

TERMS AND CONDITIONS – GEM APPLICANTS

DEFINITIONS

“Financiers” – An entity or individual whose role is to assess, evaluate and provide funding and/ or underwriting of qualifying GEM Applicants.

“Financial Securities Exchange (Private) Limited” (FINSEC or Exchange) - is a registered Securities Exchange (Alternative Trading Platform) in terms of section 30 of the Securities & Exchange Act [Chapter 24:25], as read with the Securities (Alternative Trading Platform) Rules, S.I.100 of 2016

“GEM Applicants” – Micro, Small and Medium Enterprises (MSMEs – as defined in the *Small and Medium Enterprises Act* [Chapter 24:12]) that have applied for funding or equity listing through the GEM Portal or for-profit enterprises of any size that have applied for any of the FINSEC Private Markets service offerings.

“Growth Enterprises Market Listing Portal” or “GEM Portal” – the software platform developed by FINSEC to enable Enterprises of any size to apply for funding, and/ or any other service offered on FINSEC Private Markets or equity listing on the FINSEC.

“Nominated Advisor” – A licenced entity or individual admitted as a Participant on the FINSEC Alternative Trading Platform (ATP) for subsequent appointment by a GEM Applicant to guide them through the funding, or equity listing application or any other FINSEC Private Markets product offering.

“You” - means the GEM Applicant or Nominated Advisor or Financier.

INTRODUCTION

1. These GEM Portal Terms and Conditions (hereinafter “Terms” or “GEM Portal Terms and Conditions”) contained herein, shall govern Your use of the GEM Portal, including all pages within the GEM Portal. These Terms apply in full force and effect to Your use of the GEM Portal and by using the GEM Portal, You expressly accept all terms and conditions contained herein in full. You must not use the GEM Portal if You have any objection to any of these GEM Portal Terms and Conditions.
2. The GEM Portal is not for use by any persons under the age of 18 years, and You must not use of the GEM Portal if You are below the age of 18 years.
3. You are bound by the *Financial Securities Exchange (Alternative Trading Platform) Rules, 2019* (herein referred to the “FINSEC Rule Book”) comprising the Participants Admission and Business Conduct, the Trading and Settlement and Issuer Admission Rules of the Exchange .
4. Other than content you own, which you may have opted to include on the GEM Portal, under these Terms, FINSEC and/ or its licensors own all rights to the intellectual property and material contained on the GEM Portal, and all such rights are reserved. You are granted a limited license only, subject to the restrictions provided in these Terms, for purposes of creating an account on the GEM Portal.
5. In the event that the GEM Portal uses third party products and services, Your use of the GEM Portal shall be taken as express acceptance of all third party terms and conditions in full. If there is a conflict between these Terms and the third-party terms and conditions, the GEM Portal Terms and Conditions shall prevail.

6. FINSEC is permitted to revise these Terms at any time as it sees fit, and by using the GEM Portal, You are expected to review such Terms on a regular basis to ensure You understand all terms and conditions governing the use of the GEM Portal.

REGISTRATION AND ACCOUNT ADMINISTRATION

7. In the event that You register or apply for an account on the GEM Portal, You are required to provide current, true, legitimate, accurate and complete information as required on the Registration Form or the Application Form.
8. In order to protect Your account, keep your User Identity and password confidential, and do not disclose them to any third party.
9. In order to register or apply for an account, you may be required to pay the prescribed application or registration fee, which is non-refundable.
10. Once You register or apply for an account on the GEM Portal, You hereby grant FINSEC the right to access Your financial information and/ or data from but not limited to Mobile Network Operators or banks integrated to the GEM Portal. The financial information shall be used by FINSEC and/ or any other third party appointed by FINSEC to verify all the information provided in the Registration Form or Application Form. Any information and documents that you submit during the registration or application process shall be taken to current, true, legitimate, accurate and complete.

