

***Annexure A to Intermediary Application Form***

**TERMS AND CONDITIONS FOR APPOINTMENT AS INTERMEDIARY**

by

**KAGISO COLLECTIVE INVESTMENTS LIMITED**  
(Registration Number: 2010/009289/06)

(hereinafter referred to as '**KAGISO**')

## **1 BACKGROUND**

- 1.1 Kagiso develops, promotes, markets and sells various financial, and investment products and services through a network of independent Financial Advisors.
- 1.2 The Financial Advisor wishes to promote and market certain of such products and services, and in order to be able to do so, agrees to be bound by the terms and conditions of appointment set out herein.

## **2 INTERPRETATION**

- 2.1 The headings to the clauses of this agreement are inserted for reference purposes only and shall in no way govern or affect its interpretation.
- 2.2 Unless inconsistent with the context, the expressions set forth below shall bear the following meanings:

“Agreement”	the Intermediary Application Form signed by the Financial Advisor read together with these Terms and Conditions;
“Application”	a written application or offer by an Investor in the form as prescribed or approved by Kagiso, solicited by the Advisor, for any of the Selected Products;
“Advisor or Financial Advisor”	the party referred to in clause 1.2 above who has submitted an Intermediary Application Form to Kagiso;
“Business Days”	the days of the week from Monday to Friday, excluding recognised public holidays of the Republic of South Africa;
“Kagiso”	Kagiso Collective Investments Limited (Reg. No: 2010/009289/06);
“Intermediary Application Form”	the application form completed/to be completed by the Advisor which is subject to these Terms and Conditions;
“Intermediary”	the Advisor or Financial Advisor;
“Investments”	investments made into the Selected Products;
“Investor”	any person (natural or juristic) who is identified as the applicant Investor on an Application referred to in clause 6 below, and whom the Advisor represents as agent and/or mandatory;

“Parties”	Kagiso and the Financial Advisor;
“Procedures”	the procedures envisaged in this Agreement in respect of the applicant Investors and Advisors, and referred to in clause 14 below;
“Product Provider”	Kagiso Collective Investments Limited;
“Representatives”	those divisions, or employees, of Kagiso that offer the selected products from time to time;
“Selected Products”	those investment products and services offered from time to time by Kagiso referred to in Annexure A hereto together with such other financial products and services as may be made available to Advisors from time to time;
“Standard Transaction Forms”	inter alia, but not limited to, the standard Application, repurchase, addition and switch forms of the Selected Products, available from Kagiso on request;
“Terms and Conditions”	the terms and conditions contained in this document which form the basis of and regulate the relationship between Kagiso and the Advisor;

2.3 Unless inconsistent with the context, an expression which denotes any gender includes the other genders, a person includes a natural and juristic person and vice versa and the singular includes the plural and vice versa.

2.4 Where any term is defined within the context of any particular clause in this document, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to that relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this document, notwithstanding that that term has not been defined in this interpretation clause.

### **3 COMMENCEMENT AND DURATION**

Subject to the provisions of these Terms and Conditions, the Agreement shall commence when an authorised representative of Kagiso has signed and accepted the Intermediary Application Form and the Adviser has received confirmation in writing from Kagiso that the Agreement has been concluded. The Agreement shall thereafter continue indefinitely until terminated by not less than thirty (30) calendar days’ notice in writing by either party to the other or as provided for herein.

