

**Terms and Conditions for the Provision of Registered Office Services - Cayman Foreign Company****1 INTERPRETATION**

1.1 These terms and conditions (these Terms) set out the entire agreement between Harneys Fiduciary and the Company for the provision of registered office services to the Company as described in Schedule 1. In these Terms the following words shall have the following meanings:

**Beneficial Owner** the natural person(s) who ultimately owns or controls a Company or on whose behalf a transaction or activity is being conducted and includes, though not restricted to, a natural person who ultimately owns or controls, whether directly or indirectly, ten per cent or more of the shares or voting rights in the Company.

**Business Day** any day which is not a Saturday, Sunday or a public holiday in the Cayman Islands on which banks are open for non-automated business.

**CIMA** the Cayman Islands Monetary Authority.

**Company** includes Serviced Entity for the purposes of the Addendum (as defined below) and is the Company incorporated outside the Cayman Islands and registered in the Cayman Islands as a foreign company which has requested, directly or indirectly, that Harneys Fiduciary provide it with registered office services and which Harneys Fiduciary has agreed to do under these Terms.

**Companies Law** the Companies Law of the Cayman Islands.

**Contracts Law** the Contracts (Rights of Third Parties) Law of the Cayman Islands.

**Constitutional Documents** the charter, bye-laws, memorandum and articles of association or other instrument constituting the Company as in effect from time to time.

**Data Protection Law** the applicable Law of any jurisdiction relating to the protection of Personal Data, including but not limited to the Regulation.

**Directors** the directors of the Company.

**Effective Date** the date of registration of the Company in the Cayman Islands or the date on which Harneys Fiduciary began providing registered office services to the Company, if later.

**Electronic Record** has the same meaning as in the Electronic Transactions Law.

**Electronic Transactions Law** the Electronic Transactions Law of the Cayman Islands.

**Fee Schedule** the schedule of fees published by Harneys Fiduciary and in effect from time to time for the provision of registered office services which may be varied in accordance with the Variation section of these Terms. The current Fee Schedule is available on request at any time.

**Harneys Fiduciary** Harneys Fiduciary (Cayman) Limited situated at 4th Floor, Harbour Place, 103 South Church Street, PO Box 10240, Grand Cayman KY1-1002.

**Harneys Law Firms** the firms of Harney Westwood & Riegels, Harney Westwood & Riegels LLP, Harney Westwood & Riegels Singapore LLP, Harneys Gill and Aristodemou Loizides Yiolitis LLC (practising as Harneys) and any entities, whether partnerships, companies or otherwise, owned or controlled by, or under common control of any of the foregoing.

**Harneys Group** Harneys Law Firm together with Harneys Fiduciary and any other Harneys subsidiary or affiliate.

**Law** includes rules of common law and equity as well as any statute or statutory provision which revises, amends, extends, consolidates or replaces it, or which has been amended, extended, consolidated or replaced by it, and any orders, rules, regulations, instruments or other subordinate legislation made under it, or made by applicable authority.

**Members** the members of the Company.

**Officers** the officers of the Company.

**Personal Data** personal information relating to an identified or identifiable living individual as defined in applicable Data Protection Law which is disclosed or made available to Harneys Fiduciary by or on behalf of the Company in connection with the provision of registered office services.

**PEP** a politically exposed person or an individual who is or has been entrusted with prominent public functions and members of his immediate family, or persons who are known to be close associates of such individuals.

**Privacy Policy** the [Harneys Fiduciary Privacy Policy](#) (as amended from time to time) and available at [www.harneysfid.com/privacy-policy](http://www.harneysfid.com/privacy-policy).

**Registrar** the Registrar of Companies of the Cayman Islands.

**Regulation** the General Data Protection Regulation 2016/679.

**Special Terms** any special terms and conditions agreed in writing between the Company and Harneys Fiduciary (as approved by a duly authorised representative of Harneys Fiduciary) and which are expressed to be Special Terms applying to the provision of registered office services to one or more companies. Any Special Terms shall form part of these Terms. In the event of any conflict between these Terms and the Special Terms, the Special Terms shall prevail.

1.2 For the purpose of these Terms:

- (a) use of the singular includes the plural and the masculine gender shall include the feminine and the neuter and vice versa;
- (b) the headings in these Terms are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of these Terms;
- (c) **written, in writing and maintain** includes all modes of representing, reproducing or maintaining words in visible form, including in the form of an Electronic Record;

- (d) any requirement as to delivery under these Terms includes delivery in the form of an Electronic Record;
- (e) sections 8 and 19(3) of the Electronic Transactions Law shall not apply; and
- (f) all references to Cayman Islands statutes shall be construed as references to those statutes as amended, modified, re-enacted or replaced from time to time.

