

# PACIFIC CUSTODIANS NOMINEES (RF) PROPRIETARY LIMITED

## CUSTODY AND SETTLEMENTS AGREEMENT

### TERMS AND CONDITIONS

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#### INTERPRETATION

Unless otherwise expressly stated, or the context otherwise requires, the words and expressions listed below shall, when used in this Agreement, bear the meanings ascribed to them:

<b>"Agreement"</b>	means this private investor custody and settlement agreement between the Client and PCN.
<b>"Bank Account"</b>	means the Client's nominated bank account as may be amended and advised in writing to PCN from time to time.
<b>"Client"</b>	means the person contracting with PCN.
<b>"CSD"</b>	means a central securities depository licensed as such under section 29 of the Financial Markets Act.
<b>"Financial Markets Act"</b>	means the Financial Markets Act (Act No.19 of 2012), as amended, and its regulations.
<b>"FICA"</b>	means the Financial Intelligence Centre Act, 38 of 2001 (Act No.38 of 2001), as amended, and its regulations.
<b>"Issuer"</b>	means an issuer of Securities.
<b>"Exchange"</b>	means an exchange licensed as such under section 9 of the Financial Markets Act.
<b>"PCN"</b>	means Pacific Custodians (Nominees) (RF) Proprietary Limited, registration number 2014/113298/07, a private company incorporated in South Africa, which is a Participant.
<b>"Participant"</b>	means a participant as defined in the Financial Markets Act.
<b>"Securities"</b>	means securities as defined in the Financial Markets Act.
<b>"Securities Legislation"</b>	means the Companies Act, 71 of 2008 (Act 71 of 2008), as amended, the Financial Markets Act, the rules and directives of the relevant Exchange and the rules, directives, regulations and notices of the relevant CSD (and/or any Acts rules, directives, regulations and notices replacing and/or amending and/or extending these).
<b>"Sub-Register"</b>	means a record of uncertificated Securities administered and maintained by a Participant which forms part of the main register of the relevant Issuer; the Securities are normally held by a nominee company or in the name of an own-name client.

#### APPOINTMENT

PCN is authorised to execute transactions in accordance with the Client's instructions relating to the following financial products:

- Securities and instruments: shares; and
- Securities and instruments: warrants, certificates and other instruments

Subject to the terms of this Agreement, the Client appoints PCN as its agent, representative, custodian and administrator for the safe keeping and administration of Securities, and for the settlement of transactions in those Securities and to attend to certain incidental matters detailed in this Agreement.

PCN may make use of the services of its staff to execute certain administrative functions in rendering intermediary services to the Client.

The parties shall at all times be bound by the provisions of the Securities Legislation and must comply with any other provisions that may be required by legislation as a result of the nature of the Client.

#### SETTLEMENT OF TRANSACTIONS

The Client shall designate a Bank Account as a settlement account for the purposes of this Agreement. The Bank Account may be amended from time to time by completing the necessary instruction in writing to PCN.

When requested by the Client, PCN shall credit the Bank Account with all proceeds received by PCN in respect of the Securities held in or transacted through the Securities Account (as defined below).

The Client shall ensure that in respect of any purchase of Securities by the Client in respect of which PCN is required to act as settlement agent, the Client shall immediately upon acceptance of the purchase order deposit cleared funds to cover the purchase consideration in the PCN settlements bank account notified to it by PCN.

The Client acknowledges that he/she/it is conversant with his/her/its responsibility to provide settlement instructions to PCN in accordance with the provisions from time to time of the Securities Legislation.

Unless settlement instructions and cleared funds are received by PCN, PCN shall not be under any obligation to confirm settlement to a CSD and the Client shall be liable for any resultant penalties levied by a settlement authority pursuant to any failed trade.

Securities Transfer Tax ("**STT**") is payable by the purchaser in every instance of a transfer of equities Securities which results in a *change of beneficial ownership*. PCN will rely on the instructions of the Client to advise the instances where STT is payable. Brokers (exchange members) are responsible for collection of STT in respect of on-market equities transactions. Participants are responsible for collection of STT in respect of off-market equities transactions.

## **SAFEKEEPING OF SECURITIES**

Records of uncertificated Securities held by PCN shall be kept and maintained in the manner provided for in the Securities Legislation.

PCN shall take such steps to protect Securities held under custody against theft, loss or destruction as provided for in the Financial Markets Act. These Securities held under are kept separate from the resources of PCN, including in any insolvency proceeding against PCN.

