

# THE SHARI'A TRUST APPLICATION FORM

**FNB INTERNATIONAL TRUSTEES LIMITED**



## INVESTMENT PROFILE

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In response to demand from our Muslim clients, FNB International Trustees Limited have developed a specialised Shari'a Trust to be compliant with Shari'a principles. The trust is an Anglo Saxon vehicle widely used in financial and estate planning. It is very similar in many ways to the much older Waqf. Indeed, many scholars believe that the trust may itself have been based on the Waqf.

The trust is a very wide ranging and flexible vehicle. A gift of property is made during the lifetime of an individual (Settlor) and it is then held by a Trustee on behalf of the Beneficiaries both during their lifetime and also after their death, if required. A Muslim may be able to use a trust to achieve many of the same objectives, since the flexibility of a trust allows adherence to Islamic principles and the holding of property for the benefit of others, including charities.

The Shari'a Trust has been drawn up to allow for Islamic principles to be followed in the administration of the Shari'a Trust both during the lifetime and on the death of the Settlor. The Settlor must decide when completing the Application Form what principles he or she wishes to apply to the trust and FirstRand Trustees will draw these into the Deed and that will then form the basis for administration.

### APPOINTMENT OF THE SETTLOR AS A BENEFICIARY

It should be noted that dependent upon an individual's circumstances and their personal reasons for settling assets in to Trust, it may be advisable for the Settlor not to be included as a beneficiary of the Trust. Such an addition may not comply with the concept of a lifetime gift and therefore upon the Settlor's death the Shari'a rules on inheritance may apply to the Trust.

### DISTRIBUTIONS

The Trustee cannot make a distribution of either capital or income to any person who is not a beneficiary of the Trust, therefore any settlor who is creating a trust to specifically comply with Shari'a rules on inheritance should note that by settling the assets into Trust, they may not wish to be appointed as a beneficiary as a consequence but are not able to receive any future benefit from the trust assets.

The Trust Deed does provide for the distribution of funds for charitable purposes and so the Settlor may request the Trustee to consider setting aside part of the Trust Fund to enable the annual distribution of Zakat to worthy causes.

### RESERVED POWERS OF INVESTMENT

The Trustee is mindful that in some cases, due to the complex rules on investment under Shari'a principles, it is more practical for the Settlor (or their advisers) to retain the power to direct the Trustee investments and require the Trustee to follow such directions. A specific clause pertaining to this reserved power will be included in the Trust Deed and as such, it is necessary for you to discuss this with the Trustee from the outset, providing details of your advisers if necessary. It should be noted that we may request additional information from your advisers.

## APPLICATION FORM

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To: FNB International Trustees Limited (hereinafter referred to as “the Trustee”, subject to acceptance of the Trusteeship).

### 1. TRUST FORMATION INSTRUCTIONS

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(please tick as appropriate)

I/We should be grateful if the Trustees would create on my/our behalf, a Sharia Law compliant trust in the form and in accordance with the information set out below:

“Shari’a Law” means the fundamental and traditional principles of Islamic Law taken from the

\*Hanafi / Maliki / Shafi’i / Hanbali / Ibadi / Shia / Ismaili / Jafaari School of Islamic Law as applied by the Courts of

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(\*please delete as appropriate)

including any legislative or administrative changes to any such traditional principles.

Or

I/We should be grateful if the Trustees would create on my/our behalf, a discretionary trust in the form and in accordance with the information as set out below, ensuring that, where possible, guidance is taken from the principles of the

\_\_\_\_\_ School of Islam,

as applied by the Courts of \_\_\_\_\_

### PREFERRED NAMES (in order of reference)

The \_\_\_\_\_ Trust

The \_\_\_\_\_ Trust

### REASON FOR THE CREATION OF THE TRUST

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### 2. DETAILS OF SETTLOR(S)

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Each Settlor is required to complete a Personal Profile Form.

The Settlor(s) **will not** be included as a Beneficiary unless specifically indicated

Please include the Settlor(s) as a beneficiary of the Trust

### 3. DETAILS OF PROTECTOR

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If you wish to appoint a protector it is possible for you to elect yourself to act in this capacity. Such appointment would make it necessary for the Trustee to seek your written consent before exercising one or more of their powers. If applicable, please indicate which of these powers should require your consent, by ticking the appropriate boxes below.

