



ICECAP Limited

Terms and Conditions

**1. Introduction, definitions and interpretation**

- 1.1. ICECAP Limited ("ICECAP") is a company registered in Jersey with registered number 125874 and the company's registered office is at First Floor, Osprey House, 5-7 Old Street, St Helier, Jersey, JE2 3RG. ICECAP is regulated by the Jersey Financial Services Commission ('JFSC').
- 1.2. ICECAP, as Service Provider, agrees to provide professional facilities and services to the Client, as agreed between ICECAP and the Client from time to time (the "Services"). Unless otherwise agreed, these Terms and Conditions (as may be amended – see below) ("Terms") apply in relation to the provision of those Services. The Client hereby grants to ICECAP the right, power and authority to act in relation to the administration of the Client and each Client Entity by carrying out the Services in accordance with the Agreement.
- 1.3. **Agreement** means the agreement relating to the provision of the Services made between ICECAP and the Client comprising the client engagement letter or email (as supplemented or amended from time to time) and incorporating these Terms.
- 1.4. **Affiliate** means any parent or subsidiary of a Client Entity or any other Client Entity which has the same ultimate parent.
- 1.5. **Applicable Law** means, in relation to each company in the ICECAP Group and any Client Entity, all or any applicable laws, rules, regulations and codes of practice published by government authorities and the Regulatory Authority and rules, regulations and codes of practice of any relevant exchange, market, clearing house or settlement system in any applicable jurisdiction.
- 1.6. **Appointees** means all or any persons provided by ICECAP to act as a director or other officer, secretary, trustee, manager, protector, enforcer, personal representative, nominee, partner, manager, guardian, registered agent, signatory or shareholder in respect of any Services and/or Client Entity;
- 1.7. **Client** means any person or persons to whom ICECAP has agreed to provide Services and includes the beneficial owners, officers and employees of any such person and, where relevant, any instigator, controller, beneficial owner or settlor of a Client Entity. In the case of more than one person "Client" shall mean such persons jointly and severally and shall include the survivor or survivors of them and, in the case of individuals, shall include the heirs, personal representatives and assigns of each of them and, in the case of a company or other body corporate, shall include its successors and assigns.
- 1.8. **Client Entity** means any company, foundation, partnership, estate, trust, fund, association (whether incorporated or unincorporated) or other person or entity related to the Client in any way to which or in respect of which ICECAP has agreed to provide all or any of the Services at the Client's request.
- 1.9. **Gross Negligence** means a standard of misconduct beyond negligence whereby a person acts with reckless disregard for the consequence of his action or inaction.
- 1.10. **ICECAP Personnel** means any director, officer, employee, agent, legal advisor or consultant of or engaged by ICECAP.
- 1.11. **ICECAP Group** means ICECAP Limited (a company registered in Jersey with registered number 125874) together with its subsidiaries, branches and affiliates and their respective successors in title which are involved in the provision of the Services;
- 1.12. **Information Obligations** means any information exchange, reporting, disclosure obligations, arrangements, agreements and/ or any withholding or payment obligations in force and applicable to the Service Provider, any member of the ICECAP Group, the Client, a Client Entity or any beneficiary or potential beneficiary of a Client Entity including but not limited to any obligations under: (i) the Organisation for Economic Co-operation and Development's Common Reporting Standard for the automatic exchange of information and/or any equivalent reporting requirements imposed by law and duly recognised, accepted and enacted in Jersey; (ii) any intergovernmental agreements relating to international tax compliance whether under The Foreign Account Tax Compliance Act ("FATCA") of the United States of America and/or any equivalent reporting requirements imposed by law and duly recognised, accepted and enacted in Jersey; (iii) any judgment or order of a court of competent jurisdiction; or otherwise as may be required to satisfy any legal or regulatory obligation.
- 1.13. **Limited Services** means ICECAP provides only registered office services or secretarial services or a combination of the two.
- 1.14. **Losses** means any loss, cost, charge, expense, payment, interest, demand, claim, proceeding, suit, penalty, damages, legal fees, liability, obligation, detriment, adverse judgment, order or other sanction.

