

**General Terms and Conditions for the Provision of Services (excluding Cyprus)**

**1 DEFINITIONS AND INTERPRETATION**

**DEFINITIONS**

1.1 In these Terms the following words have the following meanings:

**Appointment** the appointment or purported appointment of any administrator, receiver, liquidator, administrative receiver, provisional liquidator or similar officer or agent in relation to the Serviced Entity, its Assets or any Relevant Person or any attempt by any person to enforce a charge of any nature over shares of the Serviced Entity or its Assets.

**Assets** the assets of a Serviced Entity whether provided when the Serviced Entity was established, or accumulated or added to it at a later date.

**Authorised Person** any authorised person entitled or empowered by a power of attorney in a form acceptable to Harneys Fiduciary to give instructions to Harneys Fiduciary in respect of the Serviced Entity or the Services.

**Beneficial Owner** the natural person(s) who ultimately owns or controls a company in accordance with the laws of the relevant jurisdiction.

**Business Day** every day that is not a Saturday, a Sunday or a recognised public holiday in the country of intended receipt of a communication or notice under these Terms.

**Clause or Schedule** a clause or a schedule to the Service Agreement or these Terms, as indicated.

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

**Electronic or Electronically** any form of message made or sent by any type of telecommunication, digital or electronic device including but not limited to the internet, facsimile, email and text message.

**Interested Person** (i) the natural person(s) who ultimately owns or controls the Serviced Entity or on whose behalf a transaction or activity is being conducted by or through the Serviced Entity and includes, though is not restricted to, a natural person who ultimately owns or controls, whether directly or indirectly, 10% or more of the economic interests in the Serviced Entity and (ii) a person who is connected to, has a registered or beneficial interest in, or who has benefited or may benefit from the Serviced Entity whether such connection, interest or benefit is direct or indirect, contingent or subject to the discretion of any party or who has directly or indirectly contributed assets to the Serviced Entity or who is referred to in the relevant Governing Instrument or any associated document as entitled to benefit or as having a connection including but not limited to a beneficiary or settlor of a trust, a protector or enforcer of a trust or a shareholder or director of a company.

**Fee Schedule** the general schedule of fees charged by Harneys Fiduciary for a particular Service as amended from time to time.

**Governing Instrument** the applicable trust instrument, company documentation, will, power of attorney, partnership documentation or any other document, instrument or deed creating or establishing the Serviced Entity, including any amendments or variations thereto.

**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), Zuill & Co and any entities, whether partnerships, companies or otherwise, owned or controlled by, or under common control of any of the foregoing.

**Harneys Fiduciary** the Harneys group entity that enters, or has entered, into an agreement with You and into which these Terms are incorporated, its shareholders, directors, officers, employees, agents and partners, and its successors and assigns and its subsidiaries or affiliates providing the Services and their respective directors, shareholders, officers, employees, agents and partners. For the avoidance of doubt, these Terms shall not be incorporated into an agreement with Harneys Fiduciary Cyprus Limited.

**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.

**Party** a party to the Service Agreement and bound by the terms of the Service Agreement, and these Terms. Where a Party enters into a Service Agreement by a Person acting as its agent on its behalf, Party excludes such agent in the case of Harneys Fiduciary, and includes such agent in the case of any other Party, save where the Service Agreement provides to the contrary.

**Person** includes any individual, firm, general partner, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having a separate legal personality).

**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 You or the Serviced Entity in connection with the Services.

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

**Privacy Statement** the [Harneys Fiduciary Privacy Statement](http://www.harneysfiduciary.com/privacy-statement/) from time to time available at [www.harneysfiduciary.com/privacy-statement/](http://www.harneysfiduciary.com/privacy-statement/).

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

**Relevant Person** the Serviced Entity (save where the Serviced Entity is You), Interested Persons, Beneficial Owners, and Authorised Persons.

**Services** the services of whatsoever nature to be provided by Harneys Fiduciary including but not limited to services pursuant to a Service Agreement.

**Serviced Entity** any trust, fund, agency, foundation, company, association, partnership or other entity, or Person or structure in respect of which Harneys Fiduciary provides Services.

**Service Agreement** any agreement in writing (including any agreement evidenced by or contained in application forms) between Harneys Fiduciary and You relating to the Services.

**Subject Persons** principals, affiliates, Interested Persons, Beneficial Owners, directors, officers, shareholders, employees and agents of a Party.

**Tax Obligations** tax declarations and reporting obligations including, but not limited to, those relating to You, the Serviced Entity and the Assets.

**Terms** these General Terms and Conditions.

**Third Parties Law** the provisions of the governing law of the Service Agreement providing for the enforcement of contracts by third parties to the contract. If, in any jurisdiction, the Law has no such provisions, the Harneys Fiduciary entity that is a Party to the Service Agreement enters into the Service Agreement, on its own behalf, and also as agent for those Persons identified in Clause 12.6 of these Terms in relation to the benefit of the limitation of liability and indemnity provisions in Clause 12 of these Terms.

**Unlawful** prohibited or restricted by Law or regulation in any relevant jurisdiction or by international sanctions.

**US\$** the lawful currency of the United States of America.

**Working Day** any day on which the offices of the relevant Harneys Fiduciary providing the Services is open for non-automated business.

