



Standard Bank's Escrow Terms and Conditions (Terms)

1. INTRODUCTION

- 1.1 These Terms apply to you individually and to your use of the Escrow Service (**Service**).
- 1.2 ***Please read these Terms carefully as they impose legally binding obligations on you and contain exclusions and limitations of our liability that affect you. It is your responsibility to determine whether the Service is suitable and adequate for your needs. You assume all risks associated with your use of the Service.***
- 1.3 Please pay special attention to the sections that are in ***bold and italics***. These are important clauses which explain what may limit our responsibility or involve some risk for you.
- 1.4 By 'accepting' the Terms when you sign up for the Service and by continuing to use the Service, you agree to these Terms and represent and warrant that you are at least 18 years old and capable of entering into a legally binding agreement.
- 1.5 These Terms take effect (begin) when you sign up for the Service.
- 1.6 We may change these Terms from time to time. The latest version of these Terms applies to you each time you use the Service.
- 1.7 You must know, understand and comply with these Terms.

2. DEFINITIONS

- 2.1 We have defined some of the words used in these Terms. These words begin with a capital letter. Singular words include the plural and plural words include the singular:
- 2.1.1 **Applicable Laws** means all national, provincial, local and municipal legislation, regulations, statutes, by-laws, consents and/or other laws of any relevant governmental authority and any other instrument having the force of law as may



be issued and in force from time to time relating to or connected with the activities contemplated under these Terms;

- 2.1.2 **Buyer** means the person buying a product or service;
- 2.1.3 **Completion Due Date** means the date by which the Buyer must either accept or reject the product or service;
- 2.1.4 **Customer Contact Centre** means our telephone number 0871353403 or email address at escrow@standardbank.co.za;
- 2.1.5 **Delivery Date** means the date by which the product must be delivered and/or the date on which the service must be provided;
- 2.1.6 **Device** means the smartphone, tablet, computer or other device you use to access the Service;
- 2.1.7 **Escrow Account** means an account in which you can store funds (in Rands) for the purpose of paying a Seller for a product or service;
- 2.1.8 **Group** means Standard Bank Group Limited, its subsidiaries and all their subsidiaries;
- 2.1.9 **Inspection Period** means the period after the Delivery Date during which the Buyer can inspect the product or service;
- 2.1.10 **Intellectual Property** means all: inventions, specifications, patents, designs, trademarks, service marks, trade names and all goodwill associated with these; copyright, including copyright in logos, devices, designs, multimedia works and computer software programs (in source and object code form), as well as programmers' or developers' notes, flow charts and design documents; rights protecting goodwill and reputation; proprietary material, know-how, ideas, concepts, trade secrets, methods, techniques, graphics; schematics; marketing; sales and user data; domain names and URLs; databases and rights in databases; confidential information; other intellectual property rights and similar



kinds of protection that are registered or can be registered anywhere in the world; and applications for, and rights to apply for, the protection of any of the items on this list;

- 2.1.11 **Intellectual Property Rights** means all rights in and to Intellectual Property;
- 2.1.12 **ISP** means an internet service provider, which is an entity that provides access to the internet;
- 2.1.13 **Juristic Person** means a company, close corporation, trust or other entity that is not an individual;
- 2.1.14 **Milestone Payment** means the payment of a portion of the Purchase Price when a milestone is achieved;
- 2.1.15 **Password** means any of the secret characters (letters, numbers and symbols) you use to access the Service;
- 2.1.16 **Personal Information** means information about an identifiable, natural person and where applicable, a Juristic Person, including, but not limited to information about: race; gender; sex; pregnancy; marital status; nationality; ethnic or social origin; colour; sexual orientation; age; physical or mental health; well-being; disability; religion; conscience; belief; culture; language; birth; education; medical, financial, criminal or employment history; any identifying number, symbol, e-mail, postal or physical address, telephone number; location; any online identifier; any other particular assignment of the person; biometric information; personal opinions, views or preferences of the person or the views or opinions of another individual about the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; and the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;



