

## Capricorn investment platform General Terms & Conditions

These Terms and Conditions are subject to change from time to time. Last updated version **29 May 2018**. In the event of conflict between the Terms and Conditions found in this document and those previously made, the updated Terms and Conditions above shall take precedence.

### 1. Introduction

- 1.1. The Capricorn investment platform general terms and conditions, together with the terms and conditions set out in the relevant application forms govern the use of the investment platform and any instructions or transactions executed on the investment platform. By signing an application form, you acknowledge that you have read, understood and agreed to the Capricorn Investment platform general terms and conditions contained in this document.
- 1.2. Capricorn Asset Management is the Administrator. As soon as the Administrator accepts your application, you, the Investor, will have entered into an agreement with the Administrator. You will receive confirmation of acceptance once your investment has been processed. Should your application not be accepted by the Administrator, you will receive notice of this via email or post as recorded by you in your application form (under Investor Details).

### 2. Introduction to Capricorn Asset Management

- 2.1. Capricorn Asset Management is a leading Namibian asset management firm and we pride ourselves in meeting the investment needs of individual investors, financial advisors, businesses, pension funds and government institutions.
- 2.2. We manage investments covering all major asset classes in markets around the world. With a deep understanding of the markets and the securities we invest in, along with the dedication of our employees, we deliver consistent investment returns that enable our clients to achieve investment success.
- 2.3. In line with our drive make investing easy and sensible, we have launched the Capricorn investment platform. This investment platform offers investors a convenient and cost effective way to obtain exposure to a specifically selected range of investment options to help them achieve their investment goals. As such, the investment platform not only offers our full range of Capricorn Unit Trust funds, but also a limited choice of selected unit trusts of other fund managers. Please familiarize yourself with the Capricorn investment platform fund summary for a full range of available funds. This can also be found on our website at [www.cam.com.na](http://www.cam.com.na)

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### 3. Definitions and Interpretation

- 3.1. Unless the context otherwise requires the following terms shall have the following meanings:
  - 3.1.1. “Administrator” means Capricorn Asset Management (Pty) Ltd
  - 3.1.2. “The Agreement” means the Capricorn Investment Platform general terms and conditions entered into between the Investor and the Administrator, together with the schedules and these terms and conditions.
  - 3.1.3. The “Investor” means the Investor as indicated in the New Investor Application Form.
  - 3.1.4. The “Investment” means the funds received by the Administrator from the Investor
- 3.2. words denoting the singular number shall include the plural and vice versa and references to the masculine gender includes a reference to the feminine gender and neuter and vice versa;

- 3.3. the expression person includes any legal or natural person, partnership, trust, company, joint venture, agency, governmental authority or other body (whether corporate or unincorporated)
- 3.4. headings to Sections are for convenience only and shall not affect the interpretation or construction of the agreement;
- 3.5. references to Sections, clauses, sub-clauses and the Schedule are to be construed as references to the Sections, clauses and sub-clauses of and the Schedule to the agreement; and
- 3.6. any reference to any provision in the Agreement or the Terms and Conditions means that document as is supplemented, amended or varied from time to time between the parties thereto in accordance with the terms (if applicable) hereof and thereof.

#### **4. Client Obligations and Representations**

- 4.1. The Investor represents and warrants that the information provided on any form is true and accurate and all Investments transferred was legitimately acquired and is free of all encumbrances;
- 4.2. The Investor agrees to provide or cause to be provided to the Administrator all reasonable materials, information and data required in carrying out its duties and functions as set out in the Agreement.

#### **5. Duties of the Administrator**

- 5.1. The Administrator shall have full power to supervise and direct the Investment(s) and reinvestment of the Investment(s) and engage in such investment transactions on the Investor's behalf as the Administrator may deem appropriate, subject only to the terms of the Agreement and such other written investment instructions as the Client may deliver to the Administrator from time to time. The Investor hereby ratifies and confirms any and all transactions heretofore or hereafter engaged in by Administrator in respect of the Investment provided that such transactions comply with the Agreement.
- 5.2. The Administrator confirms that it has and shall during the term of the Agreement have all the powers necessary for the performance of its functions under the agreement and in particular the Administrator shall: -
  - 5.2.1. invest all funds which form part of the Investment,
  - 5.2.2. reinvest any income of the Investment unless otherwise instructed by the Client;
  - 5.2.3. keep or cause to be kept such books, records and statements as may be necessary to give a complete record of.

