



1 May 2011

TERMS OF BUSINESS

AFR Advocates

SCHEDULE 1

PART 1

1 Introduction

1.1 When you instruct AFR Advocates these terms of business (Terms of Business), together with any letter confirming your instructions (Engagement Letter), will comprise the terms of the contract (Engagement Contract) between you and AFR Advocates. In the event of an inconsistency between the Engagement Letter and these Terms of Business, the Engagement Letter shall prevail. You are deemed to have accepted the Engagement Contract upon our subsequent receipt from you, or your agent, of any instructions, oral or written, on the matter referred to in the Engagement Letter.

1.2 These Terms of Business shall also apply to all future instructions you give to us whether in connection with the matter identified in any Engagement Letter or any other matter upon which you instruct us (unless you and we agree, in writing, modifications at the time of the relevant engagement) and we may take your continuing instructions in any matter as your acceptance of them.

1.3 Any reference in these Terms of Business to “we”, “us”, “our”, or “the Firm” shall mean AFR Advocates or the associated company which sends you the Engagement Letter or which provides the Services to you in each instance.

1.4 Defined terms used in these Terms of Business shall have the meaning set out in paragraph 39 unless already separately defined.

2 Additional Terms

Please note that when you enter into an Engagement Contract there will be certain additional terms (Additional Terms) which are specific to the Firm concerned and which supplement these Terms of Business. Additional Terms are set out in Schedule 2 and/or the relevant Engagement Letter

PART 2 – THE SERVICES

3 Our Services

3.1 The services you will receive in relation to any matter will be described in the Engagement Letter or will otherwise be agreed in writing between you and us at the outset of our engagement and

may be varied at any time by written agreement between us (Services).

3.2 We are qualified to provide legal advice and services in relation to Guernsey law and our services to you are limited to the provision of legal advice on Guernsey law only.

3.3 If the matter on which you instruct us requires advice on the laws of more than one jurisdiction we may instruct an external firm or firms.

3.4 We have a professional duty to exercise reasonable skill and care in providing the Services. We will keep you informed of progress in relation to the Services but you are also entitled to receive a progress report on request.

3.5 The Engagement Letter will identify the partner with ultimate responsibility for the Services (Matter Partner). You will also be notified of the person (if different from the Matter Partner) with day-to-day responsibility for the Services. He or she may be assisted by others as the matter progresses. Our team may include partners and qualified lawyers as well as others such as trainee lawyers or paralegals.

3.6 Whilst our partners are Guernsey qualified lawyers, the day-to-day handling of a matter may be carried out by a lawyer or legal assistant who is not a Guernsey qualified lawyer but who is nevertheless under the supervision of a Guernsey qualified lawyer.

3.7 We shall endeavour to avoid changing the personnel who are handling your matter on a continuing basis but, if this cannot be avoided, we shall notify you promptly of the person or persons who will be handling your work and why the change was necessary.

3.8 If general advice is sought, its application to any particular circumstances may be affected by features of those circumstances of which we are not aware. Accordingly, in relation to any particular transaction or context, specific advice should always be sought. We do not accept any responsibility for the reliance on our advice for a different purpose or in a different context.

3.9 We shall not be under any obligation in any circumstances (unless otherwise agreed in writing) to update, amend or modify any advice to take account of or to notify you of any subsequent change (whether a change in law, policy facts or

otherwise) which may have an effect upon such advice after it has been given in final form or to remind you of or to monitor any time limits, deadlines or events.

3.10 Unless otherwise expressly agreed in writing, any advice, documentation or other material which we give, draft or otherwise provide in relation to the Services, is:

- (a) exclusively for your benefit and may not, without our prior written consent, be:
 - (i) relied upon by another person;
 - (ii) disclosed by you, except to your employees, auditors, regulators or agents who normally have access to your papers and records, in each case on the basis that they make no further disclosure; or
 - (iii) quoted or referred to in a public document or published in any publication;
- (b) strictly limited to the matters stated in it and does not apply by implication to other matters;
- (c) given as at the date of delivery of the letter or oral, written or electronic communication containing that advice.

4 Your Instructions

4.1 Our ability to provide the Services is dependent on the following:

- (a) you providing us with timely instructions, information and materials necessary or desirable for us to perform the Services;
- (b) you notifying us promptly of any changes or additions to instructions, information and materials previously provided by you or on your behalf; and
- (c) you ensuring that all information provided to us is not misleading and is complete in all material respects so that we are fully informed about all relevant matters. The relationship between lawyer and client is one of utmost good faith and our ability to provide their Services will be limited unless you disclose to us all information and documents that are relevant to the Services.

5 Instructions and Communications

5.1 Where we are instructed by joint parties, a company or an association, we will be entitled to rely on the specific instructions of any one of such

parties or any officer of the company or association unless otherwise previously notified in writing.

5.2 You authorise us to act without enquiry on instructions, requests and/or information from you or any person that we believe to be duly authorised by you. Such instructions, requests or information may be communicated orally or in writing or by electronic means or otherwise and with or without authentication.