**You and Your** the Party or Parties to the Service Agreement, other than Harneys Fiduciary.

## INTERPRETATION

1.2 For the purposes 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) headings in these Terms are for convenience only and shall not affect the construction or interpretation of these Terms; and
- (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.

## 2 APPLICABILITY OF THESE TERMS

Unless expressly provided otherwise, these Terms apply to all Services, Service Agreements, offers, proposals and quotations made by Harneys Fiduciary. The legal relationship between You and Harneys Fiduciary is governed by these Terms together with the terms set out in the Service Agreement and, where applicable, the Governing Instrument. In the event of conflict between these Terms and the terms

of a Service Agreement, the latter shall prevail. In the event of conflict between the terms of the Governing Instrument and those of a Service Agreement, the latter shall prevail, to the extent permitted by Law. These Terms shall also apply to any Service Agreement entered into prior to the date of these Terms, subject to Clause 10.4(d) hereof, save otherwise agreed in writing by Harneys Fiduciary.

## 3 OBSERVANCE OF LAWS; INFORMATION TO BE SUPPLIED TO HARNEYS FIDUCIARY

3.1 **General information.** You shall forthwith supply, and shall procure that all Relevant Persons shall forthwith supply, to Harneys Fiduciary all such information, documents and instructions as are necessary or are requested by Harneys Fiduciary from time to time in order to fulfil its legal and statutory obligations under or in relation to a Service Agreement or the Services.

3.2 You will comply, and shall procure that all Relevant Persons comply, with all Laws that apply to You and to them, and You shall forthwith, and shall procure that all Relevant Persons shall forthwith, notify Harneys Fiduciary of any breach, or any alleged breach, of any such Laws.

3.3 **Corporate actions; Changes; Charges.** You shall forthwith in writing inform, and shall procure that all Relevant Persons shall forthwith so inform, Harneys Fiduciary of any corporate action, changes to the directors, officers, partners, trustees, Interested Persons, Beneficial Owner or Governing Instruments of the Serviced Entity or the creation or intended creation of any charge, mortgage or other security interest over any of its Assets or property and shall promptly supply to Harneys Fiduciary all such information and documents in connection therewith including, but not limited to, those requested by Harneys Fiduciary.

3.4 **Litigation.** You shall forthwith notify in writing, and shall procure that any Relevant Person shall forthwith so notify, Harneys Fiduciary of any threatened, pending or actual litigation against You, or any Relevant Persons in any jurisdiction including any action, petition or other proceedings or steps (whether court-related or not) which have been proposed to be or have been taken in respect of You or any Relevant Persons including, but not limited to, winding-up, striking off any register, arrangement with creditors, insolvency, reorganisation or analogous procedure.

## 4 COMPLIANCE

4.1 Without prejudice to the generality of Clause 3.1 hereof, You shall forthwith supply, and shall procure the supply by all Relevant Persons forthwith, to Harneys Fiduciary of all such information, documents and instructions as are necessary or are requested by Harneys Fiduciary in order to fulfil its obligations under all applicable Laws relating to the prevention of money laundering, beneficial ownership, terrorism financing, financial crime or breaches of international sanctions or any other Laws applicable to You, any Relevant Person or Harneys Fiduciary including, but not limited to, where applicable:

- (a) an explanation in writing of the nature of all relevant activities, an indication of actual and expected turnover and the source of funds;
  - (b) evidence satisfactory to Harneys Fiduciary of the identity of any Relevant Person; and
  - (c) such other information and documentation as Harneys Fiduciary may require in relation to any Relevant Person or activities of the Serviced Entity including, but not limited to, in relation to the steps taken under clause 4.2 below.
- 4.2 You undertake and warrant to Harneys Fiduciary and Harneys Law Firms (who may in their own right enforce this Term) that:
- (a) no monies paid to the Serviced Entity as equity and all other funds paid to or passing through the Serviced Entity represent the proceeds of, or have been paid in the furtherance of, any Unlawful activity; You shall procure that all Relevant Persons ensure that no such moneys or funds represent such proceeds or have been so paid;
  - (b) at the date, and throughout the term, of any Service Agreement You comply and will comply with all applicable Laws in any jurisdiction and will procure that all Relevant Persons so comply and will so comply;
  - (c) You will not use, nor have You used, the Serviced Entity to handle, conceal or in any way utilise funds related to the proceeds of any criminal or otherwise Unlawful conduct including, but not limited to, tax fraud or evasion, money laundering, drug trafficking, terrorism or false accounting; You shall ensure that no Relevant Person has done so or will do so; and
  - (d) all Assets introduced to the Serviced Entity (except Assets introduced by Harneys Fiduciary) are, or will be, the lawful property or under the lawful control of the person introducing such Assets prior to such introduction and will not be connected in any way with any criminal or otherwise Unlawful activity or be the proceeds of crime or connected with terrorist financing or similar and You will provide full details of the provenance and source of all the Assets introduced to the Serviced Entity by You or any other Person immediately upon Our request.
- 4.3 You shall forthwith notify, and shall procure that any Relevant Person shall forthwith notify, Harneys Fiduciary in writing if You or they:
- (a) know or have reasonable cause to believe that any of the information provided to Harneys Fiduciary about an Interested Person or Beneficial Owner has changed or that the manner in which such Interested Person or Beneficial Owner holds their interest or control has changed and provide details of any such changes to the satisfaction of Harneys Fiduciary;
  - (b) know or have reasonable cause to believe that You or a Relevant Person is or becomes a PEP;
  - (c) know or have reasonable cause to believe that You or a Relevant Person is subject to or affected by any sanctions or other restrictions; or
  - (d) become aware of any event which may have a material effect on the Serviced Entity, its Assets or activities, Harneys Fiduciary's willingness or ability to provide the Services or on Harneys Fiduciary having sufficient liquid funds to administer the Serviced Entity.
- 4.4 Harneys Fiduciary may refuse to perform any or all of its obligations under any Service Agreement if in its sole discretion it determines that to do so would constitute a criminal or otherwise Unlawful offence in any jurisdiction in which Harneys Fiduciary operates or would otherwise contravene any Laws which apply to Harneys Fiduciary or the Services; Harneys Fiduciary will inform You promptly of any decision to refuse to perform an obligation under any Service Agreement made in accordance with this Clause unless prevented from doing so by applicable Law.
- 4.5 If You have already instructed or intend to instruct a Harneys Law Firm to act on Your behalf or if Harneys Fiduciary instructs a Harneys Law Firm in accordance with these Terms, all client information and due diligence (including for but not limited to anti-money laundering purposes) collected by Harneys Fiduciary will be shared with the relevant Harneys Law Firm.
- ## 5 TAX OBLIGATIONS
- 5.1 You and all Relevant Persons have sole responsibility for the management of Your and their respective tax and legal affairs, including, but not limited to, making any applicable filings and payments, complying with any applicable Laws including, but not limited to, fulfilling all reporting and declaration obligations in any jurisdiction. Harneys Fiduciary does not provide legal or tax advice. Harneys Fiduciary recommends that You and all Relevant Persons obtain Your and their own independent advice as to the fiscal consequences of the Serviced Entity and its affairs and any Services provided to it by Harneys Fiduciary. Such advice should be updated on a regular basis, and forthwith if any relevant circumstances change.
- 5.2 You undertake and warrant that (i) You and the Serviced Entity have been, are, and at all times will be, compliant with all of Your and its Tax Obligations and (ii) You and the Serviced Entity have fulfilled all Tax Obligations and have made and will make all tax and other returns and provide all reporting required to be made in any relevant jurisdictions in respect of You and the Serviced Entity and any benefits received from the Serviced Entity.
- 5.3 You shall inform Harneys Fiduciary forthwith in writing if You become aware of any breach of Clause 5.2 above.
- 5.4 You shall inform Harneys Fiduciary within 90 days of the occurrence of any change in Your or the Serviced Entity's circumstances and which are relevant to Tax Obligations or otherwise, of the Serviced Entity or any of the Services (including, but not limited to, address, nationality, residence or domicile), and You shall procure that all Relevant Persons do so with regard to any such changes in their circumstances.