## **2 APPOINTMENT OF HARNEYS FIDUCIARY**

- 2.1 With effect from the Effective Date, Harneys Fiduciary shall provide the registered office of the Company at its address in the Cayman Islands and shall perform the services set out in Schedule 1. The Company's use of Harneys Fiduciary's registered office services shall be deemed and constitutes the Company's acceptance of these Terms.

## **3 DOCUMENTS AND INFORMATION TO BE SUPPLIED TO HARNEYS FIDUCIARY**

- 3.1 The Company shall promptly supply to Harneys Fiduciary originals or copies (as the case may be) of the following:

- (a) a copy of the Constitutional Documents in effect from time to time and, where not in the English language, a certified translation into English;
- (b) a copy of the Company's certificate of formation or incorporation or the equivalent document issued by the relevant authority as evidence of its formation or incorporation and any changes to that document;
- (c) a list of Directors stating their names, addresses and dates of appointment or resignation/removal;
- (d) a notification of the retirement, resignation, removal or change of name or address of any Directors;
- (e) a notification of the appointment of a Director stating his name, address and date of appointment;
- (f) a list of the Members of the Company holding not less than a 10% interest in the Company or with principal control over the Company's assets and details of any withdrawal, admission or similar of any such Member; and
- (g) financial statements prepared in relation to the Company (if any).

- 3.2 The Company shall promptly notify Harneys Fiduciary of any threatened, pending or actual litigation against it in any jurisdiction and any action, petition or other steps (whether court-related or not) which is proposed or has been taken in respect of its winding-up, arrangement with creditors, insolvency, reorganisation or analogous procedure, in each case in respect of which its Directors, Officers, Members or other authorised persons have actual notice or knowledge.

## **4 COMPLIANCE OBLIGATIONS**

- 4.1 The Company shall promptly supply or procure the supply to Harneys Fiduciary of all such information, documents and instructions as requested by Harneys Fiduciary from time to time in order to fulfil its obligations under all applicable laws and regulations relating to the prevention of money laundering, terrorism financing, financial crime or breaches

of international sanctions or other laws and regulations applicable to the Company or Harneys Fiduciary including:

- (a) an explanation in writing of the nature of the Company's activities, an indication of actual and expected turnover and the source of funds;
- (b) evidence satisfactory to Harneys Fiduciary of the identity of (i) the Members (ii) the Directors and Officers (iii) the Beneficial Owners (iv) any person (or persons) granted a general authority or a power of attorney to conduct the affairs of the Company and (v) any other person (or persons) on whose instructions Harneys Fiduciary may act in relation to the Company and such other information and documentation as Harneys Fiduciary may from time to time reasonably require in relation to the Company, its Directors, Members, Officers, Beneficial Owners or activities including in relation to the steps taken under paragraph 4.2.

- 4.2 The Company undertakes and warrants for the benefit of Harneys Fiduciary and the Harneys Law Firm:

- (a) it will take all reasonable steps to satisfy itself that all monies paid to the Company as equity and other funds passing through the Company do not represent the proceeds of, and that it does not engage in, any unlawful activity;
- (b) the Company complies and will comply with all laws in any jurisdiction which apply to it;
- (c) that the Company and its Directors, Officers, Members and Beneficial Owners will not use the Company to handle, conceal or in any way utilise funds related to the proceeds of any criminal conduct including but not limited to tax fraud or evasion, money laundering, drug trafficking, terrorism or false accounting; and
- (d) that the Company and its Directors, Officers, Members and Beneficial Owners (in each case with respect to the affairs of the Company and any income or gains that it produces) will be compliant with all of their respective tax reporting obligations and will make all tax returns and provide all reporting required to be made in any jurisdiction.

- 4.3 The Company shall without delay notify Harneys Fiduciary in writing if:

- (a) it knows or has reasonable cause to believe that any of the information provided to Harneys Fiduciary about the Beneficial Owners of the Company has changed or that the manner in which such Beneficial Owners hold their interest in or control of the Company has changed and provide details of any such changes to the satisfaction of Harneys Fiduciary;
- (b) it knows or has reasonable cause to believe that any Director or Officer or Member or Beneficial Owner (if the register of Members is maintained by Harneys Fiduciary) of the Company is or becomes a PEP; or
- (c) it knows or has reasonable cause to believe that the Company or any Member, Director, Officer or

Beneficial Owner of the Company is subject to or affected by applicable sanctions or other restrictions.