Trustee’s Power to pay or apply income or capital

Trustee’s overriding Power of appointment

Trustee’s’ Power to add beneficiaries

Trustee’s Power to exclude beneficiaries

Trustee’s Power to vary and rectify the Trust Deed

Trustee’s Power to change the Proper Law of the Trust

Trustee’s Power to determine the Trust period

The Protector needn’t be the Settlor and should you wish to elect a trusted individual (or Alim) to act in this capacity, we would require written confirmation from them that they agree to their appointment as Protector to the Trust. It should be noted that the Protector would be entitled to request reasonable remuneration for his services and, once discussed and agreed by all parties, this fee would be payable from the Trust Fund.

The Protector (if different from the Settlor) is also required to complete the Personal Profile form.

#### 4. DETAILS OF BENEFICIARIES

Please list the chosen beneficiaries. The Settlor(s) will be included automatically unless you have requested they be excluded above. A Personal Profile must be submitted for each listed adult beneficiary.

##### BENEFICIARY 1

<u>Surname</u>	_____	<u>Title</u>	_____
<u>First name(s)</u>	_____	<u>Gender</u>	_____
<u>Place of birth</u>	_____	<u>Date of birth</u>	_____
<u>Maiden/previous names</u>	_____	<u>Marital status</u>	_____
<u>Physical address</u>	_____		
		<u>Postcode</u>	_____
<u>Relationship to settlor</u>	_____		

##### BENEFICIARY 2

<u>Surname</u>	_____	<u>Title</u>	_____
<u>First name(s)</u>	_____	<u>Gender</u>	_____
<u>Place of birth</u>	_____	<u>Date of birth</u>	_____
<u>Maiden/previous names</u>	_____	<u>Marital status</u>	_____
<u>Physical address</u>	_____		
		<u>Postcode</u>	_____
<u>Relationship to settlor</u>	_____		

##### BENEFICIARY 3

<u>Surname</u>	_____	<u>Title</u>	_____
<u>First name(s)</u>	_____	<u>Gender</u>	_____
<u>Place of birth</u>	_____	<u>Date of birth</u>	_____
<u>Maiden/previous names</u>	_____	<u>Marital status</u>	_____
<u>Physical address</u>	_____		
		<u>Postcode</u>	_____
<u>Relationship to settlor</u>	_____		

##### BENEFICIARY 4

<u>Surname</u>	_____	<u>Title</u>	_____
<u>First name(s)</u>	_____	<u>Gender</u>	_____
<u>Place of birth</u>	_____	<u>Date of birth</u>	_____
<u>Maiden/previous names</u>	_____	<u>Marital status</u>	_____
<u>Physical address</u>	_____		
		<u>Postcode</u>	_____
<u>Relationship to settlor</u>	_____		

(If there are more than four beneficiaries, please provide details separately and include with this application)



## 9. AGREEMENT

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I/We have arranged for the initial Trust Fund to be transferred to the Trustee and acknowledge that in effecting this transfer I/we become a Settlor(s) of the Trust. I/we hereby confirm that:

- following the proposed dispositions I/we will be able to meet all current known liabilities when they fall due, all foreseeable liabilities and any such contingent liabilities as could reasonably be expected to crystallise.
- neither I/we nor any of the beneficiaries have been declared bankrupt or en désastre in any part of the world or have been a director or otherwise concerned in the management of a company which has been subject to an insolvent liquidation or been the subject of a judicial enquiry;
- neither I/we nor any of the proposed beneficiaries have been engaged in or have benefited from criminal conduct in any part of the world and funds which are subject to the proposed arrangement do not wholly or in part directly or indirectly represent the proceeds of criminal conduct; and
- neither I/we nor any of the beneficiaries have been charged with a serious offence in any part of the world or are aware of any circumstances which might lead to such a charge.

I/We further confirm that the initial Trust Fund as well as any assets which I/we may hereafter transfer to the Trustee as an accretion to the Trust Fund are or shall be (as the case may be) beneficially owned by me/us and free from any liens, charges or encumbrances.

I/We further confirm that the Trustee shall accept the Trusteeship and act as Trustee upon the terms, obligations and rights set out in the Trust Deed and on the basis of the fee proposal, as advised to me/us which I/we agree and by which I/we will be bound in signing this request.

I/We hereby agree to indemnify the Trustee against all actions, suits, proceedings, claims, demands, costs, charges and expenses (including, without limitation, any loss arising out of delay, mis-delivery or error in the transmission of any letter, cable, telex, telephone communication, facsimile transmission or email) which may be incurred or become payable by you in respect of your accepting or holding such assets as Trustee unless any such action, suit, proceeding, claim, demand, cost, charge or expense shall arise as a result of fraud, wilful misconduct or gross negligence on your part.

I/we also confirm that I/we will transfer assets into the Trust Fund to enable the Trustees' charges for transferring and administering this Trust to be paid in the event that there are insufficient available assets in the Trust to meet such charges. I/we further confirm that this undertaking will apply to any underlying company should the Trustees consider it appropriate to form any such vehicle.

