



# **Pearse Trust**

## **Terms & Conditions of Business 2022**

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## 1 Introduction

- 1.1 So far as they are not expressly varied in writing by Pearse Trust Limited, Pearse Trust International Limited and all related companies (herein separately and collectively referred to as "the Company") these conditions shall be deemed to be incorporated into all contracts, whether in writing or verbally, made by the Company with "the Client"; and all work undertaken, services provided or goods supplied by the Company or its agents or nominees (including but not limited to incorporations, accounting, taxation, banking, management and administration, secretarial, compliance and the provision of directors services, hereinafter "the Services") shall be deemed to be carried out pursuant to a contract incorporating these conditions. Each provision of these conditions is to be construed as a separate provision applying and surviving even if, for any reason, one or other of the said provisions is held inapplicable or unreasonable in any circumstances.
- 1.2 The Client warrants that it has the capacity, power and authority to enter into and be bound by the terms and conditions contained herein. The placing of an order by any person with the Company, or the acceptance of any services from the Company by any person, shall be deemed to be, the acceptance in full by such person of all of the terms and conditions of business of the Company contained herein.
- 1.3 A Client may not assign its rights and obligations under any agreement with the Company to any affiliated or third party without the prior written consent of the Company.
- 1.4 Subject to the provisions for earlier termination contained herein, these terms and conditions herein contained shall remain in effect for a period of one year. Thereafter, the terms and conditions shall continue in effect unless terminated by the Company or the Client, giving the other party not less than one month's prior written notice of such termination.
- 1.5 Each condition, requirement, warranty, obligation and indemnity contained or referred to herein shall have full and general application to the Client and shall not be restricted to, or limited by, its inclusion in any particular part or any specific clause of this document.
- 1.6 These terms and conditions cancel and supersede the terms and conditions of all prior negotiations and agreements between the Company and the Client. However, the Company's terms and conditions may be varied or superseded at any time by agreement in writing between the Company and the Client, but any such variation shall not affect any rights or obligations of either of the parties already accrued.
- 1.7 No extension of time or indulgence by the Company shall be deemed in any way to affect, prejudice or derogate from the rights of the Company in any respect under these conditions nor shall it in any way be regarded as a waiver of any rights hereunder.
- 1.8 Nothing in these terms & conditions or in any dealings or transactions shall be construed so as to create a partnership or joint venture between the Company and any other party.

## 2 Exclusivity of Services

- 2.1 The Services provided by the Company shall not be deemed exclusive and the Company shall be free to render similar services to others so long as its services hereunder are not compromised or impaired in so doing.
- 2.2 The Company shall not be deemed to be affected with notice of, or to be under any duty to disclose to the Client or any individual, client company, body corporate, partnership or trust to which the Client itself provides services ("the Subject Clients"), any fact or thing which may come to the notice of the Company, or any servant, nominee or agent of the Company, in the course of the Company providing similar services to others or in the course of its business in any other capacity or in any manner whatsoever, otherwise than in the course of carrying out its duties herein.

## 3 Delegation of Company Functions

- 3.1 The Company shall provide the services through its directors, officers, servants and agents and shall have full power to delegate the whole or any part of its functions hereunder to any person, firm, body corporate, trust or other entity including, without prejudice to the generality of the foregoing, the power to appoint nominees, agents or delegates to assist the Company in its duties.

## 4 Fees

- 4.1 The Client from whom the Company receives instructions, shall be solely and exclusively liable to the Company as principal for all costs, charges and expenses that shall be due to the Company in respect of services supplied by the Company subject to these conditions, whether or not such Client purports to contract as an agent.
- 4.2 The Client shall remunerate the Company in accordance with rates currently applied by the Company and in force at the time the service was supplied for a period not exceeding one year from commencement of the services. Such costs, charges and expenses shall include, without limitation, the following:
  - i. All reasonable disbursements incurred by the Company in providing the Services including but not limited to telephone, facsimile, couriers, postage and stationery and relevant outlay. The Company shall consult the Client before incurring significant disbursements;
  - ii. The Company, if deemed necessary for the proper performance of its duties, may seek third party professional advice at the expense of the Client if such advice is required by reason of the services to be provided, or required by the Subject Clients as the case may be;
  - iii. For defraying the expenses incurred by the Company for such third party professional services, the Company may on occasion request the payment of retainer fees by the Client. The Company shall not

seek such advice without seeking prior written approval of the Client, provided that any such request by the Company shall not be unreasonably withheld and provided further that the Client shall furnish the Company with a written response to any such request within 48 hours of receipt of such request. The Client acknowledges that the Company will not be liable for the advice or services rendered by such third parties. The client acknowledges that it is responsible for any such third party fees involved;

iv. The Company will apply value added tax ("VAT") on charges and disbursements if applicable.

