Ogier (Guernsey) LLP

Terms and Conditions of Business - Legal Services

1 Introduction

1.1 Ogier is a multi-jurisdictional legal and fiduciary services provider. It includes collectively Ogier Legal Limited Partnership, Ogier Global Holding Company Limited, separate legal or limited liability partnerships (each using the name 'Ogier') and any of their subsidiaries, associates and undertakings (including any successor to any of them) wherever each and any of them may be situate.. A full list of jurisdictions in which Ogier operates and the main trading entities included within Ogier is available at www.ogier.com.

1.2 References in these Terms and Conditions and any accompanying engagement letter to **we**, **our**, **us** and **the firm** means Ogier (Guernsey) LLP, the Ogier limited liability partnership in Guernsey. Whilst it is part of Ogier, this partnership alone is fully and exclusively responsible for providing legal services to you under this engagement.

1.3 Any advice that we provide is for your benefit alone for the purpose of this engagement. Unless we expressly agree otherwise, the advice is not to be used or relied upon by third parties. We accept no responsibility for any consequences arising from reliance upon our advice by any person other than you.

1.4 We reserve the right to vary these Terms and Conditions from time to time, including during the course of the provision of legal services, without your prior consent. These Terms and Conditions and any future variations will be published on www.ogier.com by way of public notice to all current and prospective clients. On the basis of such publication you shall be deemed to have agreed to these Terms and Conditions and all such variations. If you are an individual consumer personally receiving the benefit of our legal services (a consumer) and subject to these Terms and Conditions, in the event we make a material amendment to these Terms and Conditions during the course of the provision of legal services to you and except where such change is required to comply with applicable law, regulation or guidance, we will give you notice of such material amendment and should you choose not to accept the amendment, you will be entitled to terminate our engagement in accordance with clause 9.

2 Your Authorised Representative

2.1 In our provision of legal services you authorise us to deal with any designated representative notified to us in writing (including by email) or by telephone from time to time. That notification may come from you or other professional advisers or agents or other third parties providing services for you in relation to this engagement.

3 Due Diligence

3.1 We are required to complete due diligence checks on all new and existing clients. These checks will include gathering information and documents to identify and verify each individual or entity for whom we act and, if applicable, each principal or beneficial owner of that entity. We may conduct electronic identity verification searches.

3.2 Either the lawyer or fee earner responsible for your engagement or a member of the legal compliance team will contact you to agree what information and documents are required to satisfy our due diligence checks, including the form of those documents.

3.3 We may immediately stop acting for you if, within a reasonable period, you fail to produce or delay in producing any information or documents (in a form acceptable to us) we require for our due diligence checks. If we so terminate our engagement, that termination will be without any liability on our part and without prejudice to our ability to claim our fees, disbursements and charges incurred prior to that termination.

3.4 We are not permitted to provide final advice to enable a transaction to complete until our due diligence checks have been finalised. Any advice that we give to you prior to the completion of the due diligence checks will be taken to be preliminary advice on which you cannot place any reliance and for which we accept no liability.

4 Fees

4.1 Unless agreed otherwise, our fees are based on time spent by our lawyers and other fee earners. However we are entitled to take into account, when assessing rates and bills generally, other factors including the importance, urgency, novelty and complexity of the matter, the values involved, the number and length of any documents involved, any special skills required and the firm's experience, expertise and precedents. We are always willing to discuss with you a fair and reasonable method to determine our fees in any specific case.

4.2 Our billing rates vary according to the experience, qualifications and role of the individuals involved. Our billing rates are reviewed from time to time and may be adjusted as we consider necessary. The rates applied will be those in force at the time the work is undertaken. It is not our practice to notify you of changes to billing rates but we will provide up to date information upon request. If you are engaging us as a consumer and subject to these Terms and Conditions, in the event we make a change to our billing rates during the course of the provision of legal services to you and if such change would affect the fees payable by you to us pursuant to the engagement, we will give you notice of such change. Should you choose not to accept the amendment, you will be entitled to terminate our engagement in accordance with clause 9.

