



Butterfield

*General Terms  
and Conditions*

Butterfield Bank (Channel Islands) Limited

## General Terms and Conditions. Schedule 1

(Please see Section 38 for definitions and interpretation on page 9)

### 1. The Relationship between the Customer and the Bank

- 1.1 These General Terms and Conditions are a schedule to the Mandate. The Mandate and its schedules form a single agreement governing the relationship between the Customer and the Bank.
- 1.2 The Customer agrees that the Bank has no liability or obligation to the Customer other than as expressly stated in the Agreement.
- 1.3 The Bank has absolute discretion over which services are offered or provided to a Customer and may decide to withdraw any existing service or decline to provide any new service.
- 1.4 If the Bank does offer additional services to a Customer, the Customer may be required to enter into a Further Agreement for each additional service.
- 1.5 If there is any conflict between parts of the Agreement, the Bank in its absolute discretion shall determine which part shall prevail. If there is any conflict between the Agreement and any Further Agreement, the Further Agreement shall normally prevail, but the Bank has absolute discretion to decide otherwise.

### 2. Account documentation

- 2.1 The Bank shall decide on the format and completion requirements of all account documentation and may change such requirements as considered appropriate.
- 2.2 The Bank shall not open an Account for a Customer until a completed Mandate has been received, together with any information which the Bank considers necessary to fulfil its obligations under relevant legislation and its operating procedures.

### 3. Instructions

- 3.1 The Customer acknowledges that only the signatories and the signatures notified to the Bank on the Mandate (which the Bank has accepted) shall operate an account with the Bank and that the Mandate shall only be perfected, amended or terminated in writing.
- 3.2 The Customer must complete the "Additional Methods of Instruction" section of the Mandate in order to operate an account by:
  - i) telephone;
  - ii) facsimile;
  - iii) e-mail; or
  - iv) electronic signature, where the scanned signature of the Customer is provided by way of PDF or other document transmitted to the Bank by e-mail.
- 3.3 Instructions received by any such additional methods of instruction may be subject to further verification procedures, which may include, but not be limited to, a confirmatory telephone call to the Customer.
- 3.4 The Customer must complete a Further Agreement to use E-Services and the indemnity set out at 3.7 below applies to any use of E-Services.
- 3.5 All instructions shall continue in full force and effect until cancelled or superseded in writing.
- 3.6 The Customer acknowledges that the Bank will only act on instructions which can be carried out according to the rules, procedures and practice of any relevant exchange, settlement or payment system and the laws and regulations to which the Bank is subject.
- 3.7 The Customer acknowledges that use of the additional methods of instruction, set out in 3.2 above, may carry more risk than giving an instruction in writing and, in consideration of the Bank agreeing to act on instructions given other than in writing, the Customer irrevocably agrees in respect of such instructions:
  - i) to indemnify and keep indemnified the Bank from and against all claims, liabilities, costs and consequences, of whatever nature, which may be brought against the Bank or that the Bank may suffer because the Bank has acted or failed to act on an instruction whether wrongly or mistakenly (whether directly or indirectly);
  - ii) not to make any claim against the Bank because the Bank has acted or failed to act on an instruction whether wrongly or mistakenly or wholly or in part;
  - iii) not to make any claim against the Bank for failing to verify any instruction or seek confirmation of any instruction;
  - iv) not to make any claim against the Bank in respect of any instruction which may be acted on twice and that if the Customer decides to confirm the instruction in writing, to clearly label such confirmation "Confirmation of Previous Instruction – Avoid Duplication"; and
  - v) to take all reasonable steps to ensure that no unauthorised party may be in a position to give instructions to the Bank.
- 3.8 The Bank is not responsible for assessing whether the Customer has the mental capacity to give instructions to the Bank and may act on all instructions received in accordance with this Agreement. However, where the mental capacity of the Customer is, in the opinion of the Bank, questionable, the Bank may, in its absolute discretion, refuse to act on any instructions received and take steps to reverse any action already taken.

### 4. Customer authorisation

- 4.1 The Customer authorises the Bank to honour and comply with all cheques and drafts signed by the Customer and drawn upon the Bank whether the Account is in credit or in debit or may become overdrawn as a result of that instruction. The Customer acknowledges that the Bank may refuse to honour any instruction which would result in an overdraft or credit facility breaching any agreed limit.
- 4.2 The Customer further authorises the Bank to comply with any orders to withdraw or pay away any monies on an Account signed in accordance with the Mandate, including any instructions in respect of any securities or investments which are held by the Bank for the Customer under a Security Interest Agreement.

### 5. Accounts held by more than one Customer

- 5.1 When two or more Customers are named as the owner of an Account together in the books of the Bank, they acknowledge that they hold and own the Account jointly with right of survivorship and that each is jointly and severally liable with the others in respect of his obligations under this Agreement, and they acknowledge the provisions of paragraph 34.
- 5.2 Each Customer acknowledges that the law which applies to him as an individual, in relation to his estate on his death, may differ from Guernsey law and agrees that he shall inform the Bank in writing if he is incapable of bequeathing assets by survivorship.
- 5.3 The Customers acknowledge that each of the Customers who hold a joint Account together shall have all of the rights and be subject to all of the obligations in respect of that Account.



## General Terms and Conditions. Schedule 1 (continued)

- 5.4 Each Customer holding a joint Account acknowledges that any joint Customer (or his duly appointed attorney) in respect of that Account is authorised to instruct the Bank to execute all transactions on the Account which are in accordance with that Customer's powers of signature or instruction set out in the Mandate.
- 5.5 The Mandate for any Account held jointly can only be changed by written notice to the Bank signed by all of the Customers in relation to that particular Account.
- 5.6 In the event of the death of any Customer who holds an account jointly:
- the surviving Customers undertake to inform the Bank promptly of the death of any Customer;
  - the Account relationship shall continue with the surviving Customers to the exclusion of the estate of the deceased Customer and the Bank may rely on instructions given in accordance with the Mandate;
  - if any Account is overdrawn or otherwise in debit, the surviving Customers acknowledge that they are liable for the debt and that the death of one of the Customers shall not have diminished the debt in any way; and
  - the Bank shall terminate the Mandate in writing and require the surviving Customers to execute a new Mandate within 60 days of notification of the death of a Customer.
- 5.7 Each Customer undertakes to inform the Bank promptly if any of the other Customers with whom they hold a joint Account becomes mentally incapable or is declared incompetent.

### 6. Deposits

- 6.1 Deposits are accepted by the Bank in sterling and all major currencies, subject to the Bank's minimum balance requirement which varies according to currency and term.
- 6.2 Instructions for the rollover or termination of a fixed term deposit must be received in accordance with the Bank's deadline, as advised by the Bank from time to time. In the absence of such instructions, or adequate instructions, from the Customer, the deposit will, upon maturity, be renewed for an equivalent deposit period and otherwise upon identical terms to the matured deposit, save that the particular interest rate shall be the Bank's current rate for similar time deposits as at the date of making such further deposit.
- 6.3 The Customer is not permitted to terminate a fixed term deposit with effect from any date other than the maturity date of that fixed term deposit.

### 7. Payments received

- 7.1 Any funds received for the Account of the Customer (whether in the form of cheques, drafts, other analogous instruments or by electronic means) will be credited and applied to the Account under reserve, subject to confirmation of receipt of cleared funds. The Bank reserves the right to debit an Account in respect of credit entries representing either cheques, drafts or other payment orders received but unpaid, or remittances not unconditionally confirmed by its correspondent banks or funds which the Bank has received but has to return by virtue of an applicable rule or regulation. The Bank may, but shall not be obligated to, proceed at the expense of the Customer with protest and other formalities, even after expiry of the legal time limits.
- 7.2 The Bank requires 'pre-advice'/prior warning from a Customer in respect of the receipt of funds by an electronic payment system to enable the Bank to identify incoming monies sufficiently.
- 7.3 Where funds have been received by the Bank and need to be returned to their source for legal or other reasons, the Bank reserves the right to impose an administration fee as set out in the Schedule of Fees.

### 8. Interest rates

Interest rates applicable to Accounts depend on the type of Account, the amount invested and the term chosen. The Bank reserves the right to adjust rates for Accounts with no fixed rate, in the light of market conditions, and to amend its minimum balance requirement. The Bank reserves the right to charge you a negative rate of interest on positive balances. The Bank's interest rates are available from the Bank upon request. Interest rates may be subject to change due to fluctuations in the market and any quotation should be considered as indicative only.

### 9. Calculation and payment of interest

- 9.1 Credit interest, where payable, will be calculated on a daily basis on cleared balances and will be payable gross without deduction of tax (unless the Bank is required to make any deduction by an applicable law). Interest payable to a Customer on Accounts with no fixed maturity shall, unless notified by the Bank to the contrary, be paid quarterly or upon closure of an Account. Interest payable on Accounts with a fixed term shall be paid upon the expiration of the chosen term or, if such term is over 12 months' duration, at such times to be agreed between the Customer and the Bank.
- 9.2 Debit interest chargeable on overdrawn balances or, where chargeable, negative interest on positive balances, will be calculated on a daily basis and charged quarterly unless otherwise agreed.
- 9.3 Interest, whenever due or payable, will be debited or credited to the relevant Account or to another Account held by the Bank.

### 10. Accounts in foreign currency

The Bank may hold for the Account of the Customer monies or assets in foreign currencies at correspondent banks either in the country of the currency or elsewhere. The Customer is reminded that such holdings are subject to the laws and tax regime in force in the country of the correspondent bank and the Customer is liable for any additional costs which arise.

### 11. Credits and debits in foreign currency

The Bank shall be entitled to debit or credit any of the Accounts when the Customer does not possess an account in the currency of the transaction or where there are insufficient funds in the currency of the transaction.

### 12. Foreign exchange transactions

The Bank may execute foreign exchange transactions if so instructed by a Customer at the Bank's prevailing rate for that currency, which the Bank is able to obtain on the day the transaction is executed. The Bank may also accept limit or stop loss orders which will be executed on a best endeavours basis. Stop loss orders will be executed on the 'next best price' which, in a volatile market, could be quite different from the order level. A confirmation of each foreign exchange transaction will be issued by the Bank.

## General Terms and Conditions. Schedule 1 (continued)

### 13. Customer's responsibility to take independent advice

- 13.1 The Customer acknowledges that the Bank does not provide advice on the suitability or otherwise of its services and that it is the responsibility of the Customer to take whatever tax, accounting, investment or credit or any other relevant advice that the Customer may require.
- 13.2 If the Bank agrees to act as investment manager to the Customer, no services will be provided until the Customer has completed a Further Agreement which sets out the terms under which the services are to be provided.
- 13.3 If a Customer makes a request, the Bank may pass on market research or information or recommendations from an internal or external source. The Bank makes no representation warranty or guarantee as to the accuracy or completeness of any such information or recommendation, and shall not be responsible or liable for any consequences arising from the Customer deciding to make or refraining from an investment on the basis of such information or recommendation.

### 14. Dealing in securities or investments

- 14.1 The Bank may agree to purchase investment products on behalf of the Customer by way of an Execution-Only Transaction where there is no Further Agreement in place. Where the Bank does so, before acting it will inform the Customer in writing of: (i) any applicable fees and charges and the basis on which they are calculated; (ii) the Bank's best execution policy in force at the time; and (iii) certain information in connection with the Bank's categorisation of the Customer made pursuant to the Licensees (Conduct of Business) Rules 2016.
- 14.2 The Bank will not provide any advice on investments or any discretionary investment management services other than pursuant to a Further Agreement.
- 14.3 Each Execution-Only Transaction will be completed by the Bank on the basis that the Customer accepts full responsibility for the consequence of the transaction and has considered whether it is suitable in the light of the Customer's own financial situation, knowledge of investment market, tax situation and the risk that any such investment may lose its value.
- 14.4 The Customer acknowledges that the Bank will deal at the best price available to the Bank at the time and that Customers' orders may be aggregated at the Bank's discretion. The Bank may also accept limit orders in certain types of security, which will be dealt with on a best endeavours basis. The Customer further acknowledges that the price of certain securities may be difficult to obtain, for example when a security is illiquid or on a specialist market and that the Bank will apply best endeavours to obtain a price where possible.
- 14.5 The Customer acknowledges that all instructions must be given in sufficient time to allow the Bank to complete the transaction in accordance with the practice of the relevant market or investment and to allow for any foreign currency transfers. Complete and comprehensive instructions should therefore be given a minimum of two hours before the close of the market or one Business Day before the deadline for trading concerned and, where the investment must be paid for in a currency other than sterling, in sufficient time to allow for the transfer in that currency or any necessary foreign exchange transactions.
- 14.6 The Customer acknowledges that the amount that can be traded will be limited to the funds available on the Customer's account or via facilities of the Customer, held with the Bank.
- 14.7 After the Bank has effected a transaction for the Customer, it will provide a statement relating to the transaction to the Customer.

### 15. Precious metal accounts

If a Customer wishes to purchase precious metal on an execution only basis, the Bank shall handle the transaction in a metals account held at a correspondent bank. The Customer agrees to waive any right to call for physical delivery.

### 16. Derivative products

The Bank shall only execute orders as agent on behalf of the Customer in certain products derived from the securities, currency, commodity and interest rate markets (exchange traded derivative products) upon completion of a Further Agreement and the acknowledgement by the Customer of the special risks accompanying such an investment product.

### 17. Safekeeping

The Bank shall only act as custodian for investments at the request of the Customer and under the terms of the Safe Custody Agreement.