4.3 Payment of all invoices rendered by the Company shall be made within 30 days of the date the invoice was rendered, after which the Company reserves the right to add interest at the statutory rate for the time being.

4.4 If the Company shall refer an unpaid invoice to debt collection agents for collection the Client shall pay, in addition to the amount due on such invoices, such further sum as shall be equal to the collection agent's reasonable fees and costs.

4.5 If the Client fails to pay the Company in full for all fees and disbursements, the Company shall have the right to suspend work on the Client's instructions and shall be entitled to apply any part payment received in discharge of any outstanding fees and disbursements due to it, prior to payment of any statutory or court fees or fines for the time being due. The Company shall not be liable for any penalties or fines incurred by reason of the Company's failure to pay statutory or court fees or penalties by the due dates.

4.6 The Company is entitled to retain and withhold, any and all documents including corporate records belonging to the Client, until all amounts due have been discharged by the Client.

4.7 Fees shall be reviewed on an annual basis and any changes thereto shall be communicated to the client.

## 5 Termination of Services

5.1 The Company reserves the right at any time and without any liability or continuing obligation to the Client to terminate this engagement if:

- i. The Client is in material breach of any of the terms of the engagement and/or the Client is non-observant of any of the terms herein contained and has failed to make good such breach or non-observance that is capable of remedy within 30 days of receipt of notice in writing requiring the same;
- ii. The Client has failed to seek or accept Company advice on a material regulatory or professional matter concerning the engagement;
- iii. The Company is not satisfied that it can proceed or continue with the engagement without being subject to civil or criminal liability;

- iv The Client's instructions expose, or may expose, the Company or any person connected with the Company to adverse publicity or other serious public censure; or
  - v. The Client's authorities or instructions may cause the Company to conduct itself in a manner which the Company would otherwise decline to conduct itself on the grounds of impropriety or immorality (falling short of conduct which may incur criminal or civil liability) were the Company being invited to do so in a beneficial capacity.
- 5.2 For the purposes of clause 5.1 material breach or non-observance of the terms herein contained shall mean such material breach or non-observance as could reasonably have been foreseen as likely to cause material loss or damage to the business or reputation of the Company or of any director, officer, servant, nominee or agent of the Company.
- 5.3 If the Client breaches any of the provisions hereof and, notwithstanding written notice by the Company to the Client to remedy such breach, fails to remedy such breach (which is capable of remedy) immediately after receipt of such notice then the Company, without prejudice to any other rights which it may have hereunder, at law or in equity, may take such action, besides termination, as the Company, acting reasonably in all the circumstances, may deem appropriate to remedy any such breach.
- 5.4 Any reasonable costs incurred by the Company in remedying a breach of any of the provisions herein, shall be subject to a subsequent claim for damages by the Company for loss arising as a result of such breach.
- 5.5 Termination will not affect accrued rights, existing commitments or any contractual provision intended to survive termination and will be without penalty or other additional payments save that the Client will pay:
- i. The Company's fees to the date of termination;
  - ii. Any additional expenses necessarily incurred by the Company as a result of the Client terminating the engagement;
  - iii. Any losses necessarily realised in settling outstanding obligations; and
  - iv. Any fees for binding commitments entered into prior to termination.

## 6 Limitation of Liability

- 6.1 The Client covenants and agrees to indemnify and keep indemnified the Company, from and against, any and all liabilities, obligations, losses, damages, claims, costs, taxes, penalty taxes, actions, proceedings, suits and expenses, including, without limitation, legal fees incurred by or asserted against the Company in providing the Services to the Client and/or Subject Clients (other than liabilities arising out of the negligence, fraud or default of

the Company in the performance of the Company's duties hereunder) and the Client shall, at all material times hereto, maintain and retain adequate and valid policies of insurance to adequately provide financial and other restitution to any third party (including the Company) incurred as a result of the activities of Subject Clients.

