

**TERMS AND CONDITIONS  
FOR A FINANCIAL SERVICES PROVIDER**

Effective 1 March 2023

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## **1. DEFINITIONS**

### **Allan Gray**

Means Allan Gray Unit Trust Management (RF) Proprietary Limited, Allan Gray Life Limited and/or Allan Gray Investment Services Proprietary Limited, as the context may require.

### **Business Day**

Means any day other than a Saturday, Sunday or South African public holiday. In this contract, day and Business Day has the same meaning.

### **Client**

Means a client of the FSP, which may include, but is not limited to, an employer in relation to employee benefits to be provided to its employees.

### **FAIS Act**

Means the Financial Advisory and Intermediary Services Act, 37 of 2002.

### **FSCA**

Means the Financial Sector Conduct Authority.

### **FSP**

Means an authorised financial services provider as defined in the FAIS Act.

### **Portfolio**

Means an arrangement that enables clients to pool their money and have it professionally managed and invested in a range of underlying assets in the form of a collective investment scheme or a life pooled portfolio. The underlying assets of a portfolio vary depending on the portfolio's investment objective. Portfolios are commonly referred to as 'unit trust(s)' or 'fund(s)' in the case of collective investment schemes or 'life pool(s)' in the case of life pooled portfolios.

### **Products**

Means Portfolios offered through Allan Gray Unit Trust Management (RF) Proprietary Limited, Allan Gray Life Limited and Allan Gray Investment Services Proprietary Limited.

### **Representative**

Means a representative as defined in the FAIS Act.

## **2. EFFECTIVE DATE AND CONTRACTUAL RELATIONSHIP**

- 2.1 This contract shall come into force once you or your authorised representatives, where applicable, receive the relevant adviser code assigned to you by Allan Gray.
- 2.2 We shall notify you if we receive an instruction from a Client to terminate your appointment as their financial adviser. Unless we receive an instruction from the Client to the contrary within five business days of Allan Gray's notification to you, we shall proceed to cancel your appointment as adviser to that Client. Should we receive a transactional instruction from the Client at any time during the five business days after Allan Gray's notification to you, we shall proceed to cancel your appointment as adviser to that Client with immediate effect.
- 2.3 You hereby acknowledge that the contractual relationship between you and Allan Gray is one of independent contractor. You are not being appointed, and may not hold yourself out to be or in any way act, as an agent, representative or employee of Allan Gray. You acknowledge that no partnership, agency or contract of employment has or will come about through your contract with Allan Gray or on account of the payment of fees to you. Fees are agreed between you and your Client directly.

- 2.4 It is your responsibility to evaluate and ensure that all your employees and/or representatives involved in the provision of a financial service act in accordance with and subject to industry standards and applicable legislation, including but not limited to ensuring your employees and/or representatives keep up to date with developments and changes in the financial services industry and conducting regular credit checks via a credit bureau on your employees and/or representatives.

### **3. LICENCING AND COMPLIANCE REQUIREMENTS**

- 3.1 You warrant and guarantee that you and your representatives have, and will maintain on an ongoing basis, all the necessary approvals, licences, registrations and/or authorisations as required by the FSCA under the FAIS Act to conduct the business contemplated under this contract. In addition, you undertake to comply with any legislation and regulations that may be applicable.
- 3.2 If any changes occur regarding your licence conditions, approved products and categories, or if any changes occur regarding your authorised representatives (e.g. their fit and proper status, debarment, etc.) and authorised signatories, you agree to immediately inform Allan Gray in writing of such changes.
- 3.3 If you are a representative of another FSP, in addition to holding an FSP licence in your own right, you are obliged to disclose this fact to Allan Gray. You acknowledge and agree that Allan Gray may disclose this fact if requested to do so.

### **4. SUBMISSION OF INSTRUCTIONS**

Allan Gray reserves the right to accept facsimile or electronic instructions. If you fax and/or electronically submit an instruction form to Allan Gray (in the format prescribed and/or approved by Allan Gray), it is your responsibility to ensure that the instruction form has been received and acted upon by Allan Gray. A faxed transmission report/receipt will not be regarded as proof that Allan Gray received the form. Allan Gray shall not be held liable for forms that were not received whether faxed and/or electronically submitted.

### **5. ROLE AND RESPONSIBILITIES**

- 5.1 You have no authority to accept money from Clients on behalf of Allan Gray, or issue receipts to clients in the name of Allan Gray, and no money in whatever form that a Client pays to you will be regarded as payment made to Allan Gray.
- 5.2 You are solely responsible and legally accountable for any information and/or advice provided to a Client or potential Client about the Products. Allan Gray shall not be responsible or held liable for any advice provided by you to a Client and any advice-related complaint addressed to Allan Gray will be directed to you.
- 5.3 Allan Gray may provide you with information on the Products (excluding any unregistered products) and supplement this information when changes are made to the Products.
- 5.4 Allan Gray reserves the right in its sole discretion to report to and liaise with any Client should the need arise.