## **SECURITIES DEPOSITED FOR SAFE CUSTODY**

Securities that PCN may accept on behalf of the Client in accordance with this Agreement shall be Securities of a type and form determined from time to time by PCN and may include either certificated or uncertificated Securities.

PCN shall not be obliged to accept any Security remitted in terms of this Agreement. In the event that any Security remitted for entry into a Securities Account is not good for delivery or has a defect in relation to the Client's title thereto, PCN shall not accept such Security for entry into a Securities Account until such defect has been corrected to the satisfaction of PCN. PCN shall return to the Client any Securities not accepted by PCN in accordance with this Agreement or the Securities Legislation.

The Client warrants to PCN that the Securities deposited for safe custody from time to time will be and remain free from any encumbrance.

## **RETENTION OF RECORDS**

PCN will keep the records of this Agreement and related documents in terms of section 22 of FICA.

The Client agrees that PCN at its absolute discretion will destroy the records and documentation relating to this Agreement after the expiry of the retention period

The Client acknowledges and agrees that records and relevant documents shall be considered to be retained by PCN if the copies are scanned and are available in electronic form. Subject to an electronic copy being available, PCN shall not be under any obligation to retain records and documents in paper form.

## **SECURITIES STATEMENTS**

PCN shall provide the Client with an electronic statement of a Securities Account twice per calendar year.

Unless an objection is made in writing by the Client to any entry contained in any statement of a Securities Account within 60 days after the statement date, the statement shall, in the absence of fraud or any manifest error, be treated as prima facie evidence of the entries indicated therein and the Client shall not thereafter be entitled to make any claim against PCN or to any other action in respect thereof.

## **SECURITIES ACCOUNT**

PCN shall in accordance with its standard operating procedures open and maintain a Securities account(s) in its records in the name of the Client to record the number or nominal value of Securities of each kind deposited by the Client with PCN and to record all transactions and entries made in respect of such Securities ("**Securities Account**").

Any entry made in a Securities Account shall be made only in accordance with authenticated instructions given by the Client and the provisions of the Securities Legislation.

PCN shall not give effect to any instruction that will result in a debit balance in respect of any Security held in a Securities Account.

## **VERIFICATION OF IDENTITY OF CLIENT**

PCN shall use reasonable endeavours to verify the identity of the Client in terms of section 21 of FICA.

The Client agrees that PCN will not be held liable by reason of having accepted as valid any documents of any kind which are forged, not authentic or are untrue, if despite taking reasonable steps to verify the identity of the Client, the document or identity of the Client is accepted and is subsequently shown to be invalid or incorrect.

The Client acknowledges and agrees that the verification process is a requirement in terms of FICA and that PCN shall not be liable for the delays that may be caused as a result of the verification process. The Client accepts risk including the risk of change in the price of the Securities during the verification process. PCN reserves the right to delay taking action on a particular instruction if any further information is required from the Client in order to comply with any legal or regulatory requirements (including FICA), or to investigate any concerns as to the validity or any other matter relating to the instruction.

The Client hereby indemnifies and agrees to hold PCN harmless against all liability, costs, expense or damage incurred by PCN or its agents arising (whether directly or indirectly) as a result of or in connection with PCN acting on any forged, fabricated or other inaccurate, invalid or unauthorised documents (including identity document) or instruction received by it in connection with the performance of PCN's obligations in terms of this Agreement, except to the extent that such liability, cost, expense or damage arises as a result of PCN's failure to comply with the provisions the preceding clauses under this heading. Notwithstanding anything to the contrary contained in this Agreement, save for "Conflicts" below, in the event of any conflict between the provisions of this clause and any other clause of this Agreement the provisions of this clause shall prevail.

The Client hereby indemnifies PCN and holds it harmless from any loss, damages or claim of whatsoever nature arising as a result of PCN acting on e-mail/fax/telephonic instructions received from the Client's authorised individuals as advised by the Client in writing.

## **CONFLICT**

In the event of any conflict between the provisions of this Agreement and the Securities Legislation, the provisions of the Securities Legislation shall prevail.

## **INSTRUCTIONS BY THE CLIENT**

All instructions given by the Client shall be sent to PCN at the physical address set below, or via e-mail, to: csdp@linkmarketservices.co.za. All instructions shall be sent in writing, or by any other means as may be approved by PCN from time to time in writing. PCN shall not be obliged to carry out any instruction that does not comply with this Agreement, requirements of FICA, the Securities Legislation or PCN's standard operating procedures.