- 6.2 The Company will perform the services required for the Client with all reasonable diligence and skill. If however, any liability to the Client shall arise on the part of the Company, (whether under the express or implied terms of the contract or in any other way) for any damage or loss sustained or incurred by the Client for any one claim or a series of claims, such liability shall in all cases whatsoever be limited to the payment by the Company on its own behalf and on behalf of its servants, nominees and agents **to the lesser of €100,000, OR an amount equal to twice the average annual fee value in the three preceding years of the action or inaction giving rise to the claim, or series of claims.**
- 6.3 On no account will the Company, be liable for losses, damages, costs and expenses (including interest and pecuniary or tax penalties, if any) arising as a result of fraudulent acts or failure to act, misrepresentations or wilful error of Client's directors, executives, employees, attorneys-in-fact or collaborators.
- 6.4 Notwithstanding anything else contained in these terms and conditions, the Company shall not be liable to the Client for loss of profits, loss of contracts or other loss arising indirectly or consequently from negligence or breach of contracts by the Company in the performance of its services.
- 6.5 Where the instructions to, or the advice from, the Company shall be given orally, the Company shall have no liability to the Client for any misunderstanding or misinterpretation which may arise thereof whether on the part of the Company, its servants, nominees or agents or the Client.
- 6.6 The Client agrees that it will take all reasonable, immediate and necessary steps to mitigate any loss the Client may suffer as a result of any error or omission on the Company's part and notify the Company immediately of any potential or actual claim and that the Company will have no liability in the event of the Client's failure to fully and promptly meet the Client's responsibilities in this regard.
- 6.7 In the event of any action or proceeding being brought against the Company as a result, directly or indirectly, of the Services rendered by the Company hereunder as a result of instructions or directions from the Client, the Client commits itself to require before the relevant courts the replacement of the Company by the Client itself or another person in such actions and shall, in addition, hold the Company harmless of, including, but not limited to, any responsibilities, charges, expenses relating to legal counsel, expenditure and indemnification as a result of the same action or proceeding.
- 6.8 In relation to any action taken or proposed to be taken by the Company, in relation to any court proceedings to assist the Client or a Subject Client or to defend itself (other than in circumstances arising out of the negligence, fraud or default of the Company in the performance of the Company's duties hereunder), the Company may, at the cost of the Client, consult with legal counsel at any time and any action or omission suffered or taken by the

Company in good faith in reliance on or in accordance with the opinion or the advice of such counsel shall be full protection and justification to the Company with respect to the action or omission so suffered or taken.

- 6.9 The Company shall have no liability for any claim made by the Client arising out of the provision of any goods or services by the Company unless written particulars thereof (giving full details of the specific matter in respect of which such claim is made) are received by the Company within the period of 12 months after the date of the Company's invoice for such goods or services. In these conditions the expression "goods" shall be deemed to include (without limitation) publications and documents of all descriptions.
- 6.10 The Company is not responsible for providing tax advice to the Client in respect of the jurisdiction in which the Client and/or Subject Client is tax resident nor indeed is it responsible for the provision of taxation advice for any company controlled or managed by the Client or the Subject Client. The provision of the Services and the advice provided relates exclusively to the companies incorporated and administered by the Company.