- 2.1.17 **Process** means any operation or activity, automated or not, concerning Personal Information, including: alteration, blocking, collation, collection, consultation, degradation, destruction, dissemination by means of transmission, distribution or making available in any other form, erasure, linking, merging, organisation, receipt, recording, retrieval, storage, updating, modification, or the use of information. **Processing** and **Processed** will have a similar meaning;
- 2.1.18 **Prohibited Activities** means illegal or terrorist activities, money laundering or any activities which are subject to Sanctions or are not in compliance with Applicable Laws;
- 2.1.19 **Sanctioned Entity** means any natural or Juristic Person or country:
- 2.1.19.1 in the case of a Juristic Person, any person who (i) owns or controls it; or (ii) it owns or controls (and for these purposes, owns means holding any percentage of ownership or beneficial interest and controls means the ability, directly or indirectly and whether through the voting of shares, the appointment of directors or similar officers or through any other means, to control the business or policy of the Juristic Person);
- 2.1.19.2 in the case of any country, its ministries, departments, agencies or any other governmental organisations, listed on any Sanctions List or who is subject to any Sanctions;
- 2.1.20 **Sanctioning Body** means the United Nations Security Council (**UNSC**), the Office of Foreign Assets Control of the Department of Treasury of the United States of America (**OFAC**), the European Union (**EU**), Her Majesty's Treasury (**HMT**), the Ministry of Economy, Finance and Industry (France) (**MINEFI**) or any other sanctioning body we recognise from time to time;
- 2.1.21 **Sanctions** means any restrictions set by a Sanctioning Body, including but not limited to diplomatic, travel, trade or financial sanctions or embargoes;



- 2.1.22 **Sanctions List** means any list of Sanctioned Entities published by a Sanctioning Body, as updated from time to time;
- 2.1.23 **Seller** means the person selling a product or providing a service;
- 2.1.24 **Service** means the Escrow Service we offer you;
- 2.1.25 **South Africa** means The Republic of South Africa;
- 2.1.26 **Standard Bank, we, us or our** means The Standard Bank of South Africa Limited (Registration Number 1962/000738/06) and its successors or assigns;
- 2.1.27 **Trade** means a transaction in terms of which a Buyer purchases, and a Seller sells, a product and/or a service;
- 2.1.28 **Website** means the website through which you access the Service, at www.escrow.standardbank.co.za;
- 2.1.29 **you or your** means the Buyer or the Seller that signs up for and uses the Service.

3. LINKS TO OTHER INFORMATION

We have included links in these Terms to other information that may apply to you. To view these links, you will need to copy the entire web address (starting with "http://" or "https://" and ending with ".html" or ".co.za") and paste it in your browser.

4. SIGNING UP

- 4.1 To use the Service, you must register and create a profile on our Website at www.escrow.standardbank.co.za.
- 4.2 You must be an individual to use the Service, and not a Juristic Person.
- 4.3 If you are a Buyer, you must be a South African resident and have a valid, transactional account held with Standard Bank.



- 4.4 If you are a Seller, you must be a South African resident and have a transactional account in South Africa.
- 4.5 You will be required to confirm that you have read, understood and accept these Terms.
- 4.6 ***Standard data costs will be charged by your mobile network operator or ISP every time you use the Service.***

5. THE ESCROW SERVICE

- 5.1 To create a Trade, you must provide us with the information we request regarding the Buyer, Seller, the product or services, the Purchase Price, the method of delivery and any other terms of the Trade.
- 5.2 The terms of the Trade must also include:
 - 5.2.1 the number of days the Seller has to deliver the product and/or service. This will determine the delivery date (**Delivery Date**); and
 - 5.2.2 the number of days the Buyer has to inspect the product and/or service after delivery (**Inspection Period**).
- 5.3 We will advise you of the Delivery Date, the Inspection Period and the date by which the Buyer must either accept or reject the product or service (**Completion Due Date**).
- 5.4 The Trade can also include milestones and Milestone Payments, which are payments that are made when certain milestones are achieved. Each milestone must have Delivery Date, Inspection Period and Completion Due Date.
- 5.5 Before a Trade is accepted by both the Buyer and the Seller, the Buyer or the Seller can request that the terms of the Trade are changed.
- 5.6 Once the terms of the Trade have been accepted by the Buyer and the Seller, the Buyer must:



- 5.6.1 deposit the Purchase Price into our account by electronic funds transfer; or
- 5.6.2 if the Buyer has an Escrow Account, allocate the Purchase Price from the Escrow Account to the Trade.
- 5.7 The Seller can cancel the Trade at any time before Buyer allocates the Purchase Price from an Escrow Account to the Trade or pays the Purchase Price to our account.
- 5.8 We will advise the Buyer and the Seller once the Purchase Price has cleared in our account.
- 5.9 The Seller must then deliver the product or provide the service on or before the Delivery Date, and in accordance with the terms of the Trade.
- 5.10 If the Seller cannot deliver the product or provide the service on or before the Delivery Date, the Buyer or the Seller can request an extension of the Delivery Date. If the request is accepted, the terms of the Trade will be updated. If the request is declined, we will refer the Trade to dispute resolution in terms of clause 8.
- 5.11 Once the Seller has delivered the product and/or service, the Buyer:
 - 5.11.1 can inspect the product or service during the Inspection Period; and
 - 5.11.2 must accept or reject the product or service on or before the Completion Due Date.
- 5.12 If the Buyer accepts the product or service on or before the Completion Due Date, we will pay the Purchase Price (or if the Purchase Price is made up of Milestone Payments, we will pay the applicable Milestone Payment) to the Seller.
- 5.13 If the Buyer is not satisfied with the product or service, the Buyer must, on or before the Completion Due Date:
 - 5.13.1 renegotiate the terms of the Trade with the Seller; or
 - 5.13.2 request an extension of the Inspection Period and the Completion Due Date; or



5.13.3 initiate a dispute.

5.14 The Buyer will be deemed to have accepted the product or service if on the Completion Due Date, the Buyer has not:

5.14.1 accepted the product or service;

5.14.2 requested a renegotiation of the terms of the Trade;

5.14.3 requested an extension of the Inspection Period and the Completion Due Date;
or

5.14.4 initiated a dispute,

in which case we will pay the Purchase Price (or Milestone Payment, if applicable) to the Seller.

6. **ESCROW ACCOUNT**

6.1 You can create an Escrow Account in which you can store funds. You can transfer funds to your Escrow Account from time to time by electronic funds transfer.

6.2 You can check the balance in your Escrow Account when you log on to the Service.

6.3 If you are a Buyer, you can pay the Purchase Price from your Escrow Account.

6.4 If you no longer wish to keep funds in your Escrow Account, you can transfer the funds to your Account.

6.5 ***You will not earn any interest on any amounts held in your Escrow Account.***

7. **OUR FEES**

7.1 We charge fees for each Trade. Our fees are based on the value of the Trade and are set out on our Website.

7.2 You can select which party or parties to the Trade must pay our fees.



7.3 Any fees payable by the Buyer will be added to the Purchase Price to be paid by the Buyer. We will deduct our fees before the Purchase Price is paid to the Seller.

7.4 Any fees payable by the Seller will be deducted from the Purchase Price before it is paid to the Seller.

8. DISPUTE RESOLUTION PROCESS

8.1 The Buyer or the Seller can declare a dispute at any time after delivery has started and before the Buyer accepts the product or service and the Trade is completed.

8.2 If a dispute is declared, the Buyer and Seller will have 10 days to resolve the dispute between themselves. If they cannot resolve the dispute within this 10-day period, we will refer them to:

8.2.1 the Small Claims Court, if the value of the dispute is R20 000 or less; or

8.2.2 arbitration, if the value dispute is more than R20 000.

8.3 The process to be followed in the Small Claims Court can be found on <https://www.justice.gov.za/scc/scc.htm>.

8.4 The arbitration will be facilitated by The Arbitration Foundation of South Africa (**AFSA**) and will be conducted in accordance with AFSA's rules.

