

**TERMS AND CONDITIONS  
 APPLICABLE TO FAIS COMPLIANCE SERVICES  
 RENDERED BY COMPLIANCE CONSULTING TO THE CLIENT**

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### 1. Interpretation

In this agreement, unless inconsistent with the context, words referring to:

- 1.1. one gender includes a reference to other genders;
- 1.2. natural persons include artificial persons and vice versa;
- 1.3. the singular includes the plural and vice versa;
- 1.4. the headings to this agreement are used for the sake of convenience only and shall not govern the interpretation of the clauses to which they relate.

### 2. Definitions

Unless such meaning is inconsistent with the context, the following terms shall throughout this agreement have the meanings ascribed to them, namely:

- 2.1. "agreement" means these Terms and Conditions read together with the Application Form;
- 2.2. "Application Form" means the application form signed by the Client iro the services;
- 2.3. "CISA" means the Compliance Institute of South Africa;
- 2.4. "commencement date" means, irrespective of the date of signature of the Application Form, the date specified in the Application Form as being the date on which the services shall commence;
- 2.5. "effective date" means the date of signature of the Application Form, or the date referred to and specified in the Client's FSP6 as the date of appointment of Compliance Consulting, whichever date is the earlier;
- 2.6. "FAIS" means the Financial Advisory and Intermediary Services Act, no 37 of 2002;
- 2.7. "FICA" means the Financial Intelligence Centre Act, no 38 of 2001;
- 2.8. "FSB" means the Financial Services Board of South Africa;
- 2.9. "broker" means any employee or agent of the Client who requires registration in terms of FAIS as either a key individual or a representative and who gives financial advice or renders an intermediary service in terms of FAIS;
- 2.10. "services" means the compliance services selected in the Application Form and further specified in clause 7;
- 2.11. "the Client" means the financial services provider specified in the Application Form;
- 2.12. "Compliance Consulting" means Financial Services Compliance CC, reg. no. CK99/062199/23, trading as Compliance Consulting, a close corporation duly incorporated under the laws of South Africa with its principal place of business at 71 Lurgan Road, Parkview, 2193, its successors-in-title and assigns;
- 2.13. "the legislation" means FAIS, FICA (insofar as it is referred to in FAIS), its subordinate legislation, and any amendments thereto.

### 3. Introduction

- 3.1. The Client wishes to receive the services from Compliance Consulting in order to assist the Client with its compliance risk management obligations in terms of the legislation.
- 3.2. The Client acknowledges that it is responsible for compliance with the legislation.
- 3.3. This agreement contains the terms and conditions agreed to between the parties.

### 4. Effective date

This agreement comes into force on the effective date.

### 5. Commencement date of services

- 5.1. Compliance Consulting shall render the services from the commencement date.
- 5.2. Should the Client elect to make the commencement date after the effective date ("the mismatch period"), it acknowledges and agrees that it shall not hold Compliance Consulting responsible or liable in any way whatsoever and waives and indemnifies Compliance Consulting against any claims based on any cause that may have arisen prior to or during the mismatch period

### 6. Period

- 6.1. This agreement is fixed for a period of 1 year as from the commencement date ("the initial period").
- 6.2. Should either party not give the other party 3 months written notice before the expiry of the initial period, this agreement shall automatically be renewed for a further 1 year period ("the renewal period").

6.3. Clause 6.2 shall apply, mutatis mutandis, to all renewal periods.

### 7. Services

- 7.1. The scope of this agreement and the services is limited to the compliance risk management requirements of the legislation as set out in this agreement.
- 7.2. The type of service is selected in the Application Form.
- 7.3. If Compliance Consulting is appointed as Compliance Officer to the Client registered with the FSB, the specific services are advice, quarterly reviews, standard documentation and quarterly reports, as required by FAIS.
- 7.4. If Compliance Consulting is not appointed as the Compliance Officer, the specific services are advice and support on request, including standard documentation.
- 7.5. Any additional compliance services may be specified in the Application Form.
- 7.6. The compliance risk management process embodied in the services is in the full discretion of Compliance Consulting.