5.3 We shall deal with and act upon proper instructions in a timely manner, but cannot undertake to act on instructions immediately or on the same or next business day or to meet any specific deadline (unless otherwise agreed) and shall not incur any liability for any loss arising by reason of the time taken to so act upon instructions, except as a result of our own gross negligence.

5.4 Unless instructed otherwise, we shall assume that we may communicate with you by e-mail. Documents sent to you by e-mail will not be encrypted. You accept that electronic methods of communication are inherently insecure channels of communication and are not necessarily reliable. You agree that we shall not be liable for any loss or damage suffered or incurred by you or any third party as a result of our use of such methods of communication. If you have a requirement for a greater level of security in electronic communications, please notify us of this and we will endeavour to agree with you and implement a mutually acceptable e-mail protocol.

5.5 We use an industry standard firewall containing virus protection but cannot guarantee that all communications will be secure or free from infection.

6 Information and Confidentiality

6.1 We may use information which you provide, or which we obtain through our dealings with you, and may use such information in any jurisdiction:

- (a) for the provision of the Services to you, including sharing it on a confidential basis with our partners, employees and agents for this purpose;
- (b) to administer your account with us, including tracing and collecting debts;
- (c) for internal purposes within AFR Advocates;
- (d) to ensure the safety and security of our premises (where we may also use CCTV);

(e) to comply with any applicable legal or regulatory requirement;

(f) for fraud prevention purposes (including verification checks for the purpose of complying with our policy in relation to all relevant anti-money laundering requirements and other regulatory obligations);

(g) for assessing client satisfaction (such as asking you to participate in surveys) and to help improve our services generally;

(h) for market research; and

(i) to contact you and persons connected with you about services provided by AFR Advocates and events such as seminars and conferences and to send you and persons connected with you briefings and similar material.

6.2 We will treat any information which is confidential to you and which we obtain as a result of acting for you as strictly confidential, save:

(a) for the purpose of acting for you in providing the Services;

(b) for disclosures to our auditors or other advisers or for the purposes of our professional indemnity insurance;

(c) for disclosures to any third party contractors appointed by us or other persons who agree in writing in a manner reasonably satisfactory to us to keep such information confidential;

(d) where such information is already in the public domain;

(e) where you instruct us to disclose or consent to disclosure of information by us;

(f) as required by law or regulation to which we are subject or where we consider it necessary or desirable either to comply with a request from any governmental, judicial, regulatory, police or revenue authority or to protect ourselves from any civil or criminal liability in any jurisdiction, either with or without your knowledge and you acknowledge that you are responsible for any costs associated with such compliance at our normal rates.

6.3 If a disclosure is made pursuant to paragraph 6.2 (f), we may be obliged not to carry out any further work on the matter or transaction without

any requisite consent from the competent authorities.

6.4 Any disclosure described in this paragraph 6 may be made without prior reference to you and you agree that in some circumstances we may be precluded from disclosing certain information to you.

6.5 We will not accept liability for any loss or damage that you or any third party may suffer or incur as a consequence of the disclosure of any information in accordance with this paragraph 6.

6.6 If any information held by us is or may be subject to privilege and you decide not to waive such privilege, you are responsible for our cost incurred in seeking to preserve and maintain privilege for you if such privilege is challenged, including litigation costs, whether ours or those of an opposing party or parties, if such costs are awarded against us.

6.7 We shall be under no duty to disclose to you (or take into account in the course of providing the Services) any information acquired by us in acting for any other client or any information in respect of which we owe a duty of confidentiality to a third party.

7 Documents

7.1 Subject to any agreement to the contrary, during the course of any matter we shall retain such documents (which includes anything in which information is recorded, whether on paper, electronically or otherwise) or copies as in our professional judgement it is proper to retain, and for this purpose we may make or keep copies of such documents (whether in electronic or microfilm form or otherwise) and destroy other versions of those documents.

7.2 Subject to any agreement to the contrary, at the completion of a matter we shall:

(a) at your request return to you any documents to which you are entitled;

(b) otherwise retain such documents relating to the matter or copies, as in our professional judgement it is proper to retain, and for this purpose we may make or keep copies of such documents (whether in electronic or microfilm form or otherwise) and destroy other versions of those documents; and

(c) at your request return to you any property (such as exhibits, models, etc) to which you are

entitled, and otherwise retain such property as in our professional judgement it is proper to retain;

provided always that we shall not be obliged to keep such retained documents or property relating to your matter for more than 6 years after completion of the matter or any longer period required by law or professional rules in Our Jurisdiction. After this time, unless we agree otherwise, we may then destroy the documents and property without further reference to you.

7.3 If we receive a request from you within the period of retention set out in paragraph 7.2 after completion of the matter, we shall return any retained documents or property to which you are entitled. We reserve the right to make and retain copies of any such retained documents and/or property.

7.4 We do not normally make a charge for retrieving retained documents or property in response to continuing or new instructions to act for you. A charge may be made for any safe custody storage of documents we are holding on your behalf.

7.5 You agree that we have the right to retain independent contractors to undertake storage of any documents or property relating to your matter, whether during the carrying out of the matter or after its completion and whether such documents or property be stored in safe custody or otherwise.