- 1.15. **Nominated Person** as defined in the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 as amended and shall be ICECAP Limited.
- 1.16. **Regulatory Authority** means any relevant government entity or other authority in any jurisdiction (or which may have authority across numerous jurisdictions) which is responsible for authorising, supervising or otherwise regulating any part of the ICECAP Group or any Client Entity;
- 1.17. **Service Provider** means ICECAP Limited and any member or members of the ICECAP Group that provides the Services to the Client.
- 1.18. **Website** means [www.icecapltd.com](http://www.icecapltd.com)
- 1.19. In the event of any inconsistency between the provisions of the client engagement letter or email (or to any supplement or variation to the same) and these Terms, then the former shall prevail.

## **2. Instructions**

- 2.1. ICECAP may rely and act on instructions and information given by or purportedly given by (i) the Client; (ii) a director of the Client or any Client Entity; or (iii) any person ICECAP reasonably believes to be authorised, which is given by letter, email or fax or, unless otherwise agreed, by telephone.
- 2.2. If the Client instructs ICECAP to provide Services to a Client Entity, the Client Entity will be deemed to have agreed to and be bound by these Terms and to the other terms of the Agreement with references to the Client being construed as references to the relevant Client Entity.
- 2.3. The Client hereby indemnifies ICECAP and ICECAP Personnel against any Losses suffered or incurred by any of them resulting from any action taken or not taken by ICECAP or by any ICECAP Personnel in reliance on such instructions.
- 2.4. ICECAP is not under any duty to make enquiry as to the genuineness or authenticity of any instructions or authority or identity of the person giving them. If ICECAP has any doubts about the authority or identity of the persons giving the instructions, it shall not be obliged to take or omit to take any action pursuant to such instructions and the above-mentioned indemnity shall also apply in such circumstances.
- 2.5. ICECAP may also refuse to take or omit to take any action which, in its opinion, may be contrary to any Applicable Law, regulation, code of conduct or ICECAP internal policies or procedures.

## **3. Information relating to the Client and Client Entities**

- 3.1. The Client agrees to provide ICECAP promptly with all information that ICECAP may request from time to time relating to the Client, any Client Entity or to its or their businesses or to present or proposed shareholders, directors, partners, controllers, employees or trustees of the Client or any Client Entity. ICECAP may suspend providing the Services or terminate the Agreement if the Client fails to provide the requested information within the time period specified by ICECAP.
- 3.2. The Client agrees to notify ICECAP immediately after becoming aware of any act or event which may have a material effect on the Client or a Client Entity or their respective businesses or assets, of any actual or threatened litigation or investigation against or in respect of the Client or a Client Entity or of a proposed disposal of the Client's ownership interest in or other material change to the relationship which the Client has to a Client Entity.
- 3.3. The Client agrees that ICECAP may disclose to any court, government, government agency, supervisory body or tax authority information relating to the Client or a Client Entity where it is required to do so under applicable laws, regulations or codes of conduct or practice.

## **4. Tax and Other Professional Services**

- 4.1. The Client represents and undertakes that it has taken at its own expense appropriate tax, legal, financial and accounting advice with regard to the establishment, operation and management of the Client Entity or the Client's interest in or relationship with the Client Entity, including but not limited to the effect of the Information Obligations. Copies of such advice shall be promptly provided to ICECAP. ICECAP does not provide tax, legal, financial or accounting advice and the Client is responsible for determining that the scope of the Services to be provided is appropriate for the Client Entity and the Client's needs. The Client Entity and ICECAP shall be entitled to rely on any such advice obtained by the Client and shall be under no obligation to obtain independent tax, legal, financial or accounting advice.
- 4.2. It remains the ongoing responsibility of the Client Entity and the Client to obtain any specialist advice and to supply copies of such advice to ICECAP. This extends to all transactions undertaken by ICECAP in respect of the Client Entity. None of ICECAP, any member of the ICECAP Group, the Appointees or ICECAP Personnel shall incur any liability in connection with any such specialist advice supplied to ICECAP.