### 18. Statements

The Bank shall issue the Customer with statements at agreed intervals, but annually at a minimum. If duplicate or copy statements are required, a charge may be made as noted in the Schedule of Fees. The Customer agrees that unless the Customer so notifies the Bank, the Customer shall be deemed conclusively to have accepted all the matters contained in such statement as true and accurate in all respects. The Bank reserves the right to make adjustments to the Account without the prior approval of the Customer in relation to any error subsequently discovered by the Bank.

### 19. The Bank's right of set-off, combination and lien

### 20. Power to sell or close out

- 20.1 If, at a time monies become due or will or may become due in the future, as a result of a commitment entered into by the Bank on behalf of the Customer and the Bank is of the opinion that the Customer has not performed or may not be able or willing in the future to perform all or any of its obligations to the Bank, then the Bank may at its discretion and without liability to the Customer exercise the following powers:
- the power to sell or exchange such of the Customer's investments or such of the Customer's monies in foreign currencies under the Bank's control as the Bank may, at its discretion, select in order to realise funds sufficient to cover any outstanding amount; and/or
  - the power to cancel, close out, terminate or reverse any transaction or enter into any transaction or do anything which has the effect of reducing or eliminating any outstanding amount or of reducing or eliminating liability under any contracts, positions or commitments undertaken by the Bank on behalf of the Customer; and/or
  - the power to terminate or unwind any transaction where, in the Bank's opinion, the margin of security which has been provided has become inadequate and the provision of further security would not resolve the situation satisfactorily.

## General Terms and Conditions. Schedule 1 (continued)

### 21. Confidentiality

- 21.1 The Bank has a duty to keep confidential information and documents relating to the Customer which the Bank has received whilst providing services to the Customer under the Agreement or any Further Agreement. The Bank shall only disclose such information or documents with the specific permission of the Customer or under the following circumstances:
- i) as required by regulatory requirement, law or an order of a court of competent jurisdiction;
  - ii) where the Bank considers it appropriate or necessary in order for the Bank to exercise its rights and obligations under the Agreement or any Further Agreement;
  - iii) where the Customer has defaulted in the performance of its obligation to the Bank or obligations connected with the Account, and the Bank shall be entitled to disclose such information or documents to an interested party on request or if the Bank considers appropriate;
  - iv) the Bank will disclose all information necessary to its employees, agents or advisors and to organisations providing services such as correspondent, nominee or custodian services to enable those individuals or entities or the Bank to carry out properly the services set out in the Agreement or any Further Agreement;
  - v) where the information is already in the public domain through no action of the Bank;
  - vi) where a disclosure would be in the public interest;
  - vii) where the interests of the Bank require disclosure;
  - viii) where the Bank is purchasing or receiving a security or already has custody of a security on behalf of the Customer and this leads to an obligation for the Bank to disclose information regarding the Customer (including its identity) to domestic and/or foreign authorities or correspondents;
  - ix) to Butterfield, where the Bank is required to do so in order to comply with group regulatory compliance standards; and
  - x) as set out in paragraph 22 below.
- 21.2 The Customer expressly releases the Bank from any liability in respect of disclosures made in the circumstances set out in paragraph 21.1 and authorises the Bank to make such disclosures.
- 21.3 The Customer accepts that all telephone conversations with the Bank may be recorded. Such recordings will be the sole property of the Bank and may be used as evidence of a conversation in the event of an error or dispute. The Customer agrees to accept such recordings as conclusive evidence of the content of the telephone call recorded.

### 22. Taxation and Customer information disclosure

- 22.1 The Bank is subject to certain tax information disclosure obligations and may become subject to further obligations of this type in the future (together, Disclosure Obligations). Each Customer acknowledges and agrees that:
- i) it is his own responsibility to provide the Bank with any up-to-date form as specified by any applicable Tax Authority for the purpose of satisfying the Disclosure Obligations;
  - ii) it is his own responsibility to provide the Bank with any further details or information that the Bank may require in order to discharge any Disclosure Obligations, which may include (without limitation) information on natural persons that control the Customer;
  - iii) the Bank shall provide such information to the Tax Authority in Guernsey or, where relevant, in any other relevant jurisdiction, which the Bank considers necessary or desirable in accordance with its compliance policies from time to time in force; and
  - iv) the Bank may, if required by rules relating to the relevant Disclosure Obligations, deduct withholding tax from payments to or for the benefit of the Customer or any persons that control the Customer.
- 22.2 The Customer further acknowledges and agrees that the provisions of paragraph 22.1 shall apply equally, mutatis mutandis, to any other information reporting requirements or legislation that may apply in future for the reporting of information in relation to Customers who are, or who are controlled by, citizens or residents of the United States, the United Kingdom or any other jurisdiction.
- 22.3 The Customer undertakes to inform the Bank if they change their address, registered office, nationality, control, ownership or domicile in order to allow the Bank to fully comply with its obligations.
- 22.4 The US impose a federal estate tax on the estate of an individual who holds US citizenship or who is a resident of the US. However, such estate tax is also imposed on the estate of an NRA. An NRA may only be subject to US federal tax in respect of US situs assets. US situs assets are assets which are physically or economically linked to the US and these may include, without limitation, securities (e.g. shares, bonus, options and warrants) issued by or relating to US corporations, real estate located in the US and investments in certain US investment funds. The US estate tax is imposed at progressive rates. The 2013 estate tax rates vary from 18% to 40% but these rates may change in the future. The estate of an NRA is exempt from US tax for the first USD 60,000 (the USD 60,000 is the tax exempt amount for 2013, which amount may change in the future). In addition, if an NRA is a resident of a country which has concluded an estate tax treaty with the US, the estate of such NRA may be entitled to a higher exemption of US estate tax. When an NRA passes away, the US federal tax law requires the executor of the estate to file a US federal estate tax return if the amount of taxable US situs assets exceeds, at the time of death, USD 60,000. The US federal estate tax also makes the executor responsible for the payment of the federal estate tax imposed on the taxable estate of the NRA. A federal estate tax return should generally be filed no later than nine months from the NRA's date of death, although a six month extension of the time to file an estate tax return is available upon appropriate request. After filing of the federal estate tax return and once the IRS is satisfied that the estate tax has been fully discharged or provided for, the IRS will issue a transfer certificate. In respect of NRA's having US situs assets in excess of USD 60,000 placed in custody with the Bank, the Bank reserves the right to request for a copy of a transfer certificate issued by the IRS before releasing all of the NRA's estate placed in the Bank's custody.

### 23. Complaints

The Bank will deal with any complaints received from a Customer expeditiously. The Customer is requested to put any complaint in writing (which includes facsimile or e-mail) to ensure that the Bank can identify the precise nature of the complaint and address any complaint to the Bank's managing director initially. The Bank shall acknowledge any complaint promptly upon receipt and in any event within five Business Days. If we do not resolve the complaint internally, you can also contact the Channel Islands Financial Ombudsman Service at [enquiries@ci-fo.org](mailto:enquiries@ci-fo.org)

## General Terms and Conditions. Schedule 1 (continued)

### 24. Fees

- 24.1 The Bank shall be entitled to charge fees as set out in the Schedule of Fees in force from time to time and the fees shall be deducted from the relevant Account. The Bank may from time to time make changes or additions to the Schedule of Fees in its absolute discretion. The Bank will inform the Customer of any variations by written notice and all such variations shall take effect two months from deemed receipt of such notice. The Customer is reminded that any costs or expenses incurred by the Bank in carrying out transactions on the Customer's behalf shall also be deducted from the relevant Account.
- 24.2 Further, the Bank reserves the right to charge additional fees at its discretion for any extra work undertaken in respect of a Customer's Account, where the Bank has been forced to incur extra time or external fees including (but not limited to) as a result of the Customer's behaviour, requests, legal situation or involvement in any legal proceedings. If the Bank does intend to levy additional fees, the Customer will be informed in writing as soon as possible.
- 24.3 In addition, the Customer acknowledges that where an investment becomes of nil value, the Bank is still entitled to charge the minimum portfolio fee to cover the costs of any administrative or other necessary expenses it may incur.

### 25. Conflict of interest

- 25.1 The Customer acknowledges that the Bank may sometimes be placed in a position of conflict of interest in its dealings with its Customers, Associate Companies or any third parties.
- 25.2 Such conflict of interest may result in the Bank having information which could be of financial or other benefit to the Customer. The Customer acknowledges that the Bank is entitled to keep confidential all such information and the Customer is not entitled to receive such information.
- 25.3 Further, the Bank may receive commission, fees, retrocessions and other payments where there may be a conflict of interest and the Customer has no right to receive any portion of such funds.

### 26. Limitation of liability

- 26.1 The Bank and its employees, officers or agents shall not be liable for any loss or damage sustained by the Customer arising out of the Bank's provision of services under (or following termination of) this Agreement whether directly or indirectly, unless and to the extent that such loss or damage is caused by gross negligence (whether gross or otherwise), fraud or wilful default by the Bank and in all circumstances the liability of the Bank shall be limited to the return of the principal, where relevant, and loss of interest.
- 26.2 The Customer undertakes to take all reasonable steps to prevent fraud or any other criminal activity on their Accounts. In the event that any fraud or any other criminal activity is suspected or discovered, the Customer undertakes to inform the Bank as soon as reasonably practicable and then the police and any other relevant authorities of the potential crime. The Bank agrees to provide assistance to the Customer and the investigating authorities but accepts no responsibility or liability whatsoever for the conduct of the investigation or the accuracy of the information presented to the investigating authorities.

### 27. Disputes and legal proceedings

- 27.1 If the Bank becomes aware of any Dispute, the Bank may take such actions to preserve its interests as the Bank considers appropriate.
- 27.2 The Customer agrees to provide such assistance and information relating to a Dispute as the Bank shall request and undertakes to pay all the costs and expenses required by the Bank to fund the resolution of the Dispute in such a manner as the Bank shall reasonably request.
- 27.3 The Customer further agrees that the Bank may suspend a Customer's Accounts pending resolution of a Dispute if so advised by the Bank's legal advisers, or as the Bank may reasonably decide until the Bank has been able to receive legal advice.
- 27.4 The Customer acknowledges that where the Bank considers it necessary or desirable to allow the Bank to take advantage of any defence or make any legal argument, the Bank may disclose any information in respect of the Account or Customer which the Bank considers necessary or desirable for the purposes of a Dispute.
- 27.5 The Customer acknowledges that a Dispute may arise after the termination of the relationship under this Agreement and undertakes to act in accordance with the provisions of this section, notwithstanding such termination.

### 28. Changes to this Agreement

- 28.1 The Bank may from time to time make changes or additions to this Agreement in its absolute discretion. The Bank will inform the Customer of any variations by written notice and, save as required by paragraph 28.2 below, all such variations shall take effect two months from deemed receipt of the notice.
- 28.2 If for legal or regulatory reasons, the Bank is required to make any changes which have immediate effect, the Bank will place a notice on the Bank's website and send written notice to each Customer.
- 28.3 The Bank will provide copies of this Agreement in electronic format to any Customer who elects to receive documents from the Bank in electronic format.

### 29. Assignment and transfer of Agreement

- 29.1 The Bank may assign, novate or transfer this Agreement.
- 29.2 The Customer acknowledges that the provisions of this Agreement shall continue and remain in effect and be binding on the Customer notwithstanding:
- 29.2.1 any amalgamation or merger that may be effected by the Bank with any other appropriately authorised member of the Bank's group or to another company which succeeds to the business of the Bank (a "Transferee");
- 29.2.2 any reconstruction by the Bank involving the formation of, and transfer of the whole or any part of its undertaking and assets to, a Transferee; and
- 29.2.3 the sale or transfer of the whole or any part of the Bank's undertaking and assets to a Transferee, in each case a "Transfer Event".
- 29.3 The Customer agrees that, as may be necessary or expedient in order to give full effect to a Transfer Event, the Bank may novate the Agreement to the Transferee by giving written notice of the Transfer Event to the Customer, with the consequence that the Agreement shall, with effect from the effective date of the Transfer Event, take effect as if the Transferee had been named in this Agreement instead of, or in addition to, the Bank.
- 29.4 The Agreement is personal to the Customer and shall not be capable of assignment by the Customer.

## General Terms and Conditions. Schedule 1 (continued)

### 30. Termination of banking relationship

- 30.1 The Customer's banking relationship shall continue with the Bank until terminated in writing by either the Bank or the Customer.
- 30.2 The Customer agrees to give the Bank 30 days' written notice of any such termination and the Bank shall give the Customer 60 days' written notice of any such termination.
- 30.3 The Bank reserves the right to terminate any Customer's banking relationship immediately if the Customer commits a serious breach of the Agreement or any Further Agreement.
- 30.4 If the Customer has any outstanding obligations to the Bank, the Bank shall require the Customer to honour those commitments and the Customer agrees to do so as directed by the Bank.

### 31. Notices and correspondence

- 31.1 The Bank shall deliver any correspondence to a Customer at the address supplied on the Mandate and will only change the address if notified in writing by the Customer.
- 31.2 Correspondence sent to a Customer by post is deemed to be received two Business Days after the date of dispatch, or four Business Days after the date of dispatch if the Customer is resident outside of the Bailiwick of Guernsey.
- 31.3 The Bank may contact the Customer by facsimile, e-mail or telephone, if considered appropriate, and shall deem any notice sent to have been received one Business Day after transmission is successful, or immediately if by telephone.
- 31.4 The Bank may at the Customer's request send correspondence, statements and valuations including confidential information by e-mail or facsimile. The Customer accepts the risk that any confidential information sent by e-mail or facsimile may not be as secure as if it were sent by post. In consideration of the Bank agreeing to send such confidential information by facsimile or e-mail, the Customer (and where there is more than one Customer, jointly and severally), irrevocably agrees:
- 31.4.1 to indemnify and keep indemnified the Bank from and against all claims, liabilities, consequences of whatever nature which may be brought against the Bank or that the Bank may suffer, because confidential information has been obtained by anyone other than the addressee, or the confidential information has been altered during transmission (whether directly or indirectly); and
- 31.4.2 not to make any claim against the Bank arising out of the e-mail or facsimile transmission of confidential information.