I/We confirm that neither I/we nor any beneficiaries are resident in Guernsey and undertake to advise the Trustee of any changes in my/our status or that of any of the beneficiaries which could affect this status.

I/We authorise the preferential use of FirstRand Group service providers in relation to the assets of this trust.

I/We accept that FNB International Trustees Limited, in line with customary business practice, shall be entitled to retain for its own benefit any brokerage, commission, rebates or fees received in respect of any business transacted upon notwithstanding that such brokerage, commission, rebates or fees are payable as a direct or indirect result of any dealing with property which is or may become subject to the trusts hereof.

I/We understand that compliance requirements for the Trustee and any Agents or other institutions it engages with can be onerous and time consuming. I/We acknowledge this and hold the Trustee harmless for any losses of whatsoever nature that may arise as a result of such compliance requirements.

In consideration of the Trustee acting, from time to time in accordance with the Trust Deed and upon written, postal, electronic, facsimiled or telexed requests or recommendations ("Requests") from me/us, I/we hereby agree to indemnify fully and hold the Trustee harmless in respect of all claims, actions, damages, proceedings, costs and expenses suffered or incurred by the Trustee as a result, direct or otherwise of the Trustee acting upon such Requests.

I/We confirm that I/we have been advised by the Trustee to seek independent and appropriate legal and tax advice as to the consequences of this transaction and as to the transfer and terms of the Trust. I/we further confirm that I/we will attend to all and any necessary reporting requirements in any appropriate jurisdiction relevant to me/us in respect of this transaction.

I/we hereby acknowledge that any telephone call to/from any member of FNB International Trustees Limited or its associated Group Companies may be recorded or monitored.

I/We agree to be bound by the Trustee's standard Terms and Conditions as amended from time to time. Details can be found on [www.fnbit.com](http://www.fnbit.com).

I/We hereby acknowledge and agree that the information provided in this booklet may be held on computer and on other records and that such information may be disclosed to and used by any company within the FirstRand Group of Companies (including agents and actual prospective successors and transferee of such company) to assist in providing the best service and to provide information about products and services that may be of interest to me/us, unless the person(s) named in this booklet indicates that they do not wish to receive such information by writing to the Administrator or by ticking the appropriate box.

Whilst we treat all client records as confidential, details may have to be passed to our regulatory authorities and auditors for the purposes of compliance.

I/We do not wish to receive information about products and services

By completing this application form you consent to the processing of your personal details and other information in accordance with our Privacy Policy, which can be found at [www.fnbit.com](http://www.fnbit.com) or on request from FNBIT.

By providing us with your address, telephone numbers or email address you consent to being contacted by mail, telephone or e-mail.

## 10. SIGNATURES

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### SETTLOR 1

Name \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_

### SETTLOR 2

Name \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_

**NB FNB International Trustees Limited reserves the right to decline acceptance of the Trusteeship duties by notice in writing.**

**PERSONAL PROFILE FORM**

**NB: This page should be photocopied and completed by the Settlor, any person who will be providing funds and each adult Beneficiary**

This information will be treated in the strictest of confidence (subject to the Trustee's obligations under applicable law) and will assist the Trustee in properly identifying and communicating with you and where appropriate with members of your family or others as directed by you. It also allows FNBIT to carry out proper due diligence as required by the laws of the Bailiwick of Guernsey and by FNBIT's own internal policy.

<u>Surname</u>	_____	<u>Title</u>	_____
<u>First name(s)</u>	_____	<u>Gender</u>	_____
<u>Place of birth</u>	_____	<u>Date of birth</u>	_____
<u>Maiden/other name(s)</u>	_____	<u>Nationality</u>	_____
<u>Marital status</u>	_____	<u>Full name of spouse</u>	_____
<u>Principal Residential address</u>	_____		
		<u>Postcode</u>	_____
<u>Number of years lived at this address</u>	_____		
<u>Telephone numbers</u>	<u>Home</u>	_____	<u>Business</u>
	<u>Mobile</u>	_____	<u>Email</u>
<u>Correspondence address</u>	_____		
(If difference to residential address)		<u>Postcode</u>	_____
<u>Occupation</u>	_____		
(if retired, previous occupation)			

**RESIDENCE /DOMICILE**

<u>Country of residence</u>	_____	<u>Domicile</u>	_____
<u>Tax Identification Number</u>	_____	<u>National Ins. Number</u>	_____
		(UK residents only)	
<u>Tax residence</u>	_____		

Have you or any of your family\* or close Associates held, at any time, any political office?