- 4.3. The Client Entity and the Client shall ensure (or shall procure that) ICECAP is notified promptly and accurately of any change in the circumstances of the Client or the Client Entity which has or may have a material effect upon the tax status of the Client or of the Client Entity.
- 4.4. ICECAP shall not be under any obligation in any circumstances (unless otherwise agreed with the Client Entity or the Client in writing) to notify the Client Entity or the Client of any change (whether a change in law, policy, facts or otherwise) which may affect the tax or legal position of the Client or the Client Entity or any advice or opinion provided by or on behalf of the Client Entity or the Client to ICECAP.
- 4.5. ICECAP and the ICECAP Group shall comply with the Information Obligations as it or they deem appropriate at their absolute discretion from time to time which may include:
  - (i) the disclosure of documents and/or information relating to any Client or Client Entity;
  - (ii) the withholding of any payments due to any Client or Client Entity; and/or
  - (iii) making payments to any duly authorised tax authority.
- 4.6. Neither ICECAP nor any member of the ICECAP Group shall be liable for any costs, claims, expenses or losses arising:
  - (i) from the compliance by ICECAP with the Information Obligations, whether any such liability arises from ICECAP complying with the Information Obligations or from any delay to the performance of the Services as a result of such obligations; or
  - (ii) any failure by the Client Entity or the Client to comply with any Information Obligations in any jurisdiction to which the Client Entity or the Client may be subject from time to time.
- 4.7. It is the responsibility of the Client Entity and the Client to: (a) take appropriate tax and other advice to determine the reporting obligations to which the Client Entity or Client is subject; (b) fulfil the Information Obligations of the Client Entity and the Client in relation to any interests or assets held through any Client Entity; and (c) provide any information which ICECAP requires for the purposes of complying with the Information Obligations (including but not limited to such information relating to any Client's tax status).
- 4.8. By instructing ICECAP to provide the Services, the Client Entity and the Client undertake to comply with all tax laws and regulations of the jurisdictions to which the Client or the Client Entity may be subject from time to time and to procure that any Client Entity complies with all such tax laws and regulations.
- 4.9. The Client Entity and the Client undertake to indemnify the Service Provider from and against any and all costs, claims, expenses or losses that it may suffer as a result of any failure by the Client Entity or the Client to comply with the obligations set out in this Clause or which may result from any failure to comply with any Information Obligations to which the Client Entity or the Client may be subject or which may result from any enquiry into the tax affairs of the Client or of the Client Entity. Further, unless expressly agreed by ICECAP, the Client agrees that neither ICECAP nor any member of the ICECAP Group shall be required to participate in or be joined as a party to any litigation, disputes or otherwise as a result of any failure by the Client Entity or the Client to comply with the obligations set out in this Clause or with any Information Obligations applicable to the Client Entity or the Client from time to time.

## **5. Client Obligations and Undertakings**

- 5.1. The Client hereby undertakes that:
  - (i) all assets which are or will be introduced to the Client Entity have been lawfully introduced and are not derived from or otherwise connected with any illegal activity;
  - (ii) the Client Entity will not be engaged or involved directly or indirectly with any unlawful activity or used for any unlawful purposes;
  - (iii) the Client Entity will not undertake any activities which will require a licence, consent or approval in any jurisdiction without first obtaining such licence, consent or approval or which will breach any conditions contained in any such licence, consent or approval;
  - (iv) the Client shall procure that the Client Entity complies with all Applicable Law in all relevant jurisdictions;
  - (v) the Client shall provide, and procure that the Client Entity shall provide such information and documents as ICECAP may, in its discretion, require in order to comply with all Applicable Law and regulations (including 'know your customer' requirements) and to provide the Services and shall warrant the accuracy and completeness of such information and documents;
  - (vi) immediately upon becoming aware thereof, the Client Entity or the Client shall notify ICECAP of: (a) any event which could be reasonably foreseen to have a material effect on the Client Entity, its assets or activities (including, without limitation, any act evidencing the insolvency of the Client Entity or the Client or commencing its liquidation, winding up or dissolution) or upon ICECAP's willingness to continue to provide the Services; (b) any actual or threatened proceedings or investigation of any kind in any jurisdiction which involve the Client or the Client Entity and any progress thereof, and it shall promptly provide such information as ICECAP may, in its discretion, require in respect thereof;
  - (vii) where the Services include the provision of Appointees, the Client Entity and the Client shall not, without the prior consent of ICECAP, take any action, enter into any agreement or contract, give any undertaking, make any representation or otherwise incur any liability on behalf of the Client Entity;
  - (viii) the Client shall notify ICECAP in writing before alienating, assigning, selling, pledging or otherwise disposing of or encumbering any part of the Client's interest in the Client Entity; and