### 32. Business days

The Bank shall be open for business on Business Days for such hours as the Bank shall determine. The Customer acknowledges that any instructions given outside of these hours shall not be acted upon until the beginning of the next Business Day and that there may be further delays as a consequence of public holidays or non-banking days in other jurisdictions.

### 33. Force majeure

The Bank shall not be liable if there is any total or partial failure of performance of its duties and obligations under this Agreement which happens because of an act of God, fire, act of government or state, war, civil commotion, terrorist act, insurrection, embargo, breakdown of computer system or other machine failure, inability to communicate with market makers or other professional wholesale agents for whatever reason, or other disputes of whatever nature or any other reason outside of the Bank's control.

### 34. Droit de division

Each Customer waives any right which the Customer may have under the existing or future law of the Island of Guernsey whether by virtue of the "droit de division" or otherwise to require that any liability under the Agreement be divided or apportioned with any other person or reduced in any manner whatsoever.

### 35. Data protection

- 35.1 The Bank is a non-cellular company limited by shares incorporated in the Island of Guernsey which has notified under the Data Protection Law. The Bank collects, processes and stores Personal Data (as defined below) in relation to the Customer (the Customer himself/herself or, if the Customer is a legal person, the investors, shareholders, the ultimate beneficial owners, the officers, the authorised representatives, any User and any other data subject related to the Customer, together the "Data Subjects") in compliance with the Data Protection Law and any other data protection law applicable in Guernsey (together the "Data Protection Legislation"). In this respect, the Bank acts as data controller.
- 35.2 Data that may be processed by the Bank and transferred to the Addressees (as defined below) comprise:
- i) name, address, contact details, nationality, main business activity, photograph, civil status and family, occupation and work history, hobbies, public life related information, financial situation, credit related information, account information, telephone conversations and any type of electronic communications such as letters, emails and fax messages, tax identification number and any related tax information, national identification number, authenticating data, identifier under the MiFID Regulations, financial objectives, knowledge and experience in financial investment services, credit products and in any product or service offered by the Bank – of the Customer and the Data Subjects and any other information that has been provided by the Customer or the Data Subjects;
  - ii) transactions performed in the Customer's Account with the Bank or contemplated transactions, agreements entered into with the Bank and any other information related to the Customer's banking relationship with the Bank;
  - iii) any information relating to the Customer or the Data Subjects resulting from the KYC/AML checks carried out by the Bank; and
  - iv) any information relating to the Customer or the Data Subjects that may identify, directly or indirectly, the Customer or the Data Subjects. (together the "Personal Data").
- 35.3 The Bank will process (including but not limited to collect, use, store and transfer) Personal Data:
- i) for the performance of the agreements entered into between the Customer and the Bank and the provision of the Services to the Customer; or
  - ii) to take steps at the request of the Data Subject prior to entering into an agreement; or
  - iii) for compliance with legal and regulatory obligations to which the Bank is subject (including but not limited to any obligations arising under the Disclosure Obligations, FATCA and the MiFID Regulations); or

## General Terms and Conditions. Schedule 1 (continued)

- iv) for the performance of a task carried out in the public interest, namely carrying out monitoring measures with respect to the Customer pursuant to applicable law relative to the fight against money laundering and terrorist financing; or
- v) for satisfying the Bank's legitimate interests, such as seeking maximum efficiency (including administrative, organisational and IT efficiency) in the internal organisation of the Bank and any Associate Company, supporting efficient and effective management of the Butterfield Group and performing agreements in the interest of the Customer's investors, shareholders and ultimate beneficial owners; or
- vi) as far as necessary, on the basis of the Customer's consent.

More particularly, the Bank shall process and may have to transfer Personal Data to the Addressees to enable the Bank to process the Customer's payment instructions, to assess and accept the Customer and to manage the Customer's relationships, to manage the Accounts, loans, investment services and related products and services, to execute transactions of any kind; to enter into and execute agreements with the Customer, to prevent misuse and fraud, to secure communication channels; to perform analysis and establish statistics and tests with respect to Personal Data; to manage risks, disputes, collections, debt recovery, complaints and litigations; to demonstrate business transactions and communications, to develop commercial offers; to manage transactions surveillance and monitoring and comply with legal obligations to have adequate and professional systems in place in respect of applicable local laws and the laws in any other relevant jurisdiction and reporting obligations including but not limited to the Disclosure Obligations; to conduct a risk assessment as prescribed by applicable legal provisions by collecting and archiving required documentary evidence regarding the identity and business activity; to conduct a risk management control and global supervision of risk exposure on a real time basis; to comply with any applicable regulatory obligations in Guernsey, or where relevant, in any other relevant jurisdiction, which the Bank considers necessary or desirable; to enable the Customer to make use of a state-of-the-art IT system for its banking operations and in general to comply with all relevant EU and local rules and regulations applicable to the Bank, (together the "Purposes").

- 35.4 The Customer is informed that the Bank and its directors, officers, employees and agents (the "Authorized Persons"), may disclose and transmit to the Addressees (as defined below), at their own discretion, without delay and without having to revert to the Customer beforehand, the Customer's data, including the Personal Data, to the extent that they deem such disclosure or transmission to be necessary or desirable for satisfying the Purposes.
- 35.5 The Customer's data, including the Personal Data, may be transmitted to the following addressees (the "Addressees") which may include but, without limitation and for the avoidance of doubt, the Customer's consent under this paragraph 35 extends to the transfer of Personal Data out of the European Economic Area:
- i) an Associate Company. All Associate Companies have agreed on Binding Corporate Rules, a set of mandatory standards for the protection of data that must be applied to the processing of any Customer data. The Binding Corporate Rules will be made available on the website of Butterfield Bank (Channel Islands) Limited at the following address: [www.ci.butterfieldgroup.com](http://www.ci.butterfieldgroup.com). The Customer may also obtain a copy of the Binding Corporate Rules or, should the Binding Corporate Rules not apply to a specific situation, any other document demonstrating the existence of appropriate safeguards, by contacting the Bank;
  - ii) The Bank's lawyers, notaries, bailiffs, external auditors or other advisors etc., in order to comply with its legal obligations and to defend its legitimate interest;
  - iii) Third-party service providers that provide IT or other services to the Bank or the Associate Companies that may be located in countries outside of the European Economic Area. Depending on the situation, the Bank will enter with the concerned third-party service providers into the relevant contractual clauses or the standard data protection clauses that may be required under the Data Protection Legislation and provided the instructions of the Bank are complied with;
  - iv) Any regulatory, public, governmental, administrative or judicial authority in Guernsey or abroad (such as the Guernsey Financial Services Commission, European Central Bank, Dutch Central Bank, US Internal Revenue Service, foreign courts or tribunals, etc.) or any stock exchange or to any person empowered to require such information by or under any legal enactment; and
  - v) Third-party banks, if the Customer has requested that money be transferred to accounts held with them.
- 35.6 The Customer confirms and warrants to the Bank that:
- i) any Data Subject related to the Customer has been informed of the processing of Personal Data carried out by the Bank, Butterfield and of the transfer of the Personal Data to the Addressees as described in these General Terms and Conditions;
  - ii) as far as necessary, the Customer has received the Data Subjects' prior written consent in this regard;
  - iii) the Customer will inform and request as far as necessary the prior written consent of any new Data Subject regarding the processing and transfer of their Personal Data by the Bank or any Associated Company.
- 35.7 The Customer also acknowledges that whenever the Customer uses E-Services or contacts the Bank by e-mail, Personal Data is transported via an open network (the internet) that is accessible to the public. Personal Data is therefore often transmitted across borders without any controls. Although Personal Data provided through E-Services is transmitted in encrypted format, normal e-mails are not and neither is the identity of the sender or recipient. Any third party may read these details and draw conclusions about existing accounts.
- 35.8 The Customer unconditionally and irrevocably agrees to indemnify and hold harmless the Bank from and against any and all liabilities resulting from, and/or arising in connection with any claim against the Bank for non-compliance for any reason with the aforementioned obligation to inform and obtain the consent of any of the Data Subjects related to the Customer.
- 35.9 Subject to the conditions of the Data Protection Legislation, the Customer and any Data Subject have:
- i) a right to access their Personal Data and may ask for a rectification thereof in cases where such Personal Data is inaccurate and incomplete (including when these Personal Data is transferred to a third party including a public or a governmental entity)
  - ii) the right to request from the Bank erasure of their Personal Data or restriction of processing of the Personal Data or to object to the processing of the Personal Data by the Bank, in particular for marketing purposes, or
  - iii) where relevant, to request the portability of their Personal Data. The Customer and the Data Subjects also have the right to lodge a complaint with the appropriate supervisory authority.



## General Terms and Conditions. Schedule 1 (continued)

- 35.10 The Customer and, in general, any Data Subject may at its discretion refuse to communicate certain Personal Data to the Bank, thereby precluding the Bank from using such Personal Data. However, such refusal or preclusion may be an obstacle to the entry into or to the continuation of the relationship between the Bank and the Customer. The Bank will inform the Customer in the event the communication of Personal Data would become mandatory under certain circumstances.
- Likewise, to the extent that the Bank shall be legally required to obtain the Customer's consent with regard to certain types of processing, the Customer will be invited to complete and sign a declaration of consent.
- In case the Customer does not agree to sign the declaration of consent or refuse to communicate certain Personal Data or instruct the Bank to restrict or stop a Personal Data processing or to erase Personal Data which makes difficult, in the Bank's opinion, to continue the banking relationship, either the Customer, without prior notice, or the Bank, with the prior notice foreseen in these General Terms and Conditions, may (without being obliged to) terminate the banking relationship.
- 35.11 All Personal Data related to the Customer shall not be retained for longer than the time required for satisfying the Purposes, subject to the legal periods of limitation and to the situations where the applicable laws require that the Personal Data be retained for a certain period of time after the termination of the relationship. Consequently, the Customer is informed that his/her Personal Data may be processed by the Bank or the Addressees after the termination of the banking relationship between the Customer and the Bank, only for specific purposes, such as the compliance with legal obligations or the establishment, exercise or defence of legal claims, or historical or statistical purposes which the Customer accepts.
- 35.12 More specific information in relation to the processing of Personal Data and any updates or changes in relation thereto is provided to the Customer via the website of the Bank, by any notification letter or notification in the statements of accounts. The Customer is invited to access regularly such website in order to be duly informed of the relevant changes and of any updates with respect to the way Personal Data is processed.

### 36. Regulatory details

- 36.1 The Bank is regulated by the Guernsey Financial Services Commission and is licensed under The Banking Supervision (Bailiwick of Guernsey) Law, 1994 and The Protection of Investors (Bailiwick of Guernsey) Law, 1987.
- 36.2 As a licensed bank in Guernsey, the Bank is a participant in the Deposit Compensation Scheme.
- 36.3 Further information and a leaflet about the Deposit Compensation Scheme is available at:
- Website: [www.dcs.gg](http://www.dcs.gg)  
Telephone: +44 (0) 1481 722756  
Post: P.O. Box 33  
St Peter Port  
Guernsey  
GY1 4AT
- 36.4 It is acknowledged that the UK Financial Services Compensation Scheme and other similar international deposit compensation schemes do not apply in Guernsey.
- 36.5 It is acknowledged that the Bank places funds with Butterfield, the Bank's parent company and accordingly the Bank's financial standing is linked to Butterfield. Information regarding the financial standing of Butterfield is publicly available.
- 36.6 The Bank is regulated in the UK in respect of qualifying mortgage business by the Financial Conduct Authority.

### 37. Law relating to this Agreement

- 37.1 All the legal relationships between a Customer and the Bank are governed by the laws of the Bailiwick of Guernsey. The Customer agrees that the place of jurisdiction for all legal proceedings is Guernsey. The Bank retains the right to bring proceedings against a Customer in courts where the Customer is domiciled or before any other competent court.
- 37.2 Where a Customer holds assets with the Bank which involves the Bank's correspondent banks elsewhere, the Customer acknowledges that any assets held by the Bank outside of Guernsey on behalf of a Customer are held in accordance with the law of that jurisdiction and that the Customer is therefore bound by such laws and practice.
- 37.3 The Customer agrees that if one or more paragraphs of this Agreement is declared invalid, illegal or unenforceable, the rest of the Agreement remains valid.