7.6 If we store any title deeds or documents or other papers on your behalf we will not be liable to you or any third party for the loss of (including any consequential loss) or damage to any item which we might hold. We are not obliged to inform you of any date by which you are required to do or refrain from doing any act to protect any right or interest, even though we may hold your files in storage.

8 Intellectual Property Rights

We retain all copyright and other intellectual property rights in all documents and other works developed, designed or created by us either before or during the course of carrying out the Services, including systems, methodologies, software, know-how, and working papers. We grant you a non-exclusive, non-transferable licence to use such documents or other works solely for the purpose for which they were created. If you do not pay us in full for the Services in accordance with Part 3 (Costs) we may, on giving notice to you, immediately revoke that licence and only re-grant it to you once full payment has been made.

9 Third Parties

9.1 If we instruct any adviser, agent or other contractor to act on your behalf, we will exercise due care in selecting such person. We will not be responsible for any act or omission on the part of such person, by itself, its servants, agents or by others engaged by that person to act on your behalf. Unless otherwise agreed in writing, you will be directly responsible for their fees and expenses.

9.2 No responsibility is accepted by us in respect of any act or omission of any third party placing reliance on the performance of the Services for you or on your behalf or on the advice given by us to you.

9.3 Unless expressly provided none of the terms of the Engagement Contract shall be enforceable by any party who is not a party to it. The provisions of any legislation giving to or conferring on third parties contractual or other rights in connection with the Services are to the extent excluded.

10 Your Money

10.1 Your money will be maintained at all times separate from our own funds in a client account and, where required in accordance with professional requirements in Our Jurisdiction, we will account to you for interest on your money so held.

10.2 Any interest on bank accounts will be paid net of any taxes required to be deducted.

10.3 On receipt of any monies we must be satisfied as to the source of these funds. If we have any doubts as to the source of funds we may be bound by law to notify the relevant authorities.

10.4 Where we hold money on client account, we shall not be liable to you in respect of any losses arising as result of the administration, insolvency, liquidation or general financial failure of the institution with which we placed such client monies or a general or systemic failure of the financial system. If there is any delay in a payment out of our client account, we shall not be liable for any loss suffered by you or any other party as a consequence.

10.5 You will not request us to take or refrain from taking any action whatsoever in relation to funds or assets or documents of any nature which could in our sole opinion result in a contravention of any law or regulation in force from time to time in

Our Jurisdiction. We reserve the right not to comply with any request which in our sole opinion could potentially result in any such contravention or which in our sole opinion could result in any damage to our reputation or good standing.

10.6 Our policy is not to accept cash from clients or to only accept cash up to £2,000 (or currency equivalent). If clients circumvent this policy by depositing cash direct we reserve the right to charge for any additional checks we deem necessary regarding the source of the funds.

11 Transfers and Transmissions

All transfers and transmissions of your monies, assets or documents are made at your risk and we shall not be liable for any loss, damage or delays howsoever caused which are not directly caused by our gross negligence.

12 Abortive Work

If any Services undertaken for you do not proceed to a conclusion or if you withdraw your instructions, we will charge you for all fees incurred up to the point the matter becomes abortive together with all disbursements or expenses paid on your behalf. In such circumstances we will also charge you for fees incurred and any disbursements or expenses connected or associated with the orderly termination or the transfer of the Services to another professional adviser, if applicable.

13 Termination of Services

13.1 An Engagement Contract shall end on completion of the Services. An open-ended agreement for the provision of Services ends 6 months after the last date on which we provide Services to you. Unless new or different terms are agreed, our acceptance of instructions to perform Services for you subsequent to the ending of any agreement gives rise, from time of acceptance of instructions, to a new agreement on these Terms of Business. If we provide you free of charge with any seminar, information or other document after the ending of an agreement such provision does not give rise to a new agreement.

13.2 You may terminate your instructions to us in writing at any time but we shall be entitled to retain your papers and documents whilst there is money owing to us in respect of our fees, disbursements and expenses (whether an invoice has already been raised or not).

13.3 Subject to the professional duties in Our Jurisdiction, we may decide to cease acting for you at any time in our own discretion and, without prejudice to the generality of the foregoing, may do so:

- (i) if you act in breach of the Engagement Contract;
- (ii) if we are unable to obtain clear or proper instructions on how we are to proceed;
- (iii) if it is clear that you have lost confidence in the manner in which we are carrying out our work;
- (iv) if you do not pay our invoices or comply with our request for payment on account;
- (v) if required pursuant to applicable law and/or our rules of professional conduct;
- (vi) if appropriate due diligence required for anti-money laundering is not provided by you within a specified period; or
- (vii) if in our professional judgement we consider that it would be inappropriate to continue to act for you.

13.4 If you or we decide that we shall no longer act for you, you agree to pay our outstanding fees, disbursements and expenses, including those not yet billed. All our rights set out in these Terms of Business shall continue to apply even if we terminate the Engagement Contract.

14 Complaints

14.1 In case you are not satisfied with Services provided by us, we have established a complaints procedure, a copy of which is available on request. Please write to us, detailing your complaint, which will then be thoroughly investigated. You should address your complaint in the first instance to the Matter Partner. We shall investigate your complaint promptly and carefully and do what we reasonably can to resolve the difficulties.