### **6. CONFIDENTIALITY**

- 6.1 You may not, during or after this contract terminates, except in the proper course of your duties or if required by law, disclose any trade or business secrets or any information concerning the business or finances of Allan Gray to any third party. This includes, but is not limited to, any dealings, transactions, Client names or business practices of Allan Gray or any person with whom Allan Gray has business dealings.
- 6.2 According to the Protection of Personal Information Act, 4 of 2013 ('POPIA') and any other relevant data protection legislation, Allan Gray may process your personal information (as defined in POPIA), provided by you in the form to which these Terms and Conditions are attached (and any subsequent submissions made by you or your representatives), and the personal information of your clients, to improve servicing and to perform its duties as set out in these Terms and Conditions and the terms and conditions applicable to your Clients. Allan Gray may further, for the aforementioned purposes, and other purposes connected therewith, process your personal information that has been obtained from your clients or legitimately interested third parties.

- 6.3 You acknowledge and consent that Allan Gray may collect, verify and store your biometric information and other personal information and/or the biometric information and other personal information of your key individuals, representatives and/or assistants for security purposes. Biometric information is classified as special personal information in terms of POPIA.
- 6.4 Where necessary, you consent to Allan Gray collecting, storing and processing your personal information (as defined in POPIA) and transmitting your personal information to contracted third-party service providers, both local and offshore. In all instances, Allan Gray will ensure that all reasonable and appropriate technical and organisational measures have been taken to comply with applicable laws and prevent the unlawful processing of personal information.
- 6.5 You agree that in terms of Allan Gray's agreement with third-party fund providers, Allan Gray can provide such third-party fund providers with monthly reports, which may include personal information relating to you and the total assets under management per product with that specific third-party fund provider without obtaining your prior consent. All information will be treated as confidential and no Client information will be provided.
- 6.6 You confirm that you have obtained the necessary consent from clients to process their personal information, and where applicable, that you have obtained Client consent to instruct Allan Gray to transfer their personal information to a third party. You further confirm that you will always adhere to the relevant data protection legislation and obligations towards your Clients and their beneficiaries.

## **7. INTELLECTUAL PROPERTY**

- 7.1 All promotional and marketing material/documents provided to you by Allan Gray remains the property of Allan Gray and is supplied to you only to assist you in and for the purposes of fulfilling your obligations and duties under this contract. All copyright, trademark and ownership rights of the material/documents remain vested in Allan Gray. You should not assume, without first receiving written confirmation from Allan Gray, that any promotional and marketing material/documents are current and relevant. Further up-to-date information about Allan Gray may be obtained from [www.allangray.co.za](http://www.allangray.co.za) or by contacting Allan Gray directly.
- 7.2 You may not use, publish or circulate any printed or written matter concerning Allan Gray and this includes, but is not limited to, information obtained directly from Allan Gray, from the Allan Gray website, and/or the use of Allan Gray's name, trademarks, and/or logo for any reason, except in the manner specifically approved by Allan Gray in writing prior to you doing so (and which approval may be changed by Allan Gray from time to time or rescinded at Allan Gray's discretion).
- 7.3 The above provisions should not be construed as the granting of any licence to you to use Allan Gray's name, trademarks, and/or logo, and no right, title or interest in any proprietary material is granted to you.

## **8. ALLAN GRAY WEBSITE**

- 8.1 Use of the Allan Gray secure website found at <https://secure.allangray.co.za/> will be subject to the [Online Terms and Conditions](#) applicable at the time.
- 8.2 When your contract terminates, for any reason whatsoever, access to the Allan Gray secure website will automatically be terminated. You agree that you, your representatives, your agents or your employees will not use or attempt to use the secure website.

## **9. FEES**

### **General fees**

- 9.1 You may receive an initial and/or an ongoing fee, which must be negotiated with and approved by your Client, within the parameters set by Allan Gray. Fees must be agreed upon directly between you and the Client and any fee-related complaint addressed to Allan Gray will be directed to you. Allan Gray will not be held responsible or liable for any losses caused as a result of fee arrangements, negotiations and/or payments between you and your Client.
- 9.2 Allan Gray may alter the parameters for fees as applicable to the products from time to time. Allan Gray will inform you in writing of any such change. Existing agreed fees will not be affected except where Allan Gray may be required by a regulatory authority to amend such fee structure. In this case, the amended structure may apply to existing agreed fees.
- 9.3 Allan Gray will not be held responsible or liable for any delay in the payment of fees if your details are entered incorrectly on any investment application form.