### 38. Definitions and interpretation

- 38.1 In these General Terms and Conditions (unless the context requires otherwise):
- "Account" means, unless otherwise agreed in writing with the Bank in any case, each of the accounts or Custody Accounts (as defined in the Safe Custody Agreement) of the Customer with the Bank and includes any sub-account or re-designation of account or any of them, as appropriate;
- "Agreement" means the Mandate and each of the schedules thereto, including the General Terms and Conditions, together with the Schedule of Fees;
- "Associate Company" means any firm or company which is within The Bank of N.T. Butterfield and Son Limited group of companies;
- "at any time" includes from time to time and vice versa;
- "Bank" means Butterfield Bank (Channel Islands) Limited and includes the Bank's successors, assigns and nominees and any branch of the Bank whether in Guernsey or elsewhere;
- "Business Day" means any day on which banks are open for full banking business in the Island of Guernsey;
- "Butterfield" means Butterfield Bank (Guernsey) Limited;
- "Customer" means each person specified in the Mandate as having an Account or business relationship at any time with the Bank, together with the Customer's heirs, executors, administrators, successors and assigns (as appropriate);
- "Data Protection Law" means The Data Protection (Bailiwick of Guernsey) Law, 2017;
- "Deposit Compensation Scheme" means the Guernsey Banking Deposit Compensation Scheme established by The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008;
- "Dispute" means a dispute which may or does result in legal proceedings being brought against the Bank, either directly or as a third party, in respect of an Account and/or a Customer;

## General Terms and Conditions. Schedule 1 (continued)

"Execution-Only Transaction" means a transaction where the Bank acts on the instructions of a Customer to acquire or dispose of an investment for the Customer, but provides no advice to the Customer and exercises no discretion in respect of the instruction other than in order to achieve best execution;

"E-Services" means the electronic internet banking system made available by the Bank to the Customer under the Mandate and schedule 4 of the Mandate;

"FATCA" means sections 1471 to 1474 of the United States Internal Revenue Code of 1986, United States Treasury Regulations made thereunder and any agreement relating thereto (including any amendments, modification, consolidation, re-enactment or replacement thereof made from time to time);

"Further Agreement" means a separate agreement between the Customer and the Bank or an associated company for the provision of additional services;

"General Terms and Conditions" means these general terms and conditions;

"IRS" means the United States Internal Revenue Service;

"Mandate" means the mandate to which these General Terms and Conditions are scheduled or (where applicable) such other mandate as the Customer may have with the Bank and, unless the context otherwise requires, includes the schedules to the Mandate;

"MiFID Regulations" means the Markets in Financial Instruments Directive 2004/39/EC and Markets in Financial Instruments (MiFID II) Directive 2014/65/EU (including, any amendments, modification, consolidation, re-enactment or replacement thereof made from time to time);

"NRA" means an individual who, at the time of death, does not hold US citizenship and is not a resident of the US;

"Safe Custody Agreement" means the safe custody agreement in Schedule 3;

"Schedule of Fees" means the schedule of fees (or any equivalent document) produced by the Bank in respect of its services as amended supplemented or replaced from time to time;

"Security Interest Agreement" means the security interest agreement in Schedule 2;

"Services" means the services provided by the Bank to the Customer under the Agreement;

"Tax Authority" means The States of Guernsey Income Tax Authority and equivalent in each other jurisdiction anywhere in the world; and

"United States" or "US" means the United States of America.

38.2 Unless the context requires otherwise:

words importing the singular shall, where the context admits, include the plural and vice versa; words importing a gender shall, where the context permits, include the other gender;

a reference to a "person" includes any body corporate or unincorporated;

reference to these General Terms and Conditions or to any agreement or document referred to in this Agreement shall be construed as a reference to such agreement or document as amended, varied, modified, supplemented, restated, novated or replaced from time to time;

reference to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as the same may have been or may be amended, modified, extended, consolidated, re-enacted or replaced at any time;

references to sections and paragraphs are, unless otherwise stated, to sections and paragraphs in these General Terms and Conditions; and paragraph headings are for ease of reference only.

38.3 Date of issue: these General Terms and Conditions were issued on 1st July 2019.

## General Terms and Conditions. Schedule 2

### Security Interest Agreement

All Intangible Moveable Property

#### 1. Definitions and interpretation

1.1 In this Security Interest Agreement (unless the context requires otherwise) words and phrases shall have the meanings given to them in the Law and the General Terms and Conditions and:

"Assigned Rights" means:

(a) in respect of the Securities all the Customer's right, title and interest therein and thereto and in and to (i) all dividends interest and other income paid or payable on the Securities and (ii) all securities, rights, moneys or other property accruing or offered at any time by way of redemption, bonus, preference, option, consolidation, sub-division, conversion, exchange or otherwise to or in respect of the Securities or such other securities; and

(b) in respect of each Relevant Agreement all the Customer's right, title and interest therein and thereto;

"Certificate of Title" means at any time such certificates of title to shares, stock, debentures, bonds or other securities (if any) issued by or which are otherwise obligations of companies incorporated in Guernsey which shall have been deposited with the Bank (or with some person other than the Customer on behalf of the Secured Party);

"Accommodation" shall be construed in its widest possible sense;

"Charged Account" means each of the Accounts and any account substituted as a Charged Account by written agreement between the parties;

"Charged Balance" means the balance at any time on each Charged Account and includes all interest accrued;

"Charged Property" means all intangible moveable property of which the title policy or certificate of title to securities (including uncertificated securities) is held by or to the order of the Bank for the Customer;

"Collateral" means the Assigned Rights, the Charged Balance, the Charged Property, the Derivative Asset and any other property at any time subject to the security interest hereby created or any part thereof;

"Derivative Asset" means any interest, dividend, security, right, policy of life assurance money or other intangible moveable property at any time hereafter derived from or created or issued in substitution for the Charged Balance and/or the Charged Property;

"Event of Default" means any of those events specified or referred to in clause 10;

"Indebtedness" means:

## General Terms and Conditions. Schedule 2 (continued)

- (a) all the Customer's present or future indebtedness to the Bank on any current or other Account (notwithstanding that there may from time to time be a credit balance on any such Account);
- (b) all the Customer's other liabilities whatever to the Bank whether as principal or surety including (without limitation) liabilities on account of money advanced (whether due on demand or upon notice or at fixed dates) or on account of obligations with respect to letters of credit guarantees and indemnities whether present, future, actual or contingent and whether or not matured or accrued due and whether incurred solely, severally or jointly with any other person and whether in sterling or in any other currency; and
- (c) all interest commission and bank charges and all other costs and expenses on a full indemnity basis charged or incurred by the Bank in connection with any indebtedness and liabilities, including those incurred in perfecting, enforcing or attempting to perfect or enforce this Security Interest Agreement or any other security in favour of the Bank at any time and its rights thereunder and includes any part of the Indebtedness;

"Relevant Agreements" means each investment management agreement and Safe Custody Agreement to which the Customer is party (if any), each such agreement substituted therefore pursuant to the terms hereof and each other agreement agreed by the parties to be a Relevant Agreement for the purpose hereof; and

"Securities" means at any time all shares, stock, debentures, bonds or other securities (if any) (i) which are held for the benefit of the Obligor pursuant to a Relevant Agreement (or, where such Relevant Agreement has terminated for any reason whatsoever, which are held by the counterparty to such Relevant Agreement for the benefit of the Customer) or, (ii) to which the Certificates of Title relate or, (iii) are referred to in, or held by reference to, any custody account maintained pursuant to a Relevant Agreement

"Law" means the Security Interests (Guernsey) Law, 1993 as amended or substituted from time to time.

- 1.2 This Security Interest Agreement shall be deemed to form a single Agreement with the Mandate and the other Schedules to the Mandate.
- 1.3 The Bank shall be the "secured party", the Customer shall be the "debtor" and the Events of Default shall be the "events of default" for the purposes of the Law.
- 1.4 For the avoidance of doubt, the date of this Security Interest Agreement shall be the date of the Mandate.

### 2. Application of General Terms and Conditions

Except where inconsistent with this Security Interest Agreement, the General Terms and Conditions shall be deemed to be incorporated in this Security Interest Agreement (provided that each reference to the General Terms and Conditions shall be deemed to be a reference to this Security Interest Agreement and otherwise with all necessary changes).

### 3. Security interests

- 3.1 The Customer covenants with the Bank to discharge the Indebtedness and to perform all its other obligations to the Bank on demand and as a continuing security to the Bank for such discharge and performance:
  - 3.1.1 grants control of the Charged Account to the Bank;
  - 3.1.2 assigns the Assigned Rights to the Bank and confirms that notice of assignment shall be deemed to have been given to the Bank in its capacity as custodian and confirmed by execution of the Mandate by or on behalf of the Customer;
  - 3.1.3 undertakes immediately to deposit with the Bank, pursuant to this Security Interest Agreement, all certificates, policies and title to any of the Collateral including without limitation the Certificates of Title now or at any time not held by the Bank as the Bank may require;
  - 3.1.4 agrees that all certificates, policies and title to any of the Collateral (including uncertificated securities) including without limitation the Certificates of Title in the possession of the Bank and held to the order of the Customer now or at any time, shall be held by the Bank, or by any person on its behalf subject to this Security Interest Agreement (notwithstanding the terms of any other agreement between the Bank and the Debtor in respect thereof);
  - 3.1.5 undertakes immediately to transfer to the Bank, subject to this Security Interest Agreement, title to any of the Collateral not held by the Bank as the Bank may require;
  - 3.1.6 agrees that title to all of the Collateral held by the Bank to the order of the Customer at any time shall be held by the Bank subject to this Security Interest Agreement;
  - 3.1.7 undertakes immediately to sign, seal, deliver and complete pursuant to this Security Interest Agreement all transfers, renunciations, endorsements, notices, mandates, deeds or other documents and to do all other acts and things as the Bank may require to perfect control of or title to any of the Collateral or to enable the Bank to exercise any rights, powers and remedies attaching to the Collateral or to give effect to any application, sale or disposal pursuant to this Security Interest Agreement; and
  - 3.1.8 creates security interests as set out above pursuant to the Law in favour of the Bank in all its right, title and interest in the Collateral, and the Customer hereby agrees that the security interests created by this clause 3.1 may exist concurrently.
- 3.2 For the avoidance of doubt, if there is more than one Charged Account, a separate security interest shall be deemed to be created, and this Security Interest Agreement shall be deemed to constitute a separate Security Interest Agreement in respect of each and every Charged Account (and each Charged Balance) subject hereto and no defect in respect of any one such Charged Account (and Charged Balance) shall affect the validity of this Security Interest Agreement in relation to any other Charged Account (and Charged Balance).
- 3.3 If and in so far as this Security Interest Agreement shall not be effective to create or perfect a security interest in any part of the Collateral, the Account Holder hereby assigns such part of the Collateral to the Bank subject to this Security Interest Agreement and, if and in so far as such assignment shall not be effective to create or perfect a security interest in any part of the Collateral, the Customer shall hold that part on trust for the Bank.
- 3.4 If at any time additional sums are credited to the Charged Account or any other certificate of title or policy (including uncertificated securities) is deposited with the Bank or title to any other intangible moveable property is transferred to the Bank, such sums and any such certificate of title or policy and any such title (including uncertificated securities) shall without further notice or agreement become subject to this Security Interest Agreement, save that the provisions of clause 6 shall take effect on the date on which any such additional sums are credited or any such certificate of title (including uncertificated securities) or policy is so deposited or any such title is so transferred.
- 3.5 Any Derivative Asset shall, without further notice or agreement, become subject to this Security Interest Agreement and where the Derivative Asset consists of:

## General Terms and Conditions. Schedule 2 (continued)

- 3.5.1 any money, the same shall be credited to the Charged Account (or to any such account as the Bank may select);
- 3.5.2 any securities or policies of life assurance, the certificate of title or policy relating thereto shall be deposited with the Bank; and
- 3.5.3 any intangible moveable property, title to which is not held by the Bank, title thereto shall be transferred immediately to the Bank as the Bank may require.

### 4. Control of Collateral

During this Security Interest Agreement:

- 4.1 the Bank shall have sole control of the Collateral;
- 4.2 any mandate or agreement between the Customer and the Bank, which but for this Security Interest Agreement would govern the control of the Collateral, shall be suspended;
- 4.3 notwithstanding the foregoing, the Bank at any time in its discretion shall be entitled (but not bound) to accept any request given in conformity with any suspended mandate from the Customer with regard to the Collateral (including withdrawal of monies and payment of interest) and, so that in acting upon any such request, the Bank shall be deemed not to have relinquished control of the Collateral or otherwise waived its rights under this Security Interest Agreement;
- 4.4 no liability whatsoever shall attach to the Bank in acting or refusing or neglecting to act on any request of the Customer relating to the Collateral;
- 4.5 if the Collateral shall be held on time deposit at expiry, the Collateral shall be re-deposited upon such terms as may be agreed with the Bank or, failing agreement upon such terms, as the Bank shall determine in its discretion; and
- 4.6 in the event of any inconsistencies, the provisions of this Security Interest Agreement shall override the terms of any other part of the Mandate or any further Agreement between the Customer and the Bank and the terms on which any part of the Collateral may have been deposited or on which title thereto may have been transferred to the Bank.

### 5. Continuing security

The security interest created by this Security Interest Agreement shall:

- 5.1 be a continuing security for the benefit of the Bank and notwithstanding the existence of a nil balance on the Charged Account at any time or any fluctuation in the level of the Indebtedness or the partial discharge or performance of the Indebtedness;
- 5.2 not be discharged or affected by any failure of or defect in any agreement given by or on behalf of the Customer in respect of the Indebtedness, nor by any legal limitation on or lack of any borrowing powers of the Customer as account holder or lack of authority of any person appearing to be acting for the Customer or by any other fact or circumstance (whether or not known to the Customer or the Bank), as a result of which the Indebtedness may be rendered illegal void or unenforceable by the Bank; not be discharged or affected by the determination, variation, renewal or increase of any facility (including without limitation any negotiable instrument) or any other accommodation made available by the Bank to the Customer or to any other person or of any other security held by the Bank or by the granting by the Bank of any time or indulgence to the Customer or to any other person;
- 5.3 remain binding on the Customer notwithstanding any amalgamation, reconstruction, reorganisation, merger, sale or transfer by or involving the Bank and, for this purpose, the Security Interest Agreement and all rights conferred on the Bank hereunder may be assigned or transferred by the Bank accordingly; and
- 5.4 be additional and without prejudice to any other security which the Bank may hold or have at any time, including any lien thereon to which the Bank is entitled under its Articles of Incorporation and any rights of set-off or counterclaim.