- 4.4 Harneys Fiduciary may refuse to perform any or all of its obligations under these Terms if it determines that to do so would constitute a criminal or regulatory offence in the Cayman Islands or would otherwise contravene a law of the Cayman Islands or any other laws or regulations which apply to Harneys Fiduciary or its directors, officers or employees. Harneys Fiduciary will inform the Company promptly of any decision to refuse to perform an obligation under these Terms made in accordance with this section unless prevented from doing so by applicable law.
- 4.5 If the Company has already or intends to instruct a Harneys Law Firm or wishes a Harneys Law Firm to act on its behalf, client information and due diligence collected by Harneys Fiduciary will be shared with a Harneys Law Firm in those circumstances unless the Company specifically notifies Harneys Fiduciary in writing that it shall not do so.

## **5 TAX**

- 5.1 The Company has sole responsibility for the management of its tax and legal affairs including making any applicable filings and payments, complying with any applicable laws and regulations and fulfilling all reporting and declaration obligations in any jurisdiction. Harneys Fiduciary does not provide legal or tax advice. Harneys Fiduciary recommends that the Company, its Directors, Officers, Members and Beneficial Owners obtain their own independent advice as to the fiscal consequences of incorporating and maintaining the Company. Such advice should be updated on a regular basis especially if any circumstances change.

## **6 RELIANCE ON INSTRUCTIONS**

- 6.1 In performing its duties, Harneys Fiduciary may rely upon any written or oral instructions given, or purported to be given, by (i) a Director, Officer, employee or liquidator of the Company; (ii) any agent identified in writing by a Director, Officer, employee or liquidator of the Company as able to give written or oral instruction (including, for the avoidance of doubt, one appointed under a security document); or (iii) an intermediary representing the Company (including any legal adviser, auditor, manager or administrator) described in paragraph 6.2.
- 6.2 Unless Harneys Fiduciary has written authenticated instructions from the Directors to the contrary, Harneys Fiduciary reserves the right to act on the instructions (oral or written) of such an intermediary representing or purporting to represent the Company for the purposes of taking any action required in connection with the provision of the registered office services under these Terms. In addition Harneys Fiduciary reserves the right to not take any action or disclose any information to any person without the confirmation of such an intermediary

## **7 FEES AND DISBURSEMENTS**

- 7.1 Unless otherwise agreed in writing by a duly authorised representative of Harneys Fiduciary:
- (a) if Harneys Fiduciary registers the Company as foreign company under the Companies Law, Harneys Fiduciary

shall be entitled to receive a registration fee payable promptly when invoiced in accordance with the Fee Schedule in effect as at the Effective Date;

- (b) Harneys Fiduciary shall be entitled to receive an annual fee for the provision of the registered office services of the Company payable no later than 31 December in each year, and pro-rated for partial years, in accordance with the Fee Schedule in effect at the time when the relevant fee is invoiced;
- (c) Harneys Fiduciary shall be entitled to receive a fee for the provision of other services set out in Schedule 1 to these Terms and other fees as set out in the Fee Schedule payable promptly when invoiced in accordance with the Fee Schedule in effect at the time of provision of such services; and
- (d) Harneys Fiduciary shall be entitled to such penalty fees for late payment of amounts due as are set out on the Fee Schedule in effect from time to time.
- 7.2 Any variation of fees agreed by a duly authorised representative of Harneys Fiduciary shall in the absence of any express agreement to the contrary only apply from the Effective Date to the end of the calendar year following a 12 month period or the date of such agreement (whichever is the later).
- 7.3 Harneys Fiduciary shall be entitled to recover from the Company all out of pocket expenses and disbursements (including, but not limited to, filing and registration fees, charges for messengers and couriers, printing, postage, photocopying, scanning, telephone charges, secretarial overtime (where attributable to the Company's special needs) and other similar costs and expenses), properly incurred or paid by Harneys Fiduciary on behalf of the Company or otherwise in the performance of its registered office services under these Terms. If Harneys Fiduciary is requested to perform any additional services not covered by these Terms it shall inform the Company and subject to Harneys Fiduciary agreeing to provide the additional services and unless otherwise agreed it shall charge the then applicable standard rate for such service. Harneys Fiduciary has strict anti-bribery and anti-corruption policies and procedures. Harneys Fiduciary will not on the Company's behalf make any payment which may, in its absolute discretion, constitute a breach of such policies and procedures by Harneys Fiduciary, the Company or any other person.
- 7.4 Harneys Fiduciary shall have no obligation to supply the registered office services or additional services if the Company is in default concerning the payment of any fees or disbursements to Harneys Fiduciary, a Harneys Law Firm or any other affiliate of Harneys Fiduciary.
- 7.5 Any requests received by Harneys Fiduciary from the Company for legal advice or services and any legal issues arising or assistance required (in either case as determined by Harneys Fiduciary) from or in relation to documentation received at the registered office including, but not limited to, the updating of the statutory registers, may be referred to an appropriate Harneys Law Firm and the Company agrees

to settle promptly the resulting fees and disbursements of the relevant Harneys Law Firm, which shall be charged in accordance with its fee rates and terms and conditions of business as then in effect.