#### **4 AGREEMENT WITH FINANCIAL ADVISOR**

- 4.1 Kagiso contracts with the Advisor to:
  - 4.1.1 promote and market the Selected Products; and
  - 4.1.2 solicit and procure Applications for the Selected Products, subject to the terms and conditions set forth herein.
- 4.2 The Advisor accepts and undertakes at all times to carry out and perform its duties under this Agreement continuously, diligently and in good faith. The Advisor undertakes to ensure that the Investor is kept informed in respect of the Investor's Investment and transaction analyses.
- 4.3 Nothing in this Agreement shall be construed as appointing the Advisor as an agent, officer, or employee of Kagiso, or any of its representatives, and the Advisor shall not hold itself out as such or be entitled to enter in any agreement or undertaking on behalf of Kagiso, or any of its Representatives.
- 4.4 The Advisor undertakes to register where necessary in terms of any applicable legislation and to ensure that the Advisor complies with all statutory duties including, but not limited to, those promulgated under the Collective Investment Schemes Control Act No. 45 of 2002, the Income Tax Act No. 58 of 1962, the Value Added Tax Act No. 89 of 1991, the Stock Exchanges Control Act No. 1 of 1985, the Financial Markets Control Act No. 55 of 1989, the Long-term Insurance Act No. 52 of 1998, the Financial Intelligence Centre Act No. 38 of 2001, and the Financial Advisory and Intermediary Services Act No. 37 of 2002.
- 4.5 In particular, the Advisor expressly warrants that it is a licensed Financial Services Provider under the Financial Advisory and Intermediary Services Act No. 37 of 2002 and that it and / or its representatives are licensed in the product category relating to participatory interests in collective investment schemes
- 4.6 Kagiso reserves the right to summarily cancel a transaction notwithstanding the fact that a confirmation advice, unit certificate, or any other document or correspondence evidencing a transaction has been issued, should it come to Kagiso's notice that any material facts relating to the transaction are not brought to Kagiso's attention. In such case, the Advisor shall be taken to have indemnified Kagiso against all claims of whatsoever nature that may be brought against Kagiso as a result of the cancellation.
- 4.7 The Advisor expressly warrants that it is the duly authorised Financial Advisor of any Investor and is authorised to represent the Investor and to accept payment of fees as set out in clause 9 below.
- 4.8 Only those representatives and key individuals (as defined in Section 1(1) of the Financial Intermediary and Advisory Services Act No. 37 of 2002) of the Advisor listed in the Intermediary Application Form (as amended from time to time) may market and submit Applications for the Selected Products listed in Annexure A. The Advisor hereby indemnifies Kagiso against all claims, demands, losses, damages (whether direct, indirect or consequential), expenses and charges of whatsoever nature, arising from the actions and/or omissions of those representatives and key individuals of

the Advisor not listed in the Intermediary Application Form (as amended from time to time).

## **5 PROMOTION OF THE SELECTED PRODUCTS**

- 5.1 The Advisor shall obtain Kagiso's written consent before advertising the Selected Products or publishing or causing to be published for any purpose whatsoever the name of Kagiso, or that of any of its representatives. Kagiso shall not unreasonably withhold such consent.
- 5.2 It is expressly recorded that the right and title to the Kagiso name and the Kagiso logo vest solely in Kagiso and they shall have the sole and unfettered discretion to decide on the use of the name or the logo in any circumstances.
- 5.3 Kagiso shall furnish the Advisor with marketing material on the Selected Products, brochures, product bulletins and the like as Kagiso may have available from time to time. It is expressly recorded that all marketing material, brochures, product bulletins and the like need to be updated from time to time and that Kagiso shall not be liable for any loss, of whatever nature, that any party may suffer, for whatsoever reason, as a result of any inaccuracies in such brochures, product bulletins and the like.

## **6 APPLICATIONS**

- 6.1 Kagiso shall upon request, supply the Advisor with the Standard Transaction Forms in electronic format.
- 6.2 The Advisor shall ensure that all Applications are made on the relevant forms supplied to the Advisor pursuant to 6.1 above, and that said forms are duly and correctly completed in every respect and signed by the Investor. The Advisor shall not use any such forms for any purposes other than to comply with its obligations under this Agreement.
- 6.3 Before the completion and signature of each Application, the Advisor shall ensure that the Investor has a full and complete understanding of the Selected Product in respect of which the Application is made. Kagiso shall not be held liable for any loss incurred due to any incorrect information, mistake or misrepresentation being supplied by the Investor, the Advisor, or any other interested party.
- 6.4 On the first Business Day following completion of an Application (unless not reasonably possible), the Advisor shall deliver the Application to Kagiso.
- 6.5 Kagiso shall notify the Advisor within reasonable time of the acceptance or rejection of each Application. The Product Provider and the Representatives shall not be obliged to accept any Application, and reserve the right in their sole discretion, to withhold processing of any unclear, incomplete or ambiguous Applications.
- 6.6 The Advisor must disclose to the Investor that it is acting in the capacity of an independent advisor and is not authorised to make any representations or give any warranties on behalf of Kagiso, or the Representatives.