## 7 Client Responsibilities

- 7.1 The Client shall inspect any goods supplied immediately on receipt and shall within 10 working days of such inspections give notice to the Company of any allegation of deficiency. If the Client fails to give such notice the goods shall be deemed to be in all respects in accordance with the Client's instructions and the contract.
- 7.2 The Client undertakes to observe the utmost good faith in its dealings with the Company and shall neither do anything nor refrain from doing anything which may prejudice or detract from the rights, assets or interests of the Company.
- 7.3 It is the Client's responsibility to ensure the Company receives complete, accurate and timely information and assistance in order that the Company can provide the Services in a timely manner, and to carry out any other obligations ascribed to the Client or its agents or employees or others under its control. The Company will not be responsible for the consequences of any delay or failure to meet this responsibility and any such delay or default may result in additional fees for which invoices may be raised, whether or not the Services were originally undertaken on a fixed fee basis.
- 7.4 The Client agrees that commercial decisions are not within the remit of the Company's duty of care and in making such decisions the Client must take into account the restrictions on the scope of the Company's work and other factors, commercial and/or otherwise, of which the Client and any other advisors are, or should be, aware from sources other than the Company's work.
- 7.5 Unless otherwise agreed in writing, the Client warrants that where shares or company appointments are held by the employees of the Company in connection with the formation or the provision of a company ("the New Company") for the Client, immediately following the receipt of the necessary documents by the Client all necessary steps will be taken to:





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- i. Complete the transfer of such shares and the registration of same in the register of members;
  - ii. Implement the resignation of the employees or nominees of the Company from the appointments in question and substitute the appointees of the beneficial owner of the New Company;
  - iii. Thereafter complete the necessary statutory formalities in connection with the changes of officers, registered offices and the issue of shares.
- 7.6 Unless otherwise agreed in writing, the Client warrants in relation to its Subject Clients (whether individuals/ firms/ organisations or body corporates) ("the Owner") that:
- i. The Owner is, and will be, the beneficial owner of all the issued shares of any company being acquired and the Owner has warranted to the Client that they are, and shall continue to be, the owner and that they are not acting as nominee or trustee for any other person or persons.
- 7.7 The Client acknowledges that the Client and its Subject Client must make their own enquiries in carrying out searches into registered trademarks or business names.

## 8 Accounting Records

- 8.1 The Client confirms and warrants to the Company, in respect of each of the Subject Clients, that:
- i. The Client shall prepare and retain proper accounting records which enable the timely preparation of financial accounts which give a true and fair view and comply with any necessary legal requirements within the jurisdiction of incorporation and, where relevant, of any place of registration of the Subject Client;
  - ii. The Client shall be responsible to the Company for making available, as and when required, all the Subject Client's accounting records and all other records and related information for the purpose of ensuring timely compliance for the Subject Client in its relevant jurisdiction of incorporation and, where relevant, in any place of its registration.

## 9 Opening of Bank Account

- 9.1 The Client warrants that on occasion, where necessary, the Client may instruct and authorise the Company to open and operate, on the Client's behalf and in the Client's name, such account(s) at such bank(s) or other financial institution(s) as may be nominated by the Client and to complete and execute such documents, forms, papers and instruments as may reasonably

be required by the nominated bank to facilitate the opening and operation of the Accounts.

- 9.2 The Client understands and acknowledges that, in executing the instructions and authorities under this Clause 9, Pearse Trust shall provide to and share with the nominated bank(s) / financial institution(s) information and documentation relating to the Client, parties related to the Client and relevant corporate and other entities which may include (without being limited to) information and documentation on business activities, source of wealth, source of funds and personal documentation including passports, proofs of address and other official certifications. In instructing and authorising the Company to open and operate relevant account(s), the Client fully and irrevocably consents to the provision of such information / documentation to relevant bank(s) / financial institution(s).
- 9.3 The Client confirms that it shall jointly and severally indemnify the Company against any and all losses, damages, costs, expenses, liabilities, actions, proceedings, claims or demands of any nature whatsoever which may be incurred by or made against the Company or any of its directors, officers, managers, servants or agents directly or indirectly by reason of any act, deed, matter or thing done or alleged to have been done by the Company in accordance with the authorities and instructions granted in relation to the opening of a bank account.

## 10 Provision of Directors

- 10.1 Where the Company introduces individuals to act as Directors ("the Directors") to any Subject Client the following terms and conditions, inter alia, shall apply.
- 10.2 The Directors shall undertake their duties in accordance with what they consider to be in the best interests of the Subject Client. In this regard, they will generally comply with the recommendations or wishes of the Client when conveyed from the usual source from which instructions are received concerning the Subject Client. The Directors shall not, however, be obliged to act in any manner which (in their opinion, and such decision shall be final in this regard) may:
- i. Conflict with the laws of any jurisdiction in which the Subject Client has been incorporated or registered or carries on business or may otherwise be illegal or immoral; or
  - ii. Be unethical, unduly onerous or be of such nature that it might damage the reputation of, or be detrimental to, one or more of the Directors or the Company; or
  - iii. Conflict with the memorandum and articles of association, or other constitution, of the Subject Client.