- 5.5 If You or any Relevant Person are subject to tax or reporting requirements of any nature in any jurisdiction or if the tax or governmental or other authorities of any jurisdiction consider that You or any Relevant Person may be subject to tax or reporting in that jurisdiction (even if You or the Relevant Person are not), Harneys Fiduciary may be required by applicable law to provide information or documentation and/or to report on an on-going basis information about You or any Relevant Person on an individual or aggregated basis to any relevant tax or reporting authority and if so required Harneys Fiduciary will do so.
- 6 FEES AND DISBURSEMENTS: GOVERNMENT AND REGULATORY FEES**
- 6.1 Harneys Fiduciary shall be entitled to fees and to be reimbursed for expenses in accordance with the applicable Fee Schedule, Service Agreement or other written agreement between You and Harneys Fiduciary.
- 6.2 All payments to be made to Harneys Fiduciary shall be made in cleared funds, without any deduction of any kind including, but not limited to, without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority save as required by Law. If You are compelled to make any such deduction, You will pay to Harneys Fiduciary such additional amounts as are necessary to ensure receipt by Harneys Fiduciary of the full amount which Harneys Fiduciary would have received but for the deduction.
- 6.3 Harneys Fiduciary shall be entitled to recover from You all 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 and other similar costs and expenses) incurred or paid by Harneys Fiduciary on Your behalf or otherwise in the performance of or relating to the Services.
- 6.4 Harneys Fiduciary may in its sole discretion allocate fees, disbursements and expenses as between:
- income and capital;
  - different interests in income and capital;
  - different parts of the Serviced Entity; and
  - different interests in the Serviced Entity.
- 6.5 Harneys Fiduciary may apply funds received from You in payment of its fees, expenses and disbursements prior to paying any government or other fees due on behalf of the Serviced Entity.
- 6.6 Harneys Fiduciary may deduct all unpaid fees, expenses and disbursements and interest due to it from Assets and/or may retain Assets until same have been paid.
- 6.7 If at any time during the provision of the Services, there are insufficient liquid funds in the Serviced Entity to pay to Harneys Fiduciary any fees, expenses, disbursements or interest which have become payable, You will provide or procure the provision to Harneys Fiduciary of sufficient funds to do so on demand.
- 6.8 If You fail to provide sufficient funds on demand as required by clause 6.7, Harneys Fiduciary may, subject to the Law, sell or realise Assets of the Serviced Entity in order to pay fees, expenses or disbursements and interest which are due to Harneys Fiduciary.
- 6.9 Without prejudice to its rights to terminate the Service Agreement, Harneys Fiduciary shall have no obligation to provide and may suspend any Services if You are in default concerning the payment of any fees, expenses, disbursements or interest to Harneys Fiduciary or any Harneys Law Firm.
- 6.10 Without prejudice to the generality of Clause 18 of these Terms, any requests received by Harneys Fiduciary for legal advice and/or services and any legal issues arising or assistance required (in either case as determined by Harneys Fiduciary in its sole discretion) from or in relation to the Serviced Entity or Service Agreement or any Relevant Person may be referred by Harneys Fiduciary to a Harneys Law Firm of their choice (which may enforce this clause 6.10 in its own right) and You agree to pay promptly the fees and disbursements of such Harneys Law Firm, which shall be charged in accordance with its fee rates and terms and conditions of business then in effect.
- 6.11 Harneys Fiduciary shall not be responsible for any losses suffered in consequence or related to delayed or failed payment howsoever caused including but not limited to by way of Electronic funds transfers received with insufficient or incorrect details or non-receipt of transfer advices.
- 6.12 Payment by Harneys Fiduciary of governmental or regulatory fees on Your behalf is subject to You having provided Harneys Fiduciary funds to do so, and payment of any outstanding amounts due to Harneys Fiduciary or Harneys Law Firm. Harneys Fiduciary shall invoice You in respect of annual fees payable to any governmental or regulatory entity, and You shall promptly pay or procure the payment of such invoiced amount to Harneys Fiduciary on receipt of such invoice, and in any event no later than the date for payment stated in the invoice. If payment is made by wire transfer, You must inform Harneys Fiduciary of the wire instructions, including the dates and amount of the transfer, issuing bank, and invoice number. Harneys Fiduciary shall not be liable for any late payment, penalties, charges or expenses of any kind for which You may be liable as a result of Your delayed or failed payment of fees, or funds to Harneys Fiduciary for payment of fees, howsoever caused.
- 7 ACCOUNTS AND BILLING; LIEN**
- Invoices for fees and all other amounts due will be sent to You by email only and You undertake to provide at all times a current and valid email address for this purpose. Unless agreed otherwise, any retainer invoice issued by Harneys Fiduciary must be paid in full upon receipt prior to the commencement of the provision of Services. Any subsequent invoices must be paid in full within 14 days of the date of the invoice. Where an invoice is not paid in full within 45 days of the invoice, interest shall become payable on any unpaid amount of the invoice from the date of the invoice until the date of payment at an annual rate of 8.5%. For any invoices

not paid in full within 90 days of the date of the invoice, Harneys Fiduciary may 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, with interest from the date of the original invoice, as above. 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, You will be responsible, and will forthwith reimburse Harneys Fiduciary, for the payment of all charges relating thereto on an indemnity basis which shall be added to the relevant invoice with interest as above. Harneys Fiduciary shall exercise a lien over all documents held by it in relation to You or the Serviced Entity in respect of any unpaid fees and disbursements, or any other sums owed to it.

## **8 COMMUNICATION**

- 8.1 Harneys Fiduciary will contact You or any Authorised Person by post, telephone or Electronic communication using the details that You have provided to Harneys Fiduciary.
- 8.2 Harneys Fiduciary may record or monitor phone calls and Electronic communications. Such recordings may be used as evidence in the event that there is a dispute.
- 8.3 You may contact Harneys Fiduciary through Your usual contact by post, telephone or Electronic communication but You should note that notices must be given in accordance with clause 16 of these Terms. You acknowledge and accept that 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 You to operate such software. However, Electronic communication is not completely secure and You agree that Harneys Fiduciary shall not be held responsible or liable whatsoever for any damage or loss howsoever caused including, but not limited to, by viruses or by communications which are corrupted or altered after dispatch, or any other failure of Electronic communication.
- 8.4 An Authorised Person may be required to set up security procedures or take other steps before being permitted by Harneys Fiduciary to give instructions to Harneys Fiduciary on Your behalf.
- 8.5 Harneys Fiduciary shall incur no liability for or in respect of any action taken or omitted to be taken in reliance upon any instruction believed by Harneys Fiduciary to be from You or an Authorised Person, even if it is subsequently found not to be genuine or to be incorrect in any way.
- 8.6 Harneys Fiduciary may refuse to accept any instruction if it is not in writing or if it believes in its sole discretion that:
- (a) it was not given by You or any Authorised Person or does not comply with any applicable requirements, including, without limitation, those relating to the Serviced Entity;

- (b) it is not clear, contains incorrect information or is illegible;
- (c) it appears to be inconsistent with another instruction received from You or any Authorised Person;
- (d) by carrying out the instruction Harneys Fiduciary may be in breach of any applicable Law or otherwise be acting in an Unlawful manner or become exposed to action or censure from any government, regulator or law enforcement agency;
- (e) to carry out the instruction would damage its reputation or contravene its internal policies; or
- (f) it would be impracticable or impossible to do so.