14.2 You are, in any event, entitled to refer any matter or complaint to the complaints and redress system operated by the regulatory body governing lawyers in Guernsey. If you wish to do so or if, for any reason, we are unable to resolve a complaint you wish to make between us, then you should report the matter to the acting Bâtonnier, the Head of the Guernsey Bar, whose contact details are available on request and which can be found on the Guernsey bar website, www.guernseybar.com

15 Recording telephone conversations

We may from time to time and at any time make and keep a sound recording of any telephone

conversations. Such recordings shall at all times remain our sole property and we shall have the authority to deliver copies or transcripts of such recordings to any court or regulatory authority of competent jurisdiction as we see fit and you hereby waive any objection to the use of any such recordings as evidence of any such telephone conversations.

PART 3 – COSTS

16 Fees

16.1 Unless otherwise agreed in writing by us, our fees will be calculated by reference to the value we attribute to our work. In calculating that value, we will take account of the time spent by our personnel at our hourly rates in force from time to time, seniority of the personnel involved, the complexity of the matters, the degree of skill required, the level of responsibility, the degree of urgency (including any significant overtime requirements) and any other material factors. However, we may adopt such basis of valuation as we in our discretion reasonably think fit for the purposes of calculating our fees.

16.2 We shall normally notify you at the outset of the matter (generally in the Engagement Letter) of the current hourly charge-out rates of the personnel involved in your matter and, where appropriate, will provide a fee estimate or quotation. Our charge-out rates are reviewed from time to time (generally on an annual basis) and may be changed without us providing further notice to you.

16.3 Time spent by our personnel may include advising, attending on you and others, considering and drafting documentation, entering into correspondence, research, engaging other advisors, telephone calls, travelling and waiting time. Our fees may also include any time spent by our personnel or expenses incurred by us as a result of or in connection with any investigation or enquiry by or disclosure to any governmental, regulatory, policing, judicial, revenue or other authority, officer or inspector (whether or not having force of law in our jurisdiction) or any audit or internal enquiry, directly or indirectly concerning or made in relation to you.

16.4 Payment of our fees and expenses shall be made without deduction or withholding for or on account of any tax, levy, impost, duty, charge, assessment or fee of any nature, including bank charges, unless such deduction or withholding is required by any applicable law in our jurisdiction, as

modified by the practice of any relevant governmental revenue authority, then in effect.

16.5 If you are required to make such deduction or withholding, then you agree to:

(a) notify us promptly of such requirement;

(b) pay to us, in addition to the amount which you are otherwise required to pay, such additional amount as is necessary to ensure that the net amount actually received by us will equal the full amount of our invoice had no such deduction or withholding been required; and

(c) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid pursuant to this paragraph).

16.6 We may request payment of fees, expenses and/or disbursements either before commencing work on your matter or as the matter progresses. Any such payment will be held in our client account and you authorise us to credit it against our invoice(s) for the relevant matter. If payment on account is requested, work on the matter may not commence or continue until we have received the requested payment and, if necessary, obtained cleared funds. Payments on account should not be treated as an estimate of the likely total costs of work to be carried out on a matter.

16.7 In certain circumstances, document duty, stamp duty or registration fees may apply before a transaction may be completed. We shall not be liable for any loss you or any other person may suffer or incur if you do not place us in funds to meet those costs and your matter is delayed or not completed.

16.8 Where our Services are supplied to two or more persons then your liability for our fees is joint and several and you will each be liable for any amounts due to us.

17 Estimates and Fee Quotations

17.1 Any estimates as to the total of our fees, expenses or disbursements is given only as a guide, on the basis of the information then known to us and may not be regarded as an agreement to provide a service for a fixed fee or within a fixed time period, unless otherwise agreed. We will endeavour to

revise an estimate if it becomes clear that our fees are likely to be substantially different to the estimate.

17.2 If we provide you with a fee quotation, that amounts to a proposal by us to carry out the specified work for a stated fee. If we carry out any work which falls outside the work specified in our quotation, or if we carry out additional work due to circumstances known to you but not disclosed to us, we will charge for that additional work at our standard hourly rates.

17.3 Any fee estimate agreed with you is necessarily based on the assumption that the information and documentation required for our work will be made available to us promptly upon request and that your key executives and personnel will be available during the course of our work and commit the necessary amount of time to enable us to carry out the work required. If delays, complications or other problems which are beyond our control occur, this may result in additional fees, expenses or disbursements being charged.

18 Invoicing Frequency

Our invoices will normally be issued at monthly intervals, or on completion of, or at a natural break in the course of, the relevant matter unless otherwise agreed with you in writing.

19 Terms of payment

19.1 Our invoices are payable immediately and should be made in the currency specified by us.

19.2 After 30 days from the date of issue of a bill, we will be entitled to charge interest on the amount outstanding at the greater of ten per cent per annum or two per cent per annum above the base rate of Royal Bank of Scotland International from time to time in force, compounded annually, and shall be under no obligation to carry out any further work for you on any matter or to pay any sums on your behalf until all outstanding amounts have been paid.