- 10.3 The Directors may require written instructions or recommendations from the Client before taking action. Where the Directors act on instructions conveyed verbally or by electronic communication the Client shall accept the risk that such instructions may be given by an unauthorised person. If the Directors introduced by the Company are not the only directors of the Subject Client, the Client shall ensure that the Company shall be kept fully and promptly informed of all relevant matters concerning the Subject Client.
- 10.4 The Client agrees to supply immediately to the Company all relevant information available to it which might affect the Company's decision to introduce Directors.
- 10.5 The Client undertakes to make available to the Directors all information and explanations necessary to enable them to properly and conscientiously carry out their duties and responsibilities as directors of the Subject Client.
- 10.6 The Client undertakes to obtain the financial statements or other relevant documents relating to the assets and liabilities of the Subject Client which shall be made promptly available to the Directors if so requested or on an annual basis if such information is not routinely available to the Directors.
- 10.7 The Client undertakes to ensure that all information and returns for taxation and company law purposes will be provided in good time to enable the Company to meet statutory obligations.
- 10.8 The Client undertakes to notify the Directors and the Company of any change in the beneficial interest in the Subject Client and of any change in the Client's professional or other commercial relationship with the Subject Client and undertakes that if satisfactory evidence of identity is not obtained or produced the business relationship with the Company and all transactions shall not proceed any further.
- 10.9 The Client undertakes to complete such indemnities as may reasonably be required by the Company.
- 10.10 The Directors shall not be obliged to give to the Client more than one week's written notice of an intention to resign from office.

## 11 Copyright and Intellectual Property Rights

- 11.1 The Company shall retain all ownership, copyright and other intellectual property rights in everything developed, designed or created by the Company either before or during the course of an engagement including systems, methodologies, reports, record books, software, know-how and working papers. The Company also retains all ownership, copyright and other intellectual property rights in all written advice or other materials provided by the Company to the Client. The Client shall have the right to use such material for the purpose intended by the Client's instructions and for no other purpose unless otherwise agreed by the parties. If the Client wishes to distribute copies

of these materials outside of its own organisation the Client must obtain the Company's express permission.

- 11.2 The Client agrees to ensure that any use of works in its possession or control, during the engagement, does not infringe the intellectual property rights of any third parties. The Client also agrees to grant to or obtain for the Company a license to use, copy and modify any copyright protected works during the engagement which are owned by or licensed to the Client.

## 12 Electronic Communication

- 12.1 Unless otherwise agreed, the Company may communicate via email, fax or other electronic media ("electronic communication") or provide information to the Client in electronic form. The Client authorises the Company to honour and act upon instructions received from the Client by way of electronic communication whilst acknowledging that there are inherent risks associated with such media and the Company cannot guarantee the security and integrity (or freedom of computer viruses) of any electronic communications regarding information sent or received in relation to the business arrangement.
- 12.2 The Client acknowledges and understands that the Company shall not be under any obligation to check the authenticity or bona fides of any instructions received from the Client via electronic communication whether before or after acting in accordance with those instructions.
- 12.3 The Company may refuse, at its discretion, to act upon any particular instruction received from the Client by way of electronic communication and the Company shall not be held liable in any way for any loss or damage, direct or indirect, howsoever arising from the refusal to act upon any such instruction.
- 12.4 The Client hereby agrees that it will jointly and severally indemnify the Company against any and all losses, damages, costs, expenses, liabilities, actions, proceedings, claims or demands of any nature whatsoever which may be incurred by or made against the Company or any of its directors, officers, managers, servants or agents directly or indirectly by reason of any act, deed, matter or thing done or alleged to have been done by the Company in accordance with the authorities and instructions granted by the Client via electronic communication or otherwise.
- 12.5 The Client acknowledges that if the Company is working on the Client's premises, the Company may need to connect to the Internet through the Client's internal network in order to access the Company system and the Client remains responsible for the security and virus protections on the Client's network in such situations.