8.7 Harneys Fiduciary shall not be liable for any losses of any nature howsoever caused arising from a refusal to accept an instruction in accordance with Clause 8.6 above.

8.8 Harneys Fiduciary is entitled to, and will (and subject to clause 8.6) continue to act on instructions received from any Authorised Person until Harneys Fiduciary actually receives written notice from You that he or she is no longer so authorised.

8.9 If Harneys Fiduciary receives correspondence or communications addressed to You, Harneys Fiduciary will use reasonable endeavours to forward the same to You by such means as it considers appropriate. If it appears to Harneys Fiduciary, in its sole discretion, that it should open and review any such correspondence or communication, it may do so and take such action in relation to it as, in its sole discretion, it considers reasonable and appropriate. You agree that Harneys Fiduciary shall not be liable for any liabilities, loss, damages, obligations, penalty, proceedings, claims, judgments, demands, costs, expenses or disbursements of any kind (including legal fees and expenses), whatsoever suffered or incurred by You at any time as the result of late receipt or non-delivery of such correspondence or other communication which Harneys Fiduciary receives on Your behalf, or as a result of any action taken by Harneys Fiduciary.

## **9 APPOINTMENTS**

9.1 You shall forthwith inform Harneys Fiduciary of any Appointment and You agree that Harneys Fiduciary may in its absolute discretion (i) at Your expense obtain and rely on advice from a qualified lawyer in any relevant jurisdiction as to the powers of the person appointed under any Appointment, (ii) comply with any requirements or requests of any such person and (iii) rely on instructions from any person that it believes to be authorised to give instructions under any appointment. Harneys Fiduciary will inform You of any Appointment as soon as reasonably practicable after it becomes aware of any such Appointment.

## **10 TERMINATION**

- 10.1 Harneys Fiduciary may terminate the Service Agreement by giving You:
- (a) not less than 90 days written notice without cause and without giving reasons;

- (b) immediate written notice if You commit a material breach of any Service Agreement or breach of the Terms of any Governing Instrument and (in each case if such breach shall be capable of remedy) shall fail within ten days of receipt of a written notice served by the other party requiring the remedy of such breach;
  - (c) not less than 10 days written notice if there has been a change of Interested Person or Beneficial Owner; or
  - (d) immediate written notice if You or the Serviced Entity become insolvent, bankrupt or enter into liquidation (except a voluntary liquidation for the purposes of reconstruction or amalgamation).
- 10.2 Harneys Fiduciary may terminate the Service Agreement by immediate notice if in its sole discretion it believes that:
- (a) continuing to provide the Services would or might assist in the furtherance of criminal or other Unlawful activity;
  - (b) continuing to provide the Services would or might constitute a breach of any applicable Law or otherwise be Unlawful;
  - (c) in continuing to provide the Services, it may suffer reputational damage or be prejudicial to the interests of Harneys Fiduciary or a Harneys Law Firm;
  - (d) You have given Harneys Fiduciary or a Harneys Law Firm false information; or
  - (e) Your conduct or the conduct of the Serviced Entity of whatsoever nature makes it inappropriate in any way to continue to provide the Services.
- 10.3 You may terminate the Service Agreement at any time by giving not less than 90 days written notice and, subject to clause 10.5, the Services will terminate when the Serviced Entity has been wound up or distributed in full or transferred to another service provider.
- 10.4 You may terminate the Service Agreement immediately on giving written notice to Harneys Fiduciary if:
- (a) Harneys Fiduciary commits a material breach of the Service Agreement and the breach has not been remedied within 30 days of notice requiring remedy of the breach;
  - (b) Harneys Fiduciary becomes insolvent, or enters into liquidation (except a voluntary liquidation for the purposes of reconstruction or amalgamation);
  - (c) Harneys Fiduciary ceases to hold the requisite licence or other authority required to provide the Services; or
  - (d) changes are made to the Terms in accordance with clause 15 hereof, which you do not wish to accept or, in the case of a Service Agreement entered into before the date of these Terms, if You do not wish to be bound by them. If you do not terminate the Service Agreement, Your continued use of Harneys Fiduciary's services will constitute acceptance of these Terms, and their incorporation into Your Service Agreement.
- 10.5 If You give notice to terminate the Service Agreement and wish to transfer the Serviced Entity to another service provider, such notice must contain the name of the new service provider and full details of a contact person of such new provider. Any transfer of the Serviced Entity shall also be subject to any obligations of Harneys Fiduciary to ensure that the new service provider is capable of providing the Services and You will take such steps as Harneys Fiduciary requires in order to discharge any such obligations.
- 10.6 Any Party may terminate the Service Agreement in accordance with Clause 17.7 hereof.
- 10.7 Termination of the Service Agreement shall be without prejudice to outstanding payment obligations, the exclusion of liability and indemnification provisions set out in these Terms and in the Service Agreement as well as any other provision of these Terms, as provided by Clause 17.8 hereof, or the Service Agreement to survive such termination.
- 10.8 Harneys Fiduciary shall, upon the termination of the Service Agreement and payment of all outstanding fees, expenses, disbursements and interest or any other sum due to Harneys Fiduciary or Harneys Law Firm, deliver as You may direct all documentation in its possession relating to its Services, which is the property of You, and Harneys Fiduciary may make and retain copies thereof, at its own expense.
- 10.9 Termination of the Service Agreement shall not affect the rights of any Party accrued up to the date of termination.
- 11 NON-EXCLUSIVITY OF SERVICES; NO PARTNERSHIP**
- 11.1 You acknowledge and accept that the Services are not exclusive and Harneys Fiduciary may provide services to any other Person, without notice to You and without Your consent or notice to, or the consent of, the Serviced Entity and it may provide any individuals provided for Services under the Service Agreement to any other clients of Harneys Fiduciary for the provision of services to that client regardless of any conflict of interest that may arise.
- 11.2 Nothing contained in the Service Agreement or these Terms shall constitute a partnership between You, the Serviced Entity or any Relevant Person and Harneys Fiduciary nor shall any employee, officer, director or agent of Harneys Fiduciary be deemed to be an employee of You or entitled to any remuneration or other benefits from You.
- 12 LIMITATION OF LIABILITY AND INDEMNITY; NO DUTY TO OTHERS**
- 12.1 Harneys Fiduciary shall not be liable for any damage, loss, claims, proceedings, penalties, demands, liabilities, costs or expenses or disbursements (including, but not limited to, legal fees and expenses) or interest, of whatsoever nature, and however caused, suffered or incurred by You, or by any Relevant Person, at any time from any cause arising out of or in any way related to the Service Agreement or in any way related to the performance or non-performance of the Services or any other act or omission or matter in connection with, or in any way relating to, the Services or the Service Agreement or the subject matter of the Service Agreement or in reliance on any information provided by, or in response to any request from, You or any Relevant Person, unless caused by the actual fraud of Harneys Fiduciary.