Yes                      No

Have you ever been declared bankrupt?

Yes                      No

If the answer to any of the above is yes, please provide details

\_\_\_\_\_

\_\_\_\_\_

\* parents, brothers, sisters, spouse, partner, children, grandparents, grandchildren, aunts, uncles, nieces, nephews, brothers-in-law, sisters-in-law, parents-in-law

**UNITED STATES FOREIGN ACCOUNT TAX COMPLIANCE ACT ("FATCA")**

Do you/have you ever held US citizenship/residence/ a green card?	Yes	No
Do you have a US address?	Yes	No
Do you intend to transfer funds to a US account?	Yes	No

US Tax Identification Number \_\_\_\_\_

If the answer to any of the above is yes, please provide details

\_\_\_\_\_

\_\_\_\_\_



**SOURCE OF WEALTH**

Please provide as much information as possible including from where the funds originated e.g. inheritance, earnings etc. Please provide copies of documents where possible. Further information or documentation may be requested in this respect.

**Ownership of own business**

Name of business \_\_\_\_\_

Nature of business \_\_\_\_\_

Address \_\_\_\_\_

**Earnings from employment**

Occupation/Title \_\_\_\_\_ Name of employer \_\_\_\_\_

Employer address \_\_\_\_\_

Estimated annual income \_\_\_\_\_ Estimated total wealth \_\_\_\_\_

**Inheritance**

Date of inheritance \_\_\_\_\_ Amount of inheritance \_\_\_\_\_

Name and relationship to Benefactor \_\_\_\_\_

**Sale of assets** (i.e. business, house)

Asset details \_\_\_\_\_

Price realised \_\_\_\_\_

Date of sale \_\_\_\_\_

**Other** (i.e. market trading earnings, legal settlement)

\_\_\_\_\_  
\_\_\_\_\_

Bank and Branch where funds will be remitted from \_\_\_\_\_

**VERIFICATION**

We are required by law to undertake verification procedures for all new clients. Please provide the following documentation:

- 1) one original or certified copy utility bill (or other proof) bearing your principal residential address (no more than three months old) and
- 2) a current copy of passport or national ID card (including the signature) certified by a suitable certifier to be a true likeness (see verification of identity and residence guidelines document provided)

**NB These are minimum requirements and more information may be requested at the company's discretion. FNBIT reserves the right to delay investment of any assets received until such time as compliance obligations are met and will not be liable for any losses of any sort which may arise during this period as a result of investing or not investing any monies received.**

By completing this form you consent to the processing of your personal details and other information in accordance with our Privacy Policy, which can be found at [www.fnbit.com](http://www.fnbit.com) or on request from FNBIT.

By providing us with your address, telephone numbers or email address you consent to being contacted by mail, telephone or e-mail.

Name \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_

**PERSONAL PROFILE FORM**

**NB: This page should be photocopied and completed by the Settlor, any person who will be providing funds and each adult Beneficiary**

This information will be treated in the strictest of confidence (subject to the Trustee's obligations under applicable law) and will assist the Trustee in properly identifying and communicating with you and where appropriate with members of your family or others as directed by you. It also allows FNBIT to carry out proper due diligence as required by the laws of the Bailiwick of Guernsey and by FNBIT's own internal policy.

<u>Surname</u>	_____	<u>Title</u>	_____
<u>First name(s)</u>	_____	<u>Gender</u>	_____
<u>Place of birth</u>	_____	<u>Date of birth</u>	_____
<u>Maiden/other name(s)</u>	_____	<u>Nationality</u>	_____
<u>Marital status</u>	_____	<u>Full name of spouse</u>	_____
<u>Principal Residential address</u>	_____		
		<u>Postcode</u>	_____
<u>Number of years lived at this address</u>	_____		
<u>Telephone numbers</u>	<u>Home</u>	_____	<u>Business</u>
	<u>Mobile</u>	_____	<u>Email</u>
<u>Correspondence address</u>	_____		
(If difference to residential address)		<u>Postcode</u>	_____
<u>Occupation</u>	_____		
(if retired, previous occupation)			

**RESIDENCE /DOMICILE**

<u>Country of residence</u>	_____	<u>Domicile</u>	_____
<u>Tax Identification Number</u>	_____	<u>National Ins. Number</u>	_____
		(UK residents only)	
<u>Tax residence</u>	_____		

Have you or any of your family\* or close Associates held, at any time, any political office?

Yes                      No

Have you ever been declared bankrupt?