## 13 Force & Majeure

- 13.1 Neither the Company nor the Client shall be liable in any way for failure to perform its retrospective obligations under this business arrangement if the failure is due to causes outside the reasonable control of the party which has failed to perform.

## 14 Data Protection & Privacy

- 14.1 The Client's right to privacy is a key priority in Pearse Trust's business and any information (including any personal data within the meaning of applicable data protection laws) which Pearse Trust obtains and holds about the Client will be treated in accordance with Pearse Trust 's standard principles regarding client confidentiality and applicable data protection laws. This includes Information that we obtain from the Client or from third parties at the time of engagement, or during the course of the provision of the Services.
- 14.2 On execution of an engagement agreement with us, the Client agrees that Personal data we may need to process includes data about the Client or the Client's business partners, clients, customers, service providers and other third parties (Client's Third Parties), and the Client's and the Client's Third Parties employees, officers, agents or representatives and, except as described below, will do so on the Client's instructions only. Where the Client or the Client's Third Parties provides us with personal data relating to any of these individuals, the Client warrants that the Client has obtained, processed and disclosed such data to us in compliance with all applicable laws. The Client agrees to notify us without delay in the event of any change in the Client's personal data to enable us to comply with our obligations to keep the relevant Information up to date..
- 14.3 On execution of an engagement agreement with us the Client instructs us to process personal data in the provision of the Services and for other purposes including engaging experts and other advisors identifying relationships between the Client and other parties, group reporting and management purposes, prevention of money-laundering and otherwise complying with our legal and regulatory obligations, . The personal data we process for the Client will depend on the Services. This may include names, contact details and other personal identifiers. We will inform the Client if, in our opinion, any instruction infringes applicable data protection laws.
- 14.4 On execution of an engagement agreement with us, the Client agrees that we may transfer personal data between Pearse Trust and its associated entities and to our third party service providers. These may include transfers to jurisdictions outside the EEA, including countries which may not afford the same level of protection to personal data as applies under Irish law. This will occur only where necessary or incidental to providing the Client with the Services. This may include use of cloud based services. We will advise the Client in advance if we are changing these arrangements.
- 14.5 We will take all reasonable steps, as required by law, to to ensure the safety, privacy and integrity of the Client's personal data. Where we process data for the Client, we will take appropriate technical and organizational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of or damage to personal data. In the event of a



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data protection breach, we will notify the Client without delay so as to enable the Client to make necessary notifications to the authorities or individuals affected.

- 14.6 In the case of third parties engaged by us for the provision of services, we require that such third parties provide sufficient undertakings to implement appropriate technical and organisational measures in such a manner that the processing of personal data will meet the requirements of applicable laws.
- 14.7 Where we can assist the Client in fulfilling the rights of individuals, we will do so to the extent that we are legally obliged to do so, including responding to a data access request or request for erasure of data. We will assist the Client by, providing necessary information to demonstrate our compliance with applicable laws, contributing to audits; and providing information necessary to enable the Client to carry out an assessment of the impact of any processing. When we complete work, we will erase or return any personal data at the Client's request, unless we are required to retain it.
- 14.8 Personal data may be used by us for our own purposes, including administration and billing purposes, and compliance with our legal obligations, business development purposes, and issue of updates and information relevant to the Client's business. If the Client does not wish to receive such information, please inform us accordingly.
- 14.9 In situations where we act as controller, we will manage personal data in accordance with the privacy statement on our website, available at [www.pearse-trust.ie/privacy-policy](http://www.pearse-trust.ie/privacy-policy). In this case, individuals may have a right to request details of the personal data that we hold about them and to request that we correct any inaccuracies in that information.
- 14.10 In situations where we act as joint data controller with the Client in relation to any personal data, the Client will provide such persons all required information to ensure fair processing of the personal data, be responsible for keeping personal data accurate and up to date and deal with any enquiries from such persons concerning the processing of personal data.