- (ix) the Client Entity and the Client shall not (without ICECAP's written consent) use the logo, name, address, email, website address, telephone telex/facsimile numbers of any member of the ICECAP Group or allow the same to appear on any notepaper or documentation belonging to or connected with the Client Entity or in any advertising material.
- 5.2. ICECAP is committed to guard against all forms of bribery and corruption. This includes compliance with local and international corruption and anti-bribery laws. ICECAP expects transparency and integrity in all of its business dealings. The Client, and where required the Client Entity itself, are responsible for ensuring that the Client and the Client Entity act in accordance with local and international corruption and anti-bribery laws at all times. For so long as the Services are being provided, the Client shall not and will not, and shall procure that the Client Entity shall not and will not, engage in any activity, practice or conduct which could create any improper business advantage or even the appearance of questionable business conduct. Where the Client Entity or the Client is a corporate entity, ICECAP expects that corporate entity to have in place and maintain (throughout the period during which the Services are provided) appropriate policies and procedures, including, but not limited to, adequate procedures under the UK Bribery Act 2010 (which can be enforced where applicable). The Client Entity and the Client shall notify ICECAP promptly in the event that they become aware that the Client Entity or the Client (or any person engaged by the Client Entity or the Client), is investigated, prosecuted, charged or convicted of any offence under local or international corruption and anti-bribery laws.
- 5.3. The Client hereby guarantees the payment of all sums payable by the Client Entity to ICECAP whether under the Engagement Document, these Terms or otherwise. The Client agrees that ICECAP may claim under this guarantee without first seeking recourse against the Client Entity or any other person or seeking to share its liability with any other party and the Client hereby expressly waives its customary law rights under the *droit de discussion* and *droit de division*.
- 5.4. The Client shall ensure that the Client Entity is kept in funds sufficient to allow it to meet in full all fees, remuneration, disbursements and expenses payable by the Client Entity to ICECAP and for the Client Entity to otherwise meet its liabilities as and when they become due.
- 5.5. Where the Client is more than one person:
- (i) each such person hereby appoints the other such person(s) to act as his agent to exercise full power and authority in connection with the Services on his behalf; and
  - (ii) all obligations of the Client in connection with the Services shall be joint and several.

## **6. Identity Information and Verification**

- 6.1. ICECAP is required to operate anti-money laundering and other checks and procedures in respect of all aspects of the provision of the Services. The time at which such information and documentation is required and the form in which it shall be delivered to ICECAP shall be determined by ICECAP in its absolute discretion. If ICECAP is not provided with such information and documentation as required to enable ICECAP to meet such ongoing obligations, it shall be entitled to suspend or terminate the provision of the Services by notice in writing to the Client Entity or the Client with immediate effect and without liability or responsibility for any direct or indirect loss caused.
- 6.2. The identity information shall be updated at such intervals as ICECAP may determine. It shall be the responsibility of the Client Entity and the Client to provide:
- (i) the required information in a timely and accurate manner; and
  - (ii) to inform ICECAP of any material change in circumstances which may render any information previously provided inaccurate or otherwise obsolete.
- 6.3. By providing such information and documentation, the Client and, where applicable, the Client Entity will be taken to have consented to the onward disclosure of such information and documentation to such third parties as shall in the opinion of ICECAP require the same in connection with the Services.
- 6.4. Information and documentation provided to ICECAP may be subject to disclosure and production pursuant to orders of any court of competent jurisdiction or any competent judicial, governmental or regulatory body.