#### **6. Acknowledgements and Consents**

- 6.1. Affiliates, subsidiaries and officers, directors and employees of the Administrator may engage in transactions or cause or advise other customers to engage in transactions which may differ from or be identical to the transactions engaged in by the Administrator for the Investor. The Administrator shall not have any obligation to engage in any transaction for the Investment or recommend any transaction to the Investor which any of the Administrator's affiliates or any of the officers, directors or employees of the Administrator may engage in for their own accounts or the account of any other customer, except as otherwise required by applicable law.

#### **7. Indemnity**

- 7.1. The Investor agrees to indemnify, defend and hold harmless the Administrator and each of its respective officers, directors, shareholders, affiliates and agents from and against any and all demands, claims, liabilities, damages, expenses (including legal fees and disbursements) and

losses resulting from, related to or arising out of any breach of any representation, warranty, covenant or agreement of such Investor contained in the agreement.

## **8. Confidentiality**

- 8.1. Each Party undertakes to the other Party that they will not and will procure that their respective officers, employees, professional advisers and agents will not, during the period of the agreement, and after its termination (for whatever reason) use or divulge to any person nor publish or disclose or permit to be published or disclosed, the terms of the agreement or any secret or confidential information relating to the parties which it has received or obtained, or may receive or obtain, (whether or not, in the case of documents, they are marked as confidential).
- 8.2. The obligations under the above sub-clause shall not apply to any information which:
  - 8.2.1. the recipient can reasonably demonstrate is in the public domain otherwise than by breach of the agreement by the disclosing party or by any person subject to an obligation of confidentiality;
  - 8.2.2. is already known to the recipient (as evidenced by its written records) at the date of disclosure and was not acquired directly or indirectly from the disclosing party;
  - 8.2.3. is required to be disclosed by law pursuant to a court order;
  - 8.2.4. is required to be disclosed by any recognized securities exchange or other regulatory body;
  - 8.2.5. is disclosed to or by any adviser to any of the parties to the extent required for the proper execution of his work.

## **9. Release of information**

- 9.1. The Administrator, or any of its affiliates, may report your information to foreign authorities and/or tax authorities (where necessary) in accordance with the requirements of the Foreign Account Tax Compliance Act ("FATCA Act") as may be stipulated by applicable laws, regulations, agreement or regulatory guidelines or directives.
- 9.2. That the Administrator may withhold from my Investment(s) such amounts as may be required by foreign regulatory authorities and/or tax authority according to the requirements of the Act.

## **10. E-statements disclaimer**

- 10.1. To the extent applicable, should the Investor elect to receive e-statements, the Investor understands and accepts that while the Administrator make every reasonable endeavor to ensure that the monthly statements are transmitted, the Administrator cannot guarantee secure or timeous delivery to the nominated delivery address. The Administrator and all its subsidiaries, affiliates, shareholders, agents, consultants and employees will thus not be liable for any losses, damages, expenses or costs of any nature whatsoever, be it direct or consequential, suffered or incurred by the Investor in the event that the statement is not securely or timeously received by the Investor, or is received by person(s) other than the Investor. Should the Administrator not be notified to the contrary by the Investor within 30 days from the statement date, the Administrator will assume that the Investor has received the statement.

## **11. Termination**

- 11.1. The Administrator is entitled to terminate your Investment mandate or place your account holding your Investment on hold if you do not comply with the terms and conditions contained herein and / or any other legal requirements as required by Namibian statutory provisions from time to time. These provisions include, but are not limited to, the Administrator's reporting obligations in

relation to fraudulent transactions, money laundering and terrorist financing activities. In the event that a hold is placed on your account holding your Investment, you will not be able to withdraw or transfer any funds from your account.

- 11.2. In the event that you fail to provide the Administrator, any document as required by accordance with the requirements of the FATCA Act as may be stipulated by applicable laws, regulations, agreement or regulatory guidelines or directives you will be deemed a recalcitrant person, the Administrator has the right to terminate, suspend, cancel and/or recall, at their sole and absolute discretion your account(s) holding your Investment(s).
- 11.3. Upon termination of the Agreement for any reason whatsoever; -
  - 11.3.1. The Administrator shall not be permitted to initiate any new transaction unless specifically requested to do so by the Investor, but shall nevertheless be entitled to settle any outstanding transaction concluded on behalf of the Investor and recover from the Investment any fees, charges or early redemption penalties that may be payable thereon.