On each occasion on which an instruction is given, the Client will be regarded as having confirmed that he/she/it has the necessary authority to give the instruction and that such instruction is capable of being implemented. PCN may record telephonic or electronic conversations with the Client and its representatives and the Client agrees that such recordings or transcripts thereof may be used as evidence in any dispute with the Client.

In the event that the Client gives to PCN an instruction to buy or sell Securities on behalf of the Client, subject to the limited mandate to carry out such instruction without having to exercise any independent discretion and in terms of a particular service offered by PCN, then the Client gives to PCN the right to appoint and pay brokers and other agents to carry out such instruction, to receive and give receipts in respect of such purchases or sales and to do all such things incidental thereto in order to give effect to such instruction.

PCN shall not make an entry in the Securities Account(s) unless instructed to do so by the Client or the Client's duly authorised agent. Instructions from the Client or its agent may take the form of a standing instruction.

PCN shall incur no liability for acting on any instruction, direction or other communication on which PCN is authorised to rely pursuant to this clause or for any delay in delivery of non-delivery or error in transmission.

## **VOTING ON BEHALF OF CLIENTS**

PCN will only vote on behalf of the Client if a voting instruction form is received from the Client by PCN by the stipulated date and time.

## **NOTIFICATION OF CORPORATE EVENTS AND CASH DIVIDENDS**

PCN shall notify clients electronically of all corporate events as required in terms of the Securities Legislation, which includes but is not limited to non-elective events, i.e. announcements and related information. PCN will send a notification of corporate events to the Client on receipt of all announcement published by the CSD.

PCN is not obliged to send such notification to the extent that all the salient details of such non-elective benefits are incorporated in the annual financial statements, interim statements or a shareholder circular by the Issuer and it has been or will be sent directly to the Client by the Issuer.

The Client may elect not to receive notices, reports and circulars, provided that he/she/it understands the implications and consequences of such an election. By choosing not to receive the documentation, the Client acknowledges that they may not receive pertinent information concerning non-elective events or the payment of dividends.

Dividend information will be published in the local newspapers in terms of standard market practice and PCN will send a payment advice/statement once the payment or corporate action has been processed.

Where fraction payments and fraction entailments to Securities are relevant, PCN will round fractions in accordance with the terms of the relevant corporate action. If applicable, fractions will only be paid out to the Client after receipt of cleared funds in PCN's bank account(s).

## **INTEREST ON FUNDS DEPOSITED INTO CLIENT ACCOUNT e.g. FOR PURCHASE OF SECURITIES**

Where funds are deposited into PCN's settlement account e.g. for the purchase of Securities, PCN will retain any interest that accrues to cover administration cost. The Client may claim interest by lodging a claim in writing, however, only claims for amounts of more than R50.00 (Fifty Rand) will be considered.

## CHARGES

The Client shall pay the fees and charges published from time to time by PCN and notified to the Client and/or indicated on the PCN website.

PCN may increase or vary the charges on 30 days' written notice to the Client and/or indicated on the PCN website and may thereafter levy such fees or charges.

Notwithstanding anything to the contrary in this Agreement, PCN shall not be obliged to act upon any instruction given by the Client or to deliver to the Client any Securities or monies until all the amounts due and owing by the Client to PCN have been discharged in full.

## FORCE MAJEURE

PCN shall not be responsible for the loss of or damage to any Securities or for the failure to fulfill its duties hereunder if such loss, damage or failure shall be caused by or directly or indirectly due to war, enemy action, the act of any government or other competent authority, riot, civil disturbance, rebellion, explosion, storm, tempest fire, strike or lock-out (except a strike or lock-out of the employees of PCN) or any other occurrence or event beyond the reasonable control of PCN ("**Force Majeure Event**"), provided that nothing in this clause shall relieve the PCN from any liability arising directly or indirectly in connection with any break-down or fault in its electronic or telecommunications software or hardware systems.

## VARIATION

Any addition to, variation or cancellation of this Agreement shall be communicated to the other party in writing.

## INDEMNITY

The Client hereby indemnifies and agrees to hold PCN harmless against all liability, costs or expenses incurred by PCN agents in connection with the due and proper performance by PCN of its obligations pursuant to this Agreement.

The Client accepts the risk of loss or damage arising, directly or indirectly, as a result of any failure in, misuse of, or any fraud or misrepresentation due to his/her/its failure to give a valid instruction in accordance with the terms of this Agreement.