4.3 By instructing us, you authorise us to incur and charge for disbursements such as those relating to registry fees, court fees, courier services, government fees, travel expenses and other third party charges. In addition, a sundry expenses charge of up to 5% of fees may be included in each invoice to cover general expenses which it is not practical to charge on a provision basis such as those relating to telephone calls, printing and regulatory compliance which are not included within standard or fixed fees billed.

4.4 Where significant or unusual third party payments are required we may forward any related invoices to you for direct payment.

4.5 Although we may from time to time, at your request, provide estimates of fees, disbursements and charges that we anticipate will be incurred, these are only estimates and the actual fees, disbursements and charges ultimately invoiced may vary from those estimates. We will endeavour to inform you as soon as possible if it appears that any estimate is likely to be exceeded or if there are significant changes to the variables on which the estimate was based. You may request an update on fees at any time during the course of our engagement.

4.6 If another member of Ogier records time in a currency other than that in which the invoice is being produced, the fees of that other Ogier member will be converted to the same currency as that in which the invoice is being issued using the relevant Financial Times rate as we may use from time to time.

4.7 Our mandatory due diligence procedures may result in a charge depending on the extent of the due diligence required. In the event that we are requested to provide copies of due diligence records to third parties, we may charge a fee depending on the extent of the due diligence required and will action only subsequent to receipt of a signed mandate of release by you.

4.8 We will add to your invoice any value added tax, goods and services tax or other similar tax that may be chargeable on all or any part of the services which we provide as part of our engagement or any disbursements or charges in relation to those services.

4.9 In the event that you are required to withhold or make any deductions in respect of any tax or similar levy, you will pay to us such additional amount as will ensure we receive the same total amount that would have been received if there were no such withholding or deduction.

5 Payments on Account and Client Account Funds

5.1 We reserve the right to request a payment on account of fees, disbursements and/or charges.

5.2 All clients' money accepted by the firm will be held in an account separate from the firm's money. It will be held on trust. We pay interest on clients' money in certain circumstances. If you would like further details of this, please do not hesitate to ask us.

5.3 Where we are holding money for you, on account or otherwise, we may use this money towards payment or part-payment of any of our outstanding invoices. We will always inform you when this is being done. Should you inform us in writing of a bona fide dispute in relation to our fees, disbursements or charges, we will place such funds on a suspense account pending resolution of any such dispute.

5.4 Any monies retained in our client account (irrespective of the reason for which they are held) shall be placed on account with a Guernsey banking institution for the purposes of the Banking Supervision (Bailiwick of Guernsey) Law, 2020. In the event of such a banking institution being unable to meet its obligations to its creditors for any reason (including but not limited to any form of insolvency), we shall not be liable to any person for any costs, claims or expenses or any losses (whether consequential or otherwise), damages or liabilities howsoever arising and your liability for payment of our fees, disbursements and charges shall remain unaffected.

5.5 Paragraph 5.4 shall not apply in respect of undertakings we provide to any of our clients or to third parties as part of the legal services which we provide (unless otherwise expressly stated in the terms of the undertaking).

5.6 Where we are holding money for you on account or otherwise and we have suspicions of money laundering or any illegal activity we reserve the right to refuse to transfer out such money without the prior sanction of any relevant authorities.

6 Payment

6.1 Invoices are usually rendered monthly in arrears and generally include all fees, disbursements and charges incurred up to the date of the invoice. Interim invoices may be issued.

Unless otherwise agreed with us, payment is due within 21 days of receipt of the invoice.

6.2 If payment is not made within 30 days, we may charge interest at a monthly rate of 2%.

6.3 Without prejudice to our right to claim interest, if payment is not made when due (or if we request payment on account of fees, if payment is not made when requested), we may stop acting for you and retain documents and papers belonging to you, together with our own records, pending payment in full of all amounts due to us.

6.4 Where we are instructed by more than one client, responsibility for our fees will be joint and several unless agreed otherwise with us.

6.5 You remain personally responsible for payment of our fees where it is intended that our fees will be met from any source other than your own funds. You are liable when payment is due, whether or not monies are available from any such other intended source. Without limitation, and for the avoidance of doubt, this includes where you instruct us as representative for another party, as trustee or as liquidator, receiver or administrator of a company and our fees, disbursements and charges are intended to be met out of the other party's assets, or trust or company assets, as the case may be.