TERMS OF USE BY A GEM APPLICANT

11. In the event that You register or apply for an account on the GEM Portal as a GEM Applicant for access to funding, any other service offered on FINSEC Private Markets , or equity listing on the FINSEC Exchange, You shall comply with the following additional Terms: -
 - (a) You shall indicate that the application is for equity listing, funding or any of the other services offered on the FINSEC Private Markets;
 - (b) You shall appoint a Nominated Advisor from the list provided on the GEM Portal;
 - (c) You shall update all the information and documents submitted on the GEM Portal regularly to ensure that they are current, true, legitimate, accurate and complete;
 - (d) You understand that the Nominated Advisor may require that you provide additional information, and you shall diligently provide this information as requested;
 - (e) You shall give full details, as required, of the amount of funding sought and its intended use;
 - (f) You fully understand that the GEM Portal is integrated with third party systems to retrieve both historical and real-time transaction data and that information may be published to carry out valuations, credit scoring and ongoing business financial performance assessments by FINSEC or the appointed Nominated Advisor as well as the financiers and investors;
 - (g) Should You require to terminate your account, you shall communicate this in writing to FINSEC through the Nominated Advisor;
 - (h) If your application is successful, FINSEC will submit it to financiers and/ or investors, who will consider the application, and make a determination regarding equity listing or funding;
 - (i) FINSEC will communicate with you on the success of your application regarding equity listing, funding or any other service offering selected;
 - (j) If Your application succeeds for consideration for equity, Your company shall be listed on FINSEC or shall go the private placement route via FINSEC Private Markets. When listing on FINSEC, your company shall be required to comply with all the Terms and Conditions in the FINSEC Rule Book; and

- (k) If your application succeeds for consideration for funding, You shall comply with the following additional funding Terms: -
- (i) All funds received from the financiers shall be utilized solely and directly for the purposes specified in the application and for no other purposes;
 - (ii) You shall adhere to all repayment schedules as agreed to for the funding;
 - (iii) You shall be responsible for paying all fees and collecting and remitting all applicable taxes;
 - (iv) You agree not to use the Portal for any purpose for which the Portal is not designed, or for any fraudulent, unlawful, improper, activity or transaction, including without limitation any violation of this Agreement. If FINSEC has reason to believe that the You may have engaged in any of the activities or transactions as listed in clause, FINSEC may use its discretion to terminate or suspend Your access to the Portal.
 - (v) You understand that the Nominated Advisor or Financier or Investor or FINSEC may require that you provide additional information on a regular basis for the term of the issued debt instrument, and you shall diligently provide this information as requested; and
 - (vi) You shall comply with all other Terms and Conditions provided by the Financier or Investor or FINSEC regarding funding, as notified to you from time to time.

UNDERTAKINGS OF THE GEM APPLICANT

12. The GEM Applicant undertakes:

- (a) that it will use the Portal in a manner consistent with the objectives of this Agreement as described in clause 3 of this Agreement;
- (b) that it assumes all risk associated with using the Portal and acknowledges that FINSEC cannot guarantee any specific result from the use of the Services;
- (c) that it shall open up and maintain an account with FINSEC for the purpose of accessing the Portal and shall keep such account open for the duration of this Agreement;
- (d) that while some of the Services offered by FINSEC relate to legal, tax, investment or accounting matters, neither FINSEC nor any of the professionals providing such content are providing professional advice to the GEM Applicant, and the GEM Applicant acknowledges that there is no professional relationship (including without limitation any attorney-client relationship) between the GEM Applicant and FINSEC, unless otherwise specifically agreed upon by both Parties;
- (e) that it has all the authority and requisite permission to enter into and use all the Services contemplated in this Agreement;
- (f) that it shall submit itself fully to the Assessment Process and the information which was or will be provided in the Assessment Process is current, accurate, truthful and complete, and that the GEM Applicant will regularly update this information to maintain its completeness and accuracy;
- (g) that it will be responsible for maintaining the confidentiality of any Account information that it uses to access any feature on the Portal, and also for logging off of the Account and any protected areas of the website;
- (h) that it will adhere to high standards of corporate governance and ethical business practices in all its dealings with FINSEC and any Investors, and that it will, at all times, act in good faith in its fulfilment of the terms of this Agreement;
- (i) that, by signing this Agreement, it provides its authority and permission to FINSEC to share information obtained from it in the Admission Process with Investors and that such information will not be regarded as confidential;
- (j) that it does not have the right to use, copy or distribute any of the content posted on the Portal, except as expressly authorized by this Agreement and that any violation of the