- 9.4 If there is a dispute between you and a Client regarding fees, including but not limited to who is entitled to fees, or as to whether or not fees are due, Allan Gray may withhold payment (without incurring interest or penalty obligations) until the dispute has been resolved.
- 9.5 Allan Gray will provide you with a statement of fees, if any, earned for the month. All annual fees are calculated daily, based on the market value of the investment at the end of each day. The fees earned will be referenced to the relevant adviser code.
- 9.6 Allan Gray may reverse any fees paid to you if, for any reason whatsoever, Allan Gray is obliged to refund the amounts paid, including but not limited to payment of an incorrect amount and/or payment into the incorrect account. If the reversal is within 14 days of the fee payment, you authorise Allan Gray to debit your bank account with the relevant amount. If the reversal takes place after the 14-day period, you agree to immediately refund Allan Gray the amount paid to you. Allan Gray reserves the right to claim back any and/or all amounts owed by you in terms of this clause by debiting any one or more of your or your related FSP's accounts held with Allan Gray, where applicable.
- 9.7 Allan Gray may withhold fees due to you if you fail to comply with any applicable legislation and/or regulations.
- 9.8 You may not at any time pay, offer to pay or cause to be paid any monetary amount, or consideration in lieu of a monetary amount, whether directly or indirectly, to any employee of Allan Gray for any investment made or to be made in any Allan Gray products.

### **Offshore fees**

- 9.9 Subject to clauses 9.10 to 9.11 below, both initial and annual fees are paid.
- 9.10 For offshore business, fees will only be paid over once the amount totals at least the equivalent of US\$100, or any lesser amount determined by Allan Gray from time to time. Allan Gray is entitled to recoup any bank charges that it may incur in processing the payment of fees on offshore business. Allan Gray is entitled to change the processing and payment dates and minimum amounts on written notice. Allan Gray will inform the FSP of any delays that may occur in payment of the fees.
- 9.11 The products include applications for offshore investments available through Allan Gray. Subject to clause 9.1, Allan Gray administers and facilitates the payment of fees into a foreign bank account and, if such payments are required, you hereby guarantee that:
- The foreign bank account is a permissible bank account in terms of the Exchange Control Rules and Regulations or is permissible in terms of a specific authority from the Exchange Control authorities.
  - The fees will be repatriated to South Africa according to the relevant Exchange Control Regulations.
  - You undertake to notify Allan Gray if the foreign bank account becomes impermissible and if you fail to repatriate the funds within the time period prescribed by the Exchange Control Rules and Regulations.

## **10. TERMINATION**

- 10.1 Either party may cancel this contract on 30 days' written notice to the other party.
- 10.2 Allan Gray may terminate your contract at its discretion if:
- You contravene these Terms and Conditions in any way;
  - You are found guilty of any crime involving fraud or dishonesty;
  - You are found guilty in any enquiry or proceedings, including any disciplinary hearing, of unprofessional conduct;
  - You contravene any of the provisions of the FAIS Act; or
  - Your authorisation in terms of the FAIS Act is suspended, withdrawn or lapses.
- 10.3 You hereby agree to immediately inform us in writing if any of the instances referred to in 10.2 occur.

## **11. GENERAL**

- 11.1 This contract constitutes the entire agreement between the parties.
- 11.2 No indulgence or waiver granted to you by Allan Gray shall constitute a waiver of any of the rights of Allan Gray contained in this agreement and Allan Gray reserves its rights in this regard.

- 11.3 You hereby agree that Allan Gray may, in its discretion, alter the Terms and Conditions of this contract from time to time. A copy of the amended terms and conditions will be sent to you and you hereby agree that unless we receive your written objections to the terms and conditions within 30 days of the date of the notice to you (the 30th day being the effective date), the amended terms and conditions will supersede the Terms and Conditions contained in this contract with effect from the effective date.
- 11.4 You choose the physical address you provided to us as your address for notices and service of the legal process for all purposes arising out of this contract.
- 11.5 You may not cede or assign any of your rights or obligations under this contract, in particular, your right to receive payment of fees whether accrued or not, without Allan Gray's prior written consent, which consent shall not be unreasonably withheld.
- 11.6 This contract is governed by and construed in accordance with the laws of South Africa.

1 Silo Square  
V&A Waterfront  
Cape Town  
8001  
South Africa

P O Box 51605  
V&A Waterfront  
Cape Town  
8002  
South Africa

**Client Service Centre**

T 0860 000 654 or +27 (0)21 415 2301

F 0860 000 655 or +27 (0)21 415 2492

E [info@allangray.co.za](mailto:info@allangray.co.za)

[www.allangray.co.za](http://www.allangray.co.za)