19.3 If you wish to dispute any invoice, please discuss the matter with either the person with day-to-day responsibility for the Services or the Matter Partner, so that the issue can be dealt with within the credit period.

19.4 If an invoice is overdue, or a request for money on account is not paid within seven days of request, we reserve the right to stop work (and to instruct our agents to stop work) on all matters on

which we act for you, and to charge for all work done for you to that date.

19.5 We shall be entitled to recover, on a full and unqualified indemnity basis, any court or other costs incurred by us in any jurisdiction in collecting any amounts due to us by you but unpaid, including all the costs of any agents (including lawyers) we may appoint to collect such amounts.

19.6 You may agree with someone else that they will be responsible for our fees, although the work will have been carried out on your behalf. However, it is important that you understand that you will remain responsible for paying our invoices even if you have or acquire a right of indemnity or recovery from a third party and whether or not you receive a contribution from a third party.

19.7 In some circumstances, by agreement with a third party or by order of the Court, you may be required to pay another party's legal fees and expenses. Those legal fees and expenses will be payable in addition to our own fees and expenses. In contentious matters, even if you are successful, the other party may not be ordered to pay all your charges and expenses, or these may not be recovered from them in full, or at all. If this happens, you remain liable to pay all our fees and expenses.

20 Lien

In the event of failure to pay any amount due to us, we shall have a lien over and the right not to release from our possession or control, all or any documents or assets (including documents or assets held for (i) you, or (ii) any company or other body in common ownership with you, or (iii) any person connected or affiliated to you or (iv) any Associated Person and including documents or assets held in relation to any matter), until such time as all such amounts are discharged.

21 Available Funds

Unless we have agreed otherwise, where funds belonging to you are received by us (for example in probate or property transactions or in settlement of a judgement obtained in your favour) or where we have received monies on account of our fees, expenses and disbursements, then we reserve the right to deduct our fees, disbursements or expenses from those funds and we will not be required to obtain your prior approval to this.

PART 4 – LIABILITY

22 Our liability

22.1 You agree that any claim of any sort whatsoever arising out of or in connection with an Engagement Contract shall be brought only against the Firm and that no claims will be brought personally against any other persons involved in performance of the Services, whether actual or deemed servants or agents of AFR Advocates or not, or any partner, employee or other personnel of AFR Advocates.

22.2 It is agreed and understood that neither AFR Advocates nor a partner nor employee shall be liable for any loss or damage howsoever arising as a consequence of the acts or omissions of the Firm pursuant to or in connection with the Engagement Letter.

22.3 To the extent possible under the laws and regulations of Our Jurisdiction, we limit our aggregate liability (if any) to you and all Associated Persons in respect of all claims by you and all Associated Persons of any sort whatsoever (including interest and costs) for breach of contract, tort, breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with the Services to the sum specified in the Engagement Letter, or if no sum is specified, the sum of £5 million or its currency equivalent.

22.4 Where you comprise more than one party, our aggregate liability to all such parties shall not exceed the limit referred to in paragraph 22.3.

22.5 Our liability in respect of breach of contract, tort, breach of duty or fault or negligence or otherwise whatsoever arising out of or in connection with the Services shall be limited to that proportion of the loss or damage (including interest and costs) suffered by you, which is ascribed to us by a court of competent jurisdiction allocating proportionate responsibility to us having regard to the contribution to the loss or damage in question of any other person responsible and/or liable to you for such loss or damage. This provision shall have no application to any liability which cannot lawfully be excluded or limited or to liability arising as a result of fraud on our part.

22.6 For the purpose of assessing the contribution to the loss or damage in question of any other person pursuant to paragraph 22.5, it is agreed that no account shall be taken of any limit imposed on the amount of liability of such person

being impecunious or unable to pay for any other reason.

22.7 You remain responsible for any commercial decisions that you make, and in taking such decisions regard must be had to the restrictions and scope of the Services and to the large number of other factors, commercial and otherwise, of which you and our other advisers are, or should be aware, from sources other than us and the Services provided by us.

22.8 We shall not be liable for any indirect or consequential loss or damage or any loss of profit, income, production or accruals arising in any circumstances whatsoever, whether in contract, tort under statute or otherwise, and however caused (including but not limited to our negligence or non-performance).

22.9 We shall not (unless otherwise agreed in writing) incur any liability arising by reason of any failure of or lack of availability of our computer systems or communication systems or any other failure, interference or inception of any communication.

22.10 Nothing in these Terms of Business exempts us from liability arising from our fraud or reckless disregard of our professional obligations or for liabilities which cannot lawfully be limited or excluded.

23 Your covenants, undertakings and liability

23.1 You confirm to us that:

(a) no company, trust or other structure or entity of yours in relation to which we may advise you will be engaged or involved directly or indirectly in any unlawful activity or be used for any unlawful purpose and you will keep us adequately informed as to all business to be transacted in the name of or for your account and you will use your best endeavours to ensure that any company, trust or other structure or entity is run in a proper and business-like manner and complies with all applicable laws and regulations;

(b) you have taken appropriate tax and other advice with regard to the establishment, conduct and use of any company, trust or other structure or entity of yours upon which we may advise you; and

(c) no instructions given by you to us will require or involve any unlawful act or contain any

falsehood and all information given will be accurate and not misleading.