## **7. Provision of Limited Services Only**

- 7.1. In the provision of only limited services to a Client Entity it shall be the responsibility of the Client Entity to provide:
- (i) copies of minutes of directors' and members' meetings that must be kept by the Client Entity (including, in the case of a protected cell company, copies of minutes of directors' and members' meetings of the cell company and each of its cells) under Part 15 of the Companies (Jersey) Law 1991; and
  - (ii) copies of accounts that must be prepared by the directors of the Client Entity (including, in the case of a protected cell company, copies of accounts that must be prepared by the directors of the cell company and each of its cells) under Part 16 of Companies (Jersey) Law 1991; or
  - (iii) where accounts are not required to be prepared, underlying financial records that are maintained by the directors of the Client Entity.

## **8. Fees and disbursements**

- 8.1. Unless otherwise agreed, ICECAP shall be entitled to fees calculated in accordance with its schedule of fees in place from time to time.

- 8.2. Fixed fees may be adjusted annually by reference to inflation, overheads, competitor rates and such other factors as we may consider to be fair and reasonable.
- 8.3. ICECAP shall charge a sundry expenses charge of 3% of fees in each invoice to cover general expenses (e.g. telephone calls and in-house photocopying and printing charges). In addition, the Client acknowledges that in carrying out the Services, ICECAP or ICECAP Personnel may incur third party expenses and charges and which the Client agrees to reimburse to ICECAP. If so agreed in the relevant engagement letter or otherwise, ICECAP will not incur such third party expenses or charges in relation to a single item above an agreed level without previously informing the Client.

## **9. Payment**

- 9.1. The Client shall promptly if so requested by ICECAP, pay such amount as may be reasonably specified by ICECAP on account of fees or disbursements. ICECAP shall render invoices quarterly in arrears, which shall include all fees and disbursements incurred in or in respect of the preceding quarter. Where a fixed annual fee is agreed, unless otherwise agreed, it shall be billed in four equal quarterly instalments. Payment of invoices is due immediately. If payment is not received by ICECAP within 30 days after the date of invoice, ICECAP may charge interest on the outstanding amount at the rate of 1% per month cumulative.
- 9.2. If an invoice is addressed to a Client Entity (as may be agreed between ICECAP and the Client) but that Client Entity fails to pay it within 30 days of being rendered then the Client undertakes to pay to ICECAP the invoiced amount on demand and ICECAP reserves the right to deduct any unpaid monies owing to it in connection with the Services from the assets of the Client Entity without the consent of the Client.
- 9.3. If required to do so under Applicable Law, ICECAP shall charge the Client (and the Client undertakes to pay) value added tax or goods and services tax or similar on the fees and disbursement charged by ICECAP under the Agreement.
- 9.4. Any amount due from the Client or a Client Entity under the Agreement shall be paid to ICECAP without any withholding or deduction.

## **10. Confidentiality and Disclosure of Information**

- 10.1. ICECAP undertakes to keep confidential all information relating to the Client or any Client Entity (or to its or their businesses or to present or proposed shareholders, directors, partners, controllers, employees or trustees of the Client or any Client Entity) provided to ICECAP by or on behalf of the Client or any Client Entity and not to disclose it to any person other than ICECAP Personnel. This undertaking shall not apply however to: (i) the disclosure of information in the circumstances referred to in clause 3.3; (ii) the disclosure of information already known to ICECAP or in the public domain.
- 10.2. The Client Entity and the Client agree that ICECAP and any other company in the ICECAP Group may transfer information (including confidential information and Personal Data) it holds about the Client Entity or the Client to: (i) other offices of ICECAP; (ii) other companies in the ICECAP Group; and (iii) third parties who provide services to ICECAP or any other company in the ICECAP Group or act as ICECAP (or its) agents in any country, including countries outside the EEA, which may not offer the same level of protection of Personal Data as provided under Data Protection Laws. However, ICECAP shall take all reasonable steps to ensure that the recipient of such information in the other country keeps such information safe and secure.
- 10.3. The Client Entity and the Client agree that ICECAP may disclose information (including confidential information and Personal Data) to any other companies which are at the time of disclosure in the ICECAP Group. Where ICECAP does so, it may only use Client or Client Entity information for the purposes permitted under these Terms. The Client Entity and the Client also agree that ICECAP or any other company in the ICECAP Group may disclose information (including confidential information and Personal Data) to third parties who provide services to it or that act as ICECAP's (or any other company in the ICECAP Group) agents (or prospective third party service providers or prospective agents). Where it does so, they may only use the Client Entity and the Client's information for the purposes permitted under these Terms. ICECAP, or the relevant member of the ICECAP Group, will take all reasonable steps to ensure that ICECAP or its agents is subject to appropriate confidentiality requirements.
- 10.4. The Client Entity and the Client agree that ICECAP may share or transfer any Client Entity or Client information (including confidential information and Personal Data) with third parties in connection with a reorganisation (including investment), amalgamation, merger or transfer or sale of all or part of ICECAP's business, including to any insurers and professional advisors, and any third parties to whom ICECAP assigns, transfers or charges its interest in any financial product or service provided to the Client Entity or the Client. Such parties may use the Client Entity or the Client's information for the purposes permitted under these Terms.
- 10.5. The Client Entity and the Client agree that ICECAP will be the appointed Nominated Person and it shall be authorised to act on behalf of the Client Entity and the Client to make all disclosures, filings, returns, submissions or other actions that may be necessary to comply with all aspects of the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 as amended.