### 6. Representations warranties and undertakings

The Customer represents, warrants and undertakes that save as provided in this Security Interest Agreement:

- 6.1 this Security Interest Agreement constitutes the legal, valid and binding obligations of the Customer, and constitutes valid security interests under the Law, enforceable against the Customer in accordance with its terms;
- 6.2 no event has occurred or circumstance exists which constitutes or, with the giving of notice or lapse of time, would constitute an Event of Default;
- 6.3 the Customer is and will remain the sole beneficial owner of the Collateral (or, where the Customer holds any Collateral as trustee, that the Customer is and will remain the sole legal owner of the Collateral);
- 6.4 the creation of the security interests pursuant to this Security Interest Agreement will not contravene any restriction to which the Collateral may be subject;
- 6.5 without limiting clause 6.2 and notwithstanding that the Customer holds any Collateral as trustee, the Collateral is within and will remain within the Customer's own disposition and control, free from any restriction on transfer;
- 6.6 the Collateral is and will remain free from any other mortgage, charge, lien, security, equitable interest, right of set-off or other encumbrance or interest whatever, whether prior or posterior, to this Security Interest Agreement or any security interest hereby created;
- 6.7 the Customer has made full disclosure of all relevant facts in any proposal application or written or oral information given for the issue of any policy of life assurance subject to this Security Interest Agreement;
- 6.8 all consents and approvals required in connection with the creation of the security interests herein have been given and obtained;
- 6.9 there are no restrictions upon the transfer of any Collateral or upon the creation of a security interest therein; and
- 6.10 the Customer has full power and authority to enter into this Security Interest Agreement and be bound by its terms.

### 7. Security margin

The Customer undertakes to maintain such margin of security in relation to the Indebtedness as may be required at any time by the Bank:

- 7.1 by immediately depositing in the Charged Account additional sums, up to such amount as may be notified by the Bank in the currency in which the Charged Account is denominated (or in any such account as the Bank may select); and
- 7.2 by immediately transferring to and depositing with the Bank title to and the certificates of title (including uncertificated securities) and policies for other intangible moveable property up to such value as may be required by the Bank.

## General Terms and Conditions. Schedule 2 (continued)

7.3 The Customer agrees that the Bank shall have the power to terminate any facility where, in the Bank's opinion, the margin of security which has been provided has become inadequate and the provision of further security would not resolve the situation satisfactorily.

### 8. Calls and voting rights

- 8.1 Notwithstanding any provision of this Security Interest Agreement, the Customer will pay all calls, premiums and other payments due on any of the Collateral and, if so requested by the Bank, shall within seven days of such request produce evidence satisfactory to the Bank of such payment, failing which the Bank may make such payments on behalf of the Customer and any sum so paid shall be reimbursed by the Customer on demand and, pending reimbursement, shall be secured on the Collateral and may be debited to any Account of the Customer as the Bank determines and shall bear interest at the rate of 8 per cent per annum over the Bank's base lending rate at any time.
- 8.2 The Customer shall exercise, or cause to be exercised, immediately such voting and other rights (if any) in or to the Collateral in such manner as the Bank may in its discretion direct.
- 8.3 The Bank may exercise, or cause to be exercised, such voting or other rights (if any) in or to the Collateral in such manner as the Bank in its discretion may determine in like manner as if it were entitled to the Collateral beneficially and, without taking account of the Customer's interest therein and without prejudice to the generality of the foregoing, may exercise, renounce or assign any conditional or preferential right to subscribe for any securities offered to the Bank in respect of any of the Collateral.

### 9. Further undertakings

The Customer further undertakes:

- 9.1 to give notice in writing of any assignment under this Security Interest Agreement on behalf of the Bank to any person from whom the Customer would be entitled to claim any assigned Collateral from time to time;
- 9.2 not to commit, permit or cause any act or default of any kind in consequence of which any policy of life assurance at any time subject to this Security Interest Agreement may lapse or become void or be voided or whereby an increased premium may become payable;
- 9.3 if any policy of life assurance subject to this Security Interest Agreement shall lapse or become void or be voided, the Customer shall (failing which the Bank may) at the Customer's expense effect a new policy of life assurance in substitution in the name of the Bank for a sum and benefits not less than the sum and value of the benefits assured by the lapsed void or voided policy of life assurance (including any declared or accrued bonus) and any such new policy of life assurance shall forthwith become subject to this Security Interest Agreement;
- 9.4 not to and not to agree or attempt to or cause or permit another to sell, transfer, surrender, mortgage, pledge, charge, create any security or equitable interest in or otherwise to dispose of or encumber the Collateral otherwise than pursuant to and in accordance with this Security Interest Agreement or with the Bank's express prior written consent;
- 9.5 not to terminate or amend or agree or permit any termination or amendment of any Relevant Agreement without the consent of the Bank, which consent shall not be unreasonably withheld or delayed, provided that such termination or amendment would not, in the reasonable opinion of the Secured Party, prejudice any of the Secured Party's rights hereunder or adversely affect the value of any Collateral;
- 9.6 to pay duly and promptly all calls, instalments, premium or other payments which may from time to time be made or become due in respect of the Collateral of which the Customer has notice (notwithstanding where applicable that the title to the Collateral has been assigned or transferred to the Bank pursuant to this Security Interest Agreement); and
- 9.7 forthwith to deliver to the Bank copies of all circulars notices or other documents relating to any of the Collateral at any time in the Account Holder's possession.

### 10. Events of Default

- 10.1 The following events shall constitute events of default under this Security Interest Agreement:
- 10.1.1 any failure by the Customer to pay, perform or discharge any part of the Indebtedness on the due date for payment performance or discharge;
  - 10.1.2 any failure by the Customer to observe or perform any of its other obligations to the Bank;
  - 10.1.3 any breach by the Customer of this Security Interest Agreement (including, without limitation, clause 10.3);
  - 10.1.4 any representation or warranty (whether contained in this Security Interest Agreement or otherwise) being or becoming at any time untrue;
  - 10.1.5 any breach by the Customer of the terms of any facility or other agreement with the Bank;
  - 10.1.6 any judgement against the Customer remaining unsatisfied seven days after the date thereof;
  - 10.1.7 any execution of judgement or service of judicial order or process against, over or concerning any of the Customer's assets;
  - 10.1.8 any act or omission by the Customer indicative of insolvency in any jurisdiction;
  - 10.1.9 any act or event described as an event of default in any facility or other agreement between the Bank and the Customer;
  - 10.1.10 any act or event described as an event of default in any facility or other agreement between the Bank and any person for whose obligations to the Bank the Customer is guarantor or against whose default the Customer has undertaken to indemnify the Bank; and
  - 10.1.11 if any Indebtedness or Collateral is provided in a currency other than the base currency of a Customer's Accounts and that currency depreciates significantly in the Bank's opinion from the value as at the date of the relevant facility letter.
- 10.2 Without prejudice to the provisions of clause 10.1 above, the Bank and the Customer may agree in writing further events of default for the purposes of this Security Interest Agreement.
- 10.3 The Customer shall immediately notify the Bank of the occurrence of an Event of Default or of any circumstance likely to give rise to an Event of Default.

### 11. Remedies on Default

- 11.1 Upon the occurrence of an Event of Default, the Bank may serve notice on the Customer specifying the particular Event of Default and immediately thereafter the power of sale or application under the Law shall be exercisable in respect of the Collateral without any requirement to obtain any order of the courts of Guernsey.
- 11.2 The power of sale or application under the Law may be exercised in such manner and for such consideration (whether payable or deliverable immediately or by instalments or otherwise deferred) as the Bank in its absolute discretion may determine.

## General Terms and Conditions. Schedule 2 (continued)

- 11.3 For the purposes of this Security Interest Agreement, references to the exercise of the power of sale or application shall include any method or process by which value is given, allowed or credited by the Bank for the Collateral against the Indebtedness.
- 11.4 The Bank shall be entitled to appropriate any part of the Collateral which is money and shall apply the same towards the Indebtedness as if they were proceeds of sale.
- 11.5 The Bank may collect, receive or compromise and give a good discharge for any money received in exercise of its power of sale and for any right money or property receivable in respect of the Collateral.
- 11.6 To the extent permitted by the laws of Guernsey, the Bank shall be under no liability to the Customer:
- 11.6.1 to preserve or enhance the Collateral or its value;
  - 11.6.2 for any loss arising out of the exercise or non-exercise of the power of sale or application or other realisation or appropriation of the Collateral pursuant to this Security Interest Agreement;
  - 11.6.3 for any failure to apply and distribute the monies, representing the proceeds of sale or application of the Collateral in accordance with the Law, if the Bank applies and distributes such proceeds in good faith in accordance with the information expressly known to it, without further enquiry, at the time of such application and distribution.
- 11.7 The exercise by the Bank of any right or power of sale or application under this clause shall not constitute a waiver or release of, nor the exercise of, any other right or power of sale or application held by the Bank unless expressly stated.
- 11.8 Any Derivative Asset received by the Customer after the occurrence of an Event of Default shall be held by the Customer on trust for the Bank and shall be immediately transferred to the Bank on demand.

### 12. Certification

A certificate by a person authorised in that behalf by the Bank of the amount of the Indebtedness or the Charged Balance, or of any balance on any of the Customer's Accounts at any time, shall be conclusive unless manifestly incorrect.

### 13. Opening of new Account

If the Bank receives or is deemed to be affected by notice (actual or constructive) of any subsequent security or other interest affecting the Collateral or if the continuing nature of this Security Interest Agreement is terminated for any reason, upon the commencement of any form of bankruptcy or insolvency proceeding affecting the Customer or if any part of this Security Interest Agreement ceases to be binding on the Customer, the Bank may rule off the Customer's then subsisting Account or Accounts and open a new Account in the name of the Customer. The new Account shall be treated as being opened at the time when the Bank received or was deemed to have received notice or at the time of termination (as the case may be) and (without prejudice to any right of the Bank to combine Accounts) as from that time all payments made to the Bank shall be credited or be treated as having been credited to the new Account and shall not operate to reduce the amount secured by this Security Interest Agreement.

### 14. Set-off and currency conversion

- 14.1 In addition to its other rights under this Security Interest Agreement (or elsewhere in the Mandate) and to all customary or other rights of set-off and any similar express or implied rights, the Bank may at any time as a continuing right without notice or demand:
- 14.1.1 set-off against the Customer's Indebtedness any liabilities of the Bank to the Customer (whether present future or contingent and including, without limitation, money in any Account);
  - 14.1.2 combine and consolidate all or any Accounts; and
- 14.2 Without affecting and in addition to the grants of security interest and other rights under this Security Interest Agreement and the Mandate, the Customer hereby agrees that the Bank shall have a lien over each Charged Account and each Charged Balance.
- 14.3 The Bank may at any time, as a continuing right without notice or demand, convert (spot or forward) from one currency to another any money in or any Indebtedness on an Account or any of the actual or prospective proceeds of a sale or application made or to be made, pursuant to this Security Interest Agreement, at the Bank's prevailing exchange rate for the sale of such other currency against the existing currency. Any risk or loss arising from conversion of any amount from one currency to another or from any fluctuation in any exchange rates and all expenses in connection therewith shall be borne by the Customer.

### 15. Further assurance and power of attorney

- 15.1 The Customer agrees that it shall from time to time at the request of the Bank do all such things and execute and deliver all such transfers, notices and other documents (including, without limitation, a replacement or supplemental security document) as the Bank may consider necessary or desirable for creating, completing, maintaining, enhancing or perfecting the security contemplated hereby, giving full effect to this Security Interest Agreement or for securing the rights of the Bank hereunder or, if an Event of Default has occurred and is continuing, enforcing its security or rights under this Security Interest Agreement or the Law.
- 15.2 By way of security the Customer irrevocably and severally appoints each of the Bank and any person nominated in writing under the hand of any person authorised in that behalf by the Bank as the Customer's agent and attorney for the purpose of creating, completing maintaining, perfecting and enforcing the security interest created by this Security Interest Agreement and to do in the name and on behalf of the Customer all such acts and things and execute all such documents which the Customer as Account holder could do or execute in relation to the Collateral and in its name and on its behalf to execute, seal, deliver and perform any conveyance, mortgage, transfer, renunciation, disposition or other deed or document which may be requisite or expedient for any of the purposes of this Security Interest Agreement.

### 16. Expenses

- 16.1 Without limiting and in addition to anything in the General Terms and Conditions, the Customer shall pay to the Bank on demand in the currency (if the Bank so requires) incurred by the Bank all costs charges and expenses (including legal fees on a full indemnity basis as well after as before judgement) and duties suffered or incurred by the Bank in the negotiation, preparation, completion, preservation and enforcement of or otherwise in relation to this Security Interest Agreement and the security interest hereby created and, pending reimbursement, the same shall be secured on the Collateral and may be debited to any account of the Customer as the Bank determines and shall bear interest at the rate of 8 per cent per annum over the Bank's base lending rate at any time.