7 Confidentiality, Intellectual Property and Data Protection

7.1 References in these Terms and Conditions to **Client Information** means all the details we hold about you and the matters upon which we are instructed by you, whether those details are supplied by you or come from third parties.

7.2 Subject to clauses 7.5 and 7.6, we shall not at any time disclose to any person, and shall treat as confidential, any Client Information.

7.3 Where such Client Information consists of personal data about you and/or your officers, employees, shareholders, beneficial owners, associates, agents and, where applicable, family members you acknowledge that we may process such personal data in accordance with any data protection legislation applicable to us and our privacy policy which is available here. Both parties will comply with applicable data protection legislation.

7.4 Any information related to the business, customers, finances, partners, employees or consultants, of any Ogier entity which is identified as or can reasonably be considered as confidential shall be considered **Ogier Confidential Information**. Subject to clause 7.5, you shall not at any time disclose to any person (other than your directors, officers, employees, consultants and agents on a need to know basis and provided they are subject to similar standards of confidentiality) Ogier Confidential Information.

7.5 Neither party shall disclose to any third parties any Client Information or Ogier Confidential Information, as the case may be, unless:

(a) such disclosure is permitted by these Terms and Conditions;

(b) the other party has consented to such disclosure;

(c) such information is already in the public domain (otherwise than as a result of unauthorised or improper conduct of the recipient);

(d) disclosure is required by any law, regulation, rule, code, or order of any court, tribunal or judicial equivalent or pursuant to any direction, request or requirement (whether or not having the force of law) of any governmental, regulatory or supervisory body; or

(e) disclosure is authorised pursuant to clause 2.1

7.6 We may disclose Client Information for legitimate business purposes to any of the following, which may be in another country:

(a) other members of Ogier;

(b) service providers or agents who are subject to duties of confidentiality such as auditors, credit reference agencies, insurers, debt collectors and providers of computing facilities.

7.7 The legitimate business purposes for which we may use and disclose Client Information include but are not limited to:

(a) general client and matter management, undertaking internal conflict of interest checks, anti-money laundering and financing of terrorism checks, analysing Ogier's performance and generating internal financial and marketing reports;

(b) assessing legal and financial risks and collecting debts;

(c) ensuring that our client care is of the highest quality;

(d) marketing Ogier's services to you in the future, which may involve contacting you or, where applicable, individuals within your organisation using the contact details that you have provided to us.

7.8 From time to time we may wish to refer to you as a client of Ogier in publications or other marketing material. We may also wish to refer to matters on which we have acted for you where we reasonably consider that such matters are in the public domain or are otherwise not of a confidential nature. Unless you advise us otherwise in writing (either generally or in relation to any particular matter), we will take it that you consent to this.

7.9 If we have suspicions of money laundering based on information obtained by us professionally, it may be necessary or appropriate for us to report those suspicions to the relevant authorities. Such a report does not breach any duty of confidentiality owed by lawyers to their client, and we shall not be liable for any losses suffered by you or a third party as a result of a delay in providing our services or our refusal to provide information regarding such delay.

7.10 Where any transfer of Client Information as described in these Terms and Conditions is to any person in another country, such transfer is on the basis that anyone to whom we pass it provides an adequate level of protection. However:

(a) that other country may not provide the same level or type of statutory (other legal) protection as your country; and

(b) in some circumstances, your Client Information may be accessed by law enforcement agencies and other authorities to prevent and detect crime and comply with legal obligations.

7.11 You must ensure that any Client Information provided to us has been provided legitimately and that there is a legitimate basis under any applicable data protection legislation for providing such data to us.

7.12 The primary data controller in relation to this engagement is Ogier (Guernsey) LLP.

7.13 You acknowledge that Ogier holds all Intellectual Property Rights in our, or any other member of Ogier's, as relevant, working papers, correspondence, files and records (other than statutory corporate records) and all information and data held by us or another member of Ogier relating to carrying out our services and our duties and, except to the extent required by law and regulation, you shall not have any right of access thereto or control thereover.

