent verification of any information transmitted via email and the User consents to such verification from whatsoever source should AFGRI Financial Solutions deem it necessary.

## **19. LIMITATION OF LIABILITY, INDEMNITY AND DISCLAIMER**

- 19.1 Subject to the NCA (if applicable) the provisions of this clause 20 are subject to any limitations imposed by section 90 of the NCA.
- 19.2 The User waives any rights he may have or obtain against AFGRI Financial Solutions arising directly or indirectly from any loss or damage of whatsoever nature, which the User may suffer as a result of the fact that AFGRI Financial Solutions acts on purported instructions, and agrees to and does hereby indemnify AFGRI Financial Solutions against any claims, liabilities, losses, taxes, costs, fines, damages and expenses incurred by AFGRI Financial Solutions arising as a result of the fact that AFGRI Financial Solutions has acted on purported instructions.

- 19.3 AFGRI Financial Solutions shall not be responsible and disclaims any liability for any loss, liability, damage or expense of any nature whatsoever which may be suffered by the User or a third party as a result of or occasioned by the failure or unavailability of third- party systems or by the inability of any third-party to process a transaction and the User indemnifies AFGRI Financial Solutions accordingly.
- 19.4 AFGRI Financial Solutions shall not be liable to the User for any loss or damage arising from any unauthorised use of the service, whether as a result of the User's representatives exceeding their authority, fraud, theft of the User's equipment or as a result of any compromise to the confidentiality of the verification mechanisms and the User indemnifies AFGRI Financial Solutions accordingly.
- 19.5 The User agrees that the use of the service is on the User's own initiative and at the User's own risk. AFGRI Financial Solutions shall not be liable for any loss, liability, injury, taxes, damage, claim or expense of any nature whatsoever which may be suffered by the User or any third party as a result of or arising directly or indirectly out of any withdrawal, alteration, replacement, breakdown, failure of the User's equipment and the User indemnifies AFGRI Financial Solutions accordingly.
- 19.6 AFGRI Financial Solutions will not be responsible for any failure, malfunction, or delay of any networks or electronic or mechanical device used in the acceptance and processing of transactions and any other use of the service. AFGRI Financial Solutions will not be liable to make good or compensate the User for any damages (whether direct or consequential), losses, claims or expenses resulting therefrom, and the User indemnifies AFGRI Financial Solutions accordingly.
- 19.7 AFGRI Financial Solutions makes no warranties, representations, statements or guarantees with regard to the suitability of the service for a particular purpose, performance or software and the User indemnifies AFGRI Financial Solutions accordingly.
- 19.8 AFGRI Financial Solutions shall not be responsible and disclaims any liability for any loss, liability, damage (whether direct or consequential) or expense of any nature whatsoever which may be suffered by the User or a third party as a result of or occasioned by the failure by AFGRI Financial Solutions to perform or process a transaction as a result of the loss or destruction of data, the destruction, hacking or deterioration of storage media, power failures, natural phenomena, riots, acts of vandalism, sabotage, terrorism or any other event beyond AFGRI Financial Solutions' control and the User indemnifies AFGRI Financial Solutions accordingly.
- 19.9 The User indemnifies AFGRI Financial Solutions against any loss, damage or liability which may arise from the use or possession of any third-party software and the User undertakes to ascertain the legality of using any third-party software and to obtain all necessary licences.
- 19.10 AFGRI Financial Solutions shall not be liable for any consequential damages howsoever arising. AFGRI Financial Solutions' total liability shall not, in any circumstances, exceed the actual amount of the transaction or transactions in dispute.

## **20. ASSISTANCE BY CONSULTANT REGARDING VERIFICATION MECHANISM**

- 20.1 In the event that the User forgets or misplaces his/her verification mechanism or part thereof, AFGRI Financial Solutions will provide the User with such information, via a consultant,

subject to 21.2 and 21.3 below and any other conditions AFGRI Financial Solutions may impose ("the disclosure").

- 20.2 The disclosure is subject to the User completing an online questionnaire to the satisfaction of AFGRI Financial Solutions. The answers provided by the User to the questions, may be used for subsequent telephonic verification of the User, should he/she require disclosure.
- 20.3 AFGRI Financial Solutions shall determine the verification criteria for the consultant to verify the User for purposes of the disclosure.
- 20.4 After the consultant has provided the User with a temporary User ID and/or PIN, the User is obliged to access the website and to change the User ID and/or PIN whilst on the phone to the consultant failing which the User shall be held liable for any loss, claim, damage, expense or tax which he may suffer or incur as a result of his failure to change the User ID and/or PIN timeously in accordance with this clause.
- 20.5 Consultants are bound by the confidentiality provisions contained in these terms

## **21. JURISDICTIONAL DISCLAIMER**

- 21.1 The service is only available to:
  - 21.1.1 persons domiciled or of permanent residence in the Republic of South Africa ("RSA");
  - 21.1.2 corporate or other legal entities or organisations domiciled and incorporated in terms of the laws of the RSA; and
  - 21.1.3 RSA citizens resident outside the RSA, provided such residents appoint an RSA agent and use funds held in an RSA bank account.
- 21.2 Any use or attempted use of the service by any person or entity other than those specified in this clause 22 could result in civil action or criminal prosecution.