- 12.2 You shall indemnify and hold harmless Harneys Fiduciary against all liabilities, obligations, losses, damages, penalties, actions, proceedings, claims, judgments, demands, costs, expenses or disbursements of any kind (including legal fees and expenses) and interest, however caused, which may be incurred or to which it may be subject in consequence of, or in any way relating to, the Service Agreement in any way related to the performance of or non-performance of the Services or any other act or omission or matter in connection with, or in any way relating to, the Services or the Service Agreement or the subject matter of the Service Agreement unless caused by the actual fraud of Harneys Fiduciary.
- 12.3 The limitations of liability and indemnification provided by these Terms or the Service Agreement shall not be deemed to be exclusive of any other such rights to which those seeking such limitation or indemnification may be entitled.
- 12.4 Harneys Fiduciary shall not in any event be liable for (i) any consequential, indirect, special, incidental, punitive or exemplary loss or (ii) any economic loss (including, but not limited to, loss of revenues, profits, contracts, business or anticipated savings), arising out of any breach or in connection with these Terms or any Service Agreement or the provision or non-provision of Services, or otherwise, in each case whether or not Harneys Fiduciary has been advised of the possibility of the occurrence of such loss or damage, and howsoever incurred. For the avoidance of doubt Harneys Fiduciary shall not in any event be liable for any loss of goodwill or reputation.
- 12.5 For the avoidance of doubt, obligations of Harneys Fiduciary under any Service Agreement, these Terms or otherwise, are owed only to You and to no other person. Without prejudice to the generality of the foregoing, Harneys Fiduciary undertakes and owes no duty of any nature whether fiduciary, in contract, tort, trust or otherwise, in relation to the Service Agreement or the Services, to any Relevant Person or any other person, save as may be required by Law, or by the Service Agreement.
- 12.6 All the terms of this Clause 12 shall endure for the benefit of Harneys Fiduciary's shareholders, directors, officers, employees, agents, partners, its successors and assigns and their respective directors, officers, employees, agents and partners, and those provided by Harneys Fiduciary for or in connection with the provision of any Service, all of whom may enforce the terms of this Clause 12 in their own right in accordance with the Third Parties Law.

### **13 DATA PROTECTION AND THE PROCESSING OF DATA**

- 13.1 Please refer to the provisions of 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 Harneys Fiduciary may hold can contact us. You acknowledge that You have received, read and understand the contents of the Privacy Policy.
- 13.2 Insofar as Personal Data is provided to Harneys Fiduciary in relation to the Services, You warrant and shall procure that during the term of the Services Agreement that the

disclosure of that Personal Data to Harneys Fiduciary is authorised under applicable Data Protection Law and that, without being required to take further steps (other than as contemplated by clauses 13.3 and 13.4), Harneys Fiduciary can collect, use and disclose that Personal Data in the manner provided for in the Services Agreement.

