



TERMS AND CONDITIONS

Latest Version: 4th December 2019

1. INTRODUCTION

- 1.1 These are the Terms and Conditions that govern the usage of the GEM Portal on the Web. These Terms and Conditions are notified to the users before the users create any account on the platform. Thus, any qualifying entity and individuals are bound to these Terms and Conditions by proceeding to access make use of the Portal by creating an account and applying for listing on the Growth Enterprises Market on the Financial Securities Exchange ("FINSEC" or "Exchange").
- 1.2 Any and all admitted market participants on FINSEC, as well as the admitted GEMs shall also be bound by the FINSEC Participant Rules, Admission Rules and the Trading and Settlement Rules (the "FINSEC Rule Book")
- 1.3 The Terms and Conditions also apply to any person(s) the account holder appoints to use the GEM Portal on their behalf.
- 1.4 These Terms and Conditions are enforceable as soon as the following happens;
 - 1.4.1 When an entity registers and opens an account to use the GEM Portal to apply for listing or as a Nominated Advisor or Financier.
 - 1.4.2 When an entity, through an approved user, gains access to any service through the Portal.
 - 1.4.3 When a user actively uses the Portal or participates in any of the services provided by the Exchange or any of its partner and or affiliates on the platform.
- 1.5 Certain products and/or services that FINSEC may make available to You on the GEM Portal may be provided by third parties and are therefore governed by such third parties' own Terms and Conditions. You must therefore read this agreement together with all and any other relevant Terms and Conditions. If there is a conflict (difference) between this agreement and any other product/service terms & conditions, the provisions of the terms & conditions herein will prevail. If the conflict relates to the use of GEM Portal, this agreement applies.
- 1.6 Note that these Terms and Conditions may be delivered to You directly on the respective service channels or through a hyperlink from the respective service channel and by reference to our website (<https://finsec.co.zw/>). Due to space constraints on some channels we sometimes only refer to terms & conditions as "T&Cs" and a link to the full terms and conditions.
- 1.7 You must read these Terms and Conditions carefully as they contain important contractual information and are incorporated herein by reference.

2. DEFINITIONS

- 2.1 **"Financiers"** – An entity or individual whose role is to assess and evaluate the fundability of GEM Applicants on the Portal.
- 2.2 **"GEM Portal/Portal"** – is a software platform (the "Platform") developed to allow Micro, Small and Medium Enterprises (MSMEs – as defined in the *Small and Medium Enterprises Act [Chapter 24:12]* who apply for listing onto the Growth Enterprises Market operated by FINSEC.
- 2.3 **"GEMs"** - GEMs are growth micro, small and medium enterprises who have applied for listing through the Growth Enterprises Market (GEM) Portal.
- 2.4 **"Financiers"** -
- 2.5 **"Nominated Advisor"** - An entity or individual admitted as a participant onto the FINSEC ATP (Alternative Trading Platform) for subsequent appointment by a GEM to guide them through the listing or listing of their securities onto the FINSEC ATP.
- 2.6 **"Terms"** - means the Terms and Conditions herein.

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

3. APPLICATION OF TERMS

- 3.1 These terms apply to the usage of the GEM Portal by companies and individuals to register and apply for listing and for meeting continual obligations as and when set by FINSEC.
- 3.2 Your registration for use and continuous usage of the Portal shall be deemed as acceptance of these Terms and Conditions, as when varied from time to time.
- 3.3 FINSEC reserves the right to vary these Terms at any time and at its sole discretion.

4. REGISTRATION AND ACCOUNT ADMINISTRATION

- 4.1 In order to access the services of the GEM Portal, You should register for a GEM Applicant account on the online web platform. You will register your user account which will gain you access to the platform where you will register your company and apply for funding. You shall be required to pay an application fee on the portal for your application to be assessed by an analyst.
- 4.2 During registration You must provide on the Portal current, true, accurate and complete information including but not limited to, the full company name, Your full name and Your e-mail address and You must keep any such information up-to-date in order to maintain its accuracy.
- 4.3 All registered users and or GEM Applicants hereby authorize the verification of Your identity, whether through third parties or official government databases or by any other means considered by FINSEC as appropriate for the compliance of our duties with anti-money laundering, anti-money laundering financing, anti-terrorist financing (AML/CFT) and anti-fraud policies and any requirements imposed by applicable laws.
- 4.4 For the user and company's safety, You shall not disclose Your login credentials to a third party. FINSEC, its partner(s) and or affiliates disclaim any liability or losses (including indirect, incidental or consequential losses) that may arise as a result of Your disclosure of such information and or personal information to a third party.
- 4.5 You accept that, while FINSEC will take all reasonable steps to prevent security breaches in respect of the Services, any information sent over an unsecured link or a communication system is susceptible to unlawful monitoring, interception or access by a third party, for which FINSEC will not be responsible.
- 4.6 When using the Platform through the various service channels, any information and or documents provided shall be considered legitimate, correct and complete to be used for assessment of the respective company.
- 4.7 In the event that You have, or we have reason to believe, that You have breached, or will breach the present Terms and Conditions, and or as a result of a request/directive from local or international law enforcement/regulators and or judicial authorities, we may terminate or suspend Your registration and/or access to the GEM Portal. Notwithstanding this, You may request deletion of Your account at any time as long as Your application for listing has not been successful and You do not have any ongoing obligations to FINSEC.