- 10.6. ICECAP may also disclose information (including confidential information and Personal Data) about the Client Entity or the Client in the following circumstances:
- (i) to any court, tribunal, mediator, arbitrator, any Regulatory Authority or taxation authority in any relevant jurisdiction;
  - (ii) if ICECAP or any person to whom the Client Entity or the Client's information is disclosed have a right or duty to disclose it or are permitted (acting reasonably) or compelled by Applicable Law;
  - (iii) to debt collection agencies, law enforcement agencies and/or fraud prevention agencies in any relevant jurisdiction; and
  - (iv) to ICECAP's agents, auditors, service providers, and professional advisers (and those agents, auditors, service providers and professional advisers of other companies in the ICECAP Group).
- 10.7. Further information on how Personal Data is collected, how long it is retained for, the grounds for processing, the purposes of the processing and the persons to whom Personal Data may be transferred can be found in the Privacy Notice which is available on the ICECAP's website; [www.icecapltd.com](http://www.icecapltd.com).

#### **11. Document Retention**

- 11.1. Where ICECAP retains originals or copies of any documents belonging to a Client Entity or the Client following the termination of the Services, ICECAP reserves the right (but shall not be under an obligation):
- (i) to retain such copies for a period of ten years from the date of the termination of the Services and thereafter to destroy all such documents (whether originals, photocopies or electronic copies) at such times as ICECAP in its sole discretion considers appropriate;
  - (ii) (without prejudice to (i)) to make electronic copies of all such documents as they shall have retained and reserve the right to destroy hard copies of all such documents that they shall have retained.
- 11.2. Requests from former Client Entities or Clients for information, records and data held concerning a Client Entity for which ICECAP no longer provides Services may be refused, however if accepted, ICECAP shall charge for the provision of such information, records and data on a time spent basis at its usual hourly rates and all expenses and disbursements shall be borne by the requesting party.

#### **12. Client and Client Entity Money**

- 12.1. Money belonging to the Client or the Client Entity will be maintained at all times separate from the funds of ICECAP.
- 12.2. To the extent that tax has to be deducted from interest earned on funds held on behalf of the Client or the Client Entity or paid out to the Client or the Client Entity ICECAP will account to the tax authorities for tax deducted. The Client and the Client Entity are responsible for seeking their own tax advice in this regard.
- 12.3. On receipt of any monies ICECAP must be satisfied as to the source of these funds. If it has any doubts as to the source of funds ICECAP may (i) refuse to receive or to return monies and/or (ii) be bound by Applicable Law to notify the relevant authorities.
- 12.4. The Client Entity and the Client will not request or instruct ICECAP to take or refrain from taking any action whatsoever in relation to funds or assets or documents of any nature which could in the sole opinion of ICECAP result in a contravention of any Applicable Law. ICECAP reserves the right not to comply with any request or instruction which in its sole opinion could potentially result in any such contravention or which in its opinion could result in any damage to its reputation or good standing.
- 12.5. Neither ICECAP nor any other member of the ICECAP Group shall be responsible for complying with any reporting requirements outside of the Island in which the Services are provided in relation to interest earned on monies held in any account of the Client Entity or of the Client.