- 7.6 Harneys Fiduciary shall not be responsible for any penalties for which the Company may be liable as a result of delayed or failed payment by or on behalf of the Company howsoever caused including by way of electronic funds transfers received with insufficient details or non-receipt of transfer advices.

## **8 FEES AND DISBURSEMENTS**

- 8.1 Invoices for fees and all other amounts due from the Company will be submitted by email only and the Company undertakes to provide at all times a current and valid email address for this purpose. Unless stated otherwise, payment is due within 14 days of the date on the invoice. Where any sums are not paid within 45 days of the invoice, interest shall become payable on the invoice from the date on the face of the invoice until the date of payment at an annual rate of 8.5%. For any sums not paid within 90 days of the date of the invoice Harneys Fiduciary reserves the right to rescind and forfeit any discounts or preferential fee arrangements which otherwise applied to the relevant invoice and re-invoice at the full amount which otherwise would be payable. In the event that it becomes necessary to engage collection agents, tracing agents, lawyers or other third parties to secure payment of any invoice which has been outstanding for more than 120 days, the Company will be responsible for the payment of all such charges on an indemnity basis which shall be added to the relevant invoice. Harneys Fiduciary has a lien over all documents held by it in respect of any unpaid fees and disbursements. All fees, expenses and disbursements payable to Harneys Fiduciary pursuant to these Terms shall be paid net of any taxes or charges.

## **9 COMMUNICATION**

- 9.1 Harneys Fiduciary will use various forms of electronic communication in the course of performing its functions. With electronic communication there is a risk of non-receipt, delayed receipt, inadvertent misdirection or interception by third parties. Harneys Fiduciary uses virus scanning software to reduce the risk of viruses and similar damaging items being transmitted through emails or electronic storage devices. Harneys Fiduciary also expects the Company to operate such software. However, electronic communication is not totally secure and the Company agrees that Harneys Fiduciary shall not be held responsible or liable whatsoever for any damage or loss caused by viruses or for communications which are corrupted or altered after dispatch. The Company also agrees that in connection with electronic communication, Harneys Fiduciary shall not be liable for any damage or loss caused as a result of non-receipt, delayed receipt, inadvertent misdirection or interception by third parties especially in relation to Personal Data, commercially sensitive or confidential material. Any email communications to or from Harneys Fiduciary may be monitored for operational or business reasons.

## **10 THIRD PARTY ENFORCEMENT ACTION**

- 10.1 In the event of the appointment or purported appointment of any administrator, receiver, liquidator, administrative receiver, provisional liquidator or similar agent in relation to the Company, or any attempt by any person to enforce a charge over shares of the Company (an **Appointment**), the Company agrees that Harneys Fiduciary may in its absolute discretion: (i) at the Company's expense obtain and rely on advice from a reputable qualified lawyer in any relevant jurisdiction as to the powers of such person; (ii) comply with any requirements or requests of such person which it reasonably believes to be binding on it; and (iii) exercise its right to rely on instructions of an agent appointed under a security document. Harneys Fiduciary shall inform the Company of any Appointment as soon as reasonably practicable after it becomes aware of such Appointment.

## **11 TERMINATION**

- 11.1 Harneys Fiduciary may terminate its appointment under these Terms:
- (a) by giving not less than 90 days' written notice to the Company;
  - (b) by giving not less than 30 days' written notice to the Company if the Company committed any breach of its obligations under these Terms and failed to make good such breach within the 30 days of notice;
  - (c) by giving not less than 5 days' written notice to the Company if the Company is in material breach of any regulatory law applicable to it or is subject to any international financial sanction or is otherwise designated as a person with whom Harneys Fiduciary is prohibited from dealing; or
  - (d) by giving notice to the Company at any time that the Company is struck off the register as a result of failure to pay its annual fee to the Registrar.
- 11.2 The Company may terminate the appointment of Harneys Fiduciary under these Terms:
- (a) by giving not less than 90 days' written notice to Harneys Fiduciary;
  - (b) by giving not less than 30 days' written notice to Harneys Fiduciary if Harneys Fiduciary committed any breach of its obligations under these Terms and failed to make good such breach within 30 days of receipt of notice served by the Company requiring it to do so; or
  - (c) immediately by notice if Harneys Fiduciary ceases to be lawfully able to act as the registered office service provider of the Company.
- 11.3 Termination of these Terms shall be without prejudice to outstanding payment obligations, the exclusion of liability and indemnification provisions set out in these Terms as well as any other provision of these Terms intended to survive the termination of these Terms and both party's rights with respect to any previous breach of these Terms by the other.
- 11.4 Harneys Fiduciary shall, on the termination of its appointment under these Terms and upon payment by or on behalf of the Company of any outstanding fees, costs and