- 6.7 The Advisor shall ensure that, where an Application is completed on behalf of a legal entity (trust, company, close corporation or partnership), a resolution from the legal entity and a letter of authority for the signatories is attached to the Application, as well as any further documentation which may be required from time to time. Kagiso shall not be liable or responsible in the event of the signatory to the Application not being duly authorised, and the Advisor hereby indemnifies Kagiso against all claims, demands, losses, damages, expenses, and charges of whatsoever nature, arising from such event.
- 6.8 Where an Application is telefaxed to Kagiso, the responsibility to ensure that the instruction has been received by Kagiso shall lie with the Advisor and a telefax confirmation receipt in the hands of the Advisor shall not be regarded as proof that a specific document was received by Kagiso. Furthermore, the Advisor indemnifies Kagiso against all claims, demands, losses, damages, expenses and charges of whatsoever nature, arising out of or in connection with the non-receipt of any Application by Kagiso.
- 6.9 In the event that Kagiso agrees in writing to transact by way of electronic means other than telefax, the responsibility to ensure that the instruction has been received and actioned by Kagiso shall lie with the Advisor. Furthermore, the Advisor indemnifies Kagiso against all claims, demands, losses, damages, expenses and charges of whatsoever nature, arising out of or in connection with the non-receipt of any Application by Kagiso.
- 6.10 The Advisor shall be liable jointly and severally with the Investor or any other third party, for any loss Kagiso may suffer as a result of or in connection with the Investments or any instruction from the Advisor.

## **7 APPLICATION MONIES**

- 7.1 Where, in terms of the procedures of Kagiso, an Application requires an initial payment by the Investor, the Advisor shall:
- 7.1.1 obtain such payment from the Investor in the form of a crossed cheque marked "Not transferable" made out in the favour of the relevant Product Provider, or by such other means as Kagiso shall in its sole discretion decide;
- 7.1.2 forthwith deposit such amount to the credit of the relevant Product Provider (banking details to be advised by Kagiso depending on the Selected Product).
- 7.2 All payment instruments and monies envisaged in 7.1 above shall be accepted and held by the Advisor as mandatory on behalf of the relevant Product Provider, and the Advisor shall acquire no right of any nature to such payment instruments or monies.
- 7.3 Notwithstanding any contrary provisions contained in this Agreement, the Advisor shall forthwith pay to the relevant Product Provider all monies and other payment instruments received by the Advisor from any applicant/Investor in terms of or pursuant to this Agreement.
- 7.4 Where payment of Application monies are effected by way of a direct deposit into the relevant bank account of the Product Provider, the Advisor shall ensure that a Bank deposit slip reflecting such deposit is attached to

the relevant Application. Should the Advisor fail to do so, Kagiso shall not be liable for any interest, damages, losses, expenses and/or charges of whatsoever nature, arising out of or in connection with the Advisor's failure to bring the deposit to the attention of Kagiso in the required manner, and the Advisor indemnifies Kagiso accordingly.

