fundserv

Draft dated: July 4, 2018

Terms and Conditions

Use of Electronic Signature (E-Signature)

For the purposes of these terms and conditions, the following terms have the following meanings:

Applicable Laws as used in these terms and conditions, for greater clarity, includes applicable provincial electronic commerce legislation that governs the ability for documents to be signed using electronic signatures.

Deliverer means the Distributor who delivers an Instruction to a Recipient.

Distributor includes an **Intermediary**.

e-signature means an electronic signature that has been provided by a client of a Distributor and is a valid electronic signature under Applicable Laws.

Guidelines means the current version of the Fundserv Customer Guidelines for Electronic Signatures released by Fundserv and posted on the Fundserv website.

Instructions means instructions of a Deliverer's client transmitted through the Network or otherwise provided by a Deliverer to a Recipient for action, where those instructions are confirmed in a document or documents that have been signed by the client using an e-signature and are otherwise provided in good order by the Deliverer.

Recipient means the Manufacturer or Distributor who receives Instructions from a Deliverer.

All terms not otherwise defined in these terms and conditions shall have the meaning provided to that term in the Definitions Schedule available on the Fundserv website.

WHEREAS:

Distributors use the Network to transmit to Manufacturers or other Distributors instructions obtained from the Distributors' clients. Distributors also may deliver such instructions to Manufacturers or other Distributors directly (outside of the Network). Distributors may have obtained an e-signature from their clients on documents confirming the clients' instructions. The recipient of the instructions will act in accordance with the instructions received through the Network or otherwise and wish to rely on those instructions as validly given by the Distributors' clients where e-signatures are obtained on documents that confirm those instructions.

DISTRIBUTOR AND MANUFACTURER AGREEMENT:

Each Deliverer who uses the Network to transmit Instructions, or who otherwise provides Instructions to Recipients and each Recipient who acts on those Instructions agrees to the following terms and conditions in their use of the Network and of Instructions for these purposes with:

a. Fundserv and

b. the other customer (either the Deliverer or the Recipient, as the case may be).

These terms and conditions constitute a separate agreement between a Deliverer who uses the Network to transmit Instructions or otherwise provides Instructions to Recipients and the Recipient who receives the Instructions and acts upon them, and each such separate agreement between a Deliverer and a Recipient shall be created with effect as of and from the date of the transmission of the Instructions by the Deliverer.

1. These terms and conditions applicable to Instructions are in addition to the terms and conditions in the Customer Contract and the terms and conditions set out in the Customer Contract relating to Fundserv and the use of the Network also apply to the Deliverer and the Recipient when they each use the Network to send and act upon Instructions.

2. The Deliverer will restrict the ability to send or deliver Instructions through the Network or otherwise to Recipients to authorized persons and agrees that the Recipient and Fundserv may rely on any such person who sends or delivers an Instruction as being an authorized person of the Deliverer without further investigation or inquiry.

3. The Deliverer will send or deliver an Instruction through the Network or otherwise to a Recipient only in full compliance with Applicable Laws and the Guidelines. By sending or delivering an Instruction, the Deliverer certifies to the Recipient and Fundserv that it has complied with these terms and conditions with respect to that Instruction and represents and warrants to the Recipient and Fundserv that:

   a. it has complied with Applicable Laws and the Guidelines in obtaining e-signatures on documents from clients confirming the Instructions;

   b. it has obtained and will retain all applicable documentation with respect to the Instruction in accordance with Applicable Laws and the Guidelines; and

   c. the Recipient may rely on the Instruction as being validly authorized by the client of the Deliverer.

4. If the Recipient receives an Instruction from the Deliverer through the Network or otherwise, it will act in accordance with the instructions, directions, and information provided in the Instruction by the Deliverer, subject to Applicable Laws and any compliance procedures established by the Recipient or its service providers in respect of e-signatures, including without limitation the right to reject a purchase order as permitted by Applicable Laws.

5. The Deliverer and the Recipient, as the case may be, will send or act upon Instructions sent through the Network according to the Network standards for Instructions that Fundserv may set from time to time.

6. If the Recipient duplicates an order as a result of receiving the original documentation concerning Instructions, in addition to the electronic transmission of Instructions, the Deliverer shall accept responsibility for any losses incurred by its investor, the applicable funds, and/or the Recipient.

7. In the event the Recipient receives an Instruction and acts in accordance with the instructions, directions, or information provided in the Instruction and undergoes regulatory inspection, review, litigation, investigation, supervision, or audit or other authorized requests to produce authority to so act, the Recipient may request from the Deliverer whatever documentation or evidence of instructions, directions, information, or explanation is necessary to demonstrate compliance with these terms and conditions and to allow the Recipient to meet the demands of such regulatory inspection, review, litigation, investigation, supervision, or audit.

8. The Deliverer will, upon request from the Recipient, where the Recipient undergoes regulatory inspection, review, litigation, investigation, supervision, or audit or other authorized requests to produce authority to act in accordance with an Instruction received from the Deliverer, send the Recipient whatever documentation or evidence of instructions, directions, information, or explanation is necessary to demonstrate compliance with these terms and conditions and to allow the Recipient to meet the demands of such regulatory inspection, review, litigation, investigation, supervision, or audit.

9. A Deliverer who sends or delivers an Instruction to a Recipient either through the Network or otherwise where the Recipient has acted upon the Instruction, shall defend, indemnify, and hold harmless the Recipient, its affiliates, and its respective managers, directors, officers, agents, and employees

(collectively, the "Indemnified Parties") at the Deliverer's sole expense against any and all proceedings, demands, actions, causes of action, assessments, orders, settlements, suits, claims, debts, or liabilities against the Indemnified Parties, including, but not limited to, costs and solicitors' fees, and amounts paid in settlement arising out of or in connection with:

a. any claim arising as a result of a breach or alleged breach of these terms and conditions by the Deliverer;

b. any claim arising from or related to any injury to persons, damage to property, loss of use of property or fidelity, or crime loss related to that Instruction sent or delivered by the Deliverer; and

c. any claim arising from acting upon or responding to the Instruction by the Recipient.

10. A Recipient who receives and acts upon an Instruction that is otherwise in good order, and that was sent or delivered by a Deliverer either through the Network or otherwise, shall defend, indemnify, and hold harmless the Deliverer, its affiliates, and its and their respective managers, directors, officers, agents, and employees (collectively, the "Indemnified Parties") at the Recipient's sole expense against any and all proceedings, demands, actions, causes of action, assessments, orders, settlements, suits, claims, debts, or liabilities against the Indemnified Parties, including, but not limited to, costs and solicitors' fees, and amounts paid in settlement arising out of or in connection with any claim arising as a result of a breach or alleged breach of these terms and conditions by the Recipient.

11. Each Deliverer and each Recipient who sends, receives or acts on Instructions, as the case may be, acknowledges that Fundserv takes no responsibility for reliance on the Guidelines by the Deliverer and the Recipient. The Guidelines were developed by Fundserv in consultation with an industry working group consisting of Distributors and Manufacturers. The Guidelines are intended as guidance for Distributors and Manufacturers in order to facilitate a standardized approach to e-signature use and acceptability. Accordingly, each such Deliverer and Recipient confirms to Fundserv that it has sought its own legal advice as to Applicable Laws that apply to Instructions, as applicable, and agrees that in no circumstances will it hold Fundserv responsible in respect of its reliance on the Guidelines.