expenses due to Harneys Fiduciary or Harneys Law Firms (including its standard fees relating to the transfer of registered office services) deliver to any succeeding service provider or as the Company may direct all documentation in its possession relating to the affairs of the Company and which are the property of the Company provided that Harneys Fiduciary shall be entitled but not obligated to make and retain copies thereof in its closed files archives and archive all other correspondence files, Personal Data and other records of the Company in accordance with the then current record retention policy of Harneys Fiduciary.

- 11.5 The Company shall, on termination of the appointment of Harneys Fiduciary under these Terms, if still in existence, arrange the passing of a resolution to transfer the registered office of the Company to an alternative service provider and Harneys Fiduciary shall be entitled (but not required) to serve notice on the Registrar that it is no longer providing the registered office of the Company. The Company shall amend all letterheads and other material to cease mentioning the name of Harneys Fiduciary or its address from the date of termination of the appointment of Harneys Fiduciary under these Terms.

## 12 NON EXCLUSIVITY

- 12.1 The Company acknowledges and accepts that Harneys Fiduciary may provide registered office services to any other person it may think fit whether for its own account or that of any other person or entity including, without limitation, any person or entity the Company may regard as a competitor or otherwise having interests adverse to the Company. Nothing contained in these Terms shall constitute a partnership between the Company and Harneys Fiduciary nor shall any employee, officer or director of Harneys Fiduciary be deemed to be an employee of the Company or entitled to any remuneration or other benefits from the Company.

## 13 LIMITATION OF LIABILITY AND INDEMNITY

- 13.1 Harneys Fiduciary shall not be liable for any damages, losses, claims, proceedings, demands, liabilities, costs or expenses suffered or incurred by the Company or any other person at any time from any cause arising out of or in connection with these Terms or related to the performance or non-performance of the registered office services provided under these Terms unless arising directly as a result of Harneys Fiduciary's fraud, wilful default or gross negligence or that of any of its directors, officers, employees or agents (as the case may be).
- 13.2 The Company shall indemnify (on a full indemnity basis) and hold harmless Harneys Fiduciary, their successors and assigns and their respective directors, officers, employees, agents and partners (collectively, the **Indemnified Persons**) and each of them, as the case may be, against all liabilities, obligations, losses, damages, penalties, actions, proceedings, claims, judgments, demands, costs, expenses or disbursements of any kind (including legal fees and expenses) which they or any of them may incur or be subject to in consequence of these Terms or as a result of the performance of these Terms or as a result of the performance of the registered office services under these

Terms except and to the extent that these are as a result of the fraud, wilful default or gross negligence of the relevant Indemnified Person and this indemnity shall expressly take effect for the benefit of any such Indemnified Person existing or future and shall remain in force despite any termination of such person's relationship with Harneys Fiduciary.

- 13.3 Subject always to the express provisions of these Terms, the limitations of liability and indemnification provided by these Terms shall not be deemed to be exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, the constitution of the Company or otherwise, and shall continue after the termination of the appointment of Harneys Fiduciary by the Company.
- 13.4 Harneys Fiduciary shall not be liable in tort, statutory duty, pre-contract or misrepresentation (other than fraudulent misrepresentation) or otherwise for (i) any consequential, indirect, special, incidental, punitive or exemplary loss; or (ii) any economic losses (including loss of revenues, profits, contracts, business or anticipated savings), arising out of or in connection with these Terms in each case whether or not Harneys Fiduciary has been advised of the possibility of such loss or damage and howsoever incurred. For the avoidance of doubt Harneys Fiduciary shall not be so liable for any loss of goodwill or reputation. The maximum liability of Harneys Fiduciary under these Terms is limited (in the absence of fraud) to US\$10 million.
- 13.5 This Limitation of Liability and Indemnity section shall survive termination of these Terms.