- 13.3 If You are directly subject to the Regulation due to Article 3 and Harneys Fiduciary is required to process Personal Data which is disclosed to or otherwise made available to Harneys Fiduciary by or on behalf of You or the Serviced Entity for the purposes of Harneys Fiduciary providing the Services, You or the Serviced Entity may request that Harneys Fiduciary enter into a data processing Addendum, but only if and to the extent that Harneys Fiduciary acts as a "processor" (as defined in Article 4(8) of the Regulation) in respect of the relevant Personal Data. The form of such Addendum is available on request and Harneys Fiduciary shall not unreasonably refuse to enter into such an Addendum.
- 13.4 Where You or the Serviced Entity require Harneys Fiduciary to process relevant Personal Data which You or the Serviced Entity directly or indirectly source from 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 or the Serviced Entity (as the case may be) may request that Harneys Fiduciary enter into such EU standard data protection clauses as the European Commission may adopt from time to time pursuant to Article 46 of the Regulation (**EU Model Clauses**) in order to satisfy the obligation to provide appropriate safeguards for the transfer of Personal Data. Harneys Fiduciary shall not unreasonably refuse to enter into EU Model Clauses in such circumstances. Without limitation to the generality of the foregoing, Harneys Fiduciary may require amendment to the EU Model Clauses in order (i) to take into account laws and regulations which it is subject to in a non-EU jurisdiction; (ii) to provide reasonable compensation to Harneys Fiduciary for any additional obligations accepted under the EU Model Clauses (including contingent obligations).

### **14 CONFIDENTIALITY; EXCEPTIONS FROM CONFIDENTIALITY; CONSENT TO DISCLOSURE OF CONFIDENTIAL INFORMATION**

- 14.1 No 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 any 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:
- already known to the recipient from a source other than the other Party without any obligation of confidentiality;
  - in the public domain or becomes public knowledge otherwise than as a result of the unauthorised or improper conduct of the disclosing Party;
  - required to be disclosed by any Law or order of any court or due to any instruction, 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, instruction, request or requirement) and also of any intended such disclosure;

- (d) disclosed for business purposes to affiliates, professional advisors, service providers or agents engaged by a Party, who received the information under a duty of confidentiality (including but not limited to disclosure to a Harneys Law Firm engaged or proposed to be engaged by You, or by Harneys Fiduciary under these Terms or the terms of a Service Agreement);
- (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 another Party; or
- (f) disclosed with the consent of another Party (including any consents contained under these Terms or the Service Agreement).

14.2 The Parties shall ensure that any confidential information provided to another Party in relation to Subject Persons of the disclosing Party is provided with the consent of the relevant Subject Persons, which the disclosing Party shall obtain.

14.3 This confidentiality provision does not prohibit Harneys Fiduciary from disclosing information to any Harneys Law Firm:

- (a) to protect what, in its sole discretion, it considers to be its own interests with respect to You or any Relevant Person provided always that each such Harneys Law Firm shall be required by Harneys Fiduciary to treat such information as confidential; and
- (b) for legitimate business purposes connected with the provision of legal advice to or with respect to You or the Serviced Entity and, without limitation to the generality of the foregoing, Harneys Fiduciary may disclose information relating to You, any other Party, or the Serviced Entity without seeking Your or their consent on request from a Harneys Law Firm upon confirmation from such Harneys Law Firm that such Harneys Law Firm has been instructed by You or the Serviced Entity, or by Harneys Fiduciary.

## 15 VARIATION OF THESE TERMS

Harneys Fiduciary may, in its sole discretion, at any time and from time to time change, alter, adapt, add or remove any of these Terms (including the Fee Schedule) and if Harneys Fiduciary does so, Harneys Fiduciary will give notice by posting any such changes on its website ([www.harneysfiduciary.com](http://www.harneysfiduciary.com)) (but without other notice to You) making clear the date on which the changes to these Terms come into effect. The current version of these Terms is available from Harneys Fiduciary at any time on request. Your continued use of Harneys Fiduciary's Services following any changes to these Terms shall constitute acceptance of those changes and You agree to be bound by the current

version of these Terms and that the Service Agreement is varied accordingly, with immediate effect.

## 16 NOTICES

16.1 Any notices, correspondence or communications to be delivered or forwarded by Harneys Fiduciary shall be sent by Electronic transmission or prepaid airmail and shall be deemed to be given in the case of Electronic transmission at 9.00 a.m. on the next Working Day in the place of receipt following dispatch or in the case of postal delivery, 10 Working Days after the dispatch thereof and shall be sent:

- (a) in the case of Harneys Fiduciary, to the registered office address of the Harneys Fiduciary entity providing the Services or such other address as has been communicated to You;
- (b) in the case of You, to such correspondence address or Electronic address as provided by You to Harneys Fiduciary;
- (c) to any correspondence address or Electronic 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 discretion considers appropriate.

16.2 **Delivery:** If a notice or other communication has been properly sent or delivered in accordance with Clause 16.1 above, it will be deemed to have been received as follows:

- (a) if delivered to a Party in person, at the time of delivery;
- (b) if delivered by commercial courier, at the time of recipient's signature of the courier's receipt; or
- (c) if sent by e-mail, at the time of Electronic receipt to the required e-mail address.