Yes                      No

If the answer to any of the above is yes, please provide details

\_\_\_\_\_

\_\_\_\_\_

\* parents, brothers, sisters, spouse, partner, children, grandparents, grandchildren, aunts, uncles, nieces, nephews, brothers-in-law, sisters-in-law, parents-in-law

**UNITED STATES FOREIGN ACCOUNT TAX COMPLIANCE ACT ("FATCA")**

Do you/have you ever held US citizenship/residence/ a green card?	Yes	No
Do you have a US address?	Yes	No
Do you intend to transfer funds to a US account?	Yes	No

US Tax Identification Number \_\_\_\_\_

If the answer to any of the above is yes, please provide details

\_\_\_\_\_

\_\_\_\_\_

**SOURCE OF WEALTH**

Please provide as much information as possible including from where the funds originated e.g. inheritance, earnings etc. Please provide copies of documents where possible. Further information or documentation may be requested in this respect.

**Ownership of own business**

Name of business \_\_\_\_\_

Nature of business \_\_\_\_\_

Address \_\_\_\_\_

**Earnings from employment**

Occupation/Title \_\_\_\_\_ Name of employer \_\_\_\_\_

Employer address \_\_\_\_\_

Estimated annual income \_\_\_\_\_ Estimated total wealth \_\_\_\_\_

**Inheritance**

Date of inheritance \_\_\_\_\_ Amount of inheritance \_\_\_\_\_

Name and relationship to Benefactor \_\_\_\_\_

**Sale of assets** (i.e. business, house)

Asset details \_\_\_\_\_

Price realised \_\_\_\_\_

Date of sale \_\_\_\_\_

**Other** (i.e. market trading earnings, legal settlement)

\_\_\_\_\_  
\_\_\_\_\_

Bank and Branch where funds will be remitted from \_\_\_\_\_

**VERIFICATION**

We are required by law to undertake verification procedures for all new clients. Please provide the following documentation:

- 3) one original or certified copy utility bill (or other proof) bearing your principal residential address (no more than three months old) and
- 4) a current copy of passport or national ID card (including the signature) certified by a suitable certifier to be a true likeness (see verification of identity and residence guidelines document provided)

**NB These are minimum requirements and more information may be requested at the company's discretion. FNBIT reserves the right to delay investment of any assets received until such time as compliance obligations are met and will not be liable for any losses of any sort which may arise during this period as a result of investing or not investing any monies received.**

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By providing us with your address, telephone numbers or email address you consent to being contacted by mail, telephone or e-mail.

Name \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_

## VERIFICATION OF IDENTITY AND RESIDENCE GUIDELINES

### VERIFICATION OF IDENTITY

A certified copy of a valid passport or national ID card taken from original documentation (not copy documentation) is required for all parties (other than for minors who may have no identity document). In all cases the copies must be clear.

### RESIDENTIAL ADDRESS

To verify the permanent residential address of an individual, ONE of the following are required (no more than 3 months old):

- an original or certified copy bank statement addressed to the individual at the permanent residential address they have stated.
- an original or certified copy utilities bill addressed to the individual at their permanent residential address they have stated (mobile/cell phone bills not accepted).
- confirmation by FNB International Trustees Limited from directory enquiries or from a recognised telephone directory for the locality from which the individual is from and showing the address provided by them.
- a confirmation from a satisfactory certifier (see definition below), which is regulated by a regulatory body in another jurisdiction.

### CERTIFICATION OF DOCUMENTS

At least one piece of identification per client must bear a clear copy of a photograph, signature, identification number and the date and place of issuance.

Suitable certifiers include:-

- an embassy, consulate or high commission of the country of issue of documentary evidence of identity;
- a member of the judiciary, a senior civil servant;
- a lawyer or notary public;
- an actuary;
- an accountant holding a recognized professional qualification;
- a director, officer, manager of a regulated financial service business operating in an equivalent jurisdiction;
- a FirstRand Group company director, officer or manager.

The certifier should not be closely related to the person whose identity is being certified.

Equivalent jurisdictions are:

Austria, Australia, Belgium, Canada, Denmark, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hong Kong, Iceland, Ireland, Isle of Man, Italy, Japan, Jersey, Luxembourg, Netherlands (NOT including Netherlands Antilles and Aruba), New Zealand, Norway, Portugal, Singapore, Republic of South Africa, Spain, Sweden, Switzerland, United Kingdom, United States of America.

**A suitable certifier must ensure that he or she has seen the original documentation and that it is “certified as a true copy of the original and a true likeness of the individual”.**

**The verification of residential address must state that the document provided is a complete and accurate copy of the original.**

**Certification should include the certifier’s full name, business address, the professional capacity in which they are certifying and must be dated.**

FNB International Trustees Limited  
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La Plaiderie House  
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