#### **13. Delegation**

- 13.1. ICECAP in performing its duties hereunder may, where it considers it appropriate, appoint at the expense of the Client Entity agents or other delegates to perform any specific duties of ICECAP.
- 13.2. ICECAP shall not be liable for any loss arising from a delegation (except when the delegation is to an Appointee) provided that (i) the delegation has been made on terms such that the agent or delegate shall be directly liable for any such loss, (ii) such delegation or continuation of the delegation was made in good faith, and (iii) that ICECAP has not been grossly negligent in monitoring the activities of the agent or delegate.

#### **14. Limitation of Liability and Indemnity**

- 14.1. ICECAP shall not be liable for any failure or delay in providing the Services as a result of circumstances beyond its control. ICECAP shall not be liable for any Losses incurred by the Client or any Client Entity arising out of the performance of the Services or failure by ICECAP to perform the Services save to the extent that such Losses are attributable to the fraud, wilful default or Gross Negligence of ICECAP or ICECAP Personnel. Further, ICECAP's maximum liability to the Client and any Client Entity (in aggregate) under the Agreement shall not exceed £5,000,000.

- 14.2. The Client and each Client Entity shall indemnify (on a full indemnity basis) ICECAP and the ICECAP Personnel against any Losses which may be suffered or incurred by ICECAP or any of the ICECAP Personnel from time to time in connection with the provision of Services save to the extent that such Losses are attributable to the fraud, wilful default or Gross Negligence of ICECAP or ICECAP Personnel.

## **15. Termination**

- 15.1. Either the Client or ICECAP may terminate the Agreement at any time by giving not less than one month's written notice in writing to the other. Notwithstanding such termination, ICECAP shall be due and the Client shall pay on demand all fees and disbursements outstanding or accrued or incurred up to the date of termination plus any fees (as estimated by ICECAP acting reasonably applying its then current standard hourly charge) and disbursements to be incurred in connection with the handover of the files of Client and relevant Client Entities to another service provider or to the Client itself. Until such time as ICECAP is paid in full, it shall have a lien over all documents, assets and funds of the Client and/or Client Entities held by or on behalf of ICECAP. Subject to ICECAP's obligations pursuant to any applicable laws, regulations or codes of conduct or practice, and subject to payment of all monies owing to ICECAP pursuant to the Agreement, ICECAP will deliver to the Client or as it may direct all the documents, assets and funds of the Client and/or Client Entities in its possession save that ICECAP's working papers relating to carrying out the Services are and shall remain the property of ICECAP.
- 15.2. Any fees paid in advance are non-refundable upon termination of the Agreement.
- 15.3. Upon termination of Services for any reason the Client Entity and the Client shall immediately provide details of the new service provider which shall be required in order to maintain the Client Entity in good standing under the laws of its jurisdiction and shall provide an address to which the Service Provider may transfer all relevant books and records of the Client Entity. In the event that the relevant information in relation to any new service provider is not provided to the Service Provider by the date on which the notice to terminate the Services takes effect, the Service Provider reserves the right to withdraw Services without appointment of any replacement service provider and to arrange for the resignation of any directors, trustees or other officers of any Client Entity without the appointment of successors (unless the laws and regulations prevent any such unilateral withdrawal). The Service Provider further reserves the right to transfer any shares or interests in any Client Entity held by nominees into the name of the Client or other beneficial owner nominated by the Client in respect of such interest.

## **16. Conflicts of Interest**

- 16.1. The Client for itself and for each Client Entity acknowledges that in providing services the same or similar to the Services to other persons, there may be instances where the interests of such other clients and those of the Client and/or Client Entities may conflict. The Client for itself and for each Client Entity hereby consents to ICECAP acting or continuing to act as ICECAP may determine in such circumstances.