### 8. Excluded services

The following services are expressly excluded:

- 8.1. services relating to any legislation or regulations not specified;
- 8.2. resolving (regulatory or other) complaints, queries or charges relating to matters or information that relates to a period prior to the commencement date or after expiry of the agreement;
- 8.3. resolving issues, complaints, queries or charges relating to any non-disclosure of information pertinent to the matter by the Client to Compliance Consulting;
- 8.4. criminal and/or fraudulent and/or negligent acts or omissions by the Client that may have an impact on compliance services and which were not disclosed to Compliance Consulting in writing when the Client became aware thereof prior to the complaint;
- 8.5. providing software or systems solutions in order to meet a compliance requirement of the Client, unless specified and independently contracted in writing with the Client;
- 8.6. providing training or any other form of instruction to the management or staff of the Client, including the provision of training notes, presentations, slides or any similar material unless independently contracted in writing with the Client;
- 8.7. liaison with the regulators on matters outside the scope of this agreement unless specified and independently contracted in writing with the Client;
- 8.8. legal advice and services.

### 9. Fees

- 9.1. The fees due and payable to Compliance Consulting by the Client pursuant to this agreement are specified in the Application Form or, if reviewed or amended, as per the tax invoice furnished to the Client, from time to time.
- 9.2. Any Clients located further than 50 km's from Compliance Consulting shall be provided with a special quote iro any activities to be performed further than 50 km's.

### 10. Payment of fees

- 10.1. Payment dates of the fees are specified in the Application Form or as confirmed with the Client.
- 10.2. All payments must be made into a bank account nominated by Compliance Consulting.
- 10.3. The Client shall furnish Compliance Consulting with proof of payment immediately after making any payment.
- 10.4. All fees are quoted exclusive of VAT.
- 10.5. All payments are in advance.
- 10.6. In the event that the calculation of fees depend on a variable factor e.g. number of brokers, the Client shall inform Compliance Consulting immediately in writing of any such changes.
- 10.7. Any late payments by the Client shall attract interest at the publicly published prime overdraft rate (charged by Compliance Consulting's bank from time to time) plus 2% per annum, calculated and compounded daily in arrear on all overdue amounts owing to Compliance Consulting in terms of this agreement from due date to date of payment.

### 11. Review of fees

- 11.1. All fees may be reviewed at least annually.
- 11.2. The fees may be reviewed at any time should the Client's circumstances be materially different to the understanding of Compliance Consulting, or change materially.

11.3. Any change in fees shall be effective as from the date notified by Compliance Consulting or from the date of publication on the website [www.complianceconsulting.co.za](http://www.complianceconsulting.co.za) (subject to special quotes).

### 12. Fees non-refundable

The Client understands and agrees that the fees, charges and costs payable in respect of this agreement are non-refundable and waives all its rights thereto excluding any amounts paid pursuant to genuine errors.

### 13. Disbursements

13.1 Should Compliance Consulting incur any disbursements and/or costs for and on behalf of the Client or at the request of the Client, excluding any day-to-day disbursements incurred by Compliance Consulting in the performance of the services in the ordinary course of business, the Client shall reimburse Compliance Consulting forthwith upon receipt of an invoice stipulating:

- 13.1.1 the nature of the disbursements and costs so incurred;
- 13.1.2 the amount of the disbursements and costs so incurred; and
- 13.1.3 the reason for incurring such disbursements and/or costs.

### 14. Professional standards

- 14.1. Compliance Consulting shall conduct itself and the services in a manner fitting a professional Compliance Officer.
- 14.2. The parties agree to do their utmost in mitigating the reputation risk of both parties and acknowledge that each party's reputation is its most valuable asset and critical to its success.

### 15. Co-operation

- 15.1. The Client agrees that this agreement is a living document which anticipates changes and amendments from time to time to reflect any changes in the parties' needs and/or any changes in market practice and/or any changes or amendments to the legislation.
- 15.2. The Client will facilitate Compliance Consulting in familiarising itself with the Client, its business, its employees and any documentation or other information required by Compliance Consulting to enable it to render the services efficiently and professionally.
- 15.3. The Client agrees to make any information that it has in respect of its business available to Compliance Consulting upon request.
- 15.4. Any amendments to this agreement will be effective as from the date of notification by Compliance Consulting or the date of publication on the website: [www.complianceconsulting.co.za](http://www.complianceconsulting.co.za) which publication will serve as notice to the Client.
- 15.5. The Client shall provide the support and infrastructure to Compliance Consulting, where reasonably possible, in order to permit Compliance Consulting to perform its obligations under this agreement.
- 15.6. Any lack of co-operation by the Client with Compliance Consulting shall be deemed to be a material breach of this agreement.

### 16. Indemnity

The Client waives any claim and indemnifies Compliance Consulting and any of its employees or agents against any damage or loss that Compliance Consulting may suffer as a result of or pursuant to this agreement, or any matter ancillary thereto excluding if as a result of gross negligence or willful misconduct.