PCN shall be liable under this Agreement only for direct damages incurred by the Client by reason of PCN's willful default or gross negligence and except in the case of fraud shall not in any event be liable for indirect, special or consequential loss or damages of any kind whatsoever.

PCN shall have no liability for, and the client shall hold PCN harmless and shall indemnify it against, any loss it suffers in the event of claims asserted against it by reason of the occurrence of a Force Majeure Event.

## ACCRUALS

All cash accruals received in respect of investments, including dividends will be paid in accordance with the Client's instructions and regulatory requirements.

## INFORMATION TO BE DISCLOSED BY PRODUCT SUPPLIERS

The Client confirms that PCN shall not be required to provide any information other than that required by law.

In terms of Section 56 of the Companies Act, 71 of 2008 (Act 71 of 2008), as amended, PCN shall disclose to the issuer and/or the CSD, the identity of the Client and the number and class of Securities held on behalf of the Client.

## GOVERNING LAW

This Agreement shall be construed in accordance with the laws of the Republic of South Africa.

## TERMINATION

Either party may terminate this Agreement at any time by giving at least 30 calendar days' written notice of termination to the other party.

PCN, its insolvency administrator or other lawful agent shall advise the Client in writing within three (3) business days of any termination of PCN's participation as a Participant or the occurrence of any insolvency proceedings.

The Client must, following notification of termination of PCN as a Participant or the occurrence of any insolvency proceedings, inform PCN, its insolvency administrator or other lawful agent to which other Participant the Client's Securities Account shall be transferred within 30 (thirty) calendar days of the Client receiving such notification.

Where the Client has not provided PCN with such instruction above within 30 (thirty) days of PCN, its Insolvency administrator or other lawful agent giving notice to the Client of its termination or the occurrence of an insolvency proceeding, PCN, its insolvency administrator or other lawful agent shall move the Client's Securities in the Securities Account to another willing Participant, and for such willing Participant's own cost, and advise the Client of the details of the receiving Participant.

After the movement of Securities, the Client may choose to maintain the Securities Account at the new Participant, or instruct such new Participant to move the Securities to another Participant, at the Client's own cost.

## NOTICES

The Client chooses the physical address provided or such amendment thereto as advised in writing to PCN from time to time as the address for the receipt of all notices and legal process. Any notice by PCN to the Client shall, if sent by facsimile or by e-mail, be deemed to have been received by the Client on the day of transmission of the facsimile or e-mail and if sent by post, on the seventh day after posting.

Any notices by PCN to the Client given either orally or by electronic means shall be deemed to have been received by the Client.

PCN chooses as the address for the receipt of all notices and legal process 13th Floor, 19 Ameshoff Street, Braamfontein 2001.

## DEALING ROUTING SERVICE

For the avoidance of doubt, the following terms and conditions do not apply to the free share dealing service being offered in relation to Quilter plc and Old Mutual Limited shares as part of the managed separation of Old Mutual plc, as set out in the scheme circular issued by Old Mutual plc dated 20 April 2018.

By submitting any instruction to transact in Securities using the PCN Dealing Routing Service ("dealing service") the Client agrees to the following provisions:

- The Client may only give instructions to transact in any Security by means of the telephonic service when operational. Instructions will also be accepted by way of fax, e-mail, and photocopied forms. PCN reserves the right to alter the times that the telephonic service is available.
- PCN will not carry out any instruction to transact Securities on behalf of the Client unless it is satisfied that the Client has been recorded as the beneficial holder of the Securities in PCN's records.
- The Client may only use the dealing service if his/her/its Securities are or will be registered in the Sub-Register.
- A Client's purchase order instruction will only be accepted and acted upon after cleared funds to cover the purchase and all related fees and charges, have been received in the Link Investor Services Proprietary Limited's client settlement bank account.
- PCN will endeavour to inform the Client if an instruction given by the Client will not be carried out unless PCN has good reason for not doing so. PCN will not be liable for refusing to carry out any instruction if it has good reason for not doing so.
- Any instruction submitted by another person on behalf of the Client should not be recognised unless an original power of attorney or other appropriate authority (or a complete copy thereof certified by a commissioner of oaths) has been received and accepted by PCN.
- All instructions given by the Client to the dealing service are irrevocable and shall be dealt with on the trading day immediately following the trading day on which they were received and failing that as soon as reasonably possible thereafter.
- In the event that PCN's nominated stockbroker is unable to process the entire trade due to there being insufficient buyers or sellers in the market, the balance of the trade will be kept pending by the broker for a 30-day period in terms of standard market practice.
- PCN will thereafter endeavour to notify the Client of the status of the trade and the Client shall upon receipt of PCN's notification provide a replacement instruction or cancel the balance of the trade.
- No limit order or raise order will be accepted by PCN. The Client acknowledges that prices may fluctuate from the time the instruction is given until the time that the transaction is executed.
- By submitting an instruction to PCN to arrange to sell any Security on his behalf, the Client warrants that:
  - (i) he/she/it has not sold or purported to sell the Securities or the interest in any Security to any third party;
  - (ii) the Securities will be sold free from all liens, charges or other third-party rights or any encumbrance of any kind;
  - (iii) he/she/it is entitled to sell the Securities;
  - (iv) the sale will not constitute a breach by the Client of any applicable laws and regulations; and
  - (v) he/she/it has the capacity and the authority to submit the instruction.
- The Client irrevocably undertakes that he will do, or procure to be done, all acts and things, and execute or procure the execution of all such documents as PCN may from time to time require to give effect to any instruction by the Client.
- The dealing service shall be operated strictly on an "execution only" basis. PCN shall not provide, or have any responsibility to provide any financial, taxation or other advice to the Client.
- A transaction in any Security through the dealing service will be executed by a stockbroker appointed by PCN. By submitting an instruction to PCN, the Client irrevocably authorises PCN to appoint a stockbroker to execute the transaction on behalf of the Client on the basis that:
  - (i) PCN will instruct a stockbroker to obtain the best price reasonably available in the market at the time of dealing. If no such price can be ascertained, the stockbroker will take reasonable care to carry out the instruction at a price which is fair and reasonable; and

- (ii) PCN shall, to the exclusion of all others including the Client, be entitled to bring any action, suit or proceedings (“**Actions**”) against the stockbroker arising out of or in connection with the sale. PCN shall, in its sole discretion, determine the nature and scope of such Actions.
- (iii) By submitting an instruction to PCN, the Client waives his right in relation to such Actions.
- The price per Security that the Client will receive will be the price at which such Securities are sold in the relevant period less all costs of the sale
  - Orders executed through the service shall be subject to the charges applicable from time to time, and these charges may be changed at any time on PCN’s sole discretion.
  - PCN may vary the amount, rate or basis of charges from time to time and may introduce new charges.
  - Fees, taxes, charges and other expenses of whatever nature incurred on behalf of the Client will be deducted from the proceeds of any transaction.
  - Instructions to carry out more than one transaction will be treated as separate transactions and each such transaction shall be charged separately.
  - All transactions will take place on the relevant Exchange.
  - PCN will subject to applicable exchange control legislation and regulations pay to the Client the proceeds of any sale in accordance with the Client’s instructions
  - Advice of any transaction will be included in a transaction statement sent to the Client.
  - PCN may terminate the dealing service at any time without giving notice thereof to the Client. All valid instructions given to the dealing service in accordance with this Agreement before termination will be carried out.
  - Transactions will be carried out and records relating to instructions by the Client will be kept according to the Securities Legislation.
  - If the dealing service cannot perform any of its services under this Agreement due to circumstances beyond its reasonable control, PCN will take all reasonable steps to bring such circumstances to an end, but PCN shall not be liable for any non-performance of the dealing service.
  - Without prejudice to any stockbroker’s obligations to execute transactions on the relevant Exchange, when a stockbroker executes an instruction given to the dealing service the Client acknowledges that the stockbroker could be acting as principal for its own account. By submitting an instruction to the dealing service, the Client consents, where applicable, to the stockbroker acting as principal for its own account.
  - The Client indemnifies PCN and those persons acting on his behalf in relation to the provision of the dealing service and their respective directors, employees and agents against any liability (except to the extent that the liability is caused by PCN or such person’s own default, negligence or fraud) which it or they may incur as a result of the dealing service.

## **STRATE RULES**

It is the responsibility of the Client to keep abreast with the Strate rules, directives, regulations and notices.

## **DIVIDENDS TAX**

The Client is solely responsible for the submission of a written dividends tax declaration, if applicable, and to forthwith inform the withholding agent in writing should the circumstances of the beneficial owner change.

## **COMPLAINTS**

PCN has a complaints resolution policy in place. Should you have any complaints a copy of the complaints procedure can be obtained by sending a written request to [complaints@linkmarketservices.co.za](mailto:complaints@linkmarketservices.co.za).