Provided that for the purposes of this Clause all times are to be read as local time in the place of deemed receipt and if deemed receipt under this Clause is not between 9.00 am and 5.00 pm on a Business Day, the notice or other communication is deemed to have been received at 9.00 am on the next Business Day.

## 17 MISCELLANEOUS

17.1 **Severability.** If any provision of these Terms or a Service Agreement is found by any court or arbitrator to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions which shall remain in full force and effect. If any provision of these Terms or a Service Agreement is found to be invalid or unenforceable and 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 or the Service Agreement shall exclude or restrict any liabilities which cannot lawfully be limited or excluded or provide any indemnity, save, in each case, to the full extent permitted by Law.



- 17.2 **Language.** All communications between Harneys Fiduciary and You will be in English. If We provide a translation of these Terms, a Service Agreement or any communication, the English language version will be the only legally binding version and will prevail if there are any inconsistencies in language.
- 17.3 **Copyright.** Documents prepared by Harneys Fiduciary or a Harneys Law Firm in respect of the Services is the property of Harneys Fiduciary or the relevant Harneys Law Firm. Harneys Fiduciary and Harneys Law Firms accept no responsibility for the use of these documents for cases or circumstances different from those in respect of which they were originally prepared. A Harneys Law Firm may enforce this term in its own right.
- 17.4 **Delay.** The delay or failure by any Party to object to or take affirmative action with respect to any breach of these Terms or the Service Agreement by the other Party shall not be construed as a waiver of such breach.
- 17.5 **Assignment.** The Service Agreement shall not be assignable by You and may be assigned by Harneys Fiduciary to an affiliated entity at any time without the consent of, or prior notice to, You or any other Party.
- 17.6 **Counterparts.** A Service Agreement may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.
- 17.7 **Force Majeure.** No Party shall be in breach nor liable for delay in performing, or failure to perform, any of its obligations under the Service Agreement if such delay or failure results from events, circumstances or causes beyond its control. In such circumstances, the affected Party shall be entitled to a reasonable extension of time for performing such obligations. If those obligations are not performed within such extension of time, the Party to whom such obligation is owed, may terminate the Service Agreement forthwith by notice in writing.
- 17.8 **Survival.** Clauses that relate to limitation of liability and indemnity, language, assignment, confidentiality, notices, governing law and jurisdiction shall survive the termination of the Service Agreement.
- 17.9 **Maintenance and destruction of records.** Harneys Fiduciary undertakes to keep all records in relation to the Serviced Entity after the termination of the Service Agreement for such a period as may be prescribed by Law after which time such records may be destroyed.
- 17.10 **Variation and Waiver.** Save in respect of variations of these Terms and the Service Agreement in accordance with clause 15 and clause 21.2 hereof, a Service Agreement may only be varied by an instrument in writing signed by all Parties. Any variation of a Service Agreement shall be annexed thereto and together they shall constitute one Service Agreement. No waiver of any right or rights arising under the Service Agreement shall be effective unless such waiver is in writing and signed by the Party whose rights are being waived.

## 18 PROFESSIONAL ADVICE

In the event that Harneys Fiduciary in its sole discretion requires professional advice of any kind with respect to You, Your affairs, any other Party, any Relevant Person, the Serviced Entity, any Service Agreement or the Services, Harneys Fiduciary may obtain such professional advice. You shall reimburse Harneys Fiduciary for the cost of obtaining such advice.

## 19 LEGAL ACTION

Unless provided otherwise by the Service Agreement or otherwise agreed in writing, Harneys Fiduciary shall not be required to take any legal or similar action on Your behalf or on behalf of the Serviced Entity. Harneys Fiduciary may, in its sole discretion, take any such action provided that it and its directors, officers, employees and affiliates and agents are fully indemnified against all liability, and remunerated for all work done and time spent, and reimbursed for all costs and expenses incurred, and on such other terms as may be required by Harneys Fiduciary.

## 20 HARNEYS LAW FIRMS

Harneys Fiduciary does not provide legal advice of any kind, under any circumstances, and no communication of any kind from Harneys Fiduciary constitutes legal advice. Harneys Fiduciary is separate from the Harneys Law Firms. If You wish to instruct Harneys Law Firm, You must do so by a separate contract between You and the relevant Harneys Law Firm. Harneys Fiduciary assumes no duty to You in relation to, nor is it responsible for, any advice or other services that may be provided to You by a Harneys Law Firm.

## 21 GOVERNING LAW AND JURISDICTION

21.1 These Terms and the Service Agreement shall be governed by and construed in accordance with the Laws of the jurisdiction of the Harneys Fiduciary entity that provides the Services. The Parties submit to the exclusive jurisdiction of the courts of the jurisdiction of the governing Law of that jurisdiction and no proceedings shall be brought in the courts of any other jurisdiction, without the consent in writing of the other Party.

21.2 The governing law and jurisdiction of any Services Agreement may be changed by Harneys Fiduciary, in its sole discretion, at any time and without giving reasons, by written notice to the other Parties to the Service Agreement.