### 17. Statutory obligations

The Client acknowledges that Compliance Consulting has certain reporting obligations to regulators in terms of the legislation.

### 18. Confidentiality

- 18.1. The parties agree and accept that their respective information, data and business details are confidential and their exclusive property.
- 18.2. The Client agrees:
  - 18.2.1. to use reasonable means, not less than that used to protect its own proprietary information, to safeguard Compliance Consulting's proprietary materials;

- 18.2.2. not to show and/or disclose any portion of the proprietary materials or their contents to anyone other than employees or advisers who have need to use the proprietary materials in the performance of their obligations under this agreement;
- 18.2.3. not to remove Compliance Consulting's proprietary materials without its prior written consent;
- 18.2.4. not to make copies of the proprietary materials except as needed only for performance under this agreement;
- 18.2.5. to return all copies of the proprietary materials to Compliance Consulting upon request;
- 18.2.6. to procure that the provisions of this agreement are not violated by any employee and/or agent of or any other person; and
- 18.2.7. not to disclose to any other person the structure of the services.
- 18.3. Nothing contained in this clause 18 shall be construed as to alter the title to or ownership of the proprietary materials.
- 18.4. This obligation of confidentiality shall extend indefinitely, even following the termination of this agreement.

### 19. Copyright

- 19.1 Compliance Consulting shall own and retain copyright in any material or documentation provided by it to the Client or its members.
- 19.2 This clause shall extend indefinitely, even following the termination of this agreement.

### 20. Public announcements

Public notices disclosing the existence of this agreement or describing the contents hereof, except for those notices required by law, shall be subject to the prior written consent of both parties.

### 21. Disputes

- 21.1. Notwithstanding anything else to the contrary contained in this agreement, in the event of any dispute arising between the parties, the Client shall continue to pay timeously the fees, charges and/or costs referred to in this agreement.
- 21.2. In the event that a dispute between the parties cannot be resolved by the parties including a claim that either party has failed to meet the standards and criteria envisaged in this agreement, the aggrieved party shall advise the other party in writing of its dissatisfaction and the nature of the dispute, whereupon:
  - 21.2.1. the other party shall admit that it is the cause of the dispute and in so doing that party shall be obliged to rectify the issue giving rise to the dispute e.g. improve its standards and services accordingly; or
  - 21.2.2. that party shall refute the other party's opinion, in which event the parties shall have 30 days within which to agree upon and appoint an independent person (to act as an expert and not an arbitrator). Should the parties fail to agree upon and/or appoint an independent person, then Compliance Consulting shall have the right to appoint CISA to determine whether or not the non-aggrieved party has in fact failed to comply with this agreement. The independent person's determination shall be final and binding on the parties. Costs of such determination shall be borne by the unsuccessful party.
- 21.3. In the event that it is found that the non-aggrieved party has failed to meet the requirements of this agreement as set out above, then the other party shall be entitled to terminate this agreement by giving that party 3 months' written notice.
- 21.4. The Client shall immediately deregister Compliance Consulting as the Client's Compliance Officer with the FSB, if applicable.

### 22. Breach

- 22.1. If either party ("the Defaulter") commits a breach of this agreement, and/or fails to comply with any of the provisions hereof, and fails to remedy such breach and/or failure within 7 calendar days of receipt of such a notice from the other party requiring such remedial action then the other party shall forthwith be entitled, but not obliged, without prejudice to any other right which that party may have in law, including the right to claim damages:
  - 22.1.1. to cancel this agreement and/or claim damages; or
  - 22.1.2. to claim immediate performance and/or payment of all the Defaulter's obligations in terms hereof and/or claim damages.

- 22.2. Fees shall be due and payable for a further 3 months after date of cancellation if the Client is the Defaulter.
- 22.3. On cancellation of this agreement, the Client shall immediately deregister Compliance Consulting as the Client's Compliance Officer with the FSB, if applicable.

### 23. Summary termination

- 23.1. Compliance Consulting may terminate this agreement with immediate effect should the Client:
  - 23.1.1. commit any act of dishonesty, commit any crime, act in an unprofessional or unethical manner or behave in an intolerable manner towards Compliance Consulting; or
  - 23.1.2. not pay any amount on due date.
- 23.2. On termination of this agreement, the Client shall immediately deregister Compliance Consulting as the Client's Compliance Officer with the FSB, if applicable.