## General Terms and Conditions. Schedule 2 (continued)

- 16.2 Without limiting and in addition to anything in the General Terms and Conditions, the Customer shall indemnify the Bank on demand against all losses, liabilities and damages suffered or incurred by the Bank arising out of or in connection with this Security Interest Agreement and the exercise of any of its rights or the observance or performance of its obligations hereunder or pursuant to the Law (whether directly or indirectly). This indemnification shall survive termination of this Security Interest Agreement.
- 17. Liability of the Bank**  
The Bank shall not:
- 17.1 be obliged to ensure that any interest, dividend, security, right, policy of life assurance, money or other intangible moveable property hereafter being or capable of being derived from or created or issued in substitution for any of the Collateral is received whether punctually or at all or to ensure the taking up of any offer in connection therewith;
- 17.2 be obliged to forward to the Customer any circulars, notices or other information received in connection with the Collateral;
- 17.3 be liable to the Customer or any other person for any loss, damage or diminution in value of any part of the Collateral arising out of the exercise or non-exercise of any voting or other right relating thereto or arising out of any other act or omission, unless the same have been caused by the Bank's fraud or deliberate misconduct; or
- 17.4 be liable to the Customer in acting or refusing or neglecting to act on any request of the Customer or its agents relating to the Collateral, as long as the Bank is acting in accordance with its rights and powers under this Security Interest Agreement.
- 18. Remedies and waiver**  
Time shall be of the essence of this Security Interest Agreement but no failure by the Bank to exercise, nor any delay by the Bank in exercising, any right or remedy hereunder shall operate as a waiver hereof nor shall any single or partial exercise prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided herein are cumulative and not exclusive of any rights or remedies provided by law.

## General Terms and Conditions. Schedule 3

### Safe Custody Agreement

- 1. Definitions and interpretation**
- 1.1 In this Safe Custody Agreement (unless the context requires otherwise) words and phrases shall have the meanings given to them in the General Terms and Conditions and:
- "Authorised Signatories" means each of the duly authorised persons identified from time to time by the Customer to the Bank in writing.
- "Bank's Agent" means any agent, delegate, nominee, sub-custodian and any bank or other person holding Investments and any person providing services to the Bank in connection with the functions of the Bank under this Safe Custody Agreement or otherwise in respect of Cash and/or Investments;
- "Cash" means any cash or cash equivalent transferred to or received by the Bank (including, without limitation, where received in payment for any transfer of Investments or as any payment on or interest on or dividend from any such Investments);
- "Custody Accounts" has the meaning given to it in clause 6.1;
- "Emerging Markets" has the meaning given to it in the appendix to this Safe Custody Agreement;
- "Emerging Countries" has the meaning given to it in the appendix to this Safe Custody Agreement;
- "Investments" means any stocks, shares, units, bonds, debentures, notes, securities, currencies (spot or forward) or other rights or property and any entitlement to any investment and any evidence of such entitlement, including certificates and documents of title transferred to or received by the Bank as custodian;
- "Proper Instructions" means instructions, notices and other communications concerning or relating to the Investments or the Custody Accounts, including instructions that the Bank may receive from the Customer and/or its duly appointed agent(s) by letter, electronic mail or facsimile transmission, electronically or in writing;
- "Relevant Currency" has the meaning given to it in clause 6.2; and
- "Relevant Account" has the meaning given to it in clause 6.2.
- 1.2 This Safe Custody Agreement shall be deemed to form a single agreement with the Agreement.
- 1.3 Notwithstanding anything contained in this Safe Custody Agreement, the provisions of sections 23(b) and 39(1)(b) of the Trusts (Guernsey) Law 2007 shall not apply to this Safe Custody Agreement or in any other way to the holding by the Bank of the Investments.
- 2. Application of General Terms and Conditions**  
Except where inconsistent with this Safe Custody Agreement, the General Terms and Conditions shall be deemed to be incorporated in this Safe Custody Agreement (provided that each reference to the General Terms and Conditions shall be deemed to be a reference to this Safe Custody Agreement and otherwise with all necessary changes).
- 3. Appointment**  
The Customer appoints the Bank to act as custodian and to receive and hold for safe custody the Investments on behalf of the Customer on and subject to the terms and conditions set out in this Safe Custody Agreement. For the avoidance of doubt, any cash received and held by the Custodian shall be in its capacity as Banker and upon the conditions set out in the Agreement.
- 4. Terms of appointment**  
The Customer's business relationship with the Bank and this Safe Custody Agreement shall continue in effect until the Mandate is terminated in accordance with the General Terms and Conditions.

## General Terms and Conditions. Schedule 3 (continued)

### 5. Representations and warranties

The Customer warrants and undertakes:

- 5.1 that it has read and understood the risk disclosure statement set out in the appendix to this Safe Custody Agreement and that it is aware of the risks of investing in the Emerging Markets and Emerging Countries described therein;
- 5.2 that it has and will at all times have power and authority to enter into and perform its obligations under this Safe Custody Agreement and, in the case of a corporate or trustee Customer, has taken all necessary corporate action required by its constitution or has properly resolved to authorise the entry into and performance of this Safe Custody Agreement;
- 5.3 that all the Investments delivered to the Bank pursuant to this Safe Custody Agreement are, and will remain, free from any lien or encumbrances other than as provided herein; and
- 5.4 that all information provided by the Customer to the Bank is complete and correct and that the Customer will immediately notify the Bank of any changes to such information.

### 6. Custody Accounts

- 6.1 Subject to clause 6.3, for the purposes of this Safe Custody Agreement, the Bank shall open, maintain and operate:
  - 6.1.1 a cash account in the Relevant Currency (or such number of accounts as required); and
  - 6.1.2 an Investments account, (together, with the cash account at Clause 6.1.1 "Custody Accounts" and each a "Custody Account") and, if and when instructed by the Customer, may open maintain and operate such further Custody Accounts as shall be reasonably specified by the Customer.
- 6.2 The expression "Relevant Currency" as used in this Safe Custody Agreement means the currency in which Cash is transferred or received or is to be paid by the Bank and the expression "Relevant Account" shall be construed accordingly.
- 6.3 All Custody Accounts shall be opened maintained and operated in accordance with the General Terms and Conditions.

### 7. Custody

- 7.1 Certificates and other documents evidencing title to the Investments will be held by the Bank in its own custody or to the order of the Bank by a sub-custodian appointed in accordance with clause 15 or by a securities depository.
- 7.2 Where title to Investments held by a sub-custodian is evidenced by documents of title or Investments are recorded electronically or in inscribed form, the Bank shall require that the sub-custodian holds them in such a way that it is readily apparent that the Investments to which they relate do not belong to the Bank or an Associate Company of the Bank or to the sub-custodian.
- 7.3 Where title to any Investment is recorded electronically or in inscribed form, the Bank shall identify such Investments on its records as being held solely on behalf of the Customer and, where appropriate, shall require that any sub-custodian identify them on its records as held solely on behalf of the Bank for the account of its customers.
- 7.4 Without limiting anything in clause 17, if the Bank considers any Investments delivered to it or to any sub-custodian to be inappropriate to be held under this Safe Custody Agreement, whether for legal, ethical or administrative reasons (including, without limitation, because the market value of such Investments has fallen below any minimum requirement of the Bank or a sub-custodian) it shall give written notice to the Customer and the Customer will make alternative arrangements for the safe custody of such Investments according to such timescale as the Bank may (acting reasonably) notify to the Customer, failing which the Bank may, at its discretion and without liability to the Customer, sell or otherwise dispose of such Investments on behalf of the Customer and credit the proceeds to the Customer's Account. In arranging any such sale or disposal, the Bank shall act as if the Customer had given instructions to the Bank on the day of the sale or disposal of the Investment on an execution only basis.
- 7.5 The Investments shall be held by the Bank subject at all times to the Proper Instructions and in particular (but without limitation):
  - 7.5.1 the Bank shall buy, sell, exchange or otherwise deal in Investments, make deposits, subscribe to issues and offers, accept placing underwriting and sub-underwriting and generally effect transactions for the Customer only in response to and in accordance with Proper Instructions; and
  - 7.5.2 the Bank shall have no duty to insure the Investments other than in response to and in accordance with Proper Instructions and at the Customer's expense.
- 7.6 The Bank shall have no responsibility in respect of investment decisions whether or not the Bank or any Associate Company or any sub-custodian broker or agent appointed by the Bank or any officer or employee of any of the foregoing shall have expressed any view thereon.
- 7.7 The Bank may not without the written authority of the Customer make arrangements to lend Investments to a third party or borrow on the Customer's behalf against the Investments, provided that nothing herein shall prevent or restrict the Bank from incurring any indebtedness arising in the ordinary course of performance of its functions under this Safe Custody Agreement.
- 7.8 The Bank reserves the right to refuse to accept for the account of the Customer any partly paid or other Investments upon which there remains after acquisition any outstanding liability, unless the Customer has set aside in the name of the Bank cash or other property acceptable to the Bank sufficient to provide for paying up such Investments or discharging such liability in full.

### 8. Registration

- 8.1 Investments may be registered in the name of the Bank's wholly-owned nominee company or in the name of its applicable sub-custodian or its nominee, as appropriate taking into account market practice and/or local regulations and laws.

### 9. Corporate actions

- 9.1 Except as provided in clauses 9.4 and 9.5, the Bank shall communicate to the Customer all notices or other communications received by it in respect of the Investments as soon as reasonably practicable, but shall not be liable for any loss arising from such notices or other communications failing to arrive or failing to arrive in sufficient time for instructions to be given by the Customer.
- 9.2 Upon receipt of Proper Instructions, the Bank will pay all calls, deliver and surrender promptly any Investments required to be lodged in acceptance of the terms of any merger, take-over, consolidation, reorganisation or any other compromise or arrangement and make all relevant payments. The Bank will surrender Investments against receipt of moneys payable at maturity or, in the case of an optional redemption or call for redemption, where the Customer requests the Bank in writing so to do. However, the Bank shall not be obliged to undertake any



## General Terms and Conditions. Schedule 3 (continued)

action in relation to any Investment or on behalf of the Customer unless it is satisfied that sufficient Investments/funds are available to pay for the action. Any payments received in respect of Investments so delivered, surrendered or deposited will be credited to the Relevant Account promptly after receipt of cleared funds by the Bank or upon receipt of notification of the receipt of cleared funds by a sub-custodian as appropriate.

- 9.3 The Bank will execute all necessary documentation, swear affidavits and do all such things as are necessary to register Investments or to render them acceptable for deposit into a securities depository or clearing system, as required by the relevant authorities at the Customer's expense.
- 9.4 The Bank shall have no duty or responsibility as regards voting in respect of any Investments. Proxies received by the Bank or its sub-custodians and agents with respect to the Investments held will be destroyed unless the Bank has agreed to act upon Proper Instructions held or received to the contrary.
- 9.5 The Bank shall only communicate to the Customer those offers to sell, redeem, subscribe for or purchase stock made in respect of Investments already held by a Customer which the Customer is permitted to take up in accordance with the rules of the relevant market or conditions set out in the offer document. In circumstances where the terms of the offer are unclear or the subscription period closes without allowing the Bank sufficient time to communicate with the Customer, the Bank shall not be liable for any loss arising from the loss of opportunity to accept the offer.
- 9.6 Subject to the provisions of clause 9.4, the Bank shall be entitled to authorise or refrain from authorising any person to act for the purposes of representing it at any meetings, which it shall be entitled to attend by reason of its holding any Investments. The obligation to nominate any person to act or not in relation to any such meeting shall be that of the Customer and the Bank shall complete such formal authorities as the Customer shall require but shall not be liable for any loss incurred by any failure of the Customer to act.
- 9.7 In circumstances where the Bank has agreed to act upon Proper Instructions and two or more Customers give contradictory instructions in respect of the same offer, the Bank may act in accordance with the wishes of the majority of customers.

### 10. Dividends and other income

- 10.1 The Bank will procure that its nominee or sub-custodian or other agent will collect all dividends and other income in respect of the Investments as soon as reasonably possible, having regard to market practice exchange control and such other factors as may be relevant in the circumstances.
- 10.2 All dividends, interest and other income received in respect of the Investments will be credited to the Relevant Account promptly upon receipt of cleared funds by the Bank or notification of receipt of cleared funds by a sub-custodian as appropriate, or otherwise in accordance with Proper Instructions.

### 11. Settlements

- 11.1 The Bank will effect settlement of all transactions in accordance with Proper Instructions, subject to the rules and customs of the exchange or market and/or clearing house or securities depository through which such transactions are executed or settled, and to all applicable local laws and regulations.
- 11.2 The Bank shall only make delivery or receive delivery of Investments against payment or against an undertaking to deliver Investments or to pay in accordance with accepted market practice for transactions in the Investments of the type concerned, unless contrary instructions are received from the Customer.
- 11.3 The Bank is not obliged to settle any transaction prior to receipt of cleared funds or Investments as the case may be and nor is it obliged to settle a transaction on a particular date unless it has received Proper Instructions in time to do so, in each case without incurring liability. However, the Bank may, in its discretion, advance cash to settle transactions when purchase monies are payable before proceeds of sale are received or confirmation of the receipt of other monies is awaited, in which case the Customer will be liable for interest on amounts so advanced. The Bank may also, on terms separately agreed in writing, grant overdraft facilities or make loans to the Customer secured against the Investments.
- 11.4 Monies so received or paid in connection with the settlement of Investments transactions shall be credited or debited to the Relevant Account in accordance with the Proper Instructions and the Bank shall have the right at any time, under advice to the Customer, to cancel any debit or credit so attributed to the Customer if there are any unreasonable delays or difficulties arising in settlement with the market, maker, broker, agent or other counterparty concerned.
- 11.5 The Bank reserves the right to reverse any transaction which remains unsettled five days after the date upon which the transaction was due to settle and to cancel any debit or credit to the Relevant Account.
- 11.6 Where the Bank has received Proper Instructions to settle a trade placed by the Customer directly with a broker, the Bank will attempt to settle that transaction on a best endeavours basis and shall accept no liability if settlement cannot be made or is delayed for any reason beyond the Bank's control.
- 11.7 The Bank shall take all reasonable care and attention in the execution of such Proper Instructions and will act upon instructions only when duly issued by Authorised Signatories or which the Bank reasonably believes to have been issued by Authorised Signatories.