## **8 ADDITION, SWITCH AND REPURCHASE INSTRUCTIONS**

- 8.1 The Advisor shall ensure that all instructions to inter alia add to, switch from or repurchase Investments are effected on the relevant Standard Transaction Forms, which forms are available from Kagiso on request. Instructions shall not be processed which are not recorded on the Standard Transaction Forms.
- 8.2 The Advisor shall ensure that all Standard Transaction Forms are signed by the Investor and that the information contained therein is correct in all respects. Furthermore, the Advisor indemnifies Kagiso against all claims, demands, losses, damages, expenses and charges of whatsoever nature, arising out of, or in connection with the Standard Transaction Form, submitted by the Advisor, containing incorrect information.
- 8.3 Where, in terms of an authorised mandate or, in other extraordinary circumstances, an Advisor signs a Standard Transaction Form on behalf of an Investor, the Advisor shall by his signature thereto, warrant that he has authority to sign on behalf of the Investor and that the information contained therein is correct in all respects. Furthermore, the Advisor indemnifies Kagiso against all claims, demands, losses, damages, expenses and charges of whatsoever nature, arising out of or in connection with the Advisor's authority and/or any incorrect information contained in such instruction.
- 8.4 Kagiso reserves the right in its sole discretion, to withhold the processing of any unclear, incomplete or ambiguous Standard Transaction Forms forwarded by the Investor or his Advisor, and shall not be held liable or responsible for any losses, damages, expenses and/or charges of whatsoever nature, arising out of or in connection with the withholding of such processing.
- 8.5 Where a Standard Transaction Form or any other instruction is telefaxed to Kagiso, the responsibility to ensure that the standard transaction form or instruction has been received and actioned by Kagiso shall lie with the Advisor and a telefax confirmation receipt in the hands of the Advisor shall not be regarded as proof that a specific document was received by Kagiso. Furthermore, the Advisor indemnifies Kagiso against all claims, demands, losses, damages, expenses and charges of whatsoever nature, arising out of or in connection with the non-receipt of any Standard Transaction Form or instruction by Kagiso.
- 8.6 In the event that Kagiso agrees in writing to transact by way of electronic means other than telefax, the responsibility to ensure that the instruction has been received and actioned by Kagiso shall lie with the Advisor. Furthermore, the Advisor indemnifies Kagiso against all claims, demands, losses, damages, expenses and charges of whatsoever nature, arising out of or in connection with the non-receipt of any transaction form by Kagiso.

- 8.7 Where monies payable to Kagiso in respect of an addition instruction are paid by way of a direct deposit into the relevant Bank Account of the Product Provider, the Advisor shall ensure that a bank deposit slip reflecting said deposit is attached to the relevant addition form. Kagiso shall not be liable for any interest, damages, losses, expenses and charges of whatsoever nature, arising out of or in connection with the Advisor's failure to bring the deposit to the attention of Kagiso in the required manner.
- 8.8 The Advisor shall ensure that, where a Standard Transaction Form is completed on behalf of a legal entity (trust, company, close corporation or partnership), a resolution from the legal entity and a letter of authority for the signatories is attached to the standard transaction form, as well as any further documentation which may be required from time to time. Kagiso shall not be liable or responsible, for any reason, in the event that the signatory to the Standard Transaction Form is not duly authorised, and that the Advisor indemnifies Kagiso against any and all damages and/or loss arising from such event.

## **9 FEES**

- 9.1 The Adviser shall only be entitled to the payment of fees by Kagiso in respect of the Selected Products listed in Annexure A.
- 9.2 During the currency of this Agreement, and subject to the provisions hereof, the Advisor shall be entitled to the payment of fees by Kagiso at the applicable rate set out in Annexure B to this Agreement. Such rate and the basis of payment of the fees may be amended unilaterally from time to time by Kagiso.
- 9.3 In the event that the Advisor and the Investor agree to a lesser fee for the Advisor, the lesser fee will only be paid by Kagiso upon receipt of a written instruction to decrease the fee signed by the Advisor. Kagiso shall not be liable or responsible for any overpayment to the Advisor.
- 9.4 Kagiso shall determine the Advisor's initial and annual fees on a monthly basis and the fees shall be paid no later than thirty (30) business days after such determination, in a manner decided by Kagiso in its sole and unfettered discretion and subject to compliance with the provisions of clause 7.1.2 above, and subject to the receipt of any other relevant documentation required by Kagiso. Kagiso shall have the right to amend the periods of payment of these fees without prior written notice to any party, but shall not increase the period to in excess of a period of one year. All transactions require a 14 day clearing period before they are considered for the determination of Advisor's Fees. Advisors' fees not re-invested and less than the Kagiso determined minimum (currently R500,00) will be cumulated and only paid out once the balance is in excess of such minimum amount.
- 9.5 Fees shall be paid net of all amounts owing by the Advisor to Kagiso. All refunds and repayments of fees by the Advisor arising from cancellations of the Selected Products referred to in Annexure A shall be immediately owing, due and payable by the Advisor to Kagiso.
- 9.6 Kagiso reserves the right, notwithstanding anything to the contrary contained in this Agreement, to market and promote the Selected Products otherwise than through the Advisor, and no right to fees shall accrue to the

Advisor in respect of any business not introduced by the Advisor in terms of the provisions of this Agreement.