forgoing prohibitions may result in the termination of the GEM Applicant's account on the Portal;

- (k) that it shall immediately notify FINSEC if it becomes aware on any suspicious or unauthorized conduct concerning its Account and that FINSEC will not be liable for any loss or damage arising from the Investor's failure to promptly notify FINSEC of such conduct.
- (l) that it will not refuse to co-operate with FINSEC or any law enforcement agencies in an investigation or to confirm any information provided to FINSEC;
- (m) that it shall provide qualified and authorised personnel with appropriate access rights and permissions to access and use FINSEC's Services;
- (n) that it shall not do anything which might jeopardise the good reputation of FINSEC, its agencies and entities that it represents;
- (o) that it agrees, and hereby represents and warrants that it shall use the Services in accordance with the applicable user guides and other documentation; and not use or permit others to use information obtained through the use of the Services for any purpose other than in conjunction with the Services and in a manner described in the documentation for the Services;
- (p) that it shall be responsible for obtaining all authorisations and consents in terms of all Applicable Laws enabling it to use the Services;
- (q) that it shall be responsible to determine which, if any, taxes apply to the payments from any disposal of securities or other transactions entered into through the Portal, and to report and remit the correct tax to the appropriate Tax Authority. FINSEC is not obligated to determine whether taxes apply, and is not responsible to collect, report, or remit any taxes arising from any transaction, unless otherwise stipulated in a separate agreement (s) or stipulated by law;
- (r) that it will cooperate fully with FINSEC or any law enforcement to investigate any suspected unlawful, fraudulent or improper activity linked in any way to the use of the Service.

NON-CIRCUMVENTION

- 13. The GEM Applicant may in future, wish to explore the possibility of entering into contractual relations concerning (without limitation) receiving investment from, or involvement in certain transactions and related business ("Contract Matters") with Investors introduced and/or to be introduced to the GEM Applicant through the Portal or its use of the Services.
- 14. Upon signature of this Agreement by the Parties, FINSEC shall subject to the other clauses of this Agreement, facilitate the introduction of Investors to the GEM Applicant. FINSEC will use reasonable endeavours to obtain further information from the GEM Applicant and Investor(s) or representatives of the Investor(s) and GEM Applicant and with a view to facilitating Contract Matters which may be undertaken by the Investor in relation to the GEM Applicant or the ability, actual or perceived, of such GEM Applicant to be involved in Contract Matters with the Investor.
- 15. Upon receipt of the identity details and other information relating to the Investor(s) through the Portal or use of the Services, the GEM Applicant shall not contract, whether verbally or in writing, electronically or by any other means with the Investor(s) without the consent, in writing, of FINSEC, which consent shall not be unreasonable withheld.
- 16. Clause 15 shall apply whether or not the Investor(s) identity is already known to the GEM Applicant unless the GEM Applicant provides conclusive written evidence that specific negotiations relating to Contract Matters had already commenced between itself and the Investor prior to the introduction contemplated in clause 13.
- 17. Subject to clause 15, no agreement with the Investor(s), without the written approval of FINSEC, may be entered into by the GEM Applicant including an agreement between any shareholder, partner, director or any employee of the GEM Applicant or the Investor or any

person or entity acting by order of either the GEM Applicant or the Investor; or any person acting as an accomplice of, in association with or at the behest of or pursuant to instructions of either the GEM Applicant or the Investor; or by any person for the benefit of either the GEM Applicant or the Investor if such agreement relates to Contract Matters.