### 12. Records and statements

- 12.1 The Bank shall keep such records and statements as may be necessary to provide a complete record of all Investments and Cash held transactions executed and of all actions taken by the Bank pursuant to this Safe Custody Agreement.
- 12.2 The Bank shall send to the Customer a statement, at such intervals as the Customer reasonably requests, of all receipts and disbursements of Cash, together with a statement of all Investments and Cash held by the Bank to the Customer's order. The Customer acknowledges that the price of certain securities may be difficult to obtain, for example when a security is illiquid or on a specialist market, and that the Bank will apply best endeavours to obtain a price where possible.
- 12.3 The Bank shall send to the Customer a statement of assets held in custody quarterly in respect of securities or securities-related cash balances and monthly for derivatives or derivatives-related cash balances.

## General Terms and Conditions. Schedule 3 (continued)

### 13. Options futures and contracts for differences

Bank services shall not be provided in respect of options, futures, contracts for differences (including contingent liability transactions) and derivatives unless specifically covered under a Further Agreement.

### 14. Lien

In addition to and without affecting the Bank's rights of set-off, combination and lien under the General Terms and Conditions and the Mandate, the Customer agrees that the Bank shall have a lien over the Investments in respect of any loans advanced by the Bank to settle transactions and for all fees, expenses and other monies due by the Customer to the Bank pursuant to this Safe Custody Agreement.

### 15. Sub-Custodians, securities depositories and other Agents

15.1 The Customer authorises the Bank to:

15.1.1 employ any person (including Associate Companies) as the Bank's Agent;

15.1.2 hold investments through its nominee company;

15.1.3 hold Investments with any sub-custodian selected by the Bank;

15.1.4 hold Investments with any internationally recognised securities depository or securities clearing system; and

15.1.5 permit any sub-custodian appointed by the Bank to hold Investments in its account or accounts with any such securities depository or securities clearing system.

15.2 The Bank may appoint such other agents in the performance of any of its duties under this Safe Custody Agreement whenever it is reasonable to do so.

15.3 The Bank shall not be liable for the acts or omissions of any Bank's Agent, sub-custodian, securities depository or other agent appointed or employed by it in accordance with this Safe Custody Agreement.

### 16. Duty of care and liability

16.1 Subject to clause 16.4, the Bank shall perform its duties with due diligence and act in good faith and, in the absence of gross negligence, fraud or wilful default on its part or on the part of any sub-custodian, securities depository or other agent appointed by it, neither the Bank nor any Associate Company shall be liable for any loss damage cost or expense whatsoever and howsoever arising suffered or incurred by the Customer (whether directly or indirectly) in relation to the Investments or the settlement of transactions in connection therewith.

16.2 Subject to clause 16.4, neither the Bank nor any Associate Company shall be liable for any loss, damage, cost or expense whatsoever suffered by the Customer due to failure on the part of the Bank the Associate Company or any sub-custodian to perform its or their obligations under this Safe Custody Agreement (whether directly or indirectly) or as a result of the acts or omission of any securities depository or any failure delay or error arising in or from any clearing or settlement system, whether certificated or uncertificated, or any failure error or delay in any computer communications or other service system or arising from act of God, war, riot, natural disaster, fire, terrorist act, industrial dispute or any other cause beyond the reasonable control of the Bank or Associate Company where applicable.

16.3 Subject to clause 16.4, the Customer irrevocably undertakes to indemnify and keep indemnified the Bank for itself, and as trustee of this indemnity for the benefit of any Associate Company against all actions, proceedings, claims, costs, demands, losses and expenses brought against, suffered or incurred by the Bank or any Associate Company by reason of doing or refraining from doing anything (directly or indirectly) in the lawful and proper exercise of its duties under the terms of this Safe Custody Agreement. This indemnification shall survive termination of this Safe Custody Agreement.

16.4 Nothing in this clause 16 shall limit any right, protection or indemnity which the Bank may have the benefit of under any other part of the Agreement (including, without limitation, the General Terms and Conditions) and the provisions of this clause 16 shall be additional.

### 17. Termination of custody arrangements

17.1 Without limiting the ability of either party to terminate the business relationship under the Mandate at any time in accordance with the General Terms and Conditions, the custody arrangements pursuant to this Safe Custody Agreement in respect of any particular Investments may be terminated:

17.1.1 by either party giving to the other not less than 60 days' prior written notice to expire at any time; or

17.1.2 with immediate effect by the Bank giving to the Customer written notice where, in the Bank's view, custody of the particular Investments could place the Bank in breach of any law, regulation or guidance to which the Bank is subject, and in either case the notice shall specify the particular Investments to which the notice relates. For the avoidance of doubt, such notice shall not terminate this Safe Custody Agreement nor have any effect in respect of any Investments not specified in the notice.

17.2 At the time of serving or receiving (as the case may be) notice under Clause 17.1, the Customer shall give the Bank details of the person or institution to whom the Investments are to be delivered and the Cash so held in the Relevant Accounts paid upon expiry of the notice.

17.3 Termination of the custody arrangements in respect of any Investments pursuant to this Safe Custody Agreement will not affect accrued rights, existing commitments or any contractual provisions intended to survive termination and will be without prejudice to the completion of the transactions already initiated and will be without penalty or other additional payment except that the Customer will pay:

17.3.1 the Bank's fees pro rata to the date of termination and any legitimate expenses accrued or payable in accordance with the Mandate; and

17.3.2 any additional expenses necessarily incurred in settling or concluding outstanding obligations.

### 18. Appointment of Replacement Custodian

Without limiting anything in the General Terms and Conditions, the Bank may, upon giving 30 days' written notice to the Customer, appoint any Associate Company as custodian in its place in respect of any or all of the Investments and transfer all its rights and benefits under this Safe Custody Agreement and all its obligations as the Bank in relation to safe custody. In the event of the Bank exercising its rights under this clause, the obligations of the Bank with respect to such Investments shall be deemed to be discharged at the expiration of the notice period and to have been assumed by the appointee.

## Appendix to Safe Custody Agreement

### Risk disclosure statement for investors in Emerging Markets

This risk disclosure applies to certain emerging markets in Asia, Eastern Europe, the Former Soviet Union, sub-Saharan Africa and South America ("Emerging Markets" and "Emerging Countries").

#### Introduction

Few Emerging Countries possess a sufficiently well developed legal, judicial or regulatory infrastructure to accommodate fully the substantial increase in western investment interest in recent years. As a consequence, these markets carry significant risks. The nature and extent of these risks will vary from country to country. Before making any investment in these markets, you should independently satisfy yourself that you understand and appreciate the significance of the relevant risks, and that such an investment is suitable for you. This statement is intended to summarise some of these risks, but does not purport to be an exhaustive list, nor should it be regarded as offering advice on the suitability of these investments for you.

#### Political risk

Many Emerging Countries experience substantial political change. The relative infancy of their systems renders them more vulnerable in the face of economic hardship, public unrest or popular dissatisfaction with reform, political or diplomatic developments, social, ethnic or religious instability or changes in government policies.

#### Economic risk

Businesses in most of the Emerging Countries have a limited operating history in market conditions. Banks and other financial systems are generally not well developed or well regulated. These countries may have a limited supply of domestic savings, and businesses can experience difficulty in obtaining working capital. Further, environmental and toxic waste issues loom large in this part of the world, with the potential for substantial cleanup costs, resource impairment and financial liability. Contractual protection against these economic risks may prove problematic, as insurance may be both expensive and difficult to obtain in these volatile environments.

#### Market characteristics

Generally the emerging securities markets are in the early stages of their development and often lack the levels of transparency, liquidity, efficiency and regulation characteristic of the more developed western markets. Government supervision of securities, markets, investment intermediaries and of quoted companies is considerably less well developed than in many western countries. There is a greater risk than in more developed economies of activities conducted in good faith on the basis of professional advice subsequently being regarded as not in compliance with fiscal currency control securities corporate or other regulatory requirements.

#### Legal risks

Few Emerging Countries have a mature legal system comparable to those of more developed western countries. Laws and regulations governing investment in securities markets or regulating ownership and corporate governance of domestic companies may not yet be fully implemented. There is no guarantee that a foreign investor would obtain effective redress in the local courts in respect of a breach of local laws or regulations, or in an ownership dispute (see below). There is generally no concept of any fiduciary duty on the part of the management or the directors to the company or the shareholders as a whole.

#### Settlement risk

The concepts of ownership of and procedures for the transfer of securities in Emerging Markets may differ radically from those in western markets. Registration of shares may not be subject to standardised procedures or to a centralised system and may be effected on an ad hoc basis.

#### Accounting practice

Accounting, auditing and financial reporting standards in Emerging Markets are often not yet equivalent to those applicable in more developed countries. The availability, quality and reliability of corporate information and equity research (including official data) is likely to be lower than that in respect of investments in western markets. Due to the relative quality of information, lack of historical data, high inflation and undeveloped accounting and auditing systems, qualifications may be relevant even where supplementary accounts have been prepared or audits carried out to western standards.

#### Investment foreign exchange and repatriation restriction

Foreign investment in the Emerging Markets is in some cases restricted. Moreover, the banking systems in these countries are not as developed as their western counterparts and considerable delays may occur in the transfer of funds within, and the remittance of moneys out of, these countries.

#### Other particular risks associated with certain countries

In many Emerging Markets, equity securities exist primarily in book entry form, although there are some bearer shares. Ownership often is recorded in shares maintained by companies themselves or by third-party registrars. Accordingly, you are advised that:

The laws of many of these countries, for example Russia, do not recognise the concept of trusts. There is the risk, for example, that you or your managed accounts will not be recognised as the owner of Russian equity securities that your broker-dealer holds on your behalf and which are registered in the name of your broker-dealer's custodian or sub-custodian. Thus, in the event that your broker-dealer or its custodian or sub-custodian becomes insolvent, you may not be able to recover those securities.

Under the laws of many of these countries, a transferee of shares has no ownership rights to those shares until its name appears on the share register, and the short selling of shares is prohibited. The process of registration can be time consuming and difficult to administer. Thus, the settlement date for shares transferred into your name or the names of your managed accounts will be the registration date and, before that date, you or your managed accounts will not be able to sell those shares or vote, receive dividends or exercise or enjoy any other rights attached to the shares.

## General Terms and Conditions. Schedule 4

### Conditions for the use of E-Services

#### 1. Services offered

- 1.1 "E-Services" refer to the E-banking services provided by Butterfield Bank (Channel Islands) Limited (the "Bank").
- 1.2 The current services offered and schedule of fees for E-Services, together with any additions and amendments, will be notified to Customers separately. The Bank's Customer relationship officers can provide additional information or answer any queries on E-Services.

#### 2. Access to E-Services

- 2.1 Technical access by the Customer or his authorised agent (as specified in the mandate signed by the Customer) to the Bank's E-Services is via the Internet using an Internet Service Provider (ISP) and compatible browser software that is usually available on personal computers running Microsoft Windows®.
- 2.2 Access to E-Services is protected by three authentication controls that verify the user's identity. To access the Bank's E-Services, the user must identify himself by entering the following:
  - RSA SecurID Keyfob – the authentication number which is refreshed every minute (3rd security level)
  - the user ID supplied by the Bank to the Customer or his authorised agent (1st security level)
  - the password assigned by the Bank to the Customer or his authorised agent (2nd security level)The Bank will provide User Guidance for its E-Services which includes (among other things) information about the times at which the E-Services are available, how to access and operate the E-Services, what can and cannot be done using the E-Service and the time usually taken to access the information provided. The Customer shall comply with all relevant User Guidance when accessing and operating the Service.
- 2.3 The Customer or his authorised agent must change the password issued by the Bank immediately when using the service for the very first time and subsequently change the password as requested at regular intervals. The Customer must not choose a password which the Customer has used at any time previously.
- 2.4 Any user identifying himself correctly as described in 2.2 is authorised to use the Bank's E-Services. He is then entitled to make enquiries regarding, or to carry out transactions in relation to, the accounts as specified in the "Agreement for the use of E-Services" and the Bank is allowed to accept such instruction from him. This is possible without further authentication of his entitlement and irrespective of any internal legal relationship between the Customer and his authorised agent and irrespective of any provisions to the contrary specified in documents or arrangements made in the Bank's signatory documents. In order to protect the Customer, the Bank is entitled at any time, and without giving reasons, to refuse to give out information and to not accept or execute instructions and messages submitted through E-Services and, instead, to insist that the Customer or his authorised agent provide a different form of authentication (by signature or in person). The Bank shall not be liable to the Customer for any loss to the Customer resulting from any such refusal.