8.5 The process to be followed for arbitration can be found on <https://arbitration.co.za/>.

8.6 ***The decision of the Small Claims Court or arbitrator is final and may not be appealed.***

8.7 ***If a dispute is declared, we will retain the Purchase Price until such time as we receive a:***

8.7.1 ***court order;***

8.7.2 ***arbitration award; or***



- 8.7.3 *written agreement from the Buyer and the Seller that the dispute has been resolved.*
- 8.8 *We will only pay the Purchase Price in accordance with the directions in the court order, arbitration award or agreement between the parties.*
- 8.9 *If a dispute is declared and we refer it to the Small Claims Court or arbitration and you do not participate, the proceedings may continue without you and an order or award may be made against you. This may include the costs of the proceedings.*
- 8.10 *We are not a party to the dispute and will not get involved in the proceedings in either the Small Claims Court or arbitration, unless required to do so by the Commissioner (in the case of the Small Claims Court or the arbitrator (in the case of an arbitration)).*
- 8.11 *Each party to a dispute in the Small Claims Court must pay its own costs, unless the Commissioner makes an order on how the costs of the proceedings must be paid.*
- 8.12 *The costs of the arbitration must be paid equally by the Buyer and the Seller unless the arbitrator makes an award on how the costs of the arbitration must be paid. Some of these costs must be paid upfront.*
- 8.13 *We are not liable for any costs relating to the legal proceedings or arbitration.*

9. NO INTEREST

No party to the Trade will earn interest on the Purchase Price, regardless of whether a dispute is declared or how long we hold the Purchase Price for.

10. SANCTIONS

10.1 You must not:

- 10.1.1 use the Service to finance any Sanctioned Entity;



- 10.1.2 act in a way that benefits a Sanctioned Entity;
- 10.1.3 be involved in any Prohibited Activity; or
- 10.1.4 use any product or service provided by the Group for any Prohibited Activity.
- 10.2 You warrant (promise) that you are not:
 - 10.2.1 a Sanctioned Entity; or
 - 10.2.2 being investigated for any activities relating to Sanctions.
- 10.3 You must let us know immediately in writing if you are being investigated for any activities relating to Sanctions.
- 10.4 You indemnify us against (you are responsible for) any fines, penalties, losses, damages, costs, actions, proceedings, claims or demands (Losses) which we may suffer because:
 - 10.4.1 any funds are seized or withheld by any Sanctioning Body or any other third party (including by us); or
 - 10.4.2 you breach this clause.
- 10.5 If we know or suspect that you are in breach of this clause or you are about to become subject to Sanctions, we can immediately, in our sole discretion:
 - 10.5.1 close, restrict activity or suspend access to the Service and any other product or service we provide you; and/or
 - 10.5.2 cancel these Terms and/or any other relationship which we have with you.
- 10.6 We are not liable (responsible) to you for any Losses you suffer if we cancel these Terms or any other relationship which we have with you.



11. INSTRUCTIONS

- 11.1 When you use the Service you communicate with us using a Device, so there is no direct personal contact between you and us.
- 11.2 We will act on all instructions that come from you, even if they actually come from someone pretending to be you. After you have registered for the Service, we may assume that any activity or instruction that we receive from you through the Service is genuine. Even if someone else uses your Password to send us an instruction through the Service, we may carry out an instruction as if you have authorised it.
- 11.3 ***We are not responsible for any loss or damage you suffer if you enter the wrong details for a Transaction or if you repeated a payment instruction (send it through more than once) and we make more than one payment. You waive (give up) any claim against us if this happens.***
- 11.4 You must think about the effects of each Trade, including the tax effects.

12. LOOKING AFTER YOUR PASSWORD

- 12.1 You must keep your Password secret and safe – someone who knows it could get access to your Escrow Account or use your information illegally.
- 12.2 It is not safe to keep your Password on a Device.
- 12.3 You waive (give up) any claim you may have against us for any loss or damage you may suffer if you have not kept your Password safe.
- 12.4 No person ever has a good reason to know or ask for your Password, so you must never give it to anyone.

13. SECURITY FOR THE SERVICE

- 13.1 We are not responsible for any loss or damage you may suffer because someone uses your Password.



13.2 Do not use any public Device, for example a computer at an Internet café. Public Devices are not safe because you do not know what software or hardware may be on them. For example, they may use spyware to find out numbers or passwords you type on a keyboard. These could be used to find information about you and to defraud you or steal money.

13.3 If you have lost your Password or you suspect that someone may have unauthorised access to your Password you must immediately reset your Password. We will not be responsible for any losses you may suffer because you did not notify us. We will not be liable for any loss or damages of any kind that may arise as a result of the unauthorized use of your Password by someone else, either with or without your knowledge.