## 15 Information & Confidentiality

- 15.1 Where the Client gives the Company confidential information the Company shall keep it confidential. The Client agrees that, subject to Statutory and Regulatory obligations, it will be sufficient compliance with the Company's duty of confidence for the Company to take such steps as the Company considers fit to preserve confidential information from misuse both during and after the engagement. Unless there is a specific agreement to the contrary, the existence of the relationship shall not be treated as confidential information and the Company may disclose this fact and the general nature of the Company's work, to clients, prospective clients, or other third parties.
- 15.2 The Client shall not (except under the compulsion of law) disclose any information relating to, or to the affairs of, the Company (including any holding, subsidiary or associated company or body corporate of the Company) to any person not authorised to receive same and shall use all reasonable endeavours to prevent any such disclosure.
- 15.3 In the event of the Company or the Directors becoming aware that the Client or Subject Client is or may be involved in illegal activities, it is understood that



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the Company reserves the right to co-operate fully with law enforcement agencies in any part of the world and will not consider themselves bound by any duty of confidentiality to the Client. In the event that the Company is required by court order, statutory obligation, financial services regulation or standard auditing practice the Company may disclose the name(s) of the beneficial owner(s) or controlling shareholder(s).

- 15.4 Neither the Company nor the Client will be prevented from disclosing confidential information; (a) which is or becomes public knowledge other than by breach of an obligation of confidentiality, (b) which is or becomes known from other sources without restriction on disclosure; or (c) which is required to be disclosed by law or any professional or regulatory obligation.

## 16 Company Staff

- 16.1 The Client undertakes that during and for a period of 6 months following this engagement the Client will not;
- i. Solicit or entice away (or assist anyone else in soliciting or enticing away) any member of the Company's staff with whom the Client has dealt with in connection with an engagement during the 12 months immediately prior to the Client's approach; or
  - ii. Employ any such person or engage them in any way to provide Services to the Client.
- 16.2 In the event of a breach of this undertaking which leads to the departure of an individual, the Client will pay to the Company, a sum no less than 100% of the total annual remuneration package paid by the Company to the individual prior to his or her departure. The Client acknowledges that this provision is a fair and reasonable term intended to be a genuine assessment of the likely loss to the Company including the costs of recruiting a replacement and the loss to the business until a replacement is appointed and trained.

## 17 Governing Law & Jurisdiction

- 17.1 These conditions and all legal relations arising from same shall be governed by and construed in accordance with the laws of the Republic of Ireland and shall be subject to the jurisdiction of the courts of the Republic of Ireland.

## 18 Arbitration / Dispute Resolution

- 18.1 If any difference shall arise between the parties hereto or any of them as to the interpretation of this agreement or as to the rights, duties or liabilities of any party hereunder or to any act, matter or thing arising out of or under this agreement, the same shall be submitted to a single arbitrator to be appointed by the parties in dispute or, in default of agreement, to two or more arbitrators, one to be appointed by each of the parties in dispute. A



third arbitrator is to be appointed by the two arbitrators or, in the absence of their agreement to such an appointment, a person shall be nominated by the Chairman of the Chartered Institute of Arbitrators (Irish Branch) and such submission shall be a submission to arbitration under the provisions of arbitration legislation of the Republic of Ireland for the time being in force.

## 19 Statutory & Regulatory Obligations

- 19.1 The provision of the Company's services are prescribed activities for the purpose of Anti -Money Laundering legislation in the jurisdictions in which the Company operates and are subject to anti-money laundering statutory and regulatory requirements and procedures. The Company has the following obligations:
- i. To conduct Client identity checks;
  - ii. Maintain client identity and transaction records;
  - iii. Report suspicions of a money laundering offence, an offence of terrorist financing or a compliance offence to the relevant authorities;
  - iv. To educate and train Company staff on the above requirements; and
  - v. Implement procedures to prevent and detect money laundering.
- 19.2 Pursuant to statutory and regulatory obligations, the Client, whether it is an organisation which is regulated by a reputable regulatory or professional body, or an individual, confirms and warrants to the Company, inter alia, to:
- i. Understand and be familiar with the purpose for which the Subject Clients are being formed, or acquired, and utilised and take all reasonable and required steps to ensure that the Subject Clients will not be formed, or acquired, and/or utilised for the purpose of facilitating criminal and/or money laundering activities;
  - ii. Ensure that the activities of the Subject Clients are known to the Client, that the Client fully understands the purpose of the Subject Clients and confirms that they are legitimate and that the Subject Clients will not be administered for any purpose which will involve acts of an illegal nature and that any assets forming the subject of a binding business relationship for the Subject Clients do not represent, either directly or indirectly, the proceeds of a crime and are not being disposed of by a criminal organisation for money laundering activities;
  - iii. Take all reasonable care to prevent money laundering activities in relation to the Subject Clients and, if required, agrees to provide documentary evidence of specific transactions;