## 14 DATA PROTECTION AND PROCESSING

- 14.1 Please refer to the Privacy Policy for further information on how Harneys Fiduciary collects Personal Data, how it is used, what rights and choices You have in relation to the Personal Data held and processed and how You or data subjects whose Personal Data may be held by Harneys Fiduciary can contact us.
- 14.2 In providing Services and otherwise fulfilling its obligations under these Terms, Harneys Fiduciary may be required to process information which is Personal Data and information which also constitutes "personal data" as defined in the Data Protection Law of the Cayman Islands (**DPL**). You acknowledge and agree that:
- You have received, read and understand the contents of the Privacy Policy;
  - to the extent Harneys Fiduciary acts as a "data controller" (as defined in the DPL) in respect of the Personal Data, Harneys Fiduciary may process the Personal Data in accordance with Data Protection Laws (including the DPL) and the Privacy Policy; and
  - to the extent Harneys Fiduciary acts as a "data processor" (as defined in the DPL) in respect of the Personal Data, the provisions of the [Data Processing Addendum \(Cayman\)](#) (**Addendum**) shall apply to any processing of Personal Data undertaken by Harneys Fiduciary.

## 15 EU GENERAL DATA PROTECTION REGULATION

15.1 If You are directly subject to Article 3(2)(a) of the Regulation and Harneys Fiduciary acts as a “processor” (as defined in Article 4(8) of the Regulation) of Personal Data which is subject to the Regulation, or alternatively, where You indirectly sourced Personal Data from an affiliate or a third party domiciled in the EEA and You or the Serviced Entity (as the case may be) are not otherwise able to rely on Article 45 or Article 49 of the Regulation, You may request that Harneys Fiduciary enter into EU standard contractual clauses (**EU SCC**) with You or the Serviced Entity in either:

- (a) the form set out in Commission Decision 2004/915/EC;
- (b) the form set out in Commission Decision 2010/87/EU; or
- (c) such other form as the European Commission may adopt pursuant to Article 46 of the Regulation.

15.2 Harneys Fiduciary shall not unreasonably refuse Your or the Serviced Entity’s request for Harneys Fiduciary to enter into an EU SCC.

15.3 Without limitation to the generality of the above, Harneys Fiduciary may require amendment to the EU SCC in order to (i) take into account Laws and regulations which it is subject to in a non-EU jurisdiction and (ii) provide reasonable compensation to Harneys Fiduciary for any additional obligations accepted under the EU SCC (including contingent obligations).

## 16 CONFIDENTIALITY

16.1 It is agreed between the Company and Harneys Fiduciary that neither party shall, at any time, disclose to any other person and shall treat as confidential, any information relating to the business, finances or other matters of the other party, which such party has obtained as a result of its relationship with the other party under these Terms, save where the information is or was:

- (a) already known to the recipient from a source other than the other party without any obligation of confidentiality;
- (b) in the public domain or becomes public knowledge otherwise than as a result of the unauthorised or improper conduct of the disclosing party;
- (c) disclosed as required by any law or order of any court, tribunal or judicial equivalent, or due to any direction, request or requirement (whether or not having the force of law) of any central bank, governmental, supervisory or other regulatory agency or taxation authority (provided that, if legally permissible, the recipient will promptly inform the other party of any such order, direction, request or requirement prior to disclosing any information);
- (d) disclosed for business purposes to affiliates, professional advisors, service providers or agents, engaged by one of the parties, who received the information under a duty of confidentiality (including disclosure to any Harneys Law Firms where such law firm is also acting for the Company);

(e) made available by a third party who is or was entitled to divulge such information and who is not under any obligation of confidentiality in respect of such information to the other party; or

(f) disclosed with the consent of the other party (including any consents contained under these Terms).

16.2 The parties shall ensure that any confidential information provided to the other party in relation to any principals, affiliates, Beneficial Owners, Members, Directors, Officers, employees and agents (**Subject Persons**) of the disclosing party is provided with the consent of the relevant Subject Persons, which the disclosing party will be responsible for obtaining.

16.3 This Confidentiality provision:

(a) does not prohibit Harneys Fiduciary from disclosing information to one or more Harneys Law Firm to protect its own interests with respect to the Company provided always that each Harneys Law Firm shall also treat such information as confidential;

(b) does not prohibit Harneys Fiduciary from disclosing information to one or more Harneys Law Firm for legitimate business purposes connected with the provision of legal advice to or with respect to the Company and, without limitation to the generality of the foregoing, Harneys Fiduciary may disclose information relating to the Company without seeking the consent of the Company on request from a partner or employee of a Harneys Law Firm upon confirmation from such Harneys Law Firm that such Harneys Law Firm has been instructed by or on behalf of the Company;

(c) does not prohibit the Company from disclosing a copy of these Terms to its Members or prospective Members; and

(d) shall survive termination of these Terms.