14. **SOFTWARE AND HARDWARE**

14.1 You must use a Device (hardware) and software (programs) suitable for the Service. If you do not, the Service may not work properly, and this could increase your security risks.

14.2 We do not guarantee or suggest that any file, download or application on our Website is safe to use on any Device. We cannot guarantee that our systems not have software or data that can negatively affect a Device, such as viruses, trojans and other malicious (dangerous) software.

15. **OUR INTELLECTUAL PROPERTY**

15.1 We and/or our third-party licensors (as applicable) own and will continue to own the Intellectual Property Rights in and to the Service (which includes any updates to it), and all content in it or sent to and from it.

15.2 Even if any content on the Website is not confidential or there are no Intellectual Property Rights in it, we and/or our third-party licensors (as applicable) own the content and you have no rights in it.



- 15.3 We give you the right to use the Service subject to these Terms and any other terms or conditions which may apply to you from time to time. We can take away your right to use the Service at any time. You may not transfer your rights to use the Service to any other person. We may allow other persons to use the Service at the same time as you. You may not grant any rights of use or any other rights in respect of the Service, the Intellectual Property Rights in it, or any content on it (including content belonging to third parties) to any other person.
- 15.4 You may only use the Service in line with and for the purposes set out in these Terms only and for no other purposes.
- 15.5 Your licence to use the Service and the Intellectual Property in it will start when you register for the Service and will carry on until your licence ends in line with these Terms.
- 15.6 You may not in any manner exploit the Service and any Intellectual Property in it for commercial gain of any nature.
- 15.7 You may not copy, adapt, modify, alter, de-compile, reverse engineer, attempt to derive the source code of, create derivative works of, or otherwise attempt to reproduce the Website, the Intellectual Property in it, its content, its design, any updates to it, or any proprietary features in or to it, or any parts of it. This prohibition applies to any content belonging to third parties that is found on the Website.
- 15.8 You must not establish a hyperlink, frame, metatag or similar reference, whether electronically or otherwise, or any other reference to the Website.
- 15.9 ***You indemnify us against all actions, claims, costs, demands, expenses and other liabilities suffered or incurred by us as a result of any claims initiated and/or instituted against us relating to your unauthorised use of the Service and/or any Intellectual Property Rights in it.***



16. USING AND SHARING YOUR PERSONAL INFORMATION

- 16.1 You consent to us collecting your Personal Information from you and where lawful and reasonable, from public sources for credit, fraud and compliance purposes, as well as the purposes set out below.
- 16.2 If you give us Personal Information about or on behalf of another person, you confirm that you are authorised to: (a) give us the Personal Information; (b) consent on their behalf to the Processing of their Personal Information, specifically any cross-border transfer of Personal Information into and outside the country where the products or services are provided; and (c) receive any privacy notices on their behalf.
- 16.3 You consent to us Processing your Personal Information:
- 16.3.1 to provide products and services to you in terms of these Terms and any other products and services for which you may apply;
 - 16.3.2 to carry out statistical and other analyses to identify potential markets and trends, evaluate and improve our business (this includes improving existing and developing new products and services);
 - 16.3.3 in countries outside the country where the products or services are provided. These countries may not have the same data protection laws as the country where the products or services are provided. Where we can, we will ask the receiving party to agree to our privacy policies;
 - 16.3.4 by sharing your Personal Information with our third-party service providers, locally and outside the country where the products or services are provided. We ask people who provide services to us to agree to our privacy policies if they need access to any Personal Information to carry out their services; and
 - 16.3.5 within the Group.
- 16.4 We may also use your Personal Information to:



- 16.4.1 send you technical notices, updates, security alerts and support and administrative messages;
- 16.4.2 respond to your comments, questions and requests;
- 16.4.3 personalise and improve the services we provide you;
- 16.4.4 meet the requirements of any applicable law, regulation or legal process;
- 16.4.5 investigate fraud connected to the Service;
- 16.4.6 provide you with customer support when things go wrong;
- 16.4.7 provide you with processing and tracking information regarding your transactions;
- 16.4.8 improve and build features and services you or other users may want.
- 16.5 You will find our Processing practices in the Group's and our privacy statements. These statements are available on the Group's websites or on request.
- 16.6 If you are unsure about your tax or legal position because your Personal Information is Processed in countries other than where you live, you should get independent advice.