7.14 All Intellectual Property Rights in original materials that we generate for our clients vest on creation in us. You are entitled to use those materials for the purposes for which they were obtained and for all reasonably associated purposes. Subject to the provisions of applicable professional rules, you are not entitled to receive or review our internal correspondence relating to your matters irrespective of whether our fees on those matters included the production of that correspondence.

7.15 In connection with the receipt of our Services you may provide us with Client Content in which you own or have a licence to use the Intellectual Property Rights. Subject to clauses 7.2 and 7.5, you acknowledge and agree that we may use the Client Content for the purpose of providing or in connection with our provision of the services and you grant us a licence/ sub-licence, as appropriate, for these purposes.

7.16 Subject to clauses 7.2 and 7.5, you acknowledge and agree that we may use Generative AI in connection with the provision and continuous improvement of our services and that all Intellectual Property Rights in the outputs of Generative AI used for such purposes vest in Ogier to the extent permitted by law.

7.17 Nothing in this clause 7 grants or purports to grant Intellectual Property Rights in the Client Content to us or any other member of Ogier. We will not hold ourselves out as having Intellectual Property Rights in the Client Content.

7.18 For the purposes of this clause 7:

(a) **Client Content** means any document, information and data provided to us by you or on your behalf, and which may include Client Information;

(b) **Generative AI (GenAI)** means a type of artificial intelligence that can create new content, such as text or images, by learning patterns from existing data. It uses algorithms and techniques such as deep learning and machine learning to generate data that is similar to or a variant of the input data; and

(c) **Intellectual Property Rights** means patents, rights to and in inventions, trade-marks, trade names, domain names, service marks, service names, copyright and related rights, source code, topography rights, rights to extract information from databases, database rights, rights in designs, design rights, rights in get-up and look and feel, goodwill and the right to sue for passing off or unfair competition, moral rights, confidential information including know how and trade secrets, and rights of confidence, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world, whether or not any of them are registered and including applications for registration of any of them.

8 Limitation of Liability

8.1 If you, or a party whom you represent or who otherwise may claim through you, suffer or incur any loss or damage (of whatsoever kind and howsoever arising) arising out of, or in connection, with our services (whether caused, or contributed to, by any act, omission or statement or by any delay in acting or arising in any other way in connection with our services), you and any such party may only have recourse to the assets of the firm in respect of that loss or damage. For the purpose of this clause the assets of the firm include all rights or claims (including any indemnity) of the firm or the partners or any other employee or consultant of the firm pursuant to any professional indemnity or similar insurance held or maintained by Ogier.

8.2 Apart from the firm's assets, you and any such other party will have no recourse to the personal assets of any partner, employee or consultant, their respective personal representatives or any related person. You agree not to bring a claim against any of our employees or consultants personally. This paragraph shall not exclude or limit the liability of the firm for the acts or omissions of its employees performed under the firm's supervision or within the scope of the employee's contract of employment with the firm.

8.3 Our aggregate liability in contract and in tort (including negligence) or under statute or otherwise, for any loss, liability or damage suffered by you or any other person that may arise from or in connection with our services shall be limited to £5,000,000. This is agreed as a reasonable limitation on our liability.

8.4 If you have agreed to limit the liability of a co-adviser, you also agree that our liability of whatsoever nature and howsoever arising is limited in the following way: our liability excludes any amount which we would have been entitled to recover from that co-adviser in contribution proceedings had you not agreed to the limitation with that co-adviser.

8.5 Nothing in these Terms and Conditions purports to limit or exclude any liability which cannot be limited or excluded by law, including where applicable, our liability for death or personal injury caused by our negligence.

9 Termination

9.1 You may terminate our engagement at any time by notice in writing.

9.2 In addition to the grounds for termination under paragraphs 3.3 and 6.3, we may also stop acting for you in any of the following circumstances: (i) we believe that your actions may potentially breach any laws, regulations, rules or codes; (ii) we consider there has been a breakdown in confidence and trust between us; or (iii) in any other circumstances where, in our opinion, it is not appropriate or possible for us to continue acting.