5. TERMS OF USE BY A GEM APPLICANT

- 5.1 The GEM Applicant (herein referred to as applicant, or GEM) will apply for listing using the GEM Portal and shall make use of the Portal for that sole purpose and as detailed herein.
- 5.2 Once You have registered as an applicant, You can create Your application for listing on the Portal by inputting the required information and submitting the required documentation where applicable.
- 5.3 The applicant should ensure that;**
 - 5.3.1 it appoints a Nominated Advisor from the list of admitted advisors on FINSEC and throughout its listing on FINSEC, the GEM shall ensure it has a Nominated Advisor as per its ongoing obligations.

- 5.3.2 the information and documents to be provided and duly submitted on the Portal is legitimate, correct, complete and current with the company's operations. FINSEC disclaims any liability or losses (including indirect, incidental or consequential losses) incurred as a result of a non-successful application due to the submission of illegitimate, incorrect, incomplete and or outdated information and or data.
- 5.3.3 the information and documents uploaded shall be complete and accurate representation of the business operations to which the applicant represents.
- 5.3.4 the application for listing clearly stipulates the amount being sourced and its intended use, in detail.
- 5.3.5 the application clearly delineates the preferred listing method as to either debt or equity.
- 5.3.6 it clearly understands that the GEM Portal is integrated with EcoCash to retrieve both historical and real-time transactions data and that information will be used for enterprise valuations, credit scoring and ongoing business financial performance assessments to be made available to nominated advisors, financiers and investors. The GEM therefore through the acceptance of these Terms and Conditions, agrees to the publication of, but not limited to its transaction data, enterprise valuations, credit score and ongoing business financial performance assessment reports.
- 5.3.7 in the event they wish to withdraw from being considered for listing, this shall be communicated to FINSEC through its Nominated Advisor and the application will be removed from the system. FINSEC will not refund any application fees as a result of a withdrawal.
- 5.4 Once the application has been submitted on the GEM Portal, there will be enterprise valuations and credit scoring that will be done using the information provided and historical transactional data from, but not limited to EcoCash.
- 5.5 Once an applicant has submitted their application for consideration, it will be exposed to admitted Nominated Advisors who will have the mandate to carry out due diligence and performance assessments on the applicant. The Nominated Advisors have the right but not the obligation to attempt to verify Your identity, the identity of the company and any other information on the application.
- 5.6 Nominated advisors may request for more information to aid their due diligence and You are expected to cooperate with all reasonable requests in this endeavor. Failure to do so may result in negative scoring of Your application and possible withdrawal from consideration.
- 5.7 The Nominated Advisor may also advise on other changes that may need to be done to the application which also includes the listing method. The application will earn more scoring points on the information verified and added to ensure completeness and accuracy of the application.
- 5.8 If the Nominated Advisor is satisfied with the application it will be exposed to possible financiers who will be able to view all the information about the applicant and the company.
- 5.9 On application fees;**
 - 5.9.1 The applicant is expected to pay an application fee which as to be prescribed by FINSEC from time to time.
 - 5.9.2 An applicant will not be able to access the GEM Portal if they have not paid the application fee.
- 5.10 On listing;**
 - 5.10.1 If successful, FINSEC shall advise the MSME applicant whether it qualifies for listing through a Micro-Fund, a Special Purpose Vehicle ("SPV") or through direct listing on FINSEC.
 - 5.10.2 The financiers may decline to fund the full specified amount (or part thereof) depending on how the application would have been received by the financiers.
 - 5.10.3 Financiers may contact FINSEC to withdraw listing of an applicant for any reason which will be communicated to the applicant and if action is required it will be requested.
- 5.11 The applicant has ongoing obligations after listing and they shall (but not limited to);**

- 5.11.1 Use any funds received from financiers solely and directly for the purposes specified in the application and for no other purposes.
- 5.11.2 Adhere to all repayment schedules and dividend policies specified on conditions for listing, failure of which results in blacklisting on the platform and non-consideration of listing for future applications.
- 5.11.3 Promptly and accurately respond in full and to FINSEC or Advisors' satisfaction to all queries, clarifications or requests made by FINSEC, Advisors or Financiers.
- 5.11.4 Comply with all the applicable laws and regulations in regards to the application, listing and listing including these terms and conditions.
- 5.11.5 Be responsible for paying all fees and collecting and remitting all applicable taxes.
- 5.11.6 A process flow of the steps may assist me with this last section of the T&Cs Be responsible for the timely submission all the required monthly, half yearly and annually financials to FINSEC in reasonable time as specified by FINSEC.
- 5.12 Failure by the GEM to comply with the terms herein as well as the FINSEC Rule Book may result in its suspension or termination of its listing from FINSEC.