## 17 VARIATION

17.1 The Company acknowledges and agrees that Harneys Fiduciary may, in its sole discretion, at any time and from time to time change, alter, adapt, add or remove portions of these Terms (including the Fee Schedule), and, if Harneys Fiduciary does so, Harneys Fiduciary will give notice by posting any changes to these Terms on its website ([www.harneysfid.com](http://www.harneysfid.com)) making clear the date on which the changes to these Terms come into effect. The current version of these Terms is available at any time on request. The Company’s continued use of Harneys Fiduciary’s services following any changes to these Terms shall be deemed and constitutes the Company’s acceptance of those changes and the Company acknowledges and agrees to be bound by the current version of these Terms at all times and that unless stated in the current version of these Terms all previous versions shall be superseded by the current version.

## 18 NOTICES

18.1 Any notices to be given and any correspondence or communications to be delivered or forwarded pursuant to

these Terms shall be sufficiently served, delivered or forwarded if sent by email, prepaid airmail or by fax and shall be deemed to be given in the case of email and fax at 10.00 a.m. on the next Business Day in the place of receipt following dispatch or in the case of the post 10 Business Days after the dispatch thereof and shall be sent:

- (a) in the case of Harneys Fiduciary, to its address specified against its name in the Interpretation section of these Terms or by e-mail to [CaymanFiduciary@harneys.com](mailto:CaymanFiduciary@harneys.com);
- (b) in the case of the Company, to such correspondence address, fax number or email address as specified by the Company to Harneys Fiduciary in writing on or about the Effective Date;
- (c) to any other correspondence address, fax number or email address or for the attention of any other person as may from time to time be notified by one party to the other party by notice given in accordance with the provisions of these Terms; and
- (d) in the absence of any address specified or notified pursuant to (b) and (c) above, to such other address as Harneys Fiduciary in its sole and absolute discretion considers appropriate.

## **19 MISCELLANEOUS**

- 19.1 If any provision of these Terms shall be found by any court or arbitrator to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Terms which shall remain in full force and effect. If any provision of these Terms is found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were modified, the provision in question shall apply with such modification(s) as may be necessary to make it valid. Nothing in these Terms shall exclude or restrict any liabilities which cannot lawfully be limited or excluded save to the extent permitted by applicable law.
- 19.2 These Terms are supplied in English and all communications between Harneys Fiduciary and the Company will be in English. If we provide you with a translation of these Terms or any communication, the English language version will be the only legally binding version and will prevail if there is any inconsistency.
- 19.3 These Terms supersede all previous agreements between the Company and Harneys Fiduciary for the provision to the Company of registered office services and the services set out in Schedule 1. These Terms (including any Special Terms) set out the entire agreement and understanding between the parties relating to their subject matter.
- 19.4 The copyright in all original documents prepared by Harneys Fiduciary for or in respect of the Company is the property of Harneys Fiduciary or the relevant Harneys Law Firm (as the case may be). Harneys Fiduciary accepts no responsibility for the use of these documents for cases or circumstances different from those in respect of which they were originally prepared.

19.5 Despite any other provision of these Terms, Harneys Fiduciary shall, at all times, comply with all laws and regulations applicable to it, including but not limited to, its obligations as a company regulated by CIMA.

19.6 The failure by either party to object to or take affirmative action with respect to any breach of these Terms by the other party shall not be construed as a waiver of such breach or of any future violation, breach or wrongful conduct.

19.7 These Terms shall not be assignable by the Company but may be assigned by Harneys Fiduciary to an affiliated entity at any time without prior notice to the Company or to a third party service provider on 30 days' notice to the Company.

## **20 APPLICABLE LAW AND JURISDICTION**

20.1 These Terms shall be governed by and construed in accordance with the laws of the Cayman Islands. The parties submit to the exclusive jurisdiction of the courts of the Cayman Islands and no proceedings shall be brought in the courts of any other jurisdiction.

## **21 THIRD PARTY RIGHTS**

21.1 Any person indemnified in accordance with these Terms may enforce the indemnity and limitation of liability provisions in these Terms as if they had been parties to these Terms in accordance with the Contracts Law. The consent of those persons is not required for any amendment, variation, release, revision or termination of these Terms.

**SCHEDULE 1****Services to be provided by Harneys Fiduciary – Cayman Foreign Company****1 NAME**

- 1.1 Harneys Fiduciary shall ensure that the name of the Company is displayed at its offices at all times.