23.2 You will indemnify us on a full and unqualified basis and undertake to hold us harmless from and against all and any claims, liabilities, demands or proceedings howsoever brought, threatened or established against us in any jurisdiction and against all losses, costs, charges, expenses, interest and taxes which we may suffer or incur or which in any such case arise, directly or indirectly, out of or in connection with your instructions provided that nothing in the paragraph will require you to indemnify us in respect of any liability which may not by law be limited or excluded.

23.3 The benefit of this indemnity shall survive any termination of arrangements contained in the Engagement contract and shall be in addition to any rights which we may have at law. For the purposes of this paragraph “we” includes each of the partners and each and every employee, consultant, agent or sub-contractor.

24 Liability Insurance Cover

Where you instruct us to advise you in connection with any potential liability on your part, you should ascertain (if appropriate, with the assistance of your brokers) whether you are (or may be) covered by any relevant insurance in respect of either your potential legal liability and/or legal costs and expenses. If so, you should inform us of this fact, notify the insurers of the possible claim as soon as practicable and advise them of our involvement.

25 Force Majeure

We shall not incur any liability for any failure or delay in the performance of the obligations under the Engagement Contract arising out of or caused directly or indirectly by circumstances beyond our reasonable control (including acts of god, earthquakes, fires, floods, wars, civil or military disturbances, sabotage, terrorism, epidemics, riots, interruptions, loss or malfunctions of utilities, computers (hardware or software) or communication services, accidents, labour disputes, acts of any civil or military authority or governmental action). In the event of any such occurrence we will notify you as soon as reasonably practicable and shall use our best endeavours to resume performance as soon as reasonably possible.

PART 5 – GENERAL

26 Conflicts of Interest

26.1 Before accepting your instructions we shall endeavour to ascertain whether there is any potential conflict of interests which would prevent us from providing any of the Services.

26.2 We shall be free to act for any other client, whether generally or in respect of any unrelated matter, even though there is or may be a conflict between your interests (including in particular your commercial interests) and those of the other client, unless we, in our professional judgement, consider it would be inappropriate so to act.

26.3 We provide a range of services for a large number of clients and may be in a position where we are providing services to other clients which you might regard as giving rise to a conflict of interest. Where we become or are made aware of such circumstances, we will discuss with you the possibility of putting procedures in place to preserve confidentiality and ensure the advice and opinions which you receive from us are independent. However, if a conflict exists, we reserve the right to terminate the Engagement Contract immediately upon giving notice in writing to you and without any further liability on our part.

26.4 Unless otherwise specifically agreed in writing, we maintain the right to decide on the course to be adopted in the handling of any matter and the appropriate personnel to undertake the work.

26.5 We may act for both a vendor and purchaser on a transfer of land or for both a lessor and lessee, or for both a lender and a borrower, with the “informed consent” of both parties. “Informed Consent” means consent given in the knowledge that there is a potential conflict between the parties and that, as a result, we may be unable to act should a conflict arise, or from disclosing to each party the full knowledge which they may possess about the transaction, or that we may be unable to give advice to one party which conflicted with the interests of the other. If each party is content to proceed on that basis, we can properly act for both parties.

26.6 We may be obliged by law or under the Rules of Professional Conduct applicable to Advocates in Guernsey to stop acting for you on the matter in question.

27 Waiver

No failure, delay or forbearance by us in the exercise or enforcement of any rights available to us shall amount to or be deemed to be a waiver of any such rights.

28 Severability

Each paragraph, term or provision of these Terms of Business constitutes a separate and independent provision. If any paragraph, term or provision is determined by any court or authority of competent jurisdiction to be void, illegal or unenforceable, the remaining paragraphs, terms and provisions shall continue in full force and effect.

29 Notices

Any notice required to be given hereunder shall be in writing addressed to the party concerned at its address from time to time notified to the other for the purpose, failing which to the last known usual address of such party. Any notice:

- (a) delivered personally shall be deemed to have been given at the time of such delivery;
- (b) sent by letter post shall be deemed to have been given 2 days after posting; or
- (c) sent by airmail letter shall be deemed to have been given 3 days after posting.

30 Agent for Service of Process

30.1 You irrevocably appoint us to act as your agent for service of process in connection with any proceedings before any courts arising in relation to these Terms of Business and you agree that any notices, including (without limitation) any judicial process, issued in connection with these Terms of Business shall be deemed to be sufficiently served on you if sent to us as your agent for service of process.

30.2 You agree to the service of process relating to any proceedings by prepaid posting of a copy of the process to your last known address.

30.3 You agree that failure to notify you of the process will not invalidate the relevant proceedings.

31 Use of our Name

Our name, address, telephone, fax numbers, e-mail addresses and website address shall not (without our consent) be used by you in or on any notepaper or other documentation or in any advertising material.

32 Application of these Terms of Business

32.1 These Terms of Business supersede any earlier terms of business which may have been agreed with you and, in the absence of express agreement to the contrary, shall apply to the Services and all subsequent services which we provide to you.