### 24. General

- 24.1. understanding of agreement  
The parties acknowledge that each has read this agreement, understands it, and agrees to be bound by its terms, conditions and covenants.
- 24.2. entire agreement
  - 24.2.1. This agreement together with the Application Form and Fee Structure (subject to special quote), from time to time, constitutes the complete and exclusive written expression of the terms of this agreement between the parties and supersedes all prior or contemporaneous proposals, oral or written, understandings, representations, conditions, warranties, covenants and all other communications between the parties relating to the subject matter of this agreement.
  - 24.2.2. This agreement may not in any way be explained or supplemented by a prior or existing course of dealings between the parties pursuant to this agreement or otherwise.
- 24.3. time is of the essence  
Time shall be of the essence in this agreement with respect to the performance of the Client's obligations hereunder.
- 24.4. indulgences  
No indulgence granted by a party shall constitute a waiver or abandonment of any of that party's rights under this agreement; accordingly, that party shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.
- 24.5. severability  
If any provisions of this agreement shall be held to be invalid, illegal or unenforceable by a Court of competent jurisdiction or arbitrator, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby, and this agreement shall be of full force and effect.
- 24.6. force majeure  
Neither party shall be responsible for delays or failures in performance (with the exception of the obligation to pay money) resulting from acts reasonably beyond the control of such party (force majeure). In such event, the time for the performance may be extended for any period during which the performance is so prevented, provided that the non-defaulting party shall be entitled to terminate this agreement if such non-performance continues for more than ninety (90) consecutive days.
- 24.7. jurisdiction
  - 24.7.1. If either party elects to institute proceedings in any Magistrates Court, the other party hereby consents in terms of the Magistrates Court Act, 1944, as amended, to the jurisdiction of the Magistrates Court.
  - 24.7.2. Notwithstanding any other provision of this agreement, for the purposes of any legal proceedings arising from or in connection with this agreement and which

either party elects not to institute in the Magistrates Court, the Client hereby consents and submits to the jurisdiction of any Division of the High Court of South Africa.

### 24.8. costs

24.8.1. In the event of Compliance Consulting incurring any costs as between attorney and his own client in recovering and/or attempting to recover any amount due to Compliance Consulting and/or having to enforce any of its rights under this agreement, the Client considers itself bound and agrees and undertakes to pay Compliance Consulting or its attorneys the full amount of the costs thus incurred on the scale as between attorney and his own client, plus collection commission, tracing fees and advocates fees.

24.8.2. Each party shall bear and pay the costs incurred by it in respect of the negotiation, drafting, preparation and execution of this agreement.

### 24.9. counterparts

This agreement may be validly concluded in separate but identical counterparts, in which event the counterparts taken together, duly signed and executed, shall constitute the written agreement between the parties.

## 25. Personal details of Compliance Consulting

### 25.1. contact person

Compliance Consulting's contact person is Greta Maritz. Her contact details are:

- 25.1.1. telephone no: (011) 486-0729
- 25.1.2. cell phone no: 082-901-4269
- 25.1.3. physical address: 71 Lurgan Road,  
PARKVIEW.  
2193

### 25.2. written notices

25.2.1. Any written notice in connection with this agreement may be addressed:

- 25.2.1.1. fax no: (011) 646-1587
- 25.2.1.2. e-mail address: [info@complianceconsulting.co.za](mailto:info@complianceconsulting.co.za)
- 25.2.1.3. postal address: 71 Lurgan Road, PARKVIEW, 2193  
and shall be marked for the attention of Greta Maritz.

25.2.2. Any notice by either party shall be deemed to have been duly given:

- 25.2.2.1. 7 days after posting, if posted by registered post to the party's address in terms of this sub-clause;
- 25.2.2.2. on delivery, if delivered to the party's physical address in terms of either this sub-clause or the next sub-clause dealing with service of legal documents;
- 25.2.2.3. on dispatch, if sent to the party's fax or e-mail and confirmed by registered letter posted no later than the next business day.

### 25.3. address for service of legal documents

25.3.1. Compliance Consulting chooses the following addresses at which documents in legal proceedings in connection with this agreement may be served (i.e. the domicilia citandi et executandi):

71 Lurgan Road, PARKVIEW. 2193

25.3.2. A party may change that party's address for this purpose to another physical address in the Republic of South Africa, by notice in writing.

## 26. Personal details of Client

The provisions of clause 25 shall be applicable to the Client, mutatis mutandis, with reference to the details contained in the Application Form.