## **17. Complaints**

- 17.1. In case the Client or the Client Entity is not satisfied with the Services provided by ICECAP, ICECAP has established a complaints procedure. In the first instance, the Client or the Client Entity should write to its usual contact at ICECAP at First Floor, Osprey House, 5-7 Old Street, St Helier, Jersey, JE2 3RG or email with details of its complaint which will be acknowledged within 5 working days and then be thoroughly investigated. The Client or the Client Entity will be kept informed about the progress of their complaint and any action taken to resolve it and will be notified in writing when the complaint is closed and, if not upheld, will be provided with a statement of reasons for that decision.
- 17.2. If after taking this action the Client or the Client Entity is still dissatisfied, the Client or the Client Entity may be eligible to refer its complaint to the Channel Islands Financial Ombudsman. The Channel Islands Financial Ombudsman may be contacted at: Channel Islands Financial Ombudsman (CIFO) PO Box 114 Jersey, Channel Islands, JE4 9QG, Email: enquiries@ci-fo.org, website: www.ci-fo.org, International phone: +44 1534 748610. The Client or the Client Entity may also refer the matter to the Jersey Financial Services Commission, PO Box 267, 14-18 Castle Street, St Helier, Jersey, JE4 8TP (www.jerseyfsc.org).

## **18. Variations to the Terms**

- 18.1. ICECAP may from time to time change these Terms by:
- (i) giving the Client Entity and the Client written notice of the change; or
  - (ii) publishing these Terms, as changed or re-issued, on the Website; in each case not less than one month before the change is to take effect. Notification of the change to the Client Entity and the Client, or publication of the change on the Website shall be deemed to constitute sufficient notice to the Client of such change.
- 18.2. Unless the Client Entity or the Client informs ICECAP in writing that either of them do not accept the change to the Terms as notified or published on the Website before it takes effect, the Client Entity and Client will be deemed to have accepted such change and shall be bound by the Terms as notified or published.

- 18.3. If the Client Entity or the Client informs ICECAP in writing that either of them do not accept the change to these Terms before it takes effect, the Client Entity (subject to any constitutional document or Applicable Law), the Client or the Service Provider may terminate the Services by giving not less than one month's written notice to the other party or parties.
- 18.4. These Terms supersede and replace all and any terms and conditions previously in force in relation to any of the Services. Where ICECAP and the Client Entity or the Client subsequently enter into an agreement which expressly replaces these Terms in their entirety, these Terms shall cease to apply but shall not affect any accrued right or obligation of the parties.

#### **19. Miscellaneous**

- 19.1. The Agreement sets out the entire agreement and understanding between the parties in respect of the subject matter of this Agreement.
- 19.2. The Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and permitted assigns.
- 19.3. Subject as provided below, no party shall be entitled to assign or otherwise transfer the benefit or burden of the Agreement to any other person without the prior written consent of the other party.
- 19.4. ICECAP may novate the Agreement to any corporation into which ICECAP may be merged or with which they may be consolidated or to any corporation resulting from any merger or consolidation in which ICECAP shall be a party.
- 19.5. ICECAP may communicate with the Client and any Client Entities by unencrypted email and the Client accepts that internet communications cannot be guaranteed to be secure or error-free as they may be intercepted, corrupted, lost, arrive late or contain viruses. ICECAP shall be entitled for all purposes in relation to dealings with all persons including, but not limited to, the Client and any Client Entity, to rely on the authenticity and accuracy of all information and communications of whatever nature (including through fax, the Internet or similar systems) received by ICECAP in good faith in connection with the performance of its duties and shall not be responsible or liable to any person for any Losses arising by virtue of any such information or communication not being authentic and/or accurate or any communication transmitted to or by ICECAP having been interfered with, intercepted or manipulated by any person.
- 19.6. If at any time any one or more of the provisions of the Agreement is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be in any way affected or impaired.

#### **20. Governing Law and Jurisdiction**

- 20.1. The Agreement is governed by and shall be construed in accordance with the laws of Jersey.
- 20.2. The Client and each Client Entity hereto irrevocably agrees that the courts of Jersey shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with the Agreement and, for such purposes, irrevocably submits to the jurisdiction of courts of Jersey and waives any right to claim that such courts are not an appropriate forum.

11 May 2022