## **22. POPIA - ACCESS TO & PROCESSING OF PERSONAL INFORMATION**

- 22.1 AFGRI Financial Solutions collects, holds, uses and discloses the User's personal information mainly to provide it with access to the Solutions and products that AFGRI Financial Solutions provides. AFGRI Financial Solutions will only process the User's personal information for a purpose that the User would reasonably expect, including:
  - 22.1.1 Providing the User with advice, products and services that suit the User's needs, as requested'
  - 22.1.2 To verify the User's identity and to conduct credit reference searches;
  - 22.1.3 To issue, administer and manage the User's records;
  - 22.1.4 To notify the User of new products or developments that may be of interest;
  - 22.1.5 To confirm, verify and update the User's details; and
  - 22.1.6 To comply with any legal and regulatory requirements.

- 22.2 Some of the User's personal information that AFGRI Financial Solutions hold may include, the User's registration name, first and last name, email address, a home, postal or other physical address other contact information, the User's title, birth date, gender, occupation, qualifications, past employment, residency status, the User's investments, assets, liabilities, insurance, income, expenditure, family history, medical information and the User's banking details.
- 22.3 AFGRI Financial Services may need to share the User's personal information with third parties in order to provide advice, reports, analyses, products, or services that the User may have requested.
- 22.4 Where AFGRI Financial Solutions shares the User's personal information with third parties, AFGRI Financial Solutions will take all precautions to ensure that the third party will treat the User's information with the same level of protection as required with AFGRI Financial Solutions. The User personal information may be hosted on servers managed by a third-party service provider, which may be located outside of South Africa.
- 22.5 By accepting these terms and conditions and utilising the services, the User hereby authorises and consents to AFGRI Financial Solutions and the AFGRI Group, processing the User's personal information in order for the User to receive the services as contemplated in these terms and conditions.

### **23. TELEPHONE RECORDINGS**

The User acknowledges and accepts that AFGRI Financial Solutions shall be entitled at its sole discretion to monitor, intercept, record and use as evidence all telephone communications between the User and AFGRI Financial Solutions at any time.

### **24. GENERAL**

- 24.1 The User acknowledges and accepts that AFGRI Financial Solutions shall be entitled in its sole and absolute discretion to monitor, intercept, record and use as evidence all instructions between the User and AFGRI Financial Solutions at any time.
- 24.2 Use of the service shall not in any way vary any aspect of the AFGRI Financial Solutions/client relationship between the User and AFGRI Financial Solutions. In particular the User acknowledges that:
- 24.2.1 the use of the service shall not entitle the User to overdraw on any account, unless prior approval has been granted by AFGRI Financial Solutions;
- 24.2.2 the credit limits (if any) allocated to the User's accounts shall not be exceeded.
- 24.3 In effecting any transaction AFGRI Financial Solutions shall not act nor shall it be deemed to be acting as the User's agent nor as the agent of any payee.
- 24.4 The service may not be used to collect debts of any nature from other parties.
- 24.5 The User shall not cede, assign, make over or transfer to any other person, firm, or company any of the User's rights or obligations in respect of, or arising out of, these terms or the use of the service without AFGRI Financial Solutions' prior written consent. AFGRI Financial Solutions may cede, assign, make over or transfer any of its rights or both its rights and obligations under these terms and/or in respect of the service to any person, firm or company without notice to the User.

- 24.6 The User warrants that all applicable laws of the RSA will be complied with when using the service.
- 24.7 These terms shall be governed by and construed in accordance with the laws of the RSA without giving effect to any principles of conflict of law.
- 24.8 The User hereby consents to the exclusive jurisdiction of the High Court of South Africa in respect of any disputes arising in connection with the service, or these terms or any matter related to or in connection therewith.
- 24.9 Subject to the NCA (if applicable), the User hereby consents and submits to the jurisdiction of the Magistrates' Court having jurisdiction over its person in respect of all proceedings connected with these terms, notwithstanding that the amount claimed or the value of the matter in dispute exceeds such jurisdiction.
- 24.10 However, if the NCA does apply, then, unless the Magistrates' Court has concurrent jurisdiction, AFGRI Financial Solutions shall be entitled to institute all or any proceedings against the User in connection with these terms in any division of the High Court of South Africa and the User hereby consents and submits to the jurisdiction of that court.
- 24.11 Where a dispute is heard in the High Court of South Africa the User agrees that any costs awarded against the User be awarded or paid on the High Court Scale.