



# ASTUTE INVESTMENT SWITCH USER AGREEMENT

## 1. DEFINITIONS

- 1.1. In this User Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings, and any other terminology used in this Agreement in capitalized form shall have the meaning ascribed to it:
- 1.1.1. **“Agreement”** means this Astute Investment Switch User Agreement;
- 1.1.2. **“Astute Database”** for purposes of this Agreement, the Astute Database refers to the database from and through which the User can request the Data in respect of its Portfolio from the Content Provider/s and receive a response to such request and shall include the portion of the database where the names of the Authorized Users are stored;
- 1.1.3. **“Astute Systems”** means all information-technology related systems, constituting all systems used by the Service Provider to render the Services as well as to maintain the Astute Database, between and including the points designated by all addresses belonging to the domain astutefse.com, owned by the Service Provider and/or by any third party contracted with the Service Provider;
- 1.1.4. **“Client Systems”** means all information-technology systems, constituting all systems, used by the User to receive Content, between and including the points designated by all addresses belonging to the domain astutefse.com in the Astute Systems, but excluding the Astute

COMPLIANCE SERVICES

DATA SERVICES

INTERMEDIARY SERVICES

RISK SERVICES

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Systems, owned by the User which include third parties contracted with the User, who is requested by the User to send a Request and to receive a Reply;

- 1.1.5. **“Content”** means details of financial products held by the Content Providers in respect of the Portfolio, provided in electronic form to the Astute Systems;
- 1.1.6. **“Data”** means the Content, or a combination of the Content received from the Content Providers in respect of the Portfolio and which is provided by the Service Provider to the User Systems;
- 1.1.7. **“Portfolio”** means the User base of the User which consists of Data Subjects who have obtained financial products from the User and which products are still current;
- 1.1.8. **“Services”** means the services rendered by the Service Provider through the Astute Systems in terms whereof the User can obtain the Data of Data Subjects who form part of its portfolio.
- 1.1.9. **“User”** means the authorised profile associated with an individual or system that has access to the Astute Systems

## 2. RECORDAL

- 2.1. The User provides Investment Services to Data Subjects in respect of various financial products which is regulated in terms of FAIS.
- 2.2. The Service Provider has concluded agreements with various Content Providers in terms whereof the Personal Information which forms part of their records will be provided to the Service Provider upon request and subject to the terms and conditions set out in these agreements.
- 2.3. The Service Provider has developed a link between the Astute Systems and the Content Providers in terms whereof the User can obtain the Data of all Data Subjects which form part of their Portfolio held by the Content Providers.

- 2.4. The User is desirous to obtain access to the Data and therefore wishes to enter into this Agreement with the Service Provider.
- 2.5. This Agreement shall replace any existing Astute Investment Switch Agreement concluded by the Parties and shall be the sole record regarding the Services. Neither Party shall be bound by any undertaking, representation, warranty or promise except if specifically provided for in this Agreement.
- 2.6. In the event that a dispute occurs regarding the Services, the terms and conditions in this Agreement shall prevail.

### **3. TERMINATION OF SERVICES**

- 3.1. The Service Provider reserves the right to terminate this Agreement in the following event:
  - 3.1.1. where the User does not comply with the requirements of a Financial Services Provider for whatsoever reason.

### **4. SERVICE CHARGES**

- 4.1. All prices in respect of the Services shall be determined by the Service Provider as set out in Annexure "AIS1".
- 4.2. The Service Charges shall consist of a subscription fee which is payable within 30 (Thirty) days of receipt of an invoice.