**2 DOCUMENTS**

- 2.1 Harneys Fiduciary shall maintain at its offices the following documents and information in relation to the Company:

- (a) the certificate of registration as a foreign Company; and
- (b) the documents referred to in the first paragraph of the 'Documents and Information to be Provided by the Company to Harneys Fiduciary's provision of these Terms as received at the registered office from time to time.

**3 AGENT FOR SERVICE OF PROCESS**

- 3.1 Harneys Fiduciary shall act as agent to accept service of process and any notices required to be served on it in the Cayman Islands.

**4 FILINGS**

- 4.1 Upon receipt of the relevant documents, information and instructions from the Company, Harneys Fiduciary shall ensure that any formalities of filing and registration arising as a result of the following are complied with:

- (a) change in Directors;
- (b) change in the name of the Company; and
- (c) change in the Constitutional Documents (including any change of name) if required to be filed with the Registrar.

- 4.2 Harneys Fiduciary shall have no liability to the Company for any consequences of any late filings and registrations (including but not limited to in relation to any penalty fees imposed) unless information and instructions from the Company have been received by Harneys Fiduciary at least five Business Days in advance of the relevant filing and registration deadline.

**5 PAYMENT OF FEES**

- 5.1 Subject to the paragraph below, Harneys Fiduciary may pay on the Company's behalf fees payable from time to time:

- (a) to the Registrar in connection with any of the filings arising under the first paragraph of this provision and on the filing of the annual return; and/or
- (b) to CIMA.

- 5.2 It is a precondition to Harneys Fiduciary's agreement to pay on behalf of the Company any fees payable to the Registrar and/or to CIMA that it first be put in funds sufficient to cover any such payment and any outstanding amounts due to Harneys Fiduciary or Harneys at least five Business Days in advance of any payment deadlines.

- 5.3 In addition to the funds having to be cleared and available to Harneys Fiduciary from the bank account notified to the Company at least five Business Days in advance of the

applicable payment deadline, the funds must also have been transferred with allocation details in accordance with the instructions set out in the relevant invoice clearly and unambiguously referencing them to the Company. In particular, Harneys Fiduciary must first be put in funds in accordance with this paragraph before settling on behalf of the Company the annual return fees payable to the Registrar in January of each year. Harneys Fiduciary shall have no liability to the Company (including, but not limited to, in relation to any penalty fees imposed) for any consequences to the Company of any failure to file (or any late filing of) annual filing fees within the time frame prescribed by law to maintain the Company in good standing under the laws of the Cayman Islands or any other fees payable by the Company to the Registrar or CIMA if Harneys Fiduciary has not first been put in funds in accordance with the paragraph immediately above.

**6 FORWARDING COMMUNICATIONS**

- 6.1 Harneys Fiduciary reserves the right to require entry into a specific mail forwarding agreement if substantial amounts of mail are delivered to the registered office but in the absence of such an agreement, Harneys Fiduciary will use all reasonable endeavours to forward correspondence and other communications addressed to the Company and will forward them to the person that it considers most appropriate. Harneys Fiduciary may in its absolute discretion (but is not obliged to) open and review all correspondence or communications addressed to the Company and take such action in relation to it as it considers reasonable.

Correspondence and communications will be forwarded by

- 6.2 Harneys Fiduciary by such method as it considers appropriate in the context of the relevant communication. Harneys Fiduciary shall not be liable for any obligations, losses, damages, liabilities, penalties, actions, proceedings, claims, judgments, demands, costs, expenses or disbursements of any kind (including legal fees and expenses) whatsoever suffered or incurred at any time as a result of late receipt or non-delivery of such correspondence or other communications which Harneys Fiduciary receives on behalf of the Company.

**7 TRANSFER-IN**

- 7.1 Where a company has been transferred to Harneys Fiduciary all documents provided by the Company's previous corporate services provider will be accepted by Harneys Fiduciary as current.

- 7.2 Harneys Fiduciary is under no obligation to review or update any documents provided by the Company's previous corporate services provider.

- 7.3 Harneys Fiduciary will establish and maintain the Company's information and documents in such format as may be deemed appropriate or necessary in the sole discretion of Harneys Fiduciary.

**8 TRANSFER OUT**

- 8.1 Harneys Fiduciary reserves the right to impose a transfer out fee on any Company.

**9 FIDUCIARY SERVICES**

- 9.1 Directorship services, administration, private trust company services, other trust services and liquidation services will only be provided on signature of specific agreements and in each case will be provided only at the absolute discretion of Harneys Fiduciary notwithstanding that it already provides other services to the Company.