18. In the event that either the GEM Applicant or the Investor or their agents and assignees should decide to enter into contractual relations with each other in breach of clause 15, FINSEC shall be entitled to an introduction fee or the benefit of an alternative arrangement in either case hereinafter referred to as a ("Commission Benefit").
19. The amount of the Commission Benefit in clause 18 shall be 1% (one percent) of the total benefit accruing to the GEM Applicant as a result of entering into Contract matters with the Investor. The value of the benefit shall be determined according to sound commercial principles recognising monetary and non-monetary benefits which have a monetary value.
20. In the event that negotiations do commence between the GEM Applicant and the Investor or an agreement is concluded in breach of the above clauses, FINSEC shall, without prejudice to the rights of any other party to claim damages or other remedy hereunder, be entitled to the benefit of any such agreement without in any way being liable for the costs thereof. The benefit of any such agreement accruing to the GEM Applicant shall be held in trust for the benefit of FINSEC until the Commission Benefit in clause 18 is paid to FINSEC.
21. The GEM Applicant hereby indemnifies FINSEC against any losses in respect of any costs incurred by FINSEC in order to enforce and/or protect its interests in the event that the terms of clauses 13 to 21 are breached by the GEM Applicant or by any party acting as an accomplice or in collaboration or in partnership whether directly or indirectly with the GEM Applicant.

INDEMNITY AND EXCLUSION OF LIABILITY

22. Access to the GEM Portal may be affected by factors outside the control of FINSEC, and therefore FINSEC shall not be liable for third party system downtime or failure. Interrupted access may also arise as a result of, but not limited to scheduled or unscheduled periodic testing, repair, upgrade or maintenance. Notwithstanding the foregoing, FINSEC does not make any representations or warranties as to continuous, uninterrupted or secure access to the GEM Portal.
23. You agree to indemnify FINSEC and absolve it and its affiliates against any law suits, losses, charges, damages, liabilities, expenses (including legal fees), fees or claims (including claims by third parties) whether direct or consequential.
24. FINSEC shall not be responsible for any economic loss, loss of profit or for any indirect or consequential loss or damage of whatever kind, howsoever caused, arising out of or in connection with the GEM Portal or internet connection even where the possibility of such loss or damage is notified to us.
25. FINSEC excludes any warranty and obligations that are implied by law and not set out in these Terms to the extent permitted by law.
26. The material and any publications on the GEM Portal have been prepared solely for information purposes by FINSEC and accordingly do not constitute an offer, a solicitation of an offer, invitation to acquire any security or to enter into any agreement, or any advice or recommendation to conclude any transaction (whether on the indicative terms or otherwise) and must not be deemed as such.
27. Whilst FINSEC has taken care to ensure that the content and information on the services are accurate, it does not warrant that the GEM Portal or any tools such as calculators, software, information, content or other services will be error-free or will meet any particular criteria of accuracy, completeness, reliability, performance or quality and expressly disclaim all such implied warranties.

DISPUTE RESOLUTION

28. *Amicable Resolution*

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature whatsoever arising under, out of or in relation to this Agreement including incompleteness of the Project, between the Parties and so notified in writing by either Party to the other (“**Dispute**”), either Party may require such Dispute to be referred to the Director or Chief Executive Officer of the Parties for amicable settlement. The Parties may each invite technical experts relevant to the issue under consideration to provide evidence or expert opinions on any matter in dispute.
- (b) Upon such reference, the said two shall meet not later twenty-one (21) days from the date of such request to discuss and attempt to amicably resolve the Dispute.
- (c) If such meeting does not take place within the said period, or the Dispute is not amicably settled within fourteen (14) days of such meeting between the said two, either Party may refer the Dispute to arbitration.