- 9.7 Apart from the fees payable in terms of this clause 9, any other service fee or any other fee or commission of whatever nature shall be payable in the reasonable discretion of Kagiso or the Representatives to the Advisor by Kagiso or the Representatives.
- 9.8 Advisors registered as VAT vendors are required to submit VAT registration certificates to Kagiso as proof of registration. Fee statements reflecting such registration number shall be furnished to the Advisor together with payment.
- 9.9 Under no circumstances shall Kagiso be liable for any loss or damage of whatsoever nature that any party may suffer as a result of or in connection with any fees paid or payable to the Advisor and the Advisor indemnifies Kagiso against any such claim.
- 9.10 In the event of any overpayment of fees to the Advisor by Kagiso, the Advisor consents to Kagiso setting off the overpayment against any fees that are due or may become due to the Advisor. In the event that there are no fees due to the Advisor, then upon a written request to reimburse Kagiso, the Advisor shall discharge such obligation within 5 (five) business days. Should payment not be received within 5 (five) business days, Kagiso shall be entitled to charge interest calculated from the date of expiry of the 5 (five) business days notice until the date of payment of such amount, at the prime overdraft rate of ABSA Bank Limited from time to time.
- 9.11 On receipt by Kagiso of a written instruction from the Investor to the effect that the Advisor no longer represents the Investor, the Advisor shall be paid any fees owing, due and payable in respect of such Investor at the time of termination. Any such fees shall be pro-rated accordingly at the date of termination. Thereafter the Advisor shall not be entitled to any further fees in respect of such Investor.
- 9.12 On termination of this Agreement for whatsoever reason, the Advisor shall be paid any annual fees owing, due and payable at the time of such termination of this Agreement on the expiry of the 30 (thirty) calendar day period of notice in terms of clauses 3 or 19.4. Any such fees shall be prorated accordingly at the date of such termination. The Financial Advisor shall not be entitled to any fees after such thirty (30) calendar day period of notice on cancellation of this Agreement.

## **10 THE FINANCIAL ADVISOR'S GENERAL OBLIGATIONS**

The Advisor shall:

- 10.1 Keep full records of its activities pursuant to this Agreement and answer all enquiries by Kagiso concerning the Advisor's dealings pursuant to this Agreement;
- 10.2 From time to time when called upon to do so by Kagiso, render such assistance to Kagiso as required to maintain the relationship between persons making Applications and the relevant Representatives;

- 10.3 From time to time upon the reasonable written request of Kagiso supply Kagiso with copies of all reports, returns and other information relating to the Advisor's activities in terms of this Agreement;
- 10.4 Observe and be subject to all relevant laws, regulations and rules affecting the conduct of its activities in terms of this Agreement or otherwise, including but not limited to the statutory obligations imposed on the Advisor by the Stock Exchange Control Act No. 1 of 1985, the Financial Markets Control Act No. 55 of 1989, the Financial Advisory and Intermediary Services Act No. 37 of 2002, and the Financial Intelligence Centre Act No. 38 of 2001.
- 10.5 Act solely as agent for and on behalf of the Investor in receiving the Application and/or payment from the Investor. The Advisor shall have no authority to accept payment on behalf of the Product Providers or to bind the Product Providers in any way whatsoever in respect of the Application or any transaction whatsoever.
- 10.6 Ensure that he has a proper understanding and sufficient knowledge of the Selected Products prior to him giving any advice in respect of any of the Selected Products;
- 10.7 Give such bona fide appropriate advice to the Investor as the facts and circumstances of the Investor may dictate;
- 10.8 From time to time, upon the reasonable written request of Kagiso, supply Kagiso with information and/or documentation which Kagiso is required to have in terms of statute, including, but not limited to the anti-money laundering requirements under the Financial Intelligence Centre Act No 38 of 2001, or which may assist Kagiso in the ordinary course of its business;
- 10.9 Not, in offering or marketing any of the Selected Products available in terms of Annexure A , make any representation or allow any express or implied warranty to be given with respect thereto other than such representations or warranties as may be approved by Kagiso in writing from time to time.

## **11 COPYRIGHT**

All right and title, including any copyright in and to all documents, literature and Standard transaction Forms furnished to the Advisor, and all product information disclosed to the Advisor are vested in Kagiso.