In the event that a user does not access the service for a period of six months, his access to the service (and to the RSA SecurID Keyfob) will be automatically disabled. In this eventuality, the user should contact the Bank to request new authentication details.
- 2.5 The Customer unconditionally accepts all transactions booked to the Accounts as specified in the "Agreement for the use of E-Services", as long as these are executed with the prior authentication of the Customer or his authorised agent. In the same way, all instructions submitted to the Bank through E-Services are deemed to have been entered and authorised by the Customer or his authorised agent. The Bank does not accept any liability if it executes an instruction given by an authorised agent whose authorisation has expired or been revoked and the Customer has not notified the Bank, or the Customer has not received written acknowledgement of such notification from the Bank.
- 2.6 The E-Services will generally be available for use at the times specified in the User Guidance or otherwise notified to the Customer from time to time. Normal maintenance requirements, excess demand and circumstances beyond the Banks' control may mean that it is not always possible for the E-Services to be available for use by the Customer during its normal times of operation.
- 2.7 The Bank may change the mode of operation of, or the facilities available under, or terminate, the E-Services without the Customer's recourse to the Bank. The Bank will endeavour to give the Customer two months' notice of such variation or termination of the E-Services or such shorter period as may be reasonable in the circumstances.

#### 3. Important information

- 3.1 Information made available to the Customer through the E-Services about the Customer's Accounts and investments is not necessarily provided in real time.
- 3.2 Information about investments is usually dependent on price information from third parties and a price being available, and such information is not necessarily current. Additionally, any transactions in respect of the Customer's investments may take time to be recorded in the Customer's Accounts.
- 3.3 When the Customer's bank Accounts and investment Accounts are denominated in more than one currency, the information about these Accounts will be presented with amounts shown in a valuation currency which the Customer has previously agreed with the Bank. Where the Bank has to convert amounts from the currency in which the relevant asset is denominated into the valuation currency, then the rate used may be shown on the Bank website, but note that this may not represent a rate which the Customer could achieve in realising the asset and will not take into account any transaction, costs or commissions that would be involved in such conversion.
- 3.4 Where the Customer has granted security to the Bank over certain of the assets about which the Customer can obtain information through the E-Services, any value attributed to such assets through the E-Services will be a gross value, ignoring the availability of the Bank to share in the proceeds of such assets.
- 3.5 For the reasons set out in this Clause 3, it must be noted that any information given in respect of the Customer's bank and investment Accounts does not represent the actual value which would be realised from the relevant assets at the time the Customer is viewing such information, but rather an indicative value.

#### 4. Acting on Customer's instructions

- 4.1 The Customer or his authorised agent hereby acknowledges that, in some cases, an instruction given via E-Services may not be processed immediately and certain instructions may only be processed during normal banking hours, even though E-Services may be operational outside such hours. Therefore an instruction may not be acted upon until the next business day after it is given and may take longer to be completed.

## General Terms and Conditions. Schedule 4 (continued)

- 4.2 The Bank does not accept any liability for instructions that it fails to carry out or does not carry out on time, or for any consequential losses, as long as it has exercised due diligence. It may only be liable in cases of gross negligence.
- 4.3 The Bank may refuse to accept any transaction which would have the effect of creating an unauthorised overdraft on any Account. If an unauthorised overdraft is created on any Account, the Bank may take such action as the Bank sees fit and debit any interest and charges payable in accordance with the terms and conditions of the relevant Account. The Customer acknowledges that it is the Customer's responsibility to ensure that unauthorised overdrafts are not created and that the Customer will not rely on the operation of the E-Services to prevent this occurring.
- 4.4 The Customer agrees that, upon receipt of payment instructions given under the E-Services, the Bank will be entitled to debit the relevant Account with the amount of the relevant payment and any charges payable to the Bank in respect of the relevant transaction. The Customer acknowledges that, once an instruction has been given through the E-Services, it shall be irreversible and that the Bank shall be under no obligation to take steps to reverse it.

### 5. Duty of care of the Customer or his authorised agent

- 5.1 The Customer and his authorised agent are obliged to keep all the personal authentication details referred to in 2.2 secret and prevent them from being misused by unauthorised persons. In particular, having changed the password, the Customer or his authorised agent must not write down the password or store it in an unprotected format on his PC or workstation. Furthermore, the password and user ID should not be easy to guess (dates of birth, phone numbers, etc. should be avoided). The Customer bears all risks deriving from the disclosure or use (including the misuse and fraudulent use) of his own authentication details or those of his authorised agent. The Bank does not accept any liability whatsoever in this respect.
- 5.2 The duty not to disclose the authentication details particularly applies to each individual authorised agent, its officers and servants. The Customer therefore also carries liability for any losses resulting from authorised agents misusing the authentication details of other authorised agents.
- 5.3 If there is any reason to suspect that unauthorised third parties may have discovered any of the authentication details of the Customer or his authorised agent, the detail in question must be changed, the bank informed immediately and, if necessary, the Customer must bar his own access to E-Services, or ask the Bank to bar access on his behalf (see Clause 9).
- 5.4 The Customer and his authorised agent must notify any loss of the RSA SecurID Keyfob to the Bank immediately and must also arrange for access to be barred as soon as possible as described in Clause 9. Requests to issue replacement RSA SecurID Keyfobs should be submitted to the Bank in writing.
- 5.5 The Customer or his authorised agent must check all the data they enter, and the confirmations they receive from the E-Services system, to ensure they are complete and accurate. Responsibility for data transmitted by the Customer or his authorised agent remains with the Customer until confirmation is received from the E-Services system of the Bank.
- 5.6 The Customer must not allow anyone else to operate the E-Services on the Customer's behalf using the authentication details save for an authorised agent.
- 5.7 The Customer and any authorised agent must not leave the E-Services system unattended while the Customer or authorised agent is on-line to the E-service.
- 5.8 The Customer or his authorised agent must minimise security risks associated with the use of the Internet (e.g. viruses, unauthorised access by third parties, etc.) by using suitable protection mechanisms (especially anti-virus programs).

### 6. Customer's liability for unauthorised transactions

- 6.1 The Customer will not be responsible, nor have any liability, for any instruction that is not authorised by the Customer or his authorised agent but is given using the authentication details if:
- (a) The instruction is given after the Customer has notified the Bank that it has discovered or suspects that any part of the authentication details are known to someone else (other than the authorised agent) and the Customer has received written acknowledgment of notification from the Bank; or
- (b) The relevant part of the authentication details has become known to the person giving the unauthorised instruction as a result of gross negligence or wilful default on the Bank's part.

### 7. Scope of the liability of the Bank and its employees (the "Bank")

- 7.1 The Bank does not in any way guarantee the accuracy and completeness of the data transmitted via its E-Services. In particular, any information regarding Accounts (balances, statements, transactions, etc), as well as any generally available information, is not binding. The data provided under E-Services does not constitute a binding offer unless the Bank explicitly signifies it as such.
- 7.2 The Bank does not accept any liability for transactions that it fails to carry out or does not carry out on time, unless such failing is a result of its gross negligence.
- 7.3 The Bank accepts no liability whatsoever for losses suffered by Customers, their authorised agents or the clients of the authorised agent as a result of their failure to meet contractual obligations towards third parties, nor for direct or consequential losses, such as loss of earnings or third-party claims.
- 7.4 E-Services traffic runs over an open network, the Internet, which is based on public telecommunication channels without any particular form of protection. The Bank does not accept any liability for losses resulting from the use of the Internet. In particular, the Bank accepts no liability for losses suffered by Customers or their authorised agents as a result of transmission errors, technical faults, failures, illegal intrusion into network equipment, network overload, malicious blocking of electronic access by third parties, Internet malfunctions, loss of service or other deficiencies on the part of network operators.
- 7.5 The Bank does not accept liability for the consequences of malfunctions or loss of service, particularly in processing, in the Bank's E-Services operations (e.g. caused by illegal hacking into the Bank's own computer system), except where it is guilty of gross negligence.
- 7.6 If the Bank discovers security risks, it reserves the right to temporarily suspend its E-Services at any time in order to protect Customers until these risks are eliminated. The Bank does not accept liability for any losses arising from disruption to the service.

## General Terms and Conditions. Schedule 4 (continued)

- 7.7 The Bank does not accept liability for any losses that may arise from its employees or auxiliary staff in the performance of their tasks, except as a result of gross negligence.
- 7.8 The Bank is entitled to engage specialists to optimise the E-Services it offers. In this case, it only undertakes to exercise due care in selecting and instructing third parties.
- 7.9 The Bank does not accept any responsibility for the PC or workstation of the Customer or his authorised agent, for technical access to its E-Services or for the software required. Customers and their authorised agents in particular acknowledge that the Bank does not sell the software required to use E-Services.

### 8. Security

- 8.1 To protect Customers, several levels of security have been utilised including a very sophisticated encryption procedure. Using the latest technology available, this encryption process basically prevents any unauthorised person from viewing confidential Customer data. Absolute security can never be guaranteed: the computer of the Customer or his authorised agent, the ISP's computers and the public networks are all part of the E-Services system and there may be weak links in the overall configuration. Such links are outside the Bank's control.
- 8.2 The Customer or his authorised agent acknowledges the following additional risks for which the Bank cannot accept any liability:
- Insufficient knowledge of the system on the part of the Customer or his authorised agent and inadequate security measures on the PC/workstation of the Customer or his authorised agent may make it easier for unauthorised parties to hack into the system (e.g. inadequately protected storage of data on the hard disk, file transfers, screen after-images, etc.). It is up to the Customer or his authorised agent to be aware of the necessary security arrangements.
  - It is impossible to rule out traffic monitoring by network operators (e.g. Internet service providers), in other words there may be a record of when the Customer or authorised agent (including investment managers) made contact with whom.
  - There is a latent risk that a third party may gain access to the computer of the Customer or his authorised agent while they are using E-Services without being detected.
  - When using a public network such as the Internet, there is a danger of viruses being transmitted to the end user's computer. Virus scanners should therefore be an essential part of the security measures implemented by the Customer or his authorised agent.
  - It is important that the Customer or his authorised agent only install software from reliable sources. The Customer must not obtain access to the E-Services using any computer or other device or software which the Customer does not own or licence, unless the Customer has first obtained the permission of the owner.
  - The availability of the Internet cannot be guaranteed. In particular, it is possible that transmission errors, technical faults, failures, illegal intrusion into network equipment, network overload, malicious blocking of electronic access by third parties, Internet malfunctions and loss of service or other deficiencies on the part of network operators may occur.
  - Any data downloaded by the Customer or his authorised agent while using E-Services (e.g. overviews of accounts) are automatically placed in temporary storage by the browser software of the Customer's or his authorised agent's computer (Temporary Internet files/ Cache). At the same time, the browser software stores all the Internet addresses (History) of the sites visited by the Customer or his authorised agent. This information can be used by a third party gaining unauthorised access to the end-user's computer to hack into the Customer data and to find out details about existing bank accounts. The Bank therefore recommends that users clear the Cache and History on their machines at the end of every E-Services session.

### 9. Barring access

- 9.1 The Customer can bar both his own access and that of his authorised agent to the Bank's E-Services while the authorised agent is only able to bar his own access. A request for access to be barred can only be accepted during normal business hours by the Bank. Written confirmation of the request should be sent to the Bank immediately thereafter.
- 9.2 In addition, any user of E-Services (both Customer and authorised agent) may automatically bar his own access to the Bank's E-Services at any time by trying to log on three times and deliberately entering an incorrect password RSA SecurID Keyfob transaction number.
- 9.3 Requests to remove the bar by the Customer must be directed to the Bank. Written confirmation of this request should be sent immediately thereafter. Authorised agents can only remove bars they placed on their own access.
- 9.4 The Bank is entitled to bar the Customer and/or one or all of his authorised agents from accessing selected or all E-Services at any time, without giving reasons or prior notice, should it deem that such a move is warranted under the circumstances (primarily to protect the Customer).

### 10. Foreign laws, import and export restrictions

- 10.1 The Customer or his authorised agent acknowledge that use of the Bank's E-Services while located abroad may, under certain circumstances, contravene the laws of the foreign country in question. It is up to the Customer or his authorised agent to ascertain local conditions. The Bank does not accept any liability in this respect.
- 10.2 If the Customer or his authorised agent uses the Bank's E-Services while located abroad, he acknowledges that there may be import and export restrictions governing encryption algorithms that he may be in danger of contravening. It is up to the Customer or his authorised agent to ascertain local conditions. The Bank does not accept any liability in this respect.

### 11. Bank website advertising

The Bank may advertise the Bank's own products and those of other members of the Bank's groups on the Bank's website or through E-Services. These advertisements are built into the Bank's website and E-Services and cannot be suppressed. Any previous request not to send the Customer any marketing material (or any future request) will not apply to advertisements of this nature and the Customer consents to receiving them when accessing the Bank's website or the E-Services.

### 12. Severability

The invalidity, illegality or unenforceability of one or more clauses of this agreement does not affect the validity of the rest of the contract.

## General Terms and Conditions. Schedule 4 (continued)

### 13. Cancellation

- 13.1 The Customer or his legal representatives or his legal heirs, as well as the Bank, can terminate the "E-Services" mandate at any time. Cancellation on the part of the Customer or his authorised agent must be confirmed in writing and must be forwarded to the Bank, together with any security mechanism supplied by the Bank.
- 13.2 If the Customer does not activate or use the E-Services for a period of six months, the Bank shall cancel the E-Services mandate and require the return of the RSA SecurID Keyfob.
- 13.3 In the event that the RSA SecurID Keyfobs are not returned, the Bank reserves the right to debit the Customer's account to recover its costs.

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