32.2 From time to time it may be necessary for us to vary these Terms of Business. Where this is the case, we shall notify you of the proposed changes and, unless we hear from you to the contrary within 14 days after such notification, the amendments or new terms will come into effect from the end of that period.

33 Benefit of Terms of Business

The benefit of these Terms of Business may be relied on and enforced by each of our individual partners, employees, consultants and agents from time to time as well by you and us. To that extent, these Terms of Business are entered into by us as agent for each such person.

34 Law and Jurisdiction

34.1 These Terms of Business and the legal relationship between you and us shall be governed by and construed in accordance with the laws of Guernsey. You and we agree to refer any dispute arising out of or in connection with the Engagement Contract or otherwise to the exclusive jurisdiction of the courts of Guernsey. Nothing contained in this paragraph shall limit our right to take any action or proceedings arising out of, or in connection with, these Terms of Business in any other court of competent jurisdiction, nor shall our taking any such action or proceedings in one or more jurisdictions preclude any such action or proceedings being taken by us in any other jurisdiction (whether or not concurrently).

34.2 You irrevocably waive, and agree not to raise, any objection you may have now, or at any time, to the venue for any action or proceedings arising out of, or in connection with, these Terms of Business and/or any claim that any action or

proceedings arising out of, or in connection with, these Terms of Business have been brought in an inconvenient forum or otherwise.

34.3 You agree that any judgement or order of competent court of Our Jurisdiction resulting from any action or proceedings brought in accordance with the provisions of this paragraph shall be conclusive and binding on you and may be enforced against you in any court of any other jurisdiction.

35 Publicity

We are often required to provide to others details of our relevant experience, including particulars of matters in which we have been involved and the clients for whom we act. We also issue publicity material about the Firm. We will proceed on the basis that we are free to provide such details and to make a general reference to you as our client unless you inform us otherwise. In no event will we release specific or confidential information in relation to a matter without having obtained your prior consent.

36 Novation

36.1 We may transfer the benefit of the Engagement Contract to any partnership or other entity whether corporate or otherwise which carries on the business of our Firm in succession to it. You will accept the performance by such transferee of the Engagement Contract in substitution for that of this Firm. References in these Terms of Business, in any relevant Engagement Letter to the firm (or derivatives thereof) are deemed to include any such transferee.

36.2 Subject to the above paragraph, neither of us shall have the right to assign or transfer the benefit or burden of the Engagement Contract without the written consent of the other.

37 Data Protection

37.1 If, in connection with the provision of the Services, we receive or obtain personal information (personal data) this will (subject to any legal or regulatory requirements to the contrary) only be used and/or processed for the provision of the Services and for the purposes set out in paragraph 6. Personal information may also be disclosed in the circumstances set out in paragraph 6. By accepting these Terms of Business, you consent to the use, processing and disclosure of personal information as set out in this paragraph and paragraph 6.

37.2 In some cases, our personnel and our agents or third parties to whom we may disclose information in accordance with paragraph 6 may be located in other countries, in which event we will use our reasonable endeavours to ensure that your personal information and information about your connected persons is protected to the same extent and standards as we have agreed or are required to apply to it. By accepting these Terms of Business, you consent to any transfer of personal information to any such entity, wherever located, including outside of the European Economic Area.

37.3 You are responsible for obtaining the consent of all and any connected persons to their personal data being provided to us and used in the circumstances set out in this paragraph and in paragraph 6. Please inform us immediately if they do not agree. Please also inform us of any changes to the personal data which you or any connected person has provided us.

37.4 As set out in paragraph 6, we may use personal information disclosed to us to provide information about our services and events and to provide briefings and similar materials. In the event that you or any connected person does not wish to receive details of any of our marketing initiatives, you or they should write to us at our postal address by letter marked for the attention of the Head of Marketing, indicating that you or they do not wish to receive any such material either from us.

38 Arbitration

38.1 Any dispute between us arising out of or in connection with the Engagement Contract shall, at our election, be referred to arbitration, unless such reference is precluded by Guernsey law. Such election shall be made by notice in writing to that effect. We shall give such binding notice once the dispute has arisen, or within 28 days of a written request by you for us to make the election. If, without making such request, you issue any legal proceedings against us in respect of any such dispute, we may still elect for arbitration by notice to that effect given to you within 28 days of service of the proceedings on us, in which event you will take no further steps in the proceedings other than to procure their dismissal or stay.

38.2 If, notwithstanding the provisions of paragraph 23, there is a dispute between you and any partner or employee of the Firm arising out of or in connection with the Engagement Contract, such

partner or employee shall have the right to refer the dispute to arbitration subject to and in accordance with the following terms. Such election shall be made by notice in writing to that effect and shall be given by such partner or employee once the dispute has arisen, or within 28 days of a written request by you for such election to be made. If, without making such request, you issue any legal proceedings against such partner or employee or in respect of any such dispute, the partner or employee may still elect for arbitration by notice to that effect given to you within 28 days of service of the proceedings upon him or her, in which event you will take no further steps in the proceedings other than to procure their dismissal or stay.