### **5. RIGHTS AND OBLIGATIONS OF THE SERVICE PROVIDER**

- 5.1. The Service Provider shall:
  - 5.1.1. ensure that all licenses and/or authorization that may be required to render the Services will remain current for the duration of this Agreement;

- 5.1.2. Upon subscription to the service by the User ensure that the Data of all Data Subjects which form part of the Users Portfolio held by the Content Providers is delivered on a daily basis to the User systems via the link between the Astute Systems and the Content Providers;
- 5.1.3. notify the User *via* its systems of any amendment to the Data as received from the Content Providers from time to time;
- 5.1.4. supply, in electronic form access codes, passwords or other identification to the nominees of the User;
- 5.1.5. ensure that its systems are available during Work Hours to:
  - 5.1.5.1. process the data between the Content Providers and the User Systems;  
provided that its systems shall only be considered to be available if it can receive the Content from Content Provider Systems and provide the data in an executable and readable form;
  - 5.1.5.2. ensure that the person seeking access is registered as an Authorised User;
  - 5.1.5.3. at its expense, maintain the Astute Database during the Work Hours and update the aforementioned upon notification of the User;
  - 5.1.5.4. maintain audit trails of all transactions pertaining to every Request, Query, Content and Reply made *via* its systems relating to all of the Data Subjects or any Content Providers, which audit trails shall be available upon request;
- 5.1.6. shall have the right to refuse to provide a Reply where the Service Provider:
  - 5.1.6.1. has any reason to question the Consent of a Data Subject; or
  - 5.1.6.2. the good faith of the User, the Authorised User or any person acting for and/or on behalf of the User; or
  - 5.1.6.3. if the Service Provider has reason to believe that the person does not comply with the definition of a representative as contemplated in FAIS; or

5.1.6.4. if the person no longer has delegated authority from the Financial Services Provider as defined in FAIS;

5.1.6.5. reserve the right to remove the data of any data subject from the data received where the User is no longer the appointed

## 6. OBLIGATIONS OF THE USER

6.1. The User agrees and undertakes:

6.1.1. to ensure that only persons who is Authorised Users and who has obtained the required Consent of the Data Subject shall be subscribed to receive Data of such Data Subject. It is recorded that the User shall retain the aforementioned Consent;

6.1.2. upon request and receipt of written notice of the Service Provider, make available all records relating to the Consent of a Data Subject in question within 3 (Three) business days of such request;

6.1.3. to ensure that its records in respect of the Data is updated in accordance with the notifications received from the Astute Systems from time to time;

6.1.4. to pay all costs relating to the connectivity between the User Systems and/or the Astute Systems, and shall include any costs relating to maintaining its systems;

6.1.5. to notify the Service Provider of an Authorised User who will be subscribed to obtain information relating to a portfolio of data subjects, and to provide the relevant information to enable the Service Provider to update, *via* the Astute Systems, the Astute Database, which shall include the removal of an Authorised User from the Astute Database where the Authorised User does not meet the requirements for a license in terms of FAIS.

## 7. WARRANTIES

- 7.1. The User warrants that:
- 7.1.1. the Data provided by the Service Provider will only be used for the purpose of providing financial advice to the Data Subjects in respect of its Portfolio and will not be used by the User for any other purpose of whatsoever nature;
  - 7.1.2. the Data provided by the Service Provider will be kept confidential at all times and will not be made available to any party other than the Data Subject and itself;
  - 7.1.3. it and/or any of its agents and employees, meet the requirements of a representative as defined in FAIS or has delegated authority from the Financial Services Provider;
  - 7.1.4. it has obtained the required Consent, which Consent shall be in a form which shall at all relevant times comply with the requirements in respect of the Data Protection Legislation.
- 7.2. Notwithstanding anything elsewhere contained in this Agreement and in the event of the User or its representative breach the warranties as contemplated in clause 7.1, the Service Provider reserves the right to immediately terminate the User's access to the Astute Systems and may take any other action it deems necessary to protect its business interests and/or the interests of the Content Provider and/or the Data Subject, which shall include to institute legal action as it deems necessary.