9.3 If for any reason we cease to act for you before the conclusion of the matter, you will be responsible for our fees, disbursements and charges incurred up to the date of termination and for any fees, disbursements and charges associated with the transfer of your files to another adviser of your choice.

10 General

10.1 As a matter of policy we will not accept a general retainer to act for you and reserve the right not to accept instructions in respect of any matter, or to decline to continue to act further on the grounds of conflict of interest or otherwise (as to which our determination shall be final). It is a condition of our engagement that you agree that we may represent, now and in the future, existing or new clients in any matters that are not substantially related to our work for you.

10.2 We are prohibited by professional rules governing the conduct of lawyers from acting in any matter where there would be a conflict of interest or significant risk of a conflict of interest. Without your prior consent, we cannot and will not represent any client adverse to you in a specific legal matter if we have obtained confidential information from you that is material to that matter. However, in instances in which we have no such material confidential information, you agree that we can represent other clients in legal matters, even those potentially or actually adverse to you or any of your affiliates, without your further consent. In order to minimise the likelihood of a conflict arising, you must notify us as soon as possible as you become aware of a potential conflict, or situation that may give rise to a conflict.

10.3 We will retain documents relating to this engagement in accordance with our current record retention policy. All documentation (including original documentation) that we hold or are requested to hold for you in safekeeping will be held by us at your risk and we accept no responsibility or liability whatsoever or howsoever arising in relation to the storage or destruction or loss of any such documentation. We recommend that you retain a copy of all such documents for your own reference.

10.4 In order to communicate with you efficiently, we may communicate with you by unencrypted e-mail, unless you expressly instruct otherwise, either generally, or for highly confidential messages. Internet communications, however, cannot be guaranteed to be secure or error-free as they may be intercepted, corrupted, lost, arrive late or contain viruses. We do not accept liability for any interceptions, errors or omissions in the context of a message sent by internet transmission.

10.5 Our advice is applicable to Guernsey law in force at the time we provide our services and we are not responsible for advising on changes in the law after we have delivered our advice. We are not responsible for compliance with any laws or regulations of any jurisdiction other than Guernsey.

10.6 You agree that you will provide us with all information and documentation that may reasonably be required for us to advise you in relation to our engagement (and do not rely upon us having any documentation or information that you may have provided to us in relation to any prior engagement). You further agree to ensure that such information and documentation is and remains true, accurate and complete in all material respects and is not misleading. We will not seek to independently verify the truth, accuracy or completeness of information and documentation you supply to us save where we specifically agree in writing to do so.

10.7 We rely on the strict understanding that, if appropriate, you have obtained, or will obtain, proper professional advice as to the laws of every relevant jurisdiction other than Guernsey. At no time is the advice given by us to be regarded or construed as evaluating or recommending a commercial decision or a given course of action. The determination and the consequences of any course of action are matters entirely to be determined by you. We do not provide investment advice and unless otherwise agreed by us in writing we do not provide tax advice.

10.8 We will not be liable for any failure or delay in providing any services as a result of circumstances beyond our control including, without limitation, fire, flood, storm, earthquake, wars and riots.

10.9 If at any time any one or more of the provisions of these Terms and Conditions 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 thereby.

11 Governing Law and Jurisdiction

11.1 The terms of this engagement are governed by the laws of Guernsey. Subject to clause 12 both parties submit to the non-exclusive jurisdiction of the courts of Guernsey in respect of any dispute arising out of or in connection with the terms of this engagement

12 Arbitration and Waiver of Legal Proceedings

12.1 Any claim, dispute and controversy arising out of or in connection with our engagement (including, without limitation, any question regarding this engagement's existence, validity or termination or any claims of professional negligence) may, at Ogier's sole option, be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. Judgment on the award(s) rendered by the arbitrator may be entered in any court having jurisdiction thereof.

12.2 The number of arbitrators shall be one.

12.3 The seat, or legal place, of arbitration shall be Guernsey.

12.4 The language to be used in the arbitral proceedings shall be English.

12.5 If a court action has been initiated by you at the time that Ogier chooses to submit the matter to arbitration, then it is agreed that such court action is to be discontinued, unless the arbitrator finds that Ogier has waived such right by substantially participating in the court action without having raised its right under this clause.