- iv. Furnish the Company with all relevant documentation and information reasonably necessary for the Company to carry out its designated duties and obligations in respect of the Subject Clients;
- 19.3 Pursuant to statutory and regulatory obligations, the Client confirms and warrants to the Company in respect of the beneficial owner(s) of each of the Subject Clients that:
- i. The Client is satisfied as to the integrity and standing of the beneficial owner(s) and has ascertained that the intention of the beneficial owner(s) is/are respectable and trustworthy.
  - ii. The beneficial owner(s) is/are not utilising the Subject Clients with proceeds from illegal acts nor are the Subject Clients being funded with proceeds from such acts;
  - iii. The Client has obtained and retained satisfactory evidence of the identity of the ultimate beneficial owner of the Subject Client and if required by court order, statutory obligation, financial services regulation or standard auditing practice, will readily provide a certified copy of the beneficial owner's passport/certificate of incorporation or registration and a reference from a bank and/or accountant with whom the beneficial owner has had a relationship for over three years together with two original proofs of address;
  - iv. The Client has identified the beneficial owner(s) of each of the Subject Clients and has retained, and will retain adequate documentary evidence to this effect for a period of six years from the date:
    - a. When all activities relating to a one-off transaction or a series of linked transactions were completed;
    - b. When the business relationship was formally ended; or
    - c. Where the business relationship was not formally ended, when the last transaction was carried out.
- 19.4 The Client confirms and warrants to provide the Company with a list and any updates, as they occur, of the authorised Subject Clients' representatives and signatories and to immediately notify the Company of any changes in the ownership or control of the Client and/ or in the beneficial ownership or control of any acquired company; The Client shall also advise the Company immediately of any concerns regarding the beneficial owner(s)).
- 19.5 The Client understands and accepts that, the Company may be obliged in certain situations, by law or by Regulations or by Professional Bodies, to make reports to regulatory and law enforcement authorities, or to disclose documents or information or take other such action, as a result of information received by the Company during the course of the engagement. When permitted the Company will advise the Client prior to any action the Company may be required to take. The Client understands and accepts that, in such circumstances that the Company is obliged to make a report to the

authorities pursuant to Anti Money Laundering legislation the Company is prohibited from advising the Client that such a report has been made.

- 19.6 The Client understands and accepts that as a result of the obligation to conduct identity checks, the Company is likely to request from the Client, such information as listed above or other certain information and documentation which will be retained and used for the purpose of making searches of appropriate databases. If satisfactory evidence of the Client's identity is not provided within a reasonable time, there may be circumstances where the Company will not be able to proceed with the business relationship.

## **20 Anti-Corruption / Bribery Statutory Obligations**

- 20.1 The Client agrees that it will not, and that it will procure that none of its group companies or Subject Clients will, engage in any conduct which would or might constitute a breach of Anti-Corruption Legislation. The Client agrees to: a.) comply with Anti-Corruption Law; and b.) implement and enforce appropriate and adequate Anti-Corruption Procedures.
- 20.2 The Client warrants that no group company and/or Subject Client: (a) has engaged in any conduct which would or might constitute a breach of Anti-Corruption Legislation; or (b) has received notice of or been party to any investigation, prosecution or other proceeding or any fine or penalty under Anti-Corruption Law (each a "Proceeding"); or (c) is aware of any circumstances which are likely to give rise to any such Proceeding.
- 20.3 For the purpose of these Terms and Conditions, "Anti-Corruption Law" is defined as: "any statute, delegated legislation, EC regulation or directive, legally binding code of conduct or code of practice or other rule of law which regulates or prohibits bribery or corruption including (without limitation) the Prevention of Corruption Acts 1889 to 2010 of Ireland, the Bribery Act 2010 of the United Kingdom and the Foreign Corrupt Practices Act 1977 of the United States".