## **12. Arbitration, Governing Law and Jurisdiction**

- 12.1. Any dispute, disagreement or claim arising between the parties connected to, relating to or concerning this agreement (“the dispute”) shall be resolved by means of arbitration conducted by an independent arbitrator. The appointment of the arbitrator shall be agreed upon by the parties within 5 (five) business days of the arbitration being demanded by means of a notice by any of the parties; if agreement is not reached within 5 (five) business days of the notice, the president for the time being of the Law Society of Namibia or its successor in title, shall be instructed or requested to nominate an arbitrator, who shall be a senior counsel; the arbitrator shall settle the procedure and manner in which the arbitration shall be conducted. Notwithstanding anything to the contrary contained in this agreement, the Administrator shall in its sole discretion be entitled to institute legal proceedings in a court of law of competent jurisdiction to resolve the dispute.
- 12.2. Notwithstanding anything to the contrary contained in this Agreement, should the Administrator institute legal proceedings in a court of law to resolve the dispute, without first referring the dispute to arbitration, in terms of this Agreement, and the legal proceedings become defended or opposed (as the case may be), the Administrator shall in such event remain entitled in its sole discretion to refer the dispute to arbitration and ask the court to stay the legal proceedings pending such arbitration.
- 12.3. The Administrator shall be entitled, irrespective of the amount in dispute, to bring any action arising out of or in connection with this agreement and/or any agreement of sale against the Investor in the Magistrate’s Court having jurisdiction over the Investor’s person and the Investor hereby consents to the jurisdiction of such court. The Administrator may, however, at its election and irrespective of the amount in dispute, institute any such action against the Investor in the High Court of Namibia having jurisdiction, in which event the Administrator shall not be limited to costs on Magistrate’s Court scale. In any such action, the Administrator shall be entitled to recover its legal fees and disbursements on the scale as between an attorney and his own client. This agreement in all respects shall be governed and construed in accordance with the laws of the Republic of Namibia.

## **13. Force Majeure**

- 13.1. If either party is affected by a force majeure event, including but not limited to an Act of God, war or other military action, political or social unrest, government action, action of terrorism, boycott, embargo, or other form of sanction, strike or other industrial dispute, fire, flood, earthquake or other form of natural disaster, adverse weather conditions, explosion, failure of communications,

system default of carrier or any other cause, event or circumstance whatsoever beyond the party's reasonable control, it shall forthwith notify the other party of the nature and extent thereof.

- 13.2. No party shall be deemed to be in breach of the agreement or otherwise liable to the other party by reason of any delay or non-performance of any of its obligations hereunder to the extent that such delay or non-performance is due to a force majeure event which it has notified to the other parties.
- 13.3. If the force majeure event in question prevails or continues for a period in excess of three (3) months, the parties shall enter into bona fide discussions with a view to alleviating its effects or agreeing upon such alternative arrangements as may be fair and reasonable.

#### **14. Notices**

- 14.1. Any notice, instruction or other instrument required or permitted to be given hereunder may be delivered in person to the offices of the parties as set forth herein during normal business hours, or delivered by prepaid registered mail or by facsimile transmission to the parties at the following addresses or such other address as may be notified by either party from time to time.
- 14.2. The Administrator: -  
Capricorn Asset Management (Pty) Ltd  
Physical address: 4<sup>th</sup> Floor Capricorn House, 119 Independence Avenue, Windhoek, Namibia  
P.O. Box 284 Windhoek Namibia  
For attention of: The Managing Director
- 14.3. The Investor: The Address provided by the Investor in the latest Application Form.