## 8. INDEMNITY

- 8.1. The User indemnifies the Service Provider and/or Content Provider as the context may require against any claim which may occur in the following events:
- 8.2. were the Consent was not obtained from the Data Subject and/or does not comply with the form as contemplated in clause 7.1.4;
  - 8.3. unauthorised use of the Astute Systems and/or out of the use of a Reply, as a whole or any portion thereof by any person in its personal and/or representative capacity of the User; and

- 8.3.1. were the User use the Data for any reason other than to provide financial advice to the Data Subject and/or made such Data available to third parties.
- 8.4. 8.2 It is recorded, that for purposes of this Agreement, the Service Provider in its capacity as agent for the Content Provider, acknowledges the indemnity given in favor of the Content Provider as contemplated in clause 8.1.

## 9. OWNERSHIP AND USE OF INFORMATION

- 9.1. The User shall not use the Data other than to meet the requirements as defined by the Data Subject, including but not limited to the provision of a Data Subject's needs analysis and/or for the servicing of client product requirements with the Content Providers.

## 10. LIST OF ANNEXURES

- 10.1. AIS1: Service Charges.

## 11. CLIENT DECLARATION

By accepting this agreement, I warrant that I have read and understand that I am legally bound by the Terms and Conditions as contained and set out herein and that I am fully aware of my obligations as an FSP and/or Representative.

I am aware that the information accessed is private and confidential and may only be used for authorized purposes and that any breach of confidentiality could result in disciplinary steps or legal action being taken against me and that access to Astute services may be suspended or terminated at any time.

I indemnify Astute, and the Investment Switch Content Providers against any action, which may be taken against either party, by any natural or legal person, as well as against any damage or loss, including interest or legal costs incurred by Astute or any Data Provider as a result of such action, damage or loss which Astute or the Data Provider may suffer or incur as a result of the unauthorised use of the information accessed.

## ANNEXURE “AIS1”

### 1. TRANSACTION FEES FOR NEW PARTICIPANTS TO THE SERVICES

- 1.1. For new participants to the Service, the User shall be liable to pay a per user fee , and such user fee shall be calculated for each user which is registered on the service for which a Reply is furnished by the Service Provider.
- 1.2. A monthly subscription fee of R250.00 applies per subscriber to the service for a maximum of 300 clients. For any portfolio, in excess of 300 clients, an additional rate (as detailed below) will apply per client and will be added to the subscription amount.

Client Total	Monthly Pricing per Client	Clients	Monthly Total per Broker
1 – 300		≤ 300	Included in R275.63 Subscription Fee
300 +	R 1.00	> 300	*
<b>* R1 per client per month where more than 300 clients' data is utilised</b>			

- 1.3. In addition to the charge per registered user referred to in clause 1.1 and 1.2 above, the User will be liable to pay in advance by way of a direct debit order an amount of R47.54 (Forty Seven Rand and Fifty Four Cents) per month, which shall be used as a connection fee and to cover the debit order and related administration costs.
- 1.4. The fees are payable monthly in advance, and within 30 (Thirty) days of receipt of invoice.
- 1.5. The User agrees that the Service Provider shall be entitled to obtain payment of all amounts due in terms of the Agreement by way of a direct monthly debit order and the entering into the terms of this Agreement shall be deemed to be irrevocable instructions for the Service Provider to do so, in respect of any bank account which the User may nominate from time to time.
- 1.6. Invoices will be furnished by the Service Provider on a monthly basis and forwarded to the User electronically.
- 1.7. The User agrees that the Service Provider shall be entitled to levy the following administration charges in addition to the per user base fees as contemplated in clause 1.2 above, upon the occurrence of the following event:



1.7.1. Returned Debit Orders, in which event an amount of R265.27 (Two Hundred and Sixty Five Rand and Twenty Seven Cents) will be billed.

1.7.2. All prices shall exclude VAT.

## **2. EXISTING PARTICIPANTS TO THE SERVICES**

2.1. For existing participants to the Services, the per user base fees as contemplated in clause 1 above will be reviewed, on an annual basis by the Board of the Service Provider. Any changes proposed by the Board of the Service Provider in respect of the transaction fees will be provided to the User in the annual costs letter.