29. Arbitration

- (a) Any Dispute, which is not resolved amicably as provided in clause 28 shall be finally decided by reference to arbitration in terms of the Arbitration Act of Zimbabwe (Chapter 7:15) (“the Arbitration Act”).
- (b) The arbitration shall be held:
 - (i) In Zimbabwe at Harare;
 - (ii) In the presence of representatives, including any legal and other professional representatives, of the parties to this Agreement;
 - (iii) In terms of the UNICITRAL Model Law on arbitration as incorporated under the Arbitration Act as amended from time to time; it being the intention of the Parties that the arbitration shall be held and completed as soon as reasonably possible and in the English language.
- (c) The Arbitrator shall be, if the matter in dispute is principally:
 - (i) A legal matter, a practicing legal practitioner of at least fifteen (15) years standing;
 - (ii) An Accounting matter, a practicing-chartered accountant of at least fifteen (15) years standing;
 - (iii) Any other matter, an independent person who is an expert in the field in which the dispute has arisen, agreed upon between the parties.
- (d) Should the parties fail to agree whether the dispute is principally a legal, accounting or other matter within seven (7) days of the parties’ agreement to refer the dispute to arbitration, the matter shall be deemed to be a legal matter;
- (e) Should the parties fail to agree on an Arbitrator within seven (7) days of the matter being referred to arbitration in terms of this Agreement, the Arbitrator shall be appointed at the request of either party to the dispute, by the executive secretary of the Law Society of Zimbabwe;
- (f) The decision of the Arbitrator shall be final and binding on the parties and may be made an order of an appropriate Court of Law at the instance of either of the parties to the dispute and/or this Agreement;
- (g) The Parties undertake to carry out any decision or award of the arbitrators (“Award”) without delay. Awards relating to any Dispute shall be final and binding on the Parties as from the date they are made.
- (h) The provisions of this clause shall not preclude any Party from approaching any court of competent authority for an interdict or other injunctive relief of an urgent nature.
- (i) The Parties agree to cover their own costs in respect of dispute resolution and arbitration.
- (j) The Parties explicitly agree that all the terms of this Agreements shall remain in full force and effect until such time as the decision of the arbitrator has been made and effected.

GOVERNING LAW AND JURISDICTION

- (k) These Terms and Conditions shall be governed by the Laws of Zimbabwe and the courts of Zimbabwe shall have the jurisdiction to preside over any dispute that may arise in terms of these Terms and Conditions.

GENERAL CONDITIONS

- (l) Agreement to these Terms and Conditions forms a legally binding contact that shall commence on the date of acceptance by You, and shall endure indefinitely until in accordance with provisions of this Agreement.
- (m) FINSEC undertakes not to use the information that You submit on the GEM Portal for any purpose other than that for which it is provided, and in accordance with these Terms.
- (n) FINSEC reserves the right to add or remove more or less functions from time to time on the GEM Portal and will notify You of such changes through communications, such as but not limited to email or the FINSEC website.
- (o) If we suspect that Your GEM Portal account is in breach of any provision of the AML/CFT, You agree that we have the right to review and verify any activity that we deem necessary or practical, to request and receive any necessary or practical information or documentation, to report Your activities to any relevant Authority and to take any other action or perform any act implicitly or explicitly provided for in these Terms of Use, to suspend Your GEM Portal account and even Your access to FINSEC. In the event that Your USER account or any other account registered with or associated with it violates FINSEC's AML/CFT policy, You agree that we have the right to terminate Your rights as user and or listed entity on FINSEC, and suspend all services at any time, with or without notice to You.
- (p) All copyright, trademarks and other intellectual property rights used in connection with the GEM Portal, the systems contained herein are owned by FINSEC and or its Group Affiliates and You agree that You acquire no rights thereto.
- (q) No indulgence, leniency or extension of time or delay which may be given to You shall in any way prejudice FINSEC from exercising any of its right in the future.