#### **15. Miscellaneous**

- 15.1. The services of the Administrator hereunder are not to be deemed exclusive to the Investor and the Administrator shall be free to render similar services to other persons provided that the terms of the Agreement with regard to confidentiality are not breached.
- 15.2. No amendment or variation to the Agreement shall be effective unless signed in the same manner as the Agreement. Any deed of variation of the Agreement shall be incorporated as an annexure to the Agreement.
- 15.3. No failure to exercise, nor any delay in exercising, on the part of any party, any right or remedy under the Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 15.4. If, at any time, any provision of the agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 15.5. Termination of the agreement for any cause shall not release a party from any liability which at the time of termination has already accrued to another party or which thereafter may accrue in respect of any act or omission prior to such termination.
- 15.6. Any consent given under any provision of the agreement shall be in writing.
- 15.7. The agreement shall be binding on the parties and their respective successors in title.
- 15.8. The Investor shall not be entitled to assign or transfer any of its rights, benefits or obligations under the agreement, except with the consent of the Administrator.

- 15.9. Nothing in the agreement shall be deemed to constitute a partnership between the parties or any of them nor, save as expressly provided herein, constitute any party the agent of any other party for any purpose.
- 15.10. Each Party shall co-operate with the other and execute and deliver to the others such other instruments and documents and take such other actions as may be reasonably requested from time to time in order to carry out, evidence and confirm their rights and the intended purpose of the agreement.
- 15.11. The agreement may be executed in counterparts, each of which shall be deemed an original but which taken together shall constitute one and the same instrument.

## **16. Administrative aspects of the investment platform:**

### **16.1. Features**

16.1.1. The investment platform offers a wide range of investment features to investors such as:

- Online access to your investments via the Bank Windhoek or Capricorn Private Wealth App and Internet Banking. As well as the Capricorn investment platform Login (please see Online Terms & Conditions)
- Monthly debit orders & Withdrawals
- Switches and Transfers between unit trust funds
- Income Management
- Easy rebalancing
- Low fees on third party asset manager's funds

### **16.2. Fees**

**The investment platform is designed to provide investors with a highly cost effective investment solution. In addition, it is our aim to be totally fee transparent and therefore provide full fee details as follows:**

#### **16.2.1. Investment platform fee**

This is the fees charged for use of the investment platform. The fees are as follows:

- **Initial Fees**

No initial fees are charged for the use of the investment platform

- **Recurring Annual Fees**

No recurring annual fees are charged for the use of the investment platform other than the applicable NAMFISA fee which the Administrator in its sole discretion may elect to carry the fee on behalf of the investor for which ever period of time it chooses to do so.

16.2.2. Capricorn Asset Management may receive a fee from selected third party fund managers for administration services rendered. Such fees are by no means charges to the client. Details of this fee arrangement is available on request.

#### **16.2.3. Fund specific fees**

These are fees charged by the fund managers of the relevant funds available on the investment platform, and include annual management fees and, in some cases, performance based fees. Full details of all fund specific fees are provided in the Capricorn investment platform fund summary.

#### **16.2.4. Advisory fees**

We recognize that investors in most instances can benefit from receiving the advice of a financial advisor in setting and achieving their long-term investment objectives,

determining your risk profile and selecting the right combination of funds to achieve your investment goals.

You may choose whether or not you want to use a financial advisor and indicate it as such on the application form. Should you choose to receive financial advice you can negotiate an initial advisory fee, a recurring advisory fee or a combination of both to be paid to your appointed advisor on your behalf.

#### **16.2.5. Electronic Collection Fees**

We do not charge any fees upon collection of your funds from your nominated Bank Account, however your bank may charge a debit order fee on your account when we collect from your nominated Bank Account.

### **16.3. Financial Advice**

Investments are a complex field containing variant risks. This includes but is not limited to market risk, liquidity risk and credit risk. As an investor you are not required to make use of a financial advisor but we highly recommend that you seek the advice of an investment advisor especially if you are not a skilled investor or if you are investing for the first time. A financial advisor will assist you in determining your investment goals, risk profile and construct an investment portfolio in an effort to achieve your financial goals. All information on third party funds is subject to the correctness of information provided by other funds' management companies. While data is correct at the date of publication, the administrator cannot guarantee its accuracy or correctness.

### **16.4. Tax Guidelines**

16.4.1. Please note that the different investments available on the investment platform have different income characteristics and thus taxability. All Capricorn Unit Trust funds, formerly Bank Windhoek Unit Trust funds, are managed to provide Namibian individual investors with maximum after-tax returns. Where applicable, withholding tax is withheld. Investors should avail themselves to the specific tax implications when investing in any fund or product available on the Capricorn investment platform that are specific to their unique position and country of tax residency.