17. YOUR RESPONSIBILITY FOR OUR LOSS OR DAMAGE

- 17.1 You will cover (pay for) any loss or damage that we may suffer on your behalf because:
 - 17.1.1 ***you breach any of these Terms;***
 - 17.1.2 ***you give us wrong instructions or information; or***



- 17.1.3 *someone used your Password or Device to access the Service without your permission and this was not because of our own negligence (carelessness).*

18. DISCLAIMER AND LIMITATION OF LIABILITY (LIMITS OUR RESPONSIBILITY TO YOU)

- 18.1 *We are not responsible for any direct or indirect loss or damage related to your use of the Service, for any reason, except where we have acted with gross negligence.*
- 18.2 *We are not responsible to you or any other person for the actions of the Buyer, Seller, or any other party involved in the Trade.*
- 18.3 *We are not responsible for any loss or damages you may suffer if you cannot access the Service because of factors beyond our control, such as the network coverage or availability of your mobile network operator or ISP.*
- 18.4 *Information on the Website or regarding the Service is provided "as is" and we will not be responsible for any damages that may follow if you rely on it.*

19. WHAT HAPPENS IF YOU BREACH (GO AGAINST) THESE TERMS

- 19.1 If you breach (go against) these Terms, we can, at our election:
- 19.1.1 cancel these Terms;
 - 19.1.2 stop you from using the Service;
 - 19.1.3 suspend the Service;
 - 19.1.4 claim damages from you;
 - 19.1.5 apply to a court for an interdict or order for specific performance against you.



20. COMPLAINTS ABOUT THE SERVICE

- 20.1 If you have a complaint about your use of the Service or these Terms, please contact us at the Customer Contact Centre or follow our complaints process, which is available at: <https://www.standardbank.co.za/secure/CRC/Ombudsman.html>.
- 20.2 If you are not happy with the way the complaint is settled once you have followed this process, you may send the complaint to the Ombudsman for Banking Services (Ombudsman) or a similar forum.
- 20.3 The contact details for the Ombudsman are in clause 10 of The Code of Banking Practice. This is available in our branches or online at: http://www.standardbank.co.za/site/Code_Banking/COBP%20Final_2012_2.html.
- 20.4 We have also included the Ombudsman's contact details at the end of this document.
- 20.5 You may also approach any South African court of law that has jurisdiction (authority in this area).

21. WHERE LEGAL DOCUMENTS AND NOTICES WILL BE SENT

- 21.1 We choose the registered address on our website at <http://www.standardbank.co.za> as the address where any legal document or notice must be served or delivered to us (our domicilium citandi et executandi).
- 21.2 We may send legal documents or notices to you at the street, postal or email address that you give us.
- 21.3 Any legal document or notice to be served in legal proceedings must be written on paper. The relevant provisions of the Electronic Communications and Transactions Act 25 of 2002 (for example sections 11 and 12) do not apply to these documents or notices.

22. GENERAL PROVISIONS

- 22.1 Headings in these Terms are only for information and may not be used to interpret these Terms.



- 22.2 South African law will govern these Terms.
- 22.3 South African time applies when working out any dates or times.
- 22.4 Any extension of time or other indulgence we may allow you will not affect any of our rights, whether the indulgence is express or implied. We do not waive (give up) any of our rights.
- 22.5 If any clause in these Terms is invalid or illegal or cannot be enforced, the other clauses will still be valid.
- 22.6 You are responsible for making sure that you never use the Service for any illegal purpose. You will be legally responsible for any illegal transactions that you make.

23. CUSTOMER CONTACT INFORMATION

- 23.1 If you have any questions about the Service or do not understand anything about these Terms, please contact us through the Customer Contact Centre.
- 23.2 We will try to resolve queries as quickly as possible but may be subject to delays beyond our control.
- 23.3 If you have a problem and we do not solve it, or you are not happy with the way that it was solved, you may contact the Ombudsman for Banking Services:
 - 23.3.1 telephone: 0860 800 900 or 011 838 0035;
 - 23.3.2 email: info@obssa.co.za; or
 - 23.3.3 website: <http://www.obssa.co.za>.