## **12 BREACH**

- 12.1 Should one of the Parties to this Agreement:-
  - 12.1.1 commit any material breach of the provisions of this Agreement and fail to remedy such breach within five (5) business days after having been called upon to do so in writing by the other party;
  - 12.1.2 materially breach this Agreement on two (2) or more occasions during any sixty (60) business day period;
  - 12.1.3 be provisionally or finally sequestrated or wound-up or placed under judicial management;

12.1.4 make any arrangements or composition with its creditors generally or cease or threaten to cease carrying on business;

then the other Party shall be entitled to cancel this agreement with immediate effect without prejudice to such other rights as it may have at law.

12.2 Should the Advisor:

12.2.1 effect any change in control, whether of its board, shareholding or otherwise, without having provided thirty (30) business days notice of such change to Kagiso;

12.2.2 commit any fraudulent act or omission, or be found guilty of any crime of dishonesty;

12.2.3 have his licence or authorisation to operate as an Advisor suspended, lapsed or withdrawn, then Kagiso shall be entitled to cancel this agreement with immediate effect without prejudice to such other rights as it may have at law.

12.3 The Agreement will terminate automatically:

12.3.1 on death of the Advisor (where the Advisor is a natural person);

12.3.2 on the date on which a partnership is terminated (where the Advisor was a partnership);

12.3.3 when the Advisor is de-registered (where the Advisor was a juristic person or trust).

12.4 Upon termination of this agreement for whatsoever reason:-

12.4.1 the Advisor shall deliver to Kagiso all brochures, Standard Transaction Forms and information which may have come into the Advisor's possession under or pursuant to this Agreement and which is proprietary to Kagiso, or any of the Representatives;

12.4.2 the Advisor shall cease to represent that it is in any way associated with Kagiso, or the Representatives and shall take the necessary steps to avoid any such misrepresentation, including the removal of all relevant signage;

12.4.3 the Financial Advisor shall not be entitled to any further fees in respect of any of the Selected Products.

### **13 CONFIDENTIALITY**

The Parties to this Agreement shall, during the course of this Agreement and for a period of six (6) months thereafter, keep secret and not disclose to any person, unless required by law or where necessary by the due performance of its obligations in terms of this Agreement, any of the business, financial affairs, dealings, trade secrets, transactions, methods of business, customers, Investors or other confidential information whatsoever relating to the business, property or affairs of the other Party unless agreed

to in writing by the other Party and shall ensure that all employees of the Party are bound by the provisions of this clause 13.

## **14 PROCEDURES**

- 14.1 The Advisor shall ensure that it is aware of and understands the procedures of Kagiso contained in this Agreement, all practice notes issued by Kagiso from time to time whether issued prior to or after the signing of this agreement, and the relevant Application forms.
- 14.2 Kagiso may from time to time give reasonable notice to the Advisor in writing of new procedures developed for Advisors, which are reasonable taking into account the business of Kagiso, and the Advisor shall be bound by these procedures with immediate effect.
- 14.3 The Advisor shall be obliged to notify his clients/Investors of any such change in the procedures, where applicable.

## **15 CERTIFICATE**

A certificate signed by any director, manager or general manager of Kagiso, or the Representatives (whose appointment it shall not be necessary to prove) as to any indebtedness of the parties to each other under this Agreement, or as to any other fact, shall be prima facie evidence of such indebtedness or of such other fact for the purpose of any application or action, judgement or other, and for any other purpose whatsoever.

## **16 INDEMNITY**

The Advisor hereby indemnifies Kagiso against all claims which any party may have against Kagiso, and against all loss, damage and expense which Kagiso may suffer or incur, as a result of any acts or omissions of the Advisor for whatever reason, whether in terms of this Agreement or otherwise.

## **17 CESSION**

The Advisor shall not be entitled to cede or assign any of its rights or cede, assign, transfer or otherwise make over obligations in terms of this agreement to any third party, unless expressly agreed to in writing by Kagiso.

## **18 DOMICILIUM**

- 18.1 The Parties hereto choose domicilium citandi et executandi for all purposes of and in connection with this Agreement as follows:-

18.1.1 Kagiso

18.1.1.1 **Physical Address:**  
5th Floor, MontClare Place

Cnr Main & Campground Roads  
Claremont  
7708

18.1.1.2 **Postal Address:**

P O Box 1016  
Cape Town  
8000

18.1.1.3 **Telephone:**

(021) 673 6300

18.1.1.4 **Telefax:**

+27 86 675 8501

18.1.2 The Advisor

The address and contact details set out in the Intermediary Application Form.