6. TERMS OF USE BY A GEM NOMINATED ADVISOR

- 6.1 FINSEC reserves the sole right to admit nominated advisors who will be admitted and set up to provide advisory services to GEM Portal applicants.
- 6.2 Nominated Advisors will have the responsibility of carrying out due diligence, evaluations and assessment of the applicant companies.
- 6.3 Nominated Advisors shall be required to verify all the information provided by the applicants. Failure to identify false information shall not be liable with FINSEC and or the advisor.
- 6.4 Nominated advisors shall be able to request more information as part of their due diligence, evaluations and or assessments which GEMs are expected to comply with to enable smooth movement of the application processes.
- 6.5 Advisors are expected to recommend or condemn applicants to financiers based on the results of their assessments and evaluations.
- 6.6 For ongoing obligations, advisors are expected;
 - 6.6.1 To continue offering advisory services to the funded companies and carry out assessments and evaluations as to how they conduct their businesses and to ascertain to which purpose funds extended to them have been utilized.
 - 6.6.2 To establish the validity through review of the monthly and half yearly financial information to be provided by the GEMs or at the request of FINSEC.
 - 6.6.3 To ensure compliance with all the applicable laws and rules by the funded companies.
- 6.7 Requests for more information or verification by Financiers will be handled by the Nominated Advisors.

7. TERMS OF USE BY GEM FINANCIERS

- 7.1 FINSEC reserves the sole right to admit Financiers who will be admitted to provide oversight role on listing and/or underwriting of GEM Portal applicants.
- 7.2 Though recommended applicants will be passed on to Financiers by Nominated Advisors, the Financiers should not rely solely on these recommendations in making their decisions. Financiers shall be responsible for extending funds to recommended applicants and this shall be based on the Financier's own assessments and evaluations of the application, in light of the Financier's risk appetite. FINSEC shall not be held responsible for any loss of envisioned profits and or damages should the Financier decide not to perform its own due diligence.
- 7.3 Financiers have the responsibility to ensure they do not disclose, any information obtained through the GEM Portal, to any third party or to use such information for investments outside the MSME Exchange ecosystem. Use of applicant information obtained from the GEM Portal for

personal use or investment outside the MSME Exchange Ecosystem will be a breach of these Terms and Conditions which, FINSEC may take legal actions on.

- 7.4 Financiers are also expected to recommend and underwrite companies which qualify for listing on the GEM Board on FINSEC Exchange.
- 7.5 Financiers are not obligated to fund all the companies they evaluate as they may not meet their risk appetite and or specifications.
- 7.6 As part of our AML/CFT policies, FINSEC reserves the right to request any additional information to determine the user's identity, transactional profile and the origin of funds in transactions carried out on GEM Portal and or FINSEC.

8. INDEMNITY AND EXCLUSION OF LIABILITY

- 8.1 Access to the GEM Portal may be affected by factors outside the control of FINSEC, and therefore 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 Service.
- 8.2 In return for the provision of the Services by FINSEC, 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.
- 8.3 FINSEC will 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 platform or internet connection even where the possibility of such loss or damage is notified to us.
- 8.4 FINSEC excludes any warranty and obligations that are implied by law and not set out in this Agreement to the extent that we are permitted by law.
- 8.5 To the extent that it is lawful to do so, we (including our employees, directors, shareholders, consultants, agents or any affiliated person) are not responsible for any loss or damages related to Your use of the Services or any intellectual property flowing therefrom. This includes, without limitation, any direct, indirect, special, incidental, or consequential damages in terms of contract, delict (breach of a duty of care) or law.
- 8.6 The material and any publications on the Platform 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.
- 8.7 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.

9. GOVERNING LAW AND JURISDICTION

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.

10. GENERAL CONDITIONS

- 10.1 FINSEC reserves the right to add or remove more or less functions from time to time onto the Services and will notify You of such changes through communications, such as but not limited to email or the FINSEC website.

- 10.2 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 notice or even without notice.
- 10.3 All copyright, trademarks and other intellectual property rights used in connection with the Services, the systems contained herein are owned by FINSEC and or its Group Affiliates and You agree that You acquire no rights thereto.
- 10.4 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 this right in the future.

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