16.4.2. We wish to highlight the following; however, investors should consult their own tax advisor(s) before investing:

16.4.2.1. All Namibian domiciled funds' distributions are split between taxable and non-taxable income. The taxable component is subject to withholding tax at a rate of 10% for private individuals, this rate might be adjusted in accordance with a double tax treaty between Namibia and your country of tax residency. For Namibian Investors this is a final tax and no further tax is payable. No withholding tax is applicable to legal persons who must include any income distribution in their income tax liability if applicable. All other distributions from the fund are of a non-taxable nature in terms of the Income Tax Act. The Administrator has no obligation to notify the Investor of any changes to applicable income tax provisions.

16.4.2.2. All South African domiciled funds' distributions are provided as foreign interest or foreign dividends. All funds domiciled outside Namibia is subject to the tax regimes of that country. In South Africa withholding taxes are deducted on dividends and interest of 15%. This is however not a final tax and income received through the platform by investors may be subject to additional Namibian taxation. The Administrator has no obligation to notify the Investor of any changes to applicable income tax provisions.



16.4.3. Investors are strongly recommended to consult with their appointed tax advisors before any investment is made.

#### 16.5. Disclosures

**Please take note of the following disclosures, which are relevant to investments in unit trusts/collective investment schemes.**

- 16.5.1. Investments in unit trusts/collective investment schemes are usually medium- to long-term investments.
- 16.5.2. The value of a unit trust/ collective investment scheme may increase or decrease.
- 16.5.3. The past performance of a fund or portfolio is not indicative of the future performance of that fund or portfolio.
- 16.5.4. Unit Trusts/collective investment schemes trade at ruling prices and may engage in borrowing and script-lending.
- 16.5.5. The Administrator provides no guarantee or undertaking of any nature whatsoever regarding the capital or expected return of any fund or portfolio in which you may choose to invest. The Administrator accepts no liability whatsoever for any loss or claim resulting from the performance of the investor's chosen funds, or for any loss of money that may be suffered as a result of any fund available on the Investment Platform and selected by the investor.

#### 16.6. General

- 16.6.1. All information of third party funds is subject to the correctness of information provided by other funds' management companies. While data is thought to be correct at the date of publication, the administrator cannot and does not guarantee its accuracy or correctness.
- 16.6.2. Whenever the term "Fund" is used in this document it refers to either a unit trust portfolio or a collective investment scheme.
- 16.6.3. The total expense ratio includes the standard annual management fee plus any performance fees or other fees that were relinquished as a payment of services rendered in the management of the fund. This is expressed as a percentage of the average value of the fund, and is provided as a guide. The information is obtained from the management company managing the specific fund.

#### 16.7. Business Hours and cut-off times

- 16.7.1. Business hours are generally from 7:30 to 16:30 Monday to Friday on Namibian business days.
- 16.7.2. Cut-off time on Namibian business days for any investment or withdrawal to be effected for the same day is 11:00.
- 16.7.3. Cut-off time for amounts in excess of N\$5 million is 09:00.
- 16.7.4. Cut-off time for 3rd party Funds is 09:00.
- 16.7.5. Cut-off time for securities instructions is 10:00 on Namibian business days.
- 16.7.6. Any investment or withdrawal instruction received after the indicated cut-off times will be processed on the next business day. However, it may take up to 5 working days to process any withdrawal, deposit, recurring withdrawal or recurring deposit instruction. We cannot be held responsible or liable for any losses you may suffer if we do not receive an instruction from you before the relevant cut-off time.



16.7.7. The Administrator will not be liable to pay any interest to you if the execution of any transaction or instruction to us is delayed as a result of requirements not being met or as a result of incorrect deposits or incorrect deposit descriptions.

**16.8. Contact Details – Sales & Channel Support Department**

16.8.1. Withdrawals or deposits, queries relating to account numbers, balances, statements, debit orders, cash-flow plans or change of details:

- **Tel:** +264 (61) 299 1950
- **Email:** [cam.service@capricorn.com.na](mailto:cam.service@capricorn.com.na)

16.8.2. Product specific information regarding the Capricorn Unit Trusts:

- **Tel:** +264 (61) 299 1950
- **Email:** [cam.info@capricorn.com.na](mailto:cam.info@capricorn.com.na)