18.2 Any Party shall be entitled to change its domicilium from time to time within the boundaries of the Republic of South Africa, provided that any new domicilium selected by it shall be an address other than a box number, and any such change shall only be effective upon receipt of the notice of such change in writing by the other Party.

18.3 All notices, demands, communications or payments intended for any party shall be made or given at such Party's domicilium for the time being.

18.4 A notice sent by one Party to another Party shall be deemed to be received on the same day, if delivered by hand or sent by telefax, if sent by prepaid registered mail, it shall be deemed to be received on the fifth (5th) business day after posting.

## **19 GENERAL**

19.1 This document sets out the entire agreement and understanding between the Parties and supersedes all prior agreements, written or oral, in connection with the subject matter of the agreement.

19.2 No addition to, variation or consensual cancellation of this Agreement shall be of force or effect unless in writing and signed by or on behalf of the Parties hereto.

19.3 No indulgence which any of the Parties ("the grantor") may grant to any other Party ("the grantee") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which might have arisen in the past or which might arise in the future.

19.4 Kagiso reserves the right to terminate this agreement on giving 30 (thirty) calendar days notice in writing to the Financial Adviser, should the level of business generated by the Financial Adviser not be sufficient to justify the level of service provided by Kagiso.

- 19.5 In the event of conflict between this Agreement and the terms and conditions in the Application for the various Selected Products, the provisions of this Agreement shall prevail. In the event of a conflict between provisions of the Intermediary Application Form and these Terms and Conditions, these Terms and Conditions shall prevail.
- 19.6 To the extent that any provision of this Agreement is or may become unenforceable for any reason, such provision shall be severed from the remainder of this agreement, which shall remain in force.
- 19.7 The Financial Advisor is independent and not connected to Kagiso in any way, save that the Financial Advisor is authorized to promote, market and procure Applications for the Selected Products of Kagiso from time to time. The Financial Advisor shall have no claim or cause of action against Kagiso arising out of or in connection with this mandate, or for any reason including but not limited to the Financial Advisor giving advice to the Investor.

## **20 VALUE ADDED TAX**

The Financial Advisor, expressly authorizes Kagiso to invoice in respect of any and all VAT on fees payable to the Financial Advisor by Kagiso, where applicable.

## **21 NOTIFICATION**

The Adviser shall inform Kagiso in writing as soon as reasonably possible:

- 21.1 of any changes or restrictions (including, but not limited to, suspension, lapse or withdrawal of the license) in the Advisor's license conditions (in terms of the Financial Advisory and Intermediary Services Act, No. 37 of 2002) subsequent to the commencement of the Agreement;
- 21.2 if the Advisor's estate is provisionally sequestrated/liquidated or placed under administration or judicial management or if the Advisor effects or attempts to effect a compromise, arrangement or composition with creditors;
- 21.3 if the Advisor is unable or ceases, for any reason whatsoever, to conduct his normal line of business in an ordinary and regular manner;
- 21.4 in the event that the Adviser is a juristic person or a trust, if any proceedings are instituted for the de-registration of the Advisor.

## **22 GOVERNING LAW AND JURISDICTION**

- 22.1 This Agreement shall be governed by and be construed in accordance with the laws of the Republic of South Africa.
- 22.2 The Adviser consents to the jurisdiction of the Magistrate's Court. Notwithstanding the foregoing, Kagiso shall be entitled to institute action in the High Court which may otherwise have jurisdiction.

## **Annexure A**

### **List of Selected Products**

#### **A Kagiso Collective Investments Products**

Kagiso Equity Alpha Fund  
Kagiso Protector Fund  
Kagiso Top 40 Tracker Fund  
Kagiso Islamic Equity Fund

## **Annexure B**

### **FEES**

In respect of Kagiso Collective Investments Products referred to in Annexure A (as amended from time to time)

- 1.1 Maximum initial advice fees negotiable to a maximum of 3% (excl VAT) of each contribution.