38.3 Where we, or any such partner or employee have given such notice of election the dispute concerned will be referred to and resolved by arbitration by three arbitrators in accordance with the rules of the International Chamber of Commerce (ICC) for the time being in force (the ICC Rules), save as amended by this paragraph. Subject to anything to the contrary in the Engagement Letter (for disputes relating to an Engagement Letter) the language of the arbitration shall be English and the place and seat of the arbitration shall be in our jurisdiction. Copies of the ICC Rules can be provided on request. Unless the parties agree otherwise:

(a) the third arbitrator, who shall act as Chairman of the tribunal, shall be chosen by the two arbitrators appointed by or on behalf of the parties. If he is not chosen and nominated to the ICC for appointment within 30 days of the date of confirmation by the ICC of the later of the two party-appointed arbitrators to be confirmed, he shall be chosen by the ICC; and

(b) the tribunal shall draw up, and submit to the parties for signature, the Terms of Reference (as defined in the ICC Rules) within 21 days of receiving the file. The Terms of Reference shall not include a list of issues to be determined.

38.4 Where more than one such notice of election has been given (for example, a notice of election by the Firm and a notice of election by a partner or employee) it will generally be appropriate for the same arbitral tribunal to hear and determine all such disputes. Accordingly, you agree that, if requested by any two or more persons who have made such elections, you will:

(a) ask the ICC to appoint the same tribunal for the hearing and determination of each dispute concerning each such person, and consent to those

disputes being heard and determined concurrently; and

(b) (if a tribunal has already been appointed for the hearing and determination of a dispute concerning one such person), ask or concur in asking the tribunal to permit the joinder of the remaining such person or persons to that arbitration to hear and determine the disputes concerning each such person concurrently, and consent to those disputes being heard and determined concurrently, as so requested.

38.5 The terms of this paragraph 38 shall be enforceable by the partners and employees of the Firm.

PART 6 – INTERPRETATION

39 Definitions/Interpretations

39.1 The following terms used in these Terms of Business shall, unless the context indicates otherwise, have the meanings appearing below:

(a) “Associated Person” means any person who is not our client in relation to the Engagement Contract but who we agree shall be entitled to rely upon or receive our Services in relation to the Engagement Contract.

(b) “Client” means any person or persons instructing us or for whom Services are or are to be provided and includes the beneficial owners, controllers, officers and employees of any such person and shall in the case of more than one person mean such persons jointly and severally and shall include the survivor or survivors of them and, in the case of individuals, shall include the heirs, personal representatives, successors and assigns of each of them and, in the case of a company or other body corporate, shall include its successors and assigns.

(c) “Employees” means and includes the directors, other officers and staff of the Firm from time to time and their respective heirs, personal representatives and successors.

(d) “Our Jurisdiction” means the jurisdiction of the Member Firm which sends the Engagement Letter or provides the Services to you in each instance.

(e) “you” and “your” shall refer to the Client.

39.2 Words importing the singular shall include the plural and the masculine gender shall include

the feminine and the neuter and vice versa in each case and words importing persons shall include bodies of persons whether corporate or unincorporated.

39.3 Paragraph headings are inserted for convenience only and shall not affect the construction or interpretation of these Terms of Business.

SCHEDULE 2

Additional Terms

1. European Union Savings Tax Directive

In certain circumstances we pay interest on money held in our client account. If we do pay interest on money held in our client account, generally individuals who are resident in an EU state would receive such interest net of tax deducted at the rate applicable from time to time under the EU Savings Tax Directive, together with a calculation showing tax deducted and accounted for or to be accounted for, to the relevant tax authority. Corporate clients would generally be paid any interest without any tax deduction, but any such interest should be declared by recipients to the appropriate tax authority.

SCHEDULE 3

A. Verification - Individual

1. Verification of identity

In order to verify your legal name, address, date and place of birth and nationality we require a copy of one or more of the following documents verified by an Advocate of the Royal Court of Guernsey, Notary Public or Commissioner for Oaths:

- 1.1 a current passport (providing photographic evidence of identity);
- 1.2 a current national identity card;
- 1.3 a driving licence.
2. Verification of address
 - 2.1 a bank/credit card statement not more than 3 months old;
 - 2.2 correspondence;

- 2.3 lawyer's confirmation of property purchase, or legal document recognising title to property (low risk relationships and transactions only).

B. Verification - Legal bodies

1. This refers to bodies corporate, foundations, partnerships, associations or other bodies which are not natural persons (other than Trust relationships).

A copy of one or more of the following certified by the company secretary, director, manager or equivalent officer, an Advocate of the Royal Court of Guernsey, Notary Public or Commissioner for Oaths is suitable to verify the status of the legal body:

- 1.1 a copy of the Certificate of Incorporation;
- 1.2 a company registry search, if applicable, including confirmation that the legal body has not been, and is not in the process of being, dissolved, struck off, wound-up or terminated;
- 1.3 a copy of the latest audited accounts;
- 1.4 a copy of the Memorandum and Articles of Association/Incorporation;
- 1.5 a copy of the Directors' Register;
- 1.6 a copy of the Shareholders' Register;
- 1.7 